



2008 CHAPTER 1

**PART 1** **N.I.**

STATE PENSION

*Entitlement to Category A and B retirement pensions*

**Category A and B retirement pensions: single contribution condition** **N.I.**

1.—(1) Schedule 3 to the Contributions and Benefits Act (contribution conditions) is amended as follows.

(2) In paragraph 5 (contribution conditions for, among other things, Category A or B retirement pension) in sub-paragraph (1) after “retirement pension” insert “(other than one in relation to which paragraph 5A applies) ”.

(3) After paragraph 5 insert—

“5A.—(1) This paragraph applies to—

- (a) a Category A retirement pension in a case where the contributor concerned attains pensionable age on or after 6th April 2010;
- (b) a Category B retirement pension payable by virtue of section 48A above in a case where the contributor concerned attains pensionable age on or after that date;
- (c) a Category B retirement pension payable by virtue of section 48B above in a case where the contributor concerned dies on or after that date without having attained pensionable age before that date.

(2) The contribution condition for a Category A or Category B retirement pension in relation to which this paragraph applies is that—

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- (a) the contributor concerned must, in respect of each of not less than 30 years of his working life, have paid or been credited with contributions of a relevant class or been credited (in the case of 1987–88 or any subsequent year) with earnings; and
  - (b) in the case of each of those years, the earnings factor derived as mentioned in sub-paragraph (3) below must be not less than the qualifying earnings factor for that year.
- (3) For the purposes of paragraph (b) of sub-paragraph (2) above, the earnings factor—
- (a) in the case of 1987–88 or any subsequent year, is that which is derived from—
    - (i) so much of the contributor's earnings as did not exceed the upper earnings limit and upon which such of the contributions mentioned in paragraph (a) of that sub-paragraph as are primary Class 1 contributions were paid or treated as paid or earnings credited; and
    - (ii) any Class 2 or Class 3 contributions for the year; or
  - (b) in the case of any earlier year, is that which is derived from the contributions mentioned in paragraph (a) of that sub-paragraph.
- (4) Regulations may modify sub-paragraphs (2) and (3) above for the purposes of their application in a case where—
- (a) the contributor concerned has paid, or been credited with, contributions, or
  - (b) contributions have been deemed to be, or treated as, paid by or credited to him,
- under the National Insurance Act (Northern Ireland) 1946 or the National Insurance Act (Northern Ireland) 1966.”.
- (4) Part 1 of Schedule 1 contains consequential amendments.

### **Category B retirement pension: removal of restriction on entitlement** **N.I.**

2.—(1) Section 48A of the Contributions and Benefits Act (Category B retirement pension for married person or civil partner) is amended as follows.

(2) In each of subsections (2)(a) and (2B)(a) (whose effect is to require the other spouse or other civil partner to have claimed a Category A retirement pension) omit “and become entitled to a Category A retirement pension”.

(3) Omit subsection (5) (restriction on when Category B retirement pension for married person or civil partner is payable).

(4) Part 2 of Schedule 1 contains consequential amendments.

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(5) The amendments made by this section and that Part of that Schedule have effect as from 6th April 2010.

(6) Section 48A(2) and (2B), as amended by this section, applies whether the person mentioned in section 48A(1) or (2A) attained pensionable age before 6th April 2010 or on or after that date.

*Credits for basic state pension, etc.*

### **Contributions credits for relevant parents and carers** **N.I.**

3.—(1) After section 23 of the Contributions and Benefits Act insert—

#### **“23A Contributions credits for relevant parents and carers**

(1) This section applies to the following benefits—

- (a) a Category A retirement pension in a case where the contributor concerned attains pensionable age on or after 6th April 2010,
- (b) a Category B retirement pension payable by virtue of section 48A below in a case where the contributor concerned attains pensionable age on or after that date,
- (c) a Category B retirement pension payable by virtue of section 48B below in a case where the contributor concerned dies on or after that date without having attained pensionable age before that date,
- (d) a widowed parent's allowance payable in a case where the contributor concerned dies on or after that date,
- (e) a bereavement allowance payable in a case where the contributor concerned dies on or after that date.

(2) The contributor concerned in the case of a benefit to which this section applies shall be credited with a Class 3 contribution for each week falling after 6th April 2010 in respect of which the contributor was a relevant carer.

