



Social Security Contributions and Benefits Act 1992

1992 CHAPTER 4

PART II

CONTRIBUTORY BENEFITS

Complete or partial failure to satisfy contribution conditions

60 Complete or partial failure to satisfy contribution conditions.

(1) Subject to the provisions of this section, regulations may provide for persons to be entitled to any of the following benefits, namely—

- (a) a widowed mother's allowance,
- [^{F1}(aa) a widowed parent's allowance,
- (ab) a bereavement allowance],
- (b) a widow's pension,
- (c) a Category A retirement pension,
- (d) a Category B retirement pension,

in cases where the first contribution condition specified in relation to that benefit in paragraph 5 of Schedule 3 to this Act is satisfied and the second contribution condition so specified is not.

(2) Subject to subsection (8) below, in any case where—

- (a) an employed earner who is married [^{F2} or a civil partner] dies as a result of—
 - (i) a personal injury of a kind mentioned in section 94(1) below, or
 - (ii) a disease or injury such as is mentioned in section 108(1) below, and
- (b) the contribution conditions are not wholly satisfied in respect of [^{F3}the employed earner],

Status: Point in time view as at 13/05/2014.

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those conditions shall be taken to be satisfied for the purposes of [^{F4}the entitlement of the employed earner's [^{F5}widow, widower or surviving civil partner]] to any of the benefits specified in subsection (3) below.

- (3) The benefits referred to in subsection (2) above are the following—
- [^{F6}(a) a bereavement payment;]
 - (b) a widowed mother's allowance;
 - [^{F7}(ba) a widowed parent's allowance;
 - (bb) a bereavement allowance;]
 - (c) a widow's pension;
 - [^{F8}(d) a Category B retirement pension payable by virtue of section 48B [^{F9}or 48BB] above].
- (4) Subject to [^{F10}subsection (7)] below, regulations under subsection (1) above shall provide for benefit payable by virtue of any such regulations to be payable at a rate, or to be of an amount, less than that which would be applicable under this Part of this Act had both of the relevant contribution conditions been fully satisfied.
- (5) Subject to [^{F10}subsection (7)] below, the rate or amount prescribed by regulations under subsection (1) above may vary with the extent to which the relevant contribution conditions are satisfied (and may be nil).
- ^{F11}(6)
- (7) Regulations may provide that where—
- (a) a person is entitled by virtue of subsection (1) above to a Category A or Category B retirement pension consisting only of the additional pension with no basic pension, and
 - (b) that retirement pension, and any graduated retirement benefit to which he may be entitled, together amount to less than the prescribed rate,
- that person's entitlement as respects that retirement pension shall be satisfied either altogether or for a prescribed period by the making of a single payment of the prescribed amount.
- (8) Subsection (2) above only has effect where the employed earner's death occurred on or after 11th April 1988.
- [^{F12}(9) References in this section to a Category A or Category B retirement pension do not include one to which Schedule 3, Part I, paragraph 5A applies.]

Textual Amendments

- F1** S. 60(1)(aa)(ab) inserted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 8 para. 8(2)**; S.I. 2000/1047, art. 2(2)(a), Sch. Pt. I
- F2** Words in s. 60(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 31(a)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F3** Words in s. 60(2) substituted (19.7.1995) by Pensions Act 1995 (c. 26), s. 180(2)(a), **Sch. 4 para. 21(9)(a)**
- F4** Words in s. 60(2) substituted (19.7.1995) by Pensions Act 1995 (c. 26), s. 180(2)(a), **Sch. 4 para. 21(9)(a)**
- F5** Words in s. 60(2) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 31(b)**; S.I. 2005/3175, art. 2(1), Sch. 1

