



# Social Security Contributions and Benefits Act 1992

## 1992 CHAPTER 4

### PART II **E+W+S**

#### CONTRIBUTORY BENEFITS

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

#### 43 **Persons entitled to more than one retirement pension.** **E+W+S**

- (1) A person shall not be entitled for the same period to more than one retirement pension under this Part of this Act except as provided by subsection (2) below [<sup>F1</sup>and section 61ZC below (which deals with unusual cases involving units of additional pension)].
- (2) A person who, apart from subsection (1) above, would be entitled for the same period to both—
  - (a) a Category A or a Category B retirement pension under this Part; and
  - (b) a Category C or a Category D retirement pension under Part III below,shall be entitled to both of those pensions for that period, subject to any adjustment of them in pursuance of regulations under section 73 of the Administration Act.
- (3) A person who, apart from subsection (1) above, would be entitled—
  - [<sup>F2</sup>(a) to both a Category A retirement pension and one or more Category B retirement pensions under this Part for the same period,
  - (aa) to more than one Category B retirement pension (but not a Category A retirement pension) under this Part for the same period, or]
  - (b) to both a Category C and a Category D retirement pension under Part III below for the same period,

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may from time to time give notice in writing to the Secretary of State specifying which of the pensions referred to in [<sup>F3</sup>paragraph (a), (aa) or (b) (as the case may be)] he wishes to receive.

- (4) If a person gives such a notice, the pension so specified shall be the one to which he is entitled in respect of any week commencing after the date of the notice.
- (5) If no such notice is given, the person shall be entitled to whichever of the pensions is from time to time the most favourable to him (whether it is the pension which he claimed or not).
- [<sup>F4</sup>(6) For the purposes of this section, a pension under section 55A [<sup>F5</sup>or 55AA] below is not a retirement pension.]

#### Textual Amendments

- F1** Words in s. 43(1) inserted (12.10.2015) by [Pensions Act 2014 \(c. 19\)](#), s. 56(1), [Sch. 15 para. 5](#); [S.I. 2015/1475](#), art. 3(b)
- F2** S. 43(3)(a)(aa) substituted for s. 43(3)(a) (18.11.2004) by [Pensions Act 2004 \(c. 35\)](#), [ss. 296\(a\)](#), 322(2)(c)(i)
- F3** Words in s. 43(3) substituted (18.11.2004) by [Pensions Act 2004 \(c. 35\)](#), [ss. 296\(b\)](#), 322(2)(c)(i)
- F4** S. 43(6) inserted (1.12.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), [Sch. 12 para. 18](#); [S.I. 2000/1047](#), art. 2(2)(d), [Sch. Pt. IV](#)
- F5** Words in s. 43(6) inserted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 11 para. 4](#)

#### 44 Category A retirement pension. **E+W+S**

- (1) A person shall be entitled to a Category A retirement pension if—
- [<sup>F6</sup>(a) the person attained pensionable age before 6 April 2016,] and
- [<sup>F7</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>F8</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>F9</sup>or where the pensioner has one or more units of additional pension].
- [<sup>F10</sup>For units of additional pension, see section 14A.]

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[<sup>F11</sup>(4) The weekly rate of the basic pension shall be [<sup>F12</sup>£115.95] 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>F13</sup>£101.10].

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>F14</sup>(5) . . . . .

[<sup>F14</sup>(5A) For the purposes of this section and section 45 [<sup>F15</sup>and [<sup>F16</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>F17</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>F18</sup>Subject to subsection (7A) below] any reference in this section or section 45 [<sup>F19</sup>or [<sup>F20</sup>Schedule 4A or 4B]] below to the pensioner’s earnings factor for any relevant year is a reference—

[<sup>F21</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>F22</sup>so much of his earnings as did not exceed [<sup>F23</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>F24</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>F25</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>F26</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>F27</sup>(c) “the applicable limit” means—
  - (i) in relation to a tax year before [<sup>F28</sup>2009-10], the upper earnings limit;

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(ii) in relation to [<sup>F28</sup>2009-10] or any subsequent tax year, the upper accrual point.]

[<sup>F29</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 [<sup>F30</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

- F6** 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)
- F7** S. 44(1)(b) substituted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 1 para. 1(2)**
- F8** S. 44(1A) inserted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 1 para. 1(3)**
- F9** 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)
- F10** 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)
- F11** 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
- F12** Sum in s. 44(4) substituted (with effect in accordance with arts. 1(2)(c)(3)(4), 6 of the amending S.I.) by The Social Security Benefits Up-rating Order 2015 (S.I. 2015/457), arts. 1(2)(c)(3), **4(3)(b)**
- F13** Sum in s. 44(4) substituted (with effect in accordance with arts. 1(2)(c)(3)(4), 6 of the amending S.I.) by The Social Security Benefits Up-rating Order 2015 (S.I. 2015/457), arts. 1(2)(c)(3), **4(3)(a)**
- F14** 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)
- F15** 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)
- F16** Words in s. 44(5A) substituted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 2 para. 5(2)**
- F17** 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)
- F18** 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
- F19** 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)
- F20** Words in s. 44(6) substituted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 2 para. 5(3)**
- F21** 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)
- F22** 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**
- F23** 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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- F24** 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)
- F25** 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](#))
- F26** 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](#))
- F27** S. 44(7)(c) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), **ss. 12(2)(b)**, 30(3)
- F28** Words in s. 44(7)(c) substituted (21.9.2008) by [National Insurance Contributions Act 2008 \(c. 16\)](#), **ss. 3(3)**, 6(1)
- F29** 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
- F30** 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.