(3) A person is a relevant carer in respect of a week if the person—

- (a) is awarded child benefit for any part of that week in respect of a child under the age of 12,
- (b) is a foster parent for any part of that week, or
- (c) is engaged in caring, within the meaning given by regulations, in that week.

(4) Regulations may make provision for a person's entitlement to be credited with Class 3 contributions by virtue of falling within subsection (3) (b) or (c) above to be conditional on the person—

- (a) applying to be so credited in accordance with the prescribed requirements, and

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(b) complying with the prescribed requirements as to the provision of information to the Department.

(5) The contributor concerned in the case of a benefit to which this section applies shall be credited with 52 Class 3 contributions for each tax year ending before 6th April 2010 in which the contributor was precluded from regular employment by responsibilities at home within the meaning of regulations under paragraph 5(7) of Schedule 3 to this Act.

(6) But the maximum number of tax years for which a person can be credited with contributions under subsection (5) above is—

(a) in the case of a benefit mentioned in subsection (1)(a) to (c) above, 22;

(b) in the case of a benefit mentioned in subsection (1)(d) or (e) above, half the requisite number of years of the person's working life.

(7) The table in paragraph 5(5) of Schedule 3 to this Act (requisite number of years of a working life of given duration) applies for the purposes of subsection (6)(b) above as it applies for the purposes of the second condition set out in paragraph 5(3) of that Schedule.

(8) For the purpose of determining entitlement to a benefit to which this section applies, a week that falls partly in one tax year and partly in another is to be treated as falling in the year in which it begins and not in the following year.

(9) In this section—

“the contributor concerned” has the meaning given in section 21(5)(a) above;

“foster parent” has the meaning given by regulations.”.

(2) In paragraph 5 of Part 1 of Schedule 3 to that Act (contribution conditions for entitlement to, among other things, widowed parent's allowance, bereavement allowance and Category A or B retirement pension) at the end of sub-paragraph (7) (home responsibilities protection) insert— “ But nothing in this sub-paragraph applies in relation to any benefit to which section 23A above applies. ”.

(3) Part 3 of Schedule 1 contains consequential amendments.

#### *Abolition of adult dependency increases*

#### **Category A and C retirement pensions: abolition of adult dependency increases** **N.I.**

4.—(1) The following provisions of the Contributions and Benefits Act are to cease to have effect on 6th April 2010—

(a) section 83 (pension increase: wife),

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- (b) section 84 (pension increase: husband), and
- (c) section 85 (pension increase: person with care of children or qualifying young persons).

(2) Paragraph 2 of Part 2 of Schedule 2 to the Pensions Order (which replaces sections 83 and 84 of the Contributions and Benefits Act with a new section 83A equalising pension increases for dependent spouses and civil partners with effect from 6th April 2010) is omitted.

(3) Part 4 of Schedule 1 contains consequential amendments.

(4) The amendments made by that Part of that Schedule have effect as from 6th April 2010.

(5) Nothing in—

- (a) the repeals in subsection (1),
- (b) the amendments in Part 4 of Schedule 1, or
- (c) the repeals in Part 2 of Schedule 6,

applies in relation to a qualifying person at any time falling on or after 6th April 2010 but before the appropriate date.

(6) In subsection (5) a “qualifying person” means a person who—

- (a) has, before 6th April 2010, made a claim for a relevant increase in accordance with section 1 of the Administration Act; and
- (b) immediately before that date is either—
  - (i) entitled to the increase claimed, or
  - (ii) a beneficiary to whom section 92 of the Contributions and Benefits Act (continuation of awards where fluctuating earnings) applies in respect of that increase.

(7) In subsection (5) “the appropriate date” means the earlier (or earliest) of—

- (a) 6th April 2020;
- (b) the date when the qualifying person ceases to be either entitled to the relevant increase or a beneficiary to whom section 92 of the Contributions and Benefits Act applies in respect of it;
- (c) where the relevant increase is payable to the qualifying person under section 83 of that Act, the date on which his wife attains pensionable age.

(8) In this section “relevant increase” means an increase in a Category A or Category C retirement pension under section 83, 84 or 85 of the Contributions and Benefits Act.