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- F6** S. 60(3)(a) substituted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 8 para. 8(3)(a)**; S.I. 2000/1047, art. 2(2)(a), Sch. Pt. I
- F7** S. 60(3)(ba)(bb) inserted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 8 para. 8(3)(b)**; S.I. 2000/1047, art. 2(2)(a), Sch. Pt. I
- F8** S. 60(3)(d) substituted (19.7.1995) by Pensions Act 1995 (c. 26), s. 180(2)(a), **Sch. 4 para. 21(9)(b)**
- F9** Words in s. 60(3)(d) inserted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 8 para. 8(3)(c)**; S.I. 2000/1047, art. 2(2)(a), Sch. Pt. I
- F10** Words in s. 60(4)(5) substituted (6.4.2003) by Tax Credits Act 2002 (c. 21), s. 61, **Sch. 3 para. 33**; S.I. 2003/962, art. 2(3)(d)(iii)
- F11** S. 60(6) repealed with savings (6.4.2003) by Tax Credits Act 2002 (c. 21), s. 61, **Sch. 6**; S.I. 2003/938, art. 2, Sch. (with art. 3)
- F12** S. 60(9) inserted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 1 para. 4**

[^{F13}60A Failure to satisfy contribution condition in paragraph 5A of Schedule 3

- (1) Subsection (2) below applies if the contribution condition in Schedule 3, Part I, paragraph 5A is not satisfied in relation to a benefit to which that paragraph applies.
- (2) A person who would have been entitled to the benefit had the condition been satisfied shall nevertheless be entitled to a prescribed proportion of that benefit in respect of each of the years of the contributor's working life that falls within subsection (3) below.
- (3) A year of the contributor's working life falls within this subsection if it is a year in relation to which the requirements in paragraph 5A(2)(a) and (b) of Part I of Schedule 3 are satisfied.
- (4) “The contributor” means the person by whom the condition is to be satisfied.
- (5) In any case where—
 - (a) an employed earner who is married or a civil partner dies on or after 6th April 2010 as a result of—
 - (i) a personal injury of a kind mentioned in section 94(1) below, or
 - (ii) a disease or injury such as is mentioned in section 108(1) below, and
 - (b) the contribution condition specified in Schedule 3, Part I, paragraph 5A is not satisfied in respect of the employed earner,that condition shall be taken to be satisfied for the purposes of the entitlement of the employed earner's widow, widower or surviving civil partner to a Category B retirement pension payable by virtue of section 48B.
- (6) In subsections (1) to (3) any reference—
 - (a) to the contribution condition in Schedule 3, Part I, paragraph 5A, or
 - (b) to the requirements of paragraph 5A(2)(a) and (b),includes a reference to that condition or those requirements as modified by virtue of paragraph 5A(4).]

Textual Amendments

- F13** S. 60A inserted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 1 para. 5**

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61 Exclusion of increase of benefit for failure to satisfy contribution condition.

(1) A Category A or Category B retirement pension which is payable by virtue of section 60(1) above and a widowed mother's allowance [^{F14}or widowed parent's allowance] which is so payable shall not be increased under section 47(1) above or under Part IV below ^{F15}... if the pension or allowance contains no basic pension in consequence of a failure to satisfy a contribution condition.

[^{F16}(2) Where a person is entitled to short-term incapacity benefit at a rate determined under section 30B(3) above and the retirement pension by reference to which the rate of the benefit is determined—

- (a) would have been payable only by virtue of section 60 above, and
- (b) would, in consequence of a failure to satisfy a contribution condition, have contained no basic pension,

the benefit shall not be increased under section 47(1) above or under Part IV below ^{F15}...]

Textual Amendments

F14 Words in s. 61(1) inserted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), [Sch. 8 para. 9](#); S.I. 2000/1047, art. 2(2) (a), [Sch. Pt. I](#)

F15 Words in s. 61(1)(2) repealed with savings (6.4.2003) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 6](#); S.I. 2003/938, art. 2, [Sch. \(with art. 3\)](#)

F16 S. 61(2) substituted (7.10.1996) by [Jobseekers Act 1995 \(c. 18\)](#), s. 41(2), [Sch. 2 para. 23](#); S.I. 1996/2208, art. 2(b)

Modifications etc. (not altering text)

C1 S. 61 modified (13.4.1995) by [The Social Security \(Incapacity Benefit\)\(Transitional\) Regulations 1995 \(S.I. 1995/310\)](#), regs. 1(1), [23](#)

[^{F17}61A Contributions paid in error

(1) This section applies in the case of any individual if—

- (a) the individual has paid amounts by way of primary Class 1 contributions which, because the individual was not an employed earner, were paid in error, and
- (b) prescribed conditions are satisfied.