### [<sup>F31</sup>44A Deemed earnings factors. **E+W+S**

[ Subsections (1) to (4) below apply to the first appointed year or any subsequent tax <sup>F32</sup>(A1) year before 2010-11.]

- (1) For the purposes of section 44(6)(za) above, if any of the conditions in subsection (2) below is satisfied for a relevant year [<sup>F33</sup>to which this subsection applies], a pensioner is deemed to have an earnings factor for that year which—
- is derived from [<sup>F34</sup>so much of his earnings as did not exceed [<sup>F35</sup>the applicable limit] and] on which primary Class 1 contributions were paid; and
  - is equal to the amount which, when added to any other earnings factors taken into account under that provision, produces an aggregate of earnings factors equal to the low earnings threshold.
- (2) The conditions referred to in subsection (1) above are that—
- the pensioner would, apart from this section, have an earnings factor for the year—
    - equal to or greater than the qualifying earnings factor for the year; but
    - less than the low earnings threshold for the year;
  - [<sup>F36</sup>carer's allowance]—
    - was payable to the pensioner throughout the year; or

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- (ii) would have been so payable but for the fact that under regulations the amount payable to him was reduced to nil because of his receipt of other benefits;
- (c) for the purposes of paragraph 5(7)(b) of Schedule 3, the pensioner is taken to be precluded from regular employment by responsibilities at home throughout the year by virtue of—
  - (i) the fact that child benefit was payable to him in respect of a child under the age of six; or
  - (ii) his satisfying such other condition as may be prescribed;
- (d) the pensioner is a person satisfying the requirement in subsection (3) below to whom long-term incapacity benefit [<sup>F37</sup>or qualifying employment and support allowance] was payable throughout the year, or would have been so payable but for the fact that—
  - (i) he did not satisfy the contribution conditions in paragraph 2 of Schedule 3 [<sup>F38</sup>or, as the case may be, [<sup>F39</sup>in paragraphs 1 and 2] of Schedule 1 to the Welfare Reform Act][<sup>F40</sup>2007]; or
  - (ii) under regulations the amount payable to him was reduced to nil because of his receipt of other benefits or of payments from an occupational pension scheme or personal pension scheme.
- (3) The requirement referred to in subsection (2)(d) above is that—
  - (a) for one or more relevant years the pensioner has paid, or (apart from this section) is treated as having paid, primary Class 1 contributions on earnings equal to or greater than the qualifying earnings factor; and
  - (b) the years for which he has such a factor constitute at least one tenth of his working life.
- (4) For the purposes of subsection (3)(b) above—
  - (a) a pensioner’s working life shall not include—
    - (i) any tax year before 1978-79; or
    - (ii) any year in which he is deemed under subsection (1) above to have an earnings factor by virtue of fulfilling the condition in subsection (2) (b) or (c) above; and
  - (b) the figure calculated by dividing his working life by ten shall be rounded to the nearest whole year (and any half year shall be rounded down).
- [ The following do not apply to a pensioner attaining pensionable age on or after 6th <sup>F41</sup>(4A) April 2010—
  - (a) the requirement referred to in subsection (2)(d) above, and
  - (b) subsections (3) and (4) above.]
- (5) The low earnings threshold for the first appointed year and subsequent tax years shall be £9,500 (but subject to section 148A of the Administration Act).
- [ In subsection (1)(a) “the applicable limit” has the same meaning as in section 44.] <sup>F42</sup>(5A)
- (6) In subsection (2)(d)(ii) above, “occupational pension scheme” and “personal pension scheme” have the meanings given by subsection (6) of section 30DD above for the purposes of subsection (5) of that section.
- [ In subsection (2)(d) “qualifying employment and support allowance” means <sup>F43</sup>(7) contributory employment and support allowance where—

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- (a) that allowance was payable for a continuous period of 52 weeks;
- (b) that allowance included the support component under section 2(2) of the Welfare Reform Act <sup>[F44]</sup>2007]; or
- (c) in the case of—
  - (i) a man born between 6th April 1944 and 5th April 1947; or
  - (ii) a woman born between 6th April 1949 and 5th April 1951,that allowance was payable for a continuous period of 13 weeks immediately following a period throughout which statutory sick pay was payable.]]

