



# Social Security Contributions and Benefits Act 1992

## 1992 CHAPTER 4

### PART II

#### CONTRIBUTORY BENEFITS

##### *Retirement pensions (Categories A and B)*

#### **44 Category A retirement pension.**

- (1) A person shall be entitled to a Category A retirement pension if—
- [<sup>F1</sup>(a) the person attained pensionable age before 6 April 2016,] and
  - [<sup>F2</sup>(b) he satisfies the relevant conditions or condition;]
- and, subject to the provisions of this Act, he shall become so entitled on the day on which he attains pensionable age and his entitlement shall continue throughout his life.

[<sup>F3</sup>(1A) In subsection (1)(b) above “the relevant conditions or condition” means—

- (a) in a case where the person attains pensionable age before 6th April 2010, the conditions specified in Schedule 3, Part I, paragraph 5;
  - (b) in a case where the person attains pensionable age on or after that date, the condition specified in Schedule 3, Part I, paragraph 5A.]
- (2) A Category A retirement pension shall not be payable in respect of any period falling before the day on which the pensioner’s entitlement is to be regarded as commencing for that purpose by virtue of section 5(1)(k) of the Administration Act.
- (3) A Category A retirement pension shall consist of—
- (a) a basic pension payable at a weekly rate; and
  - (b) an additional pension payable where there are one or more surpluses in the pensioner’s earnings factors for the relevant years [<sup>F4</sup>or where the pensioner has one or more units of additional pension].

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[<sup>F5</sup>For units of additional pension, see section 14A.]

[<sup>F6</sup>(4) The weekly rate of the basic pension shall be [<sup>F7</sup>£122.30] except that, so far as the sum is relevant for the purpose of calculating the lower rate of short-term incapacity benefit under section 30B(3) above, it shall be [<sup>F8</sup>£102.10].

In this subsection “the lower rate” means the rate payable for the first 196 days of entitlement in any period of incapacity for work.]

[<sup>F9</sup>(5) .....

[<sup>F9</sup>(5A) For the purposes of this section and section 45 [<sup>F10</sup>and [<sup>F11</sup>Schedules 4A and 4B]] below—

- (a) there is a surplus in the pensioner’s earnings factor for a relevant year if that factor exceeds the qualifying earnings factor for [<sup>F12</sup>that year,
- (b) the amount of the surplus is the amount of that excess, and
- (c) for the purposes of section 45(1) and (2)(a) and (b) below, the adjusted amount of the surplus] is the amount of that excess, as increased by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.]

(6) [<sup>F13</sup>Subject to subsection (7A) below] any reference in this section or section 45 [<sup>F14</sup>or [<sup>F15</sup>Schedule 4A or 4B]] below to the pensioner’s earnings factor for any relevant year is a reference—

[<sup>F16</sup>(za) where the relevant year is the first appointed year or any subsequent year, to the aggregate of his earnings factors derived from [<sup>F17</sup>so much of his earnings as did not exceed [<sup>F18</sup>the applicable limit] and] upon which primary Class 1 contributions have been paid or treated as paid in respect of that year;]

(a) where the relevant year is 1987-88 or any subsequent tax year [<sup>F19</sup>before the first appointed year], to the aggregate of—

- (i) his earnings factors derived from earnings upon which primary Class 1 contributions were paid or treated as paid in respect of that year, and
- [<sup>F20</sup>(ii) his earnings factors derived from Class 2 and Class 3 contributions actually paid in respect of that year, or, if less, the qualifying earnings factor for that year; and]

[<sup>F21</sup>(b) where the relevant year is an earlier tax year, to the aggregate of—

- (i) his earnings factors derived from Class 1 contributions actually paid by him in respect of that year, and
- (ii) his earnings factors derived from Class 2 and Class 3 contributions actually paid by him in respect of that year, or, if less, the qualifying earnings factor for that year.]

(7) In this section—

(a) “relevant year” means 1978-79 or any subsequent tax year in the period between—

- (i) (inclusive) the tax year in which the pensioner attained the age of 16, and
- (ii) (exclusive) the tax year in which he attained pensionable age;

(b) “final relevant year” means the last tax year which is a relevant year in relation to the pensioner;

[<sup>F22</sup>(c) “the applicable limit” means—

- (i) in relation to a tax year before [<sup>F23</sup>2009-10], the upper earnings limit;

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(ii) in relation to [F<sup>23</sup>2009-10] or any subsequent tax year, the upper accrual point.]

[F<sup>24</sup>(7A) The Secretary of State may prescribe circumstances in which pensioners' earnings factors for any relevant year may be calculated in such manner as may be prescribed.]

(8) For the purposes of this section any order under [F<sup>25</sup>section 21 of the Social Security Pensions Act 1975] (which made provision corresponding to section 148 of the Administration Act) shall be treated as an order under section 148 (but without prejudice to sections 16 and 17 of the<sup>MI</sup> Interpretation Act 1978).

