

PENSIONS ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 1: Part 5: Up-rating of basic pension etc. and standard minimum guarantee by reference to earnings

Section 9: Deemed earnings factors for purposes of additional pension

Provisions of new section 44C – Earnings Factor Credits

178. New section 44C applies for the purposes of Conditions B and C specified in section 44B(4) and (5) for tax years from 2010-11 onwards (*subsection (1)*).
179. *Subsection (2)* provides that an individual may enhance their earning factors in any tax year if, for any week in that year, the person is eligible (as specified by *subsection (3)*). For each week in which the person is eligible, he or she is entitled to an earnings factor credit equal to 1/52 of the qualifying earnings factor for that year (i.e. the lower earnings limit).
180. *Subsection (3)* specifies the persons who are eligible for earnings enhancement. They are:
- *Paragraph (a)* – relevant carers (i.e. those entitled to credits for basic state pension purposes under new section 23A described in paragraphs 129-135 above);
 - *Paragraph (b)* – broadly, persons in receipt of carer’s allowance;
 - *Paragraph (c)* – persons to whom severe disablement allowance is payable;
 - *Paragraph (d)* – broadly, persons to whom long term incapacity benefit is payable (incapacity benefit will be replaced by the employment and support allowance provided for by the Welfare Reform Act 2007); and
 - *Paragraph (e)* - persons satisfying such conditions as may be set out in regulations. This power will allow persons receiving other benefits to be eligible for earnings enhancement. For example, this could be used to award earnings factor credits to employment support allowance recipients.
181. *Subsection (4)* cross-refers to the meaning of occupational pension scheme and personal pension scheme as set out at section 30DD. A person is in effect deemed to be receiving long term incapacity benefit for the purposes of *subsection (3)(d)* if that benefit is reduced to nil by virtue of receiving payments from such schemes.
182. *Subsection (5)* ensures that an individual who has some earnings from paid contributions is only entitled to the number of earnings factor credits required to bring that person up to the qualifying earnings factor.
183. *Subsection (6)* provides that earnings factor credits that fall within a week that straddles the change in tax years are attributed to the tax year in which the week begins.

*These notes refer to the Pensions Act 2007 (c.22)
which received Royal Assent on 26 July 2007*

184. *Subsection (7)* defines terms used in this section and in section 44B. In particular, it has the effect that one earnings factor credit is equal to $1/52^{\text{nd}}$ of the qualifying earnings factor (see *subsection (2)*).