#### Textual Amendments

- F31** S. 44A 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 \(c. 19\), s. 30\(3\), 86\(1\)\(b\)\(2\) \(with s. 30\(4\)\)](#); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F32** S. 44A(A1) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\), s. 30\(3\), Sch. 1 para. 34\(2\)](#)
- F33** Words in s. 44A(1) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\), s. 30\(3\), Sch. 1 para. 34\(3\)](#)
- F34** Words in s. 44A(1)(a) 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. 11](#)
- F35** Words in s. 44A(1)(a) substituted (21.9.2008) by [National Insurance Contributions Act 2008 \(c. 16\), s. 6\(1\), Sch. 1 para. 4\(2\)](#)
- F36** Words in s. 44A(2)(b) substituted (1.9.2002 for specified purposes, 1.4.2003 in so far as not already in force) by [The Regulatory Reform \(Carers Allowance\) Order 2002 \(S.I. 2002/1457\), arts. 1\(1\)\(b\), 2\(2\), Sch. para. 2\(a\)](#)
- F37** Words in s. 44A(2)(d) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\), regs. 1\(2\)\(b\), 47\(2\)\(a\)](#)
- F38** Words in s. 44A(2)(d)(i) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\), regs. 1\(2\)\(b\), 47\(2\)\(b\)](#)
- F39** Words in s. 44A(2)(d)(i) substituted (28.6.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2010 \(S.I. 2010/840\), regs. 1, 4\(a\)\(i\)](#)
- F40** Word in s. 44A(2)(d)(i) inserted (28.6.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2010 \(S.I. 2010/840\), regs. 1, 4\(a\)\(ii\)](#)
- F41** S. 44A(4A) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\), s. 30\(3\), Sch. 1 para. 34\(4\)](#)
- F42** S. 44A(5A) inserted (21.9.2008) by [National Insurance Contributions Act 2008 \(c. 16\), s. 6\(1\), Sch. 1 para. 4\(3\)](#)
- F43** S. 44A(7) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\), regs. 1\(2\)\(b\), 47\(3\)](#)
- F44** Word in s. 44A(7)(b) inserted (28.6.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2010 \(S.I. 2010/840\), regs. 1, 4\(b\)](#)

#### <sup>[F45]</sup> **44B Deemed earnings factors: 2010-11 onwards** **E+W+S**

- (1) This section applies to 2010-11 and subsequent tax years.
- (2) For the purposes of section 44(6)(za) above, if any of Conditions A to C in subsections (3) to (5) below is satisfied for a relevant year to which this section applies, a pensioner is deemed to have an earnings factor for that year which—
  - (a) is derived from so much of his earnings as did not exceed <sup>[F46]</sup>the upper accrual point] and on which primary Class 1 contributions were paid; and
  - (b) is equal to the amount which, when added to any other earnings factors taken into account under that provision, produces an aggregate of earnings factors equal to the low earnings threshold.



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- (3) Condition A is that the pensioner would, apart from this section, have an earnings factor for the year—
  - (a) equal to or greater than the qualifying earnings factor (“the QEF”) for the year, but
  - (b) less than the low earnings threshold for the year.
- (4) Condition B is that the pensioner—
  - (a) would, apart from this section and section 44C below, have an earnings factor for the year less than the QEF for the year, but
  - (b) is entitled to an aggregate amount of earnings factor credits for that year under section 44C below equal to the difference between the QEF for the year and the earnings factor mentioned in paragraph (a) above.
- (5) Condition C is that the pensioner is entitled to 52 earnings factor credits for that year under section 44C below.
- (6) This section has effect in relation to the flat rate introduction year and any subsequent tax year as if—
  - (a) subsection (2)(b) referred to an aggregate of earnings factors greater than the QEF, but less than the low earnings threshold, for the year (rather than to one equal to that threshold); and
  - (b) Condition A in subsection (3) (and the reference to it in subsection (2)) were omitted.
- (7) In this section—
  - <sup>F47</sup>(a) .....
  - (b) “the low earnings threshold” means the low earnings threshold for the year concerned as specified in section 44A above; and
  - (c) in subsections (3) and (4), any reference to the pensioner's earnings factor for a relevant year is to be construed in accordance with section 44(6)(za) above.]

**Textual Amendments**

**F45** Ss. 44B, 44C inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), **ss. 9(1)**, 30(3)

**F46** Words in s. 44B(2)(a) substituted (21.9.2008) by [National Insurance Contributions Act 2008 \(c. 16\)](#), s. 6(1), **Sch. 1 para. 5**

**F47** S. 44B(7)(a) repealed (21.9.2008) by [National Insurance Contributions Act 2008 \(c. 16\)](#), s. 6(1), **Sch. 2**

[<sup>F45</sup>**44C Earnings factor credits** **E+W+S**]

- (1) This section applies, for the purposes of Conditions B and C in section 44B(4) and (5) above, to 2010-11 and subsequent tax years.
- (2) In respect of each week—
  - (a) which falls in a relevant year to which this section applies, and
  - (b) in respect of which a pensioner is eligible for earnings factor enhancement, the pensioner is entitled to an earnings factor credit equal to 1/52 of the QEF for that year.

