



Welfare Reform and Pensions Act 1999

1999 CHAPTER 30

PART IV

PENSION SHARING

CHAPTER II

SHARING OF STATE SCHEME RIGHTS

Modifications etc. (not altering text)

- C1** Pt. IV Ch. II modified (6.4.2016) by [The Social Security \(Northern Ireland Reciprocal Arrangements\) Regulations 2016 \(S.I. 2016/287\)](#), regs. 1, 2(2)(e)(ii), [Sch.](#)

47 Shareable state scheme rights.

- (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).

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- [^{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 2014.
- (4) “The excess amount”, in relation to a state pension under section 4 of the Pensions Act 2014, 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 2014 for the purposes of this Chapter, ignore Schedule 6 to that Act (reduced rate elections: effect on rate of section 4 pension).]

Textual Amendments

- F1** S. 47(1A) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\), Sch. 11 para. 10\(2\)](#)
- F2** Word in s. 47(2) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\), Sch. 11 para. 10\(3\)\(a\)](#)
- F3** Words in s. 47(2)(a) omitted (12.10.2015) by virtue of [Pensions Act 2014 \(c. 19\), s. 56\(1\), Sch. 15 para. 14; S.I. 2015/1475, art. 3\(b\)](#)
- F4** Words in s. 47(2)(b) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\), Sch. 11 para. 10\(3\)\(b\)](#)
- F5** S. 47(3)-(5) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\), Sch. 11 para. 10\(4\)](#)

Commencement Information

- I1** S. 47 wholly in force at 1.12.2000; s. 47 in force for certain purposes at Royal Assent see s. 89(1); s. 47 in force at 1.12.2000 insofar as not already in force by [S.I. 2000/1047, art. 2\(2\)\(d\), Sch. Pt. IV](#)

48 Activation of benefit sharing.

- (1) [^{F6}Section 49 or 49A 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 ^{M1}Matrimonial Causes Act 1973,
- [^{F7}(aa) a pension sharing order under Schedule 5 to the Civil Partnership Act 2004,]
- ^{F8}(b)
- ^{F9}(c)
- (d) an order under Part III of the ^{M2}Matrimonial and Family Proceedings Act 1984 (financial relief in England and Wales in relation to overseas divorce etc.) corresponding to such an order as is mentioned in paragraph (a),
- [^{F10}(da) an order under Schedule 7 to the 2004 Act (financial relief in England and Wales after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (aa),]
- (e) a pension sharing order under the ^{M3}Family Law (Scotland) Act 1985,
- (f) provision which corresponds to the provision which may be made by such an order and which—
- (i) is contained in a qualifying agreement between the parties to a marriage [^{F11}or between persons who are civil partners of each other],
- (ii) is in such form as the Secretary of State may prescribe by regulations,
- and

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- (iii) takes effect on the grant, in relation to the marriage, of decree of divorce under the ^{M4}Divorce (Scotland) Act 1976 or of declarator of nullity [^{F12}or (as the case may be) on the grant, in relation to the civil partnership, of decree of dissolution or of declarator of nullity],
- (g) an order under Part IV of the ^{M5}Matrimonial and Family Proceedings Act 1984 (financial relief in Scotland in relation to overseas divorce etc.) [^{F13}or under Schedule 11 to the 2004 Act (financial provision in Scotland after overseas proceedings)] corresponding to such an order as is mentioned in paragraph (e),
- (h) a pension sharing order under [^{F14}the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)),]
- (i) an order under Part IV of the ^{M6}Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (financial relief in Northern Ireland in relation to overseas divorce etc.) corresponding to such an order as is mentioned in paragraph (h).
- [^{F15}(j) a pension sharing order under Schedule 15 to the 2004 Act, and
- (k) 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 (j).]

^{F16}(2)

- (3) For the purposes of subsection (1)(f), a qualifying agreement is one which—
 - (a) has been entered into in such circumstances as the Secretary of State may prescribe by regulations, and
 - (b) is registered in the Books of Council and Session.

^{F17}(4)

^{F18}(5)

- (6) For the purposes of this section, an order or provision falling within subsection (1)(e), (f) or (g) shall be deemed never to have taken effect if the Secretary of State does not receive before the end of the period of 2 months beginning with the relevant date—
 - (a) copies of the relevant ^{F19}... documents, and
 - (b) such information relating to the transferor and transferee as the Secretary of State may prescribe by regulations under section 34(1)(b)(ii).

- (7) The relevant date for the purposes of subsection (6) is—
 - (a) in the case of an order or provision falling within subsection (1)(e) or (f), the date of the extract of the decree or declarator responsible for the divorce [^{F20}, dissolution] or annulment to which the order or provision relates, and
 - (b) in the case of an order falling within subsection (1)(g), the date of disposal of the application under section 28 of the ^{M7}Matrimonial and Family Proceedings Act 1984 [^{F21}or, where the order is under Schedule 11 to the 2004 Act, the date of disposal of the application under paragraph 2 of that Schedule].

