
STATUTORY INSTRUMENTS

1999 No. 3147

**The Welfare Reform and Pensions
(Northern Ireland) Order 1999**

PART V

PENSION SHARING

CHAPTER II

SHARING OF STATE SCHEME RIGHTS

Shareable state scheme rights

44.—(1) Pension sharing is available under this Chapter in relation to a person's shareable state scheme rights.

[^{F1}(1A) For the purposes of this Chapter, a person's shareable state scheme rights are—

- (a) the person's shareable old state scheme rights;
- (b) the person's shareable new state scheme rights.]

(2) For the purposes of this Chapter, a person's shareable [^{F2}old] state scheme rights are—

- (a) his entitlement, or prospective entitlement to a Category A retirement pension by virtue of section 44(3)(b) of the Contributions and Benefits Act (^{F3}... additional pension), and
- (b) his entitlement, or prospective entitlement, to a pension under section 55A [^{F4}or 55AA] of that Act (shared additional pension).

[^{F5}(3) For the purposes of this Chapter, a person's shareable new state scheme rights are the person's entitlement, or prospective entitlement, to the excess amount in a state pension under section 4 of the Pensions Act (Northern Ireland) 2015.

(4) “The excess amount”, in relation to a state pension under section 4 of the Pensions Act (Northern Ireland) 2015, means any amount by which the rate of the pension exceeds the full rate of the state pension (see section 3 of that Act).

(5) In determining the rate of a state pension under section 4 of the Pensions Act (Northern Ireland) 2015 for the purposes of this Chapter, ignore Schedule 6 to that Act (reduced rate elections: effect on rate of section 4 pension).]

F1 Art. 44(1A) inserted (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 11 para. 9\(2\)](#)

F2 Word in art. 44(2) inserted (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 11 para. 9\(3\)\(a\)](#)

F3 Word in art. 44(2)(a) omitted (12.10.2015) by virtue of [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(1\), Sch. 15 para. 7; S.R. 2015/329, art. 2\(3\)](#)

F4 Words in art. 44(2)(b) inserted (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 11 para. 9\(3\)\(b\)](#)

F5 Art. 44(3)-(5) added (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 11 para. 9\(4\)](#)

Activation of benefit sharing

45.—(1) [^{F6}Article 46 or 46A applies where any of the following has taken effect in relation to a person's shareable state scheme rights] —

- (a) a pension sharing order under the Matrimonial Causes Order;
- [^{F7}(aa) a pension sharing order under Schedule 15 to the Civil Partnership Act 2004,]
- (b) an order under Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (financial relief in Northern Ireland in relation to overseas divorce etc.) corresponding to such an order mentioned in sub-paragraph (a);
- [^{F7}(ba) an order under Schedule 17 to the 2004 Act (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (aa),]
- (c) an order or provision to which any of paragraphs (a) to (g) of subsection (1) of section 48 of the Welfare Reform Act applies (pension sharing orders under the Matrimonial Causes Act 1973 and the Family Law (Scotland) Act 1985 and other provisions and orders in Great Britain corresponding to pension sharing orders under those Acts).

(2) The reference in paragraph (1) to paragraphs (a) to (g) of subsection (1) of section 48 of the Welfare Reform Act is to those paragraphs as they have effect subject to the provisions of that section and section 85(5) of that Act.

F6 Words in art. 45(1) substituted (16.7.2015 for specified purposes, 6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 11 para. 10; S.R. 2015/307, art. 2\(2\)\(k\)](#)

F7 2004 c.33

Creation of state scheme pension debits and credits [^{F8}: transferor in old state pension system or pension sharing activated before 6 April 2016]

46.—[^{F9}(A1) This Article applies if—

- (a) the transferor is in the old state pension system, or
 - (b) the transferor is in the new state pension system but the transfer day was before 6 April 2016.
- (1) Where this Article applies because of a relevant order or provision—
- (a) the transferor is subject, for the purposes of the relevant state pension legislation, to a debit of the appropriate amount, and
 - (b) the transferee is entitled, for the purposes of the relevant state pension legislation, to a credit of that amount.]

(2) Where the relevant order or provision specifies a percentage value to be transferred, the appropriate amount for the purposes of paragraph (1) is the specified percentage of the cash equivalent on the transfer day of the transferor's shareable [^{F10}old] state scheme rights immediately before that day.

(3) Where the relevant order or provision specifies an amount to be transferred, the appropriate amount for the purposes of paragraph (1) is the lesser of—

- (a) the specified amount, and
- (b) the cash equivalent on the transfer day of the transferor's [^{F11}shareable old] state scheme rights immediately before that day.

[^{F12}(4) The Department may by regulations make provision for the calculation and verification of cash equivalents for the purposes of this Article.

(4A) The power conferred by paragraph (4) includes power to provide—

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.]

(5) In determining prospective entitlement to a Category A retirement pension for the purposes of this Article, only tax years before that in which the transfer day falls shall be taken into account.

[^{F13}(5A) The fact that a person who reaches pensionable age on or after 6 April 2016 is not entitled to a pension of the kind mentioned in Article 44(2)(a) or (b) does not affect the calculation under this Article of the appropriate amount by reference to the transferor's prospective entitlement, immediately before the transfer day, to a pension of that kind.]

