



Social Security Act 1975

1975 CHAPTER 14

PART II

BENEFIT AND ITS ADMINISTRATION

CHAPTER I

CONTRIBUTORY BENEFITS

Retirement pensions (Categories A and B)

27 Matters affecting entitlement to pension

- (1) In this Act " pensionable age " means—
 - (a) in the case of a man, the age of 65 ; and
 - (b) in the case of a woman, the age of 60.
- (2) For the purposes of this Act a person's working life is the period between (inclusive) the tax year in which he attained the age of 16 and (exclusive) the tax year in which he attained pensionable age or died under that age.
- (3) For those purposes, a person may (subject to the following subsection) be treated as having retired from regular employment at any time after he has attained pensionable age—
 - (a) whether or not he has previously been an earner;
 - (b) notwithstanding that he is, or intends to be, an earner, if—
 - (i) he is or intends to be so only occasionally or to an inconsiderable extent, or otherwise in circumstances not inconsistent with retirement, or
 - (ii) his earnings can be expected not to exceed, or only occasionally to exceed, the amount any excess over which would, under section 30(1)

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below (earnings rule), involve a reduction of the weekly rate of his pension;

and a person so treated under this subsection shall not cease to be so treated except in pursuance of an election under section 30(3) below (return to work after retirement).

- (4) Subject to the following subsection, a person shall not be treated as having retired from regular employment unless he has complied with the prescribed requirements as to the giving of notice of the date of his retirement; and where the date of retirement specified in the notice falls before the date when the notice is given, the person shall not be treated as having so retired earlier than on the date of commencement of the prescribed period before the giving of the notice.
- (5) For the purposes of this Act a person who has not previously retired from regular employment shall be deemed so to retire on the expiration of 5 years from his attaining pensionable age; and references in this Part of this Act to title date of a person's retirement shall be construed in accordance with this section.
- (6) No person shall be entitled for the same period to more than one retirement pension; but where under the following sections in this Part (whether Chapter I or Chapter II) a person would otherwise be entitled to more than one such pension, he shall be entitled (whichever pension he may apply for) to whichever one is from time to time the most favourable to him.

28 Category A retirement pension

- (1) A person shall be entitled to a Category A retirement pension at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 8, if—
 - (a) he is over pensionable age and has retired from regular employment; and
 - (b) he satisfies the contribution conditions for a Category A retirement pension specified in Schedule 3, Part I, paragraph 5;
 and the pension shall commence from the date of retirement and (subject to section 30(1) of this Act (earnings rule)) be payable for the pensioner's life.
- (2) A woman who on attaining pensionable age is married shall not be entitled to a Category A retirement pension unless either—
 - (a) her marriage (to the man to whom she is married on attaining that age) took place on or after the date on which she attained the age of 55 ; or
 - (b) the number of years of her working life (disregarding the year in which that marriage took place and any previous year) for which her earnings factor was sufficient for satisfaction by her of paragraph (b) of the second contribution condition for a Category A retirement pension specified in Schedule 3, Part I paragraph 5, was at least—
 - (i) one half of the number of complete years between (exclusive) the year in which that marriage took place and (exclusive) the year in which she attained pensionable age, or
 - (ii) if that number of years is an odd number, one half of the next lowest even number.

In this subsection " year " means tax year.

- (3) Where a woman is a widow at the time when she attains pensionable age and does not with her own contributions satisfy the second contribution condition for a Category A retirement pension specified in Schedule 3, Part I, paragraph 5, then the contributions

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of her late husband may, to the extent provided by Schedule 7 to this Act, be treated as if they were contributions of her own.

- (4) The weekly rate of a Category A retirement pension shall be increased by 1/8th per cent. of its rate apart from this subsection for every 6 days (excluding Sundays) which—
- (a) fall in the period beginning with the day on which the pensioner attained pensionable age and ending with the day before that of his retirement; and
 - (b) are treated by regulations as being, in relation to him and his pension, days of increment under this subsection,

but only if the number of such days is at least 48; and a day may be so treated by reference to the pensioner or some other person having received, or not having received, benefit of any prescribed description (whether or not under this Act) in respect of that day or a period in which it falls or by reference to any other circumstances whatsoever.