This is subject to subsection (5) below.



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- (3) A pensioner is eligible for earnings factor enhancement in respect of a week if one or more of the following apply—
- (a) he was a relevant carer in respect of that week for the purposes of section 23A above (see section 23A(3));
  - (b) carer's allowance was payable to him for any part of that week, or would have been so payable but for the fact that under regulations the amount payable to him was reduced to nil because of his receipt of other benefits;
  - (c) severe disablement allowance was payable to him for any part of that week;
  - (d) long-term incapacity benefit was payable to him for any part of that week or would have been so payable but for the fact that—
    - (i) he did not satisfy the contribution conditions in paragraph 2 of Schedule 3, or
    - (ii) under regulations the amount payable to him was reduced to nil because of his receipt of other benefits or of payments from an occupational pension scheme or personal pension scheme;
  - (e) he satisfies such other conditions as may be prescribed.
- (4) In subsection (3)(d)(ii) above “occupational pension scheme” and “personal pension scheme” have the meanings given by subsection (6) of section 30DD above for the purposes of subsection (5) of that section.
- (5) For the purposes of Condition B in section 44B(4) above a person is not entitled to an aggregate amount of earnings factor credits in respect of a year that is greater than the difference referred to in that Condition.
- (6) For the purposes of this section a week that falls partly in one tax year and partly in another is to be treated as falling in the year in which it begins and not in the following year.
- (7) In section 44B above and this section—
- (a) “the QEF” means the qualifying earnings factor, and
  - (b) any reference to a person being entitled to an earnings factor credit of a particular amount (or to an aggregate amount of earnings factor credits) for a year is a reference to the person being treated as having for that year an earnings factor (within the meaning of section 44(6)(za) above) of the amount in question by virtue of subsection (2) above.]

#### Textual Amendments

F45 Ss. 44B, 44C inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), ss. 9(1), 30(3)

## 45 The additional pension in a Category A retirement pension. **E+W+S**

- (1) The weekly rate of the additional pension in a Category A retirement pension in any case where the pensioner attained pensionable age in a tax year before 6th April 1999 shall be [<sup>F48</sup>the sum of the following—
- (a) in relation to any surpluses in the pensioner's earnings factors,] the weekly equivalent of 1 1/4 per cent. of the [<sup>F49</sup>adjusted] amount of the surpluses mentioned in section 44(3)(b) above[<sup>F50</sup>; and
  - (b) if the pensioner has one or more units of additional pension, a specified amount for each of those units].

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- (2) The weekly rate of the additional pension in a Category A retirement pension in any case where the pensioner attained pensionable age in a tax year after 5th April 1999 shall be <sup>F51</sup>the sum of the following—
- (a) in relation to any surpluses in the pensioner’s earnings factors for the tax years in the period beginning with 1978-79 and ending with 1987-88, the weekly equivalent of  $25/N$  per cent. of the <sup>F49</sup>adjusted] amount of those surpluses; and
  - (b) in relation to any surpluses in the pensioner’s earnings factors in a tax year after 1987-88 <sup>F52</sup>but before the first appointed year], the weekly equivalent of the relevant percentage of the <sup>F49</sup>adjusted] amount of those surpluses<sup>F53</sup>; and
  - (c) in relation to any tax years falling within subsection (3A) below, the weekly equivalent of the amount calculated in accordance with Schedule 4A to this Act]<sup>F54</sup>; and
  - (d) in relation to the flat rate introduction year and subsequent tax years, the weekly equivalent of the amount calculated in accordance with Schedule 4B to this Act]<sup>F55</sup>; and
  - (e) if the pensioner has one or more units of additional pension, a specified amount for each of those units].
- <sup>F56</sup>(2A) For the purposes of subsections (1)(b) and (2)(e) the “specified amount” is an amount to be specified by the Secretary of State in regulations.]
- (3) In subsection (2)(b) above, “relevant percentage” means—
- (a)  $20/N$  per cent., where the pensioner attained pensionable age in 2009-10 or any subsequent tax year;
  - (b)  $(20+X)/N$  per cent., where the pensioner attained pensionable age in a tax year falling within the period commencing with 1999-2000 and ending with 2008-9.
- <sup>F57</sup>(3A) The following tax years fall within this subsection—
- (a) the first appointed year;
  - (b) subsequent tax years <sup>F58</sup>before the flat rate introduction year].]

(4) In this section—

    - (a)  $X = 0.5$  for each tax year by which the tax year in which the pensioner attained pensionable age precedes 2009-10; and
    - (b)  $N =$  the number of tax years in the pensioner’s working life which fall after 5th April 1978;

but paragraph (b) above is subject, in particular, to subsection (5) and, where applicable, section 46 below.