(6) In this Article—

“relevant order or provision” means the order or provision by virtue of which this Article applies;

[^{F14}“the relevant state pension legislation”—

- (a) in relation to a transferor or transferee in the old state pension system, means Part 2 of the Contributions and Benefits Act, and
- (b) in relation to a transferor or transferee in the new state pension system, means Part 1 of the Pensions Act (Northern Ireland) 2015;]

“transfer day” means the day on which the relevant order or provision takes effect;

“transferor” means the person to whose rights the relevant order or provision relates;

“transferee” means the person for whose benefit the relevant order or provision is made.

- F8** Art. 46 heading words inserted (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 11 para. 11\(7\)](#)
- F9** Art. 46(A1)(1) substituted for art. 46(1) (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 11 para. 11\(2\)](#)
- F10** Word in art. 46(2) inserted (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 11 para. 11\(3\)](#)
- F11** Words in art. 46(3)(b) substituted (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 11 para. 11\(4\)](#)
- F12** 2000 c. 4 (NI)
- F13** Art. 46(5A) inserted (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 11 para. 11\(5\)](#)
- F14** Words in art. 46(6) inserted (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 11 para. 11\(6\)](#)

Modifications etc. (not altering text)

- C1** Art. 46 applied (6.4.2016) by [The Pensions \(2015 Act\) \(Pension Sharing on Divorce etc.\) \(Transitional Provision\) Order \(Northern Ireland\) 2016 \(S.R. 2016/99\), arts. 1\(1\), 2\(2\)\(a\)](#)

[^{F15}Creation of debits and credits: transferor in new state pension system and sharing activated on or after 6 April 2016

46A.—(1) This Article applies if—

- (a) the transferor is in the new state pension system, and
- (b) the transfer day is 6 April 2016 or any later date.

(2) Where this Article applies because of a relevant order or provision—

- (a) the transferor is subject, for the purposes of section 14 of the Pensions Act (Northern Ireland) 2015, to a debit of the shared weekly amount, and
- (b) the transferee is entitled, for the purposes of the relevant state pension legislation, to a credit of the shared weekly amount.

(3) The shared weekly amount is the specified percentage of the excess amount of the transferor's state pension under section 4 of the Pensions Act (Northern Ireland) 2015 as at the transfer day.

(4) For the purposes of calculating the shared weekly amount—

- (a) a transferor who is under pensionable age on the transfer day is to be treated as having reached pensionable age and to have become entitled to the state pension under section 4 of the Pensions Act (Northern Ireland) 2015 on the transfer day;
- (b) a transferor who has reached pensionable age on the transfer day but who has not yet become entitled to the state pension under section 4 of the Pensions Act (Northern Ireland) 2015 is to be treated as having become entitled to the pension on that day.

(5) In this Article—

“the excess amount” has the meaning given by Article 44(4);

“relevant order or provision” means the order or provision by virtue of which this Article applies (see Article 45);

“the relevant state pension legislation”—

- (a) in relation to a transferee in the old state pension system, means Part 2 of the Contributions and Benefits Act, and
- (b) in relation to a transferee in the new state pension system, means Part 1 of the Pensions Act (Northern Ireland) 2015;

“specified percentage” means the percentage specified in the relevant order or provision for the purposes of paragraph (3);

“transfer day” means the day on which the relevant order or provision takes effect;

“transferor” means the person to whose rights the relevant order or provision relates;

“transferee” means the person for whose benefit the relevant order or provision is made.]

F15 Art. 46A inserted (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\)](#), [Sch. 11 para. 12](#)

Modifications etc. (not altering text)

C2 Art. 46A transitional provisions for effects of [2015 c. 5 \(N.I.\)](#), [Sch. 11 para. 12](#) (6.4.2016) by [The Pensions \(2015 Act\) \(Pension Sharing on Divorce etc.\) \(Transitional Provision\) Order \(Northern Ireland\) 2016 \(S.R. 2016/99\)](#), [art. 2\(1\)](#)

C3 Art. 46A excluded (6.4.2016) by [The Pensions \(2015 Act\) \(Pension Sharing on Divorce etc.\) \(Transitional Provision\) Order \(Northern Ireland\) 2016 \(S.R. 2016/99\)](#), [art. 2\(2\)\(b\)](#)

Effect of state scheme pension debits and credits

47.—(1) Schedule 6 (which amends the Contributions and Benefits Act for the purpose of giving effect to debits and credits under Article 46(1)) shall have effect.

(2) ^{F16}

F16 Art. 47(2) repealed (17.2.2005) by [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), arts. 1(3), 291, Sch. 9 para. 19, Sch. 11

Interpretation of Chapter II

48.—^{F17}(1) In this Chapter—

^{F18}“shareable state scheme rights”, and related expressions, have the meaning given by Article 44;] and

“tax year” has the meaning given by section 121(1) of the Contributions and Benefits Act.

^{F19}(2) For the purposes of this Chapter—

- (a) a person is in the old state pension system if the person reached pensionable age before 6 April 2016 (or would have done so if the person had lived until pensionable age), and
- (b) a person is in the new state pension system if the person reached pensionable age on or after 6 April 2016 (or will do so if the person lives until pensionable age).]

F17 Art. 48(1): art. 48 renumbered as art. 48(1) (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\)](#), s. 53(3), [Sch. 11 para. 13\(2\)](#)

F18 Words in art. 48(1) substituted (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\)](#), s. 53(3), [Sch. 11 para. 13\(3\)](#)

F19 Art. 48(2) inserted (6.4.2016) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\)](#), s. 53(3), [Sch. 11 para. 13\(4\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Welfare Reform and Pensions (Northern Ireland) Order 1999, CHAPTER II.