(2) Regulations may, where—

- (a) this section applies in the case of any individual, and
- (b) the [^{F18}Inland Revenue are] of the opinion that it is appropriate for the regulations to apply to the individual,

provide for entitlement to, and the amount of, additional pension to be determined as if the individual had been an employed earner and, accordingly, those contributions had been properly paid.

(3) The reference in subsection (2) above to additional pension is to additional pension for the individual or the individual's spouse [^{F19}or civil partner] falling to be calculated under section 45 above for the purposes of—

- (a) Category A retirement pension,

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- (b) Category B retirement pension for ^{F20}widows, widowers or surviving civil partners^{F21}(payable by virtue of section 48B or 48BB above)],
- (c) widowed mother's allowance and widow's pension, ^{F22}and^{F23}
[widowed parent's allowance,] and
(ca)
- (d) incapacity benefit (except in transitional cases).
- (4) Regulations may, where—
- (a) this section applies in the case of any individual, and
- (b) the ^{F24}Inland Revenue are] of the opinion that it is appropriate for regulations made by virtue of section 4(8) of the Social Security (Incapacity for Work) Act 1994 (provision during transition from invalidity benefit to incapacity benefit for incapacity benefit to include the additional pension element of invalidity pension) to have the following effect in the case of the individual,
- provide for the regulations made by virtue of that section to have effect as if, in relation to the provisions in force before the commencement of that section with respect to that additional pension element, the individual had been an employed earner and, accordingly, the contributions had been properly paid.
- (5) Where such provision made by regulations as is mentioned in subsection (2) or (4) above applies in respect of any individual, regulations under paragraph 8(1)(m) of Schedule 1 to this Act may not require the amounts paid by way of primary Class 1 contributions to be repaid.
- (6) Regulations may provide, where—
- (a) such provision made by regulations as is mentioned in subsection (2) or (4) above applies in respect of any individual,
- (b) prescribed conditions are satisfied, and
- (c) any amount calculated by reference to the contributions in question has been paid in respect of that individual by way of minimum contributions under section 43 of the Pension Schemes Act 1993 (contributions to personal pension schemes),
- for that individual to be treated for the purposes of that Act as if that individual had been an employed earner and, accordingly, the amount had been properly paid.]

Textual Amendments

- F17** S. 61A inserted (19.7.1995) by [Pensions Act 1995 \(c. 26\), ss. 133, 180\(2\)\(a\)](#) (with [Sch. 4](#))
- F18** Words in s. 61A(2)(b) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 8](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F19** Words in s. 61A(3) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 32\(a\)](#); S.I. 2005/3175, art. 2(1), Sch. 1
- F20** Words in s. 61A(3)(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 32\(b\)](#); S.I. 2005/3175, art. 2(1), Sch. 1
- F21** Words in s. 61A(3)(b) inserted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(1\), Sch. 8 para. 10\(a\)](#); S.I. 2000/1047, art. 2(2)(a), Sch. Pt. I
- F22** Word in s. 61A(3) inserted (27.10.2008) by [Welfare Reform Act 2007 \(c. 5\), s. 70\(2\), Sch. 3 para. 9\(6\)](#); S.I. 2008/787, art. 2(4)(f)

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- F23** S. 61A(3)(ca) inserted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 8 para. 10(b)**; S.I. 2000/1047, art. 2(2)(a), Sch. Pt. I
- F24** Words in s. 61A(4)(b) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 8**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

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