- (5) In the case of a woman entitled to a Category A retirement pension, the rate of the pension (with or without any increase under subsection (4) above) shall, if—
- (a) she has had a husband and he has died, and she was married to him when he died; and
 - (b) the husband either—

- (i) was entitled to a Category A retirement pension with increases under subsection (4) above, or

- (ii) would have been so entitled if he had retired on the date of his death, be increased by 1 / 16th per cent. of the rate of the pension to which he was (or would have been) entitled for every 6 days which were (or would have been) in relation to him and that pension days of increment under subsection (4), but only if the number of such days is at least 48.

- (6) Where under subsection (4) or (5) above an increase is calculated as a percentage applied to a rate, there shall in arriving at that rate be disregarded any increase otherwise than under subsection (7) below.

- (7) The weekly rate of a Category A retirement pension shall be increased under this subsection if the pensioner was entitled to an invalidity allowance in respect of—

- (a) any day falling within the period of 13 weeks ending immediately before the day on which he attains pensionable age, or
- (b) the last day before the beginning of that period;

and the increase shall be of an amount equal to the weekly rate of the invalidity allowance (whether the higher, the middle or the lower rate) to which he was entitled on that day.

- (8) In ascertaining—

- (a) for the purposes of subsection (5) above, the rate of the pension of a woman's former husband ; and
- (b) for the purposes of subsection (7) above, the rate of a pensioner's invalidity allowance,

regard is to be had to the rates in force from time to time as increased by up-rating orders, or by any Act passed after the 1973 Act.

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29 Category B retirement pension

- (1) A woman who is or has been married, and has attained pensionable age, shall be entitled to a Category B retirement pension by virtue of the contributions of her husband ; and the cases in which a woman is so entitled are those specified in subsections (2) to (5) below.
- (2) The first case of entitlement is where the woman is married to that husband at the time when she attains pensionable age and—
 - (a) he also has attained pensionable age, and both of them have retired from regular employment; and
 - (b) he satisfies the relevant contribution conditions.
- (3) The second case of entitlement is where the woman marries after attaining pensionable age and—
 - (a) her husband has also attained pensionable age and both of them have retired from regular employment; and
 - (b) he satisfies the relevant contribution conditions.
- (4) The third case of entitlement is where the woman's husband is dead and his death was after she attained pensionable age, and—
 - (a) she was married to him when he died; and
 - (b) before his death he satisfied the relevant contribution conditions.
- (5) The fourth case of entitlement is where the woman's husband is dead and his death was before she attained pensionable age, and—
 - (a) she has retired from regular employment; and
 - (b) she was a widow immediately before attaining pensionable age and is entitled (or is treated by regulations as entitled) to a widow's pension; and
 - (c) she became entitled to the pension in consequence of the husband's death.
- (6) The relevant contribution conditions for the purposes of the first, second and third cases of entitlement are those specified in Schedule 3, Part I, paragraph 5 (Category B retirement pension or widow's pension, as the case may be).
- (7) A woman's Category B retirement pension—
 - (a) in the first and second cases of entitlement shall—
 - (i) during any period in which the husband is alive, be at the lower rate specified in relation thereto in Schedule 4, Part I, paragraph 9, and
 - (ii) during any period after he is dead, be at the higher rate so specified ; and
 - (b) in the third case of entitlement, shall be at the higher rate so specified ; and
 - (c) in the fourth case of entitlement, shall be at the same weekly rate as her widow's pension.
- (8) Where a woman would but for section 27(6) of this Act be entitled both to a Category A and also to a Category B retirement pension, and section 28(7) above would apply for the increase of the former pension, it shall be taken as applying also for the increase of the latter.
- (9) Subject to the provisions of this Act, a woman's Category B retirement pension shall commence from the date on which she becomes entitled under whichever of subsections (2) to (5) above is applicable in her case, and shall be payable for her life.