(5) Regulations may direct that in prescribed cases or classes of cases any tax year shall be disregarded for the purpose of calculating  $N$  under subsection (4)(b) above, if it is a tax year after 5th April 1978 in which the pensioner—

    - (a) was credited with contributions or earnings under this Act by virtue of regulations under section 22(5) above, or
    - (b) was precluded from regular employment by responsibilities at home, or
    - (c) in prescribed circumstances, would have been treated as falling within paragraph (a) or (b) above,

but not so as to reduce the number of years below 20.

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- (6) For the purposes of subsections (1) and (2) above, the weekly equivalent of [<sup>F59</sup>any amount] shall be calculated by dividing that amount by 52 and rounding the result to the nearest whole penny, taking any 1/2p as nearest to the next whole penny.
- (7) Where the amount falling to be rounded under subsection (6) above is a sum less than 1/2p, the amount calculated under that subsection shall be taken to be zero, notwithstanding any other provision of this Act or the Administration Act.
- (8) The sums which are the weekly rate of the additional pension in a Category A retirement pension are subject to alteration by orders made by the Secretary of State under section 150 of the Administration Act.

#### Textual Amendments

- F48** Words in s. 45(1) inserted (1.10.2014 for specified purposes, 12.10.2015 in so far as not already in force) by Pensions Act 2014 (c. 19), s. 56(1), **Sch. 15 para. 7(2)(a)**; S.I. 2014/2377, art. 2(1)(a)(ii)(3)(d)(ii); S.I. 2015/1475, art. 3(b)
- F49** Words in s. 45(1)(2)(a)(b) 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(8)(a)**, 86(1)(b)(2); S.I. 2000/2950, **art. 6**; S.I. 2001/153, **art. 2(a)**
- F50** S. 45(1)(b) and word inserted (1.10.2014 for specified purposes, 12.10.2015 in so far as not already in force) by Pensions Act 2014 (c. 19), s. 56(1), **Sch. 15 para. 7(2)(b)**; S.I. 2014/2377, art. 2(1)(a)(ii)(3)(d)(ii); S.I. 2015/1475, art. 3(b)
- F51** Words in s. 45(2) 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. 31(1)(a)**, 86(1)(b)(2); S.I. 2000/2950, **art. 6**; S.I. 2001/153, **art. 2(a)**
- F52** Words in s. 45(2)(b) 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. 31(1)(b)**, 86(1)(b)(2); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F53** S. 45(2)(c) and word 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. 31(1)(c)**, 86(1)(b)(2); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F54** S. 45(2)(d) and word inserted (26.9.2007) by Pensions Act 2007 (c. 22), **ss. 11(2)**, 30(3)
- F55** S. 45(2)(e) and word inserted (1.10.2014 for specified purposes, 12.10.2015 in so far as not already in force) by Pensions Act 2014 (c. 19), s. 56(1), **Sch. 15 para. 7(3)**; S.I. 2014/2377, art. 2(1)(a)(ii)(3)(d)(ii); S.I. 2015/1475, art. 3(b)
- F56** S. 45(2A) inserted (1.10.2014 for specified purposes, 12.10.2015 in so far as not already in force) by Pensions Act 2014 (c. 19), s. 56(1), **Sch. 15 para. 7(4)**; S.I. 2014/2377, art. 2(1)(a)(ii)(3)(d)(ii); S.I. 2015/1475, art. 3(b)
- F57** S. 45(3A) 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. 31(2)**, 86(1)(b)(2); S.I. 2000/2950, **art. 6**; S.I. 2001/153, **art. 2(a)**
- F58** Words in s. 45(3A)(b) inserted (26.9.2007) by Pensions Act 2007 (c. 22), **ss. 11(3)**, 30(3)
- F59** Words in s. 45(6) 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(8)(b)**, 86(1)(b)(2); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)

#### [<sup>F60</sup>45A] Effect of working families' tax credit and disabled person's tax credit on earnings factor **E+W+S**

- (1) For the purposes of calculating additional pension under sections 44 and 45 where, in the case of any relevant year, working families' tax credit is paid in respect of

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any employed earner, or disabled person's tax credit is paid to any employed earner, section 44(6)(a)(i) shall have effect as if—

- (a) where that person had earnings of not less than the qualifying earnings factor for that year, being earnings upon which primary class 1 contributions were paid or treated as paid (“qualifying earnings”) in respect of that year, the amount of those qualifying earnings were increased by the aggregate amount (“AG”) of working families' tax credit, or, as the case may be, disabled person's tax credit paid in respect of that year, and
  - (b) in any other case, that person had qualifying earnings in respect of that year and the amount of those qualifying earnings were equal to AG plus the qualifying earnings factor for that year.
- (2) The reference in subsection (1) to the person in respect of whom working families' tax credit is paid—
- (a) where it is paid to one of a couple, is a reference to the prescribed member of the couple, and
  - (b) in any other case, is a reference to the person to whom it is paid.
- (3) A person's qualifying earnings in respect of any year cannot be treated by virtue of subsection (1) as exceeding the upper earnings limit for that year multiplied by 53.
- (4) Subsection (1) does not apply to any woman who has made, or is treated as having made, an election under regulations under section 19(4), which has not been revoked, that her liability in respect of primary Class 1 contributions shall be at a reduced rate.
- (5) In this section—
- “couple” has the same meaning as in Part 7 (see section 137);
  - “relevant year” has the same meaning as in section 44.]