#### Textual Amendments

- F1** S. 44(1)(a) substituted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 55** (with ss. 8, 9, Sch. 5 paras. 2-4)
- F2** S. 44(1)(b) substituted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 1 para. 1(2)**
- F3** S. 44(1A) inserted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 1 para. 1(3)**
- F4** Words in s. 44(3)(b) inserted (12.10.2015) by Pensions Act 2014 (c. 19), s. 56(1), **Sch. 15 para. 6(a)**; S.I. 2015/1475, art. 3(b)
- F5** Words in s. 44(3) inserted (12.10.2015) by Pensions Act 2014 (c. 19), s. 56(1), **Sch. 15 para. 6(b)**; S.I. 2015/1475, art. 3(b)
- F6** S. 44(4) substituted (8.9.1998) by Social Security Act 1998 (c. 14), **ss. 68**, 87(2); S.I. 1998/2209, art. 2(a), Sch. Pt. 1
- F7** Sum in s. 44(4) substituted (10.4.2017 with effect in accordance with arts. 1(3)(4), 7 of the amending S.I.) by The Social Security Benefits Up-rating Order 2017 (S.I. 2017/260), arts. 1(2)(c), **4(3)(b)**
- F8** Sum in s. 44(4) substituted (10.4.2017 with effect in accordance with arts. 1(3)(4), 7 of the amending S.I.) by The Social Security Benefits Up-rating Order 2017 (S.I. 2017/260), arts. 1(2)(c), **4(3)(a)**
- F9** S. 44(5A) substituted for s. 44(5) (with effect in relation to a person who attains pensionable age after 5.4.2000, subject to s. 128(5)(6) of the amending Act) by Pensions Act 1995 (c. 26), **ss. 128(1)(4)**, 180(2)(a) (with Sch. 4) (see also, as to the application of s. 44(5), Pension Schemes Act 1993 (c. 48), s. 48A(4)(5); The Social Security (Contracting-out and Qualifying Earnings Factor) Regulations 1996 (S.I. 1996/2477), reg. 2 (as amended by S.I. 2016/200, arts. 1(2), 8); Child Support, Pensions and Social Security Act 2000 (c. 19), s. 38; and The Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Pensions) Regulations 2000 (S.I. 2000/2736), regs. 2, 3)
- F10** Words in s. 44(5A) inserted (8.1.2001 for specified purposes, 25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 35(5)**, 86(1)(b)(2); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F11** Words in s. 44(5A) substituted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 2 para. 5(2)**
- F12** Words in s. 44(5A) substituted (8.1.2001 for specified purposes, 25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 35(6)**, 86(1)(b)(2); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F13** Words in s. 44(6) inserted (temp.) (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), s. 7(2), Sch. 4 paras. 1, 2
- F14** Words in s. 44(6) inserted (8.1.2001 for specified purposes, 25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 35(7)**, 86(1)(b)(2); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F15** Words in s. 44(6) substituted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 2 para. 5(3)**
- F16** S. 44(6)(za) inserted (8.1.2001 for specified purposes, 25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 30(2)(a)**, 86(1)(b)(2); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F17** Words in s. 44(6)(za) substituted (with effect in relation to the tax year 2003-04 and subsequent tax years) by National Insurance Contributions Act 2002 (c. 19), s. 8(2), **Sch. 1 para. 10**
- F18** Words in s. 44(6)(za) substituted (26.9.2007) by Pensions Act 2007 (c. 22), **ss. 12(2)(a)**, 30(3)

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- F19** Words in s. 44(6)(a) inserted (8.1.2001 for specified purposes, 25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 30(2)(b)**, [86\(1\)\(b\)\(2\)](#); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F20** S. 44(6)(a)(ii) substituted (with effect in relation to a person who attains pensionable age after 5.4.2000, subject to s. 128(5)(6) of the amending Act) by [Pensions Act 1995 \(c. 26\)](#), **ss. 128(2)(4)**, [180\(2\)\(a\)](#) (with [Sch. 4](#))
- F21** S. 44(6)(b) substituted (with effect in relation to a person who attains pensionable age after 5.4.2000, subject to s. 128(5)(6) of the amending Act) by [Pensions Act 1995 \(c. 26\)](#), **ss. 128(2)(4)**, [180\(2\)\(a\)](#) (with [Sch. 4](#))
- F22** S. 44(7)(c) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), **ss. 12(2)(b)**, [30\(3\)](#)
- F23** Words in s. 44(7)(c) substituted (21.9.2008) by [National Insurance Contributions Act 2008 \(c. 16\)](#), **ss. 3(3)**, [6\(1\)](#)
- F24** S. 44(7A) inserted (temp.) (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), s. [7\(2\)](#), [Sch. 4 paras. 1, 3](#)
- F25** Words in s. 44(8) substituted (7.2.1994) by [Pension Schemes Act 1993 \(c. 48\)](#), s. [193\(2\)](#), **Sch. 8 para. 38** (with s. [189](#), [Schs. 6, 9](#)); S.I. 1994/86

#### Modifications etc. (not altering text)

- C1** S. 44(4): power to amend conferred (1.7.1992) by [Social Security Administration Act 1992 \(c. 5\)](#), **ss. 150(1)(a)(ii)**, [151](#), [192\(4\)](#)
- C2** S. 44(5A): power to modify conferred by [Pension Schemes Act 1993 \(c. 48\)](#), **s. 48A(4)(5)** (as read with [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 38**, [86\(1\)\(b\)\(2\)\(6\)](#))
- C3** S. 44(5A) modified (1.11.2000) by [The Social Security \(Contracting-out and Qualifying Earnings Factor and Revision of Relevant Pensions\) Regulations 2000 \(S.I. 2000/2736\)](#), [regs. 1\(1\)](#), **2** (with [reg. 3](#)) (as amended by S.I. 2016/200, [arts. 1\(2\)](#), **18**)

#### Marginal Citations

- M1** [1978 c. 30](#).

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