- (8) The reference in subsection (6)(a) to the relevant ^{F22}... documents is—
 - (a) in the case of an order falling within subsection (1)(e) or (g), to copies of the order and the order, decree or declarator responsible for the divorce [^{F23}, dissolution] or annulment to which it relates, and
 - (b) in the case of provision falling within subsection (1)(f), to—
 - (i) copies of the provision and the order, decree or declarator responsible for the divorce [^{F24}, dissolution] or annulment to which it relates, and

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- (ii) documentary evidence that the agreement containing the provision is one to which subsection (3)(a) applies.
- (9) [^{F25}The Court of Session or the sheriff] may, on the application of any person having an interest, make an order—
- (a) extending the period of 2 months referred to in subsection (6), and
 - (b) if that period has already expired, providing that, if the Secretary of State receives the documents and information concerned before the end of the period specified in the order, subsection (6) is to be treated as never having applied.

Textual Amendments

- F6** Words in s. 48(1) substituted (5.2.2015 for specified purposes, 6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by **Pensions Act 2014 (c. 19)**, s. 56(4), **Sch. 11 para. 11**; S.I. 2015/134, art. 2(1)(4)(k)
- F7** S. 48(1)(aa) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(2)**; S.I. 2005/3175, art. 2(2)
- F8** S. 48(1)(b) repealed (13.5.2014) by **Children and Families Act 2014 (c. 6)**, **ss. 18(3)(b)(ii)**, 139(4)
- F9** S. 48(1)(c) repealed (13.5.2014) by **Children and Families Act 2014 (c. 6)**, **ss. 18(3)(b)(ii)**, 139(4)
- F10** S. 48(1)(da) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(3)**; S.I. 2005/3175, art. 2(2)
- F11** Words in s. 48(1)(f)(i) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(4)(a)**; S.I. 2005/3175, art. 2(2)
- F12** Words in s. 48(1)(f)(iii) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(4)(b)**; S.I. 2005/3175, art. 2(2)
- F13** Words in s. 48(1)(g) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(5)**; S.I. 2005/3175, art. 2(2)
- F14** Words in s. 48(1)(h) substituted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(6)**; S.I. 2005/3175, art. 2(2)
- F15** S. 48(1)(j)(k) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(7)**; S.I. 2005/3175, art. 2(2)
- F16** S. 48(2) repealed (13.5.2014) by **Children and Families Act 2014 (c. 6)**, **ss. 18(3)(b)(ii)**, 139(4)
- F17** S. 48(4) repealed (13.5.2014) by **Children and Families Act 2014 (c. 6)**, **ss. 18(3)(b)(ii)**, 139(4)
- F18** S. 48(5) repealed (13.5.2014) by **Children and Families Act 2014 (c. 6)**, **ss. 18(3)(b)(ii)**, 139(4)
- F19** Word in s. 48(6)(a) repealed (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(8)**, **Sch. 30**; S.I. 2005/3175, art. 2(2)(6)
- F20** Word in s. 48(7)(a) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(9)(a)**; S.I. 2005/3175, art. 2(2)
- F21** Words in s. 48(7)(b) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(9)(b)**; S.I. 2005/3175, art. 2(2)
- F22** Word in s. 48(8) repealed (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(10)(a)**, **Sch. 30**; S.I. 2005/3175, art. 2(2)(6)
- F23** Word in s. 48(8)(a) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(10)(b)**; S.I. 2005/3175, art. 2(2)
- F24** Word in s. 48(8)(b)(i) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(10)(b), **Sch. 27 para. 161(10)(b)**; S.I. 2005/3175, art. 2(2)
- F25** Words in s. 48(9) substituted (26.1.2009) by **Pensions Act 2008 (c. 30)**, **ss. 128(3)**, 149(1); S.I. 2009/82, art. 2(1)(b)

Changes to legislation: There are currently no known outstanding effects for the Welfare Reform and Pensions Act 1999, Chapter II. (See end of Document for details)

Commencement Information

- I2** S. 48 wholly in force at 1.12.2000; s. 48 in force for certain purposes at Royal Assent see s. 89(1); s. 48 in force at 1.12.2000 insofar as not already in force by [S.I. 2000/1047](#), art. 2(2)(d), **Sch. Pt. IV**

Marginal Citations

- M1** 1973 c. 18.
M2 1984 c. 42.
M3 1985 c. 37.
M4 1976 c. 39.
M5 1984 c. 42.
M6 [S.I. 1989/677](#) (N.I. 4).
M7 1984 c. 42.