**Textual Amendments**

**F60** S. 45AA inserted (with application in accordance with Sch. 4 para. 5(2)-(5) of the amending Act) by Pensions Act 2008 (c. 30), s. 149(1), **Sch. 4 para. 5(1)**; S.I. 2011/3033, art. 2(c)(v)

<sup>F61</sup>**45A Effect of family credit and disability working allowance on earnings factor** **E**  
**+W+S**

.....

**Textual Amendments**

**F61** S. 45A repealed with savings (6.4.2003) by Tax Credits Act 2002 (c. 21), s. 61, **Sch. 6**; S.I. 2003/962, art. 2(3)(e), Sch. 1

<sup>F62</sup>**45B Reduction of additional pension in Category A retirement pension: pension sharing.** **E+W+S**

- (1) The weekly rate of the additional pension in a Category A retirement pension shall be reduced as follows in any case where—
- (a) the pensioner has become subject to a state scheme pension debit, and
  - (b) the debit is to any extent referable to the additional pension.

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- (2) If the pensioner became subject to the debit in or after the final relevant year, the weekly rate of the additional pension shall be reduced by the appropriate weekly amount.
- (3) If the pensioner became subject to the debit before the final relevant year, the weekly rate of the additional pension shall be reduced by the appropriate weekly amount multiplied by the relevant revaluation percentage.
- (4) The appropriate weekly amount for the purposes of subsections (2) and (3) above is the weekly rate, expressed in terms of the valuation day, at which the cash equivalent, on that day, of the pension mentioned in subsection (5) below is equal to so much of the debit as is referable to the additional pension.
- (5) The pension referred to above is a notional pension for the pensioner by virtue of section 44(3)(b) above which becomes payable on the later of—
  - (a) his attaining pensionable age, and
  - (b) the valuation day.
- (6) For the purposes of subsection (3) above, the relevant revaluation percentage is the percentage specified, in relation to earnings factors for the tax year in which the pensioner became subject to the debit, by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.
- [<sup>F63</sup>(7) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.
- (7A) The power conferred by subsection (7) 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.]
  - (8) In this section—
    - “final relevant year” means the tax year immediately preceding that in which the pensioner attains pensionable age;
    - “state scheme pension debit” means a debit under section 49(1)(a) of the Welfare Reform and Pensions Act 1999 (debit for the purposes of this Part of this Act);
    - “valuation day” means the day on which the pensioner became subject to the state scheme pension debit.]

#### Textual Amendments

- F62** S. 45B inserted (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(5\)\(a\)](#), [Sch. 6 para. 2](#); [S.I. 2000/1047, art. 2\(2\)\(d\)](#), [Sch. Pt. IV](#)
- F63** S. 45B(7)(7A) substituted for s. 45B(7) (29.9.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), ss. 41\(2\), 86\(1\)\(b\)\(2\)](#); [S.I. 2000/2666, art. 2\(1\)](#)

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#### 46 Modifications of section 45 for calculating the additional pension in certain benefits. **E+W+S**

<sup>F64</sup>(1) .....

(2) For the purpose of determining the additional pension falling to be calculated under section 45 above by virtue of section 39(1) [<sup>F65</sup> or 39C(1)]<sup>F66</sup> ... above or section <sup>F67</sup> ... [<sup>F68</sup>48B(2)] below in a case where the deceased spouse died under pensionable age [<sup>F69</sup> or by virtue of section 39C(1) above or section <sup>F67</sup> ... [<sup>F68</sup>48B(2)] below in a case where the deceased civil partner died under pensionable age], the following definition shall be substituted for the definition of “ N ” in section 45(4)(b) above—

<sup>F70</sup>“N” =

- (a) the number of tax years which begin after 5th April 1978 and end before the date when the entitlement to the additional pension commences, or
- (b) the number of tax years in the period—
  - (i) beginning with the tax year in which the deceased spouse [<sup>F71</sup> or civil partner] (“S”) attained the age of 16 or if later 1978-79, and
  - (ii) ending immediately before the tax year in which S would have attained pensionable age if S had not died earlier,
 whichever is the smaller number.”].

<sup>F72</sup>(3) For the purpose of determining the additional pension falling to be calculated under section 45 above by virtue of section 48BB below in a case where the deceased spouse [<sup>F73</sup> or civil partner] died under pensionable age, the following definition shall be substituted for the definition of “N” in section 45(4)(b) above—

““N =

- (a) the number of tax years which begin after 5th April 1978 and end before the date when the deceased spouse [<sup>F73</sup> or civil partner] dies, or
- (b) the number of tax years in the period—
  - (i) beginning with the tax year in which the deceased spouse [<sup>F73</sup> or civil partner] (“S”) attained the age of 16 or, if later, 1978-79, and
  - (ii) ending immediately before the tax year in which S would have attained pensionable age if S had not died earlier,
 whichever is the smaller number.”]

