Pensions Act 1995

1995 CHAPTER 26

PART II

STATE PENSIONS

127 Enhancement of additional pension, etc. where family credit or disability working allowance paid

(1) After section 45 of the Social Security Contributions and Benefits Act 1992 (additional pension in a Category A retirement pension) there is inserted—

"**45A Effect of family credit and disability working allowance on earnings factor**

(1) For the purpose of calculating additional pension under sections 44 and 45 above where, in the case of any relevant year, family credit is paid in respect of any employed earner, or disability working allowance is paid to any employed earner, section 44(6)(a)(i) above shall have effect as if—

(a) where that person had earnings of not less than the qualifying earnings factor for that year, being earnings upon which primary Class 1 contributions were paid or treated as paid ("qualifying earnings") in respect of that year, the amount of those qualifying earnings were increased by the aggregate amount (call it "AG") of family credit or, as the case may be, disability working allowance paid in respect of that year, and

(b) in any other case, that person had qualifying earnings in respect of that year and the amount of those qualifying earnings were equal to AG plus the qualifying earnings factor for that year.

(2) The reference in subsection (1) above to the person in respect of whom family credit is paid—

(a) where it is paid to one of a married or unmarried couple, is a reference to the prescribed member of the couple, and

(b) in any other case, is a reference to the person to whom it is paid.

(3) A person's qualifying earnings in respect of any year cannot be treated by virtue of subsection (1) above as exceeding the upper earnings limit for that year multiplied by fifty-three.

(4) Subsection (1) above does not apply to any woman who has made, or is treated as having made, an election under regulations under section 19(4) above, which has not been revoked, that her liability in respect of primary Class 1 contributions shall be at a reduced rate.

(5) In this section—

"married couple" and "unmarried couple" (defined in section 137 below) have the same meaning as in Part VII, and

"relevant year" has the same meaning as in section 44 above."

(2) Accordingly, in the following provisions of the Social Security Contributions and Benefits Act 1992, for "sections 44 and 45" there is substituted "sections 44 to 45A": sections 39(1) to (3), 50(3) to (5) and 51(2) and (3).

(3) Subject to subsections (4) and (5) below, this section applies to a person ("the pensioner") who attains pensionable age after 5th April 1999 and, in relation to such persons, has effect for 1995-96 and subsequent tax years.

(4) Where the pensioner is a woman, this section has effect in the case of additional pension falling to be calculated under sections 44 and 45 of the Social Security Contributions and Benefits Act 1992 by virtue of section 39 of that Act (widowed mother's allowance and widow's pension), including Category B retirement pension payable under section 48B(4), if her husband—

(a) dies after 5th April 1999, and

(b) has not attained pensionable age on or before that date.

(5) This section has effect where additional pension falls to be calculated under sections 44 and 45 of the Social Security Contributions and Benefits Act 1992 as applied by sections 48A or 48B(2) of that Act (other Category B retirement pension) if—

(a) the pensioner attains pensionable age after 5th April 1999, and

(b) the pensioner's spouse has not attained pensionable age on or before that date.