49 Creation of state scheme pension debits and credits.

- [^{F26}(A1) This section 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 section 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 subsection (1) is the specified percentage of the cash equivalent on the transfer day of the transferor’s shareable [^{F27}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 subsection (1) is the lesser of—
- (a) the specified amount, and
 - (b) the cash equivalent on the transfer day of the transferor’s [^{F28}shareable old] state scheme rights immediately before that day.
- [^{F29}(4) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.
- (4A) The power conferred by subsection (4) above 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 section, only tax years before that in which the transfer day falls shall be taken into account.

Changes to legislation: There are currently no known outstanding effects for the Welfare Reform and Pensions Act 1999, Chapter II. (See end of Document for details)

[^{F30}(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 section 47(2)(a) or (b) does not affect the calculation under this section 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 section—

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

[^{F31}“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 2014.]

“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.

Textual Amendments

F26 Ss. 49(A1)-(1) substituted for s. 49(1) (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\)](#), [Sch. 11 para. 12\(2\)](#)

F27 Word in s. 49(2) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\)](#), [Sch. 11 para. 12\(3\)](#)

F28 Words in s. 49(3)(b) substituted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\)](#), [Sch. 11 para. 12\(4\)](#)

F29 S. 49(4)(4A) substituted (29.9.2000) for s. 49(4) by [2000 c. 19, s. 41\(1\)](#) (with s. 83(6)); [S.I. 2000/2666, art. 2\(1\)](#)

F30 S. 49(5A) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\)](#), [Sch. 11 para. 12\(5\)](#)

F31 Words in s. 49(6) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\)](#), [Sch. 11 para. 12\(6\)](#)

Modifications etc. (not altering text)

C2 S. 49 applied (6.4.2016) by [The Pensions Act 2014 \(Pension Sharing on Divorce etc.\) \(Transitional Provision\) Order 2016 \(S.I. 2016/39\)](#), arts. 1(1), [2\(2\)\(a\)](#)

Commencement Information

I3 S. 49 wholly in force at 1.12.2000; s. 49 in force for certain purposes at Royal Assent see s. 89(1); s. 49 in force at 1.12.2000 insofar as not already in force by [S.I. 2000/1047, art. 2\(2\)\(d\)](#), [Sch. Pt. IV](#)

[^{F32}**49A Creation of debits and credits: transferor in new state pension system and sharing activated on or after 6 April 2016**

(1) This section 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.

Changes to legislation: There are currently no known outstanding effects for the Welfare Reform and Pensions Act 1999, Chapter II. (See end of Document for details)

- (2) Where this section applies because of a relevant order or provision—
 - (a) the transferor is subject, for the purposes of section 14 of the Pensions Act 2014, 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 2014 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 2014 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 2014 is to be treated as having become entitled to the pension on that day.
- (5) In this section—
 - “the excess amount” has the meaning given by section 47(4);
 - “relevant order or provision” means the order or provision by virtue of which this section applies (see section 48);
 - “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 2014;
 - “specified percentage” means the percentage specified in the relevant order or provision for the purposes of subsection (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.]

Textual Amendments

F32 S. 49A inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by Pensions Act 2014 (c. 19), s. 56(4), Sch. 11 para. 13

50 Effect of state scheme pension debits and credits.

- (1) Schedule 6 (which amends the Contributions and Benefits Act for the purpose of giving effect to debits and credits under section 49(1)) shall have effect.

^{F33}(2)

Changes to legislation: There are currently no known outstanding effects for the Welfare Reform and Pensions Act 1999, Chapter II. (See end of Document for details)

Textual Amendments

F33 S. 50(2) repealed (18.11.2004) by [Pensions Act 2004 \(c. 35\)](#), s. 322(2)(e), [Sch. 11 para. 24](#), [Sch. 13](#)

Commencement Information

I4 S. 50 wholly in force at 1.12.2000; s. 50 in force for certain purposes at Royal Assent see s. 89(1); s. 50 in force at 1.12.2000 insofar as not already in force by [S.I. 2000/1047](#), art. 2(2)(d), [Sch. Pt. IV](#)

51 Interpretation of Chapter II.

[^{F34}(1)] In this Chapter—

[^{F35c}“shareable state scheme rights”, and related expressions, have the meaning given by section 47;]

“tax year” has the meaning given by section 122(1) of the Contributions and Benefits Act.

[^{F36}(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).]

Textual Amendments

F34 S. 51: renumbered as s. 51(1) (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 11 para. 14\(2\)](#)

F35 Words in s. 51 substituted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 11 para. 14\(3\)](#)

F36 S. 51(2) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 11 para. 14\(4\)](#)

Commencement Information

I5 S. 51 wholly in force at 1.12.2000; s. 51 in force for certain purposes at Royal Assent see s. 89(1); s. 51 in force at 1.12.2000 insofar as not already in force by [S.I. 2000/1047](#), art. 2(2)(d), [Sch. Pt. IV](#)

Changes to legislation:

There are currently no known outstanding effects for the Welfare Reform and Pensions Act 1999, Chapter II.