<sup>F74</sup>(4) For the purpose of determining the additional pension falling to be calculated under section 45 above by virtue of section 39C(1) above in a case where the deceased spouse or civil partner died under pensionable age, section 45 has effect subject to the following additional modifications—

- (a) the omission of subsection (2)(d), and
- (b) the omission in subsection (3A)(b) of the words “before the flat rate introduction year”.]



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### Textual Amendments

- F64** S. 46(1) repealed (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\), s. 16\(3\), Sch. 1 para. 12\(a\), Sch. 2](#); S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F65** Words in s. 46 inserted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(1\), Sch. 8 para. 5\(a\)](#); S.I. 2000/1047, art. 2(2)(a), Sch. Pt. I
- F66** Words in s. 46(2) repealed (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\), s. 16\(3\), Sch. 1 para. 12\(b\), Sch. 2](#); S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F67** Words in s. 46(2) omitted (6.4.2016) by virtue of [Pensions Act 2014 \(c. 19\), s. 56\(4\), Sch. 12 para. 59](#)
- F68** Words in s. 46(2) substituted (3.1.2012) by [Pensions Act 2008 \(c. 30\), s. 149\(1\), Sch. 4 para. 6\(2\)](#); S.I. 2011/3033, art. 2(c)(vii)
- F69** Words in s. 46(2) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 23\(a\)](#); S.I. 2005/3175, art. 2(1), Sch. 1
- F70** Words in s. 46(2) substituted (19.7.1995) by [Pensions Act 1995 \(c. 26\), s. 180\(2\)\(a\), Sch. 4 para. 5](#)
- F71** Words in s. 46(2) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 23\(b\)](#); S.I. 2005/3175, art. 2(1), Sch. 1
- F72** S. 46(3) inserted (8.1.2001 for specified purposes, 9.4.2001 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), ss. 32\(1\), 86\(1\)\(b\)\(2\)](#); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(b)
- F73** Words in s. 46(3) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 23\(c\)](#); S.I. 2005/3175, art. 2(1), Sch. 1
- F74** S. 46(4) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\), s. 30\(3\), Sch. 2 para. 6](#)

## 47 Increase of Category A retirement pension for invalidity. **E+W+S**

- (1) Subject to section 61 below, the weekly rate of a Category A retirement pension shall be increased if the pensioner was entitled to an [<sup>F75</sup>age addition to long-term incapacity benefit by virtue of regulations under section 30B(7) above] in respect of—
- any day falling within the period of 8 weeks ending immediately before the day on which he attains pensionable age; or
  - the last day before the beginning of that period;
- and the increase shall, subject to subsection (2) below, be of an amount equal to the appropriate weekly rate of the [<sup>F75</sup>age addition to long-term incapacity benefit by virtue of regulations under section 30B(7) above] on that day.
- (2) Where for any period the weekly rate of a Category A retirement pension includes an additional pension, for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under subsection (1) above and the pensioner shall be entitled to an increase under that subsection only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.
- (3) In subsection (2) above the “relevant amount” means an amount equal to the additional pension, reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of [<sup>F76</sup>section 46] of the Pensions Act.
- [<sup>F77</sup>(3A) In subsections (2) and (3) above references to additional pension do not include any amount of additional pension attributable to units of additional pension.
- (3B) For units of additional pension, see section 14A.]



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- (4) In this section any reference to an additional pension is a reference to that pension after any increase under section 52(3) below but without any increase under paragraphs 1 and 2 of Schedule 5 to this Act.
- (5) In ascertaining for the purposes of subsection (1) above the rate of a pensioner's [<sup>F78</sup>age addition to long-term incapacity benefit by virtue of regulations under section 30B(7) above], regard shall be had to the rates in force from time to time.
- (6) Regulations may provide that subsection (1) above shall have effect as if for the reference to 8 weeks there were substituted a reference to a larger number of weeks specified in the regulations.

#### Textual Amendments

- F75** Words in s. 47(1) substituted (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\), s. 16\(3\), Sch. 1 para. 13](#); S.I. 1994/2926, art. 2(4), Sch. Pt. 4 (with S.I. 1995/310, regs. 1(1), 23)
- F76** Words in s. 47(3) substituted (7.2.1994) by [Pension Schemes Act 1993 \(c. 48\), s. 193\(2\), Sch. 8 para. 39](#) (with s. 189, Sch. ss. 6, 9); S.I. 1994/86
- F77** S. 47(3A)(3B) inserted (12.10.2015) by [The Pensions Act 2014 \(Consequential Amendments\) \(Units of Additional Pension\) Order 2014 \(S.I. 2014/3213\), arts. 1\(2\), 2](#)
- F78** Words in s. 47(5) substituted (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\), s. 16\(3\), Sch. 1 para. 13](#); S.I. 1994/2926, art. 2(4), Sch. Pt. 4 (with S.I. 1995/310, regs. 1(1), 23)