*Up-rating of basic state pension and other benefits*

**Up-rating of basic pension etc. and standard minimum guarantee by reference to earnings** **N.I.**

5.—(1) After section 132 of the Administration Act insert—

**“132A Annual up-rating of basic pension etc. and standard minimum guarantee**

**132A** Whenever the Secretary of State makes an order under section 150A of the Great Britain Administration Act, the Department may make a corresponding order for Northern Ireland.”.

(2) Part 5 of Schedule 1 contains consequential and related amendments.

(3) The new section 132A and the amendments made by Part 5 of Schedule 1, so far as relating to the equivalent in Northern Ireland of the amounts referred to in section 150A(1)(a) to (c) of the Social Security Administration Act 1992 (c. 5), have effect in relation to the tax year designated by the Secretary of State by an order under section 5(4) of the Pensions Act 2007 (c. 22) and subsequent tax years.

(4) The new section 132A and the amendments made by Part 5 of Schedule 1, so far as relating to the equivalent in Northern Ireland of the amounts referred to in section 150A(1)(d) of the Social Security Administration Act 1992, have effect in relation to the tax year in which this Act is passed and subsequent tax years.

(5) In this section and in section 6, “the new section 132A” means the section 132A inserted by subsection (1).

**Preservation of link with prices in case of other benefits** **N.I.**

6.—(1) In section 39 of the Contributions and Benefits Act (rate of widowed mother's allowance and widow's pension) after subsection (2) insert—

“(2A) In its application by virtue of subsection (1) above, section 44(4) below is to be read as if for the first amount specified in that provision there were substituted a reference to the amount prescribed for the purposes of this subsection.”.

(2) In section 39C of the Contributions and Benefits Act (rate of widowed parent's allowance and bereavement allowance)—

(a) for subsection (2) substitute—

“(1A) In its application by virtue of subsection (1) above, section 44(4) below is to be read as if for the first amount specified in that provision there were substituted a reference to the amount prescribed for the purposes of this subsection.

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(2) The weekly amount of a bereavement allowance is an amount equal to the amount prescribed for the purposes of subsection (1A) above.”; and

(b) in subsection (3) for the words “or (as the case may be) section 44 below by virtue of subsection (1) or (2) above” substitute “by virtue of subsection (1) above”.

(3) Subsections (1) and (2) have effect in relation to the tax year designated by the Secretary of State by an order under section 5(4) of the Pensions Act 2007 (c. 22) and subsequent tax years.

(4) The Department must exercise its power to prescribe amounts for the purposes of the new sections 39(2A) and 39C(1A) (inserted by subsections (1) and (2)) in such a way as to secure that, at any time before the coming into force of the first provision made under the new section 132A that alters the amount of the basic pension, the amounts prescribed are equal to the amount of the basic pension for the time being.

(5) In subsection (4) “the amount of the basic pension” means the first amount specified in section 44(4) of the Contributions and Benefits Act (weekly rate of Category A retirement pension).

*Additional pension: deemed earnings factors*

**Deemed earnings factors for purposes of additional pension** **N.I.**

7.—(1) After section 44A of the Contributions and Benefits Act insert—

**“44B Deemed earnings factors: 2010–11 onwards**

(1) This section applies to 2010–11 and subsequent tax years.

(2) For the purposes of section 44(6)(za) above, if any of Conditions A to C in subsections (3) to (5) below is satisfied for a relevant year to which this section applies, a pensioner is deemed to have an earnings factor for that year which—

(a) is derived from so much of his earnings as did not exceed the applicable limit and on which primary Class 1 contributions were paid; and

(b) is equal to the amount which, when added to any other earnings factors taken into account under that provision, produces an aggregate of earnings factors equal to the low earnings threshold.

(3) Condition A is that the pensioner would, apart from this section, have an earnings factor for the year—

(a) equal to or greater than the qualifying earnings factor (“the QEF”) for the year, but

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- (b) less than the low earnings threshold for the year.
- (4) Condition B is that the pensioner—
  - (a) would, apart from this section and section 44C below, have an earnings factor for the year less than the QEF for the year, but
  - (b) is entitled to an aggregate amount of earnings factor credits for that year under section 44C below equal to the difference between the QEF for the year and the earnings factor mentioned in paragraph (a) above.
- (5) Condition C is that the pensioner is entitled to 52 earnings factor credits for that year under section 44C below.
- (6) This section has effect in relation to the flat rate introduction year and any subsequent tax year as if—
  - (a) subsection (2)(b) above referred to an aggregate of earnings factors greater than the QEF, but less than the low earnings threshold, for the year (rather than to one equal to that threshold); and
  - (b) Condition A in subsection (3) above (and the reference to it in subsection (2) above) were omitted.
- (7) In this section—
  - (a) “the applicable limit” has the same meaning as in section 44 above;
  - (b) “the low earnings threshold” means the low earnings threshold for the year concerned as specified in section 44A above; and
  - (c) in subsections (3) and (4) above, any reference to the pensioner’s earnings factor for a relevant year is to be construed in accordance with section 44(6)(za) above.