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- (10) Where a woman is entitled to a Category B retirement pension by virtue of the contributions of her husband, the weekly rate of the pension shall be increased—
- (a) during any period in which he is alive (and she remains his wife) by 1/16th per cent. of his pension for every 6 days (excluding Sundays) which—
 - (i) fall in the period beginning with the day on which he attained pensionable age and ending with the day before that of his retirement and not in a period before she married him or attained pensionable age; and
 - (ii) in relation to him and his pension, were days of increment under section 28(4),
but only if the number of such days is at least 48 ; and
 - (b) during any period after he is dead if she was married to him when he died by that amount plus an additional 1/16th per cent. of the husband's pension for every 6 days which were in relation to him and his pension days of increment under section 28(4), but only if the number of such days is at least 48.
- (11) References in subsection (10) above to the husband's pension are to that pension without any increase otherwise than under section 28(7) above; and in ascertaining the rate of his pension for the purposes of subsection (10) regard is to be had to the rates in force from time to time as increased by up-rating orders, or by any Act passed after the 1973 Act.
- (12) Where a woman has made an election in accordance with regulations under section 30(3) of this Act (return to work after retirement) and has not revoked her election, there shall be taken into account, as days of increment in relation to her for the purposes of any increase of her pension under subsection (10)(b) above, any days after the date of her election and after the date of the death of her husband by virtue of whose contributions she is entitled to the pension, being days which would, if she were entitled to a Category A retirement pension, be days of increment under section 28(4) above in relation to her and that pension.

30 Category A and B pensions (supplementary)

- (1) Where the earnings of a person entitled to a Category A or Category B retirement pension, being a person who is less than 5 years over pensionable age, have exceeded £20 for the week ending last before any week for which he is entitled to the pension, the weekly rate of pension for the last-mentioned week shall be reduced—
- (a) where the excess is less than £4, by 5 pence for each complete 10 pence of the excess; and
 - (b) where the excess is not less than £4, by 5 pence for each complete 10 pence of the excess up to £4 and by 5 pence for each complete 5 pence of any further excess:

Provided that this subsection shall not affect the rate of the pension for the first week after the date of the beneficiary's retirement.

In this subsection " week", where used in the expression " week for which he is entitled to the pension " and in the proviso, means such period of 7 days as may be prescribed by regulations relating to the payment of pensions.

- (2) With effect from such day as may be prescribed in the week containing 6th April in a year mentioned in the first column below, subsection (1) above shall have effect with

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the substitution for " £20 " of the amount specified in relation to that year in the second column below—

1976	£35	
1977	£50.	

- (3) Regulations may provide that in the case of a person of any prescribed description who—
- (a) has retired from regular employment or has otherwise become entitled to a retirement pension (whether Category A or Category B) but is, in the case of a woman, under the age of 65 or, in the case of a man, under the age of 70; and
 - (b) elects in such manner and in accordance with such conditions as may be prescribed that the regulations shall apply in his case,
- this Part of this Act shall have effect as if that person had not retired or become entitled to such a retirement pension ; and any such regulations may make such modifications of the provisions of this Part, or of those of Part III below as those provisions apply in a case where a person makes an election under the regulations, as may appear to the Secretary of State necessary or expedient.
- (4) Where a husband and wife have both become entitled to retirement pensions and—
- (a) the husband's pension is Category A; and
 - (b) the wife's pension is Category B by virtue of that husband's contributions,
- the husband shall not be entitled to make an election hi accordance with regulations made under subsection (3) above without the consent of the wife, unless that consent is unreasonably withheld.
- (5) Where a person has given notice for the purposes of regulations under section 27(4) above and the date of retirement specified in the notice falls after the date when the notice was given, a Category A or Category B retirement pension may be awarded as from the date of retirement so specified, but if so awarded shall be conditional on the person's having retired on or before that date.