#### **44C Earnings factor credits**

(1) This section applies, for the purposes of Conditions B and C in section 44B(4) and (5) above, to 2010–11 and subsequent tax years.

(2) In respect of each week—

- (a) which falls in a relevant year to which this section applies, and
- (b) in respect of which a pensioner is eligible for earnings factor enhancement,

the pensioner is entitled to an earnings factor credit equal to 1/52 of the QEF for that year.

This is subject to subsection (5) below.

(3) A pensioner is eligible for earnings factor enhancement in respect of a week if one or more of the following apply—



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- (a) he was a relevant carer in respect of that week for the purposes of section 23A above (see section 23A(3));
- (b) carer's allowance was payable to him for any part of that week, or would have been so payable but for the fact that under regulations the amount payable to him was reduced to nil because of his receipt of other benefits;
- (c) severe disablement allowance was payable to him for any part of that week;
- (d) long-term incapacity benefit was payable to him for any part of that week or would have been so payable but for the fact that—
  - (i) he did not satisfy the contribution conditions in paragraph 2 of Schedule 3 to this Act, or
  - (ii) under regulations the amount payable to him was reduced to nil because of his receipt of other benefits or of payments from an occupational pension scheme or personal pension scheme;
- (e) he satisfies such other conditions as may be prescribed.

(4) In subsection (3)(d)(ii) above “occupational pension scheme” and “personal pension scheme” have the meanings given by subsection (6) of section 30DD above for the purposes of subsection (5) of that section.

(5) For the purposes of Condition B in section 44B(4) above a person is not entitled to an aggregate amount of earnings factor credits in respect of a year that is greater than the difference referred to in that Condition.

(6) For the purposes of this section a week that falls partly in one tax year and partly in another is to be treated as falling in the year in which it begins and not in the following year.

(7) In section 44B above and this section—

- (a) “the QEF” means the qualifying earnings factor, and
- (b) any reference to a person being entitled to an earnings factor credit of a particular amount (or to an aggregate amount of earnings factor credits) for a year is a reference to the person being treated as having for that year an earnings factor (within the meaning of section 44(6)(za) above) of the amount in question by virtue of subsection (2) above.”.

(2) Part 6 of Schedule 1 contains consequential and related amendments.

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*Additional pension: simplification of accrual rates*

**Additional pension: removal of accrual band from 2010–11** **N.I.**

**8.—**(1) Schedule 4A to the Contributions and Benefits Act (additional pension) is amended as follows.

(2) In Part 2 (surplus earnings factor) in paragraph 2 (calculation of amount where there is a surplus in pensioner's earnings factor)—

- (a) in sub-paragraph (4) after “2009” insert “ where the tax year concerned falls before 2010–11 ”;
- (b) after sub-paragraph (4) insert—

“(4A) The appropriate table for persons attaining pensionable age on or after 6th April 2009 where the tax year concerned is 2010–11 or a subsequent tax year is as follows—

**TABLE 2A**

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET but not exceeding AUEL	10”;

(c) <sup>F1</sup>.....

(3) In Part 3 (contracted-out employment) in paragraph 5 (calculation of amount A)—

- (a) in sub-paragraph (4) after “2009” insert “ where the tax year concerned falls before 2010–11 ”;
- (b) after sub-paragraph (4) insert—

“(4A) The appropriate table for persons attaining pensionable age on or after 6th April 2009 where the tax year concerned is 2010–11 or a subsequent tax year is as follows—

**TABLE 4A**

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET but not exceeding AUEL	10”.

(4) In paragraph 7 (calculation of amount B second case)—

- (a) in sub-paragraph (4) after “2009” insert “ where the tax year concerned falls before 2010–11 ”;

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(b) after sub-paragraph (4) insert—

“(4A) The appropriate table for persons attaining pensionable age on or after 6th April 2009 where the tax year concerned is 2010–11 or a subsequent tax year is as follows—

**TABLE 6A**

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET but not exceeding AUEL	10”.

(5) <sup>F2</sup> .....

(6) For the heading for that Schedule substitute “ ADDITIONAL PENSION: ACCRUAL RATES FOR PURPOSES OF SECTION 45(2)(c) ”.

#### Textual Amendments

- F1** S. 8(2)(c) repealed (15.12.2008) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 116, 118(2)(c), [Sch. 10 Pt. 6](#)
- F2** S. 8(5) repealed (15.12.2008) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 116, 118(2)(c), [Sch. 10 Pt. 6](#)

#### Additional pension: simplified accrual rates as from flat rate introduction year **N.I.**

**9.—(1)** Section 45 of the Contributions and Benefits Act (the additional pension in a Category A retirement pension) is amended as follows.

(2) In subsection (2) (calculation of the weekly rate of additional pension) after paragraph (c) add “; and

(d) in relation to the flat rate introduction year and subsequent tax years, the weekly equivalent of the amount calculated in accordance with Schedule 4B to this Act.”.

(3) In subsection (3A) (tax years for which weekly rate is calculated by reference to Schedule 4A) at the end of paragraph (b) add “ before the flat rate introduction year ”.

(4) In section 121 of the Contributions and Benefits Act (interpretation of Parts 1 to 6) in subsection (1) at the appropriate place insert—

““the flat rate introduction year” means such tax year as may be designated as such by order;”.

(5) In Schedule 2—

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- (a) Part 1 inserts a new Schedule 4B into the Contributions and Benefits Act;
- (b) Part 2 makes provision for up-rating the flat rate accrual amount introduced by the new Schedule 4B; and
- (c) Part 3 contains consequential and related amendments.

**Additional pension: upper accrual point** N.I.

**10.—(1)** In section 22 of the Contributions and Benefits Act (earnings factors)—

- (a) in subsection (2A) (person's earnings factors to be treated as derived only from so much of his earnings as did not exceed the upper earnings limit etc.) for “the upper earnings limit” substitute “ the applicable limit ”; and
- (b) after that subsection insert—

“(2B) “The applicable limit” means—

- (a) in relation to a tax year before the flat rate introduction year, the upper earnings limit;
- (b) in relation to the flat rate introduction year or any subsequent tax year, the upper accrual point.”.

**(2)** In section 44 of the Contributions and Benefits Act (Category A retirement pension)—

- (a) in subsection (6) (meaning of references to earnings factors) in paragraph (za) for “the upper earnings limit” substitute “ the applicable limit ”;
- (b) in subsection (7) at the end add—

“(c) “the applicable limit” means—

- (i) in relation to a tax year before the flat rate introduction year, the upper earnings limit;
- (ii) in relation to the flat rate introduction year or any subsequent tax year, the upper accrual point.”.

**(3)** <sup>F3</sup> .....

**(4)** Part 7 of Schedule 1 contains consequential amendments.

**(5)** Whenever the Secretary of State makes an order under section 12 of the Pensions Act 2007 (c. 22), the Department may make a corresponding order for Northern Ireland.

**(6)** An order under subsection (5) is subject to negative resolution.

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**Textual Amendments**

- F3** S. 10(3) repealed (15.12.2008) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 116, 118(2)(c), **Sch. 10 Pt. 6**

*Increase in state pension age*

**Increase in pensionable age for men and women** **N.I.**

**11.**—(1) Schedule 3 amends Article 123 of, and Part 1 of Schedule 2 to, the Pensions Order for the purpose of increasing the pensionable age for men and women<sup>F4</sup> ....

(2) Part 8 of Schedule 1 contains consequential amendments.

(3) The amendments made by that Part of that Schedule have effect as from [<sup>F5</sup>6th December 2018].

**Textual Amendments**

- F4** Words in s. 11(1) omitted (2.6.2012) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(2), **Sch. 1 para. 5(a)**
- F5** Words in s. 11(3) substituted (2.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(2), **Sch. 1 para. 5(b)**

**Changes to legislation:**

There are currently no known outstanding effects for the Pensions Act (Northern Ireland) 2008, PART 1.