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

- C4** S. 47(1) modified (7.2.1994) by [Pension Schemes Act 1993 \(c. 48\), ss. 46\(5\), 193\(2\)](#) (with s. 189, Schs. 6, 9); S.I. 1994/86
- C5** S. 47(3) modified (7.2.1994) by [Pension Schemes Act 1993 \(c. 48\), ss. 46\(4\), 193\(2\)](#) (with s. 189, Schs. 6, 9); S.I. 1994/86

## 48 Use of former spouse's contributions. **E+W+S**

- (1) Where a person [<sup>F79</sup>who attained pensionable age before 6 April 2016]—
  - (a) has been [<sup>F80</sup>in a relevant relationship], and
  - (b) in respect of the tax year in which the [<sup>F81</sup>relationship] terminated or any previous tax year, does not with his own contributions satisfy the contribution conditions for a Category A retirement pension,
 then, for the purpose of enabling him to satisfy those conditions (but only in respect of any claim for a Category A retirement pension), the contributions of his former spouse [<sup>F82</sup>or civil partner] may to the prescribed extent be treated as if they were his own contributions.
- (2) Subsection (1) above shall not apply in relation to any person who attained pensionable age before 6th April 1979 if the termination of his [<sup>F83</sup>relevant relationship] also occurred before that date.
- [<sup>F84</sup>(2A) Regulations under subsection (1) may not provide for contributions of a person in respect of times on or after 6 April 2016 to be treated as contributions of another person.]
- [<sup>F85</sup>(3) Where a person has been in a relevant relationship more than once, this section applies only to the last relevant relationship and the references to his relevant relationship and his former spouse or civil partner shall be construed accordingly.

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(4) In this section, “relevant relationship” means a marriage or civil partnership.]

[<sup>F86</sup>(5) For the purposes of this section, a civil partnership is not to be treated as having terminated by reason of its having been converted into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013.]

[<sup>F87</sup>(5) For the purposes of this section, a civil partnership is not to be treated as having terminated by reason of its having been—

- (a) converted into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013;
- (b) changed into a marriage under the Marriage (Scotland) Act 1977;
- (c) changed into a marriage in accordance with provision made under section 10 of the Marriage and Civil Partnership (Scotland) Act 2014; or
- (d) changed into a marriage under Part 5 of the Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014.]

#### Textual Amendments

- F79** Words in s. 48(1) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 56(2)** (with ss. 8, 9, Sch. 5 paras. 2-4)
- F80** Words in s. 48(1) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 24(2)(a)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F81** Word in s. 48(1) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 24(2)(b)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F82** Words in s. 48(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 24(2)(c)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F83** Words in s. 48(2) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 24(3)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F84** S. 48(2A) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 56(3)**
- F85** S. 48(3)(4) substituted for s. 48(3) (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 24(4)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F86** First s. 48(5) inserted (E.W.) (10.12.2014) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 7 para. 30**; S.I. 2014/3169, **art. 2** (which amending provision was repealed (S.) (16.12.2014) by S.I. 2014/3229, art. 1(2), **Sch. 5 para. 21**)
- F87** Second s. 48(5) inserted (E.W.S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 4 para. 2(7)** (with art. 3(2))

[<sup>F88</sup>[<sup>F89</sup>**48(1) Category B retirement pension for married person or civil partner** **E+W+S**

(1) A married person is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if—

- (a) the person attained pensionable age before 6 April 2016, and
- (b) the spouse—
  - (i) has attained pensionable age, and
  - (ii) satisfies the relevant contribution condition.

(2) But subsection (1) does not confer a right to a Category B retirement pension on—

- (a) a man whose spouse was born before 6 April 1950, or

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- (b) a woman whose wife was born before 6 April 1950.
- (3) A person who is a civil partner is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner (“the contributing civil partner”) if—
- (a) the person attained pensionable age before 6 April 2016, and
  - (b) the contributing civil partner—
    - (i) was born on or after 6 April 1950,
    - (ii) has attained pensionable age, and
    - (iii) satisfies the condition in paragraph 5A of Schedule 3.
- (4) A Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.
- (5) A person ceases to be entitled to a Category B retirement pension under this section if—
- (a) the person's spouse or civil partner dies (but see sections 48B and 51), or
  - (b) the person otherwise ceases to be married or in the civil partnership (but see section 48AA).
- (6) In subsection (1)(b)(ii) “the relevant contribution condition” means—
- (a) in a case where the spouse was born before 6 April 1945, the conditions in paragraph 5 of Schedule 3;
  - (b) in any other case, the condition in paragraph 5A of Schedule 3.
- (7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or contributing civil partner for the tax year beginning with 6 April 2016 or any later tax year.
- (8) Section 51ZA contains special rules for cases involving changes in gender.]]

#### Textual Amendments

**F88** Ss. 48A–48C substituted for ss. 49, 50 (19.7.1995) by [Pensions Act 1995 \(c. 26\)](#), s. 180(2)(a), [Sch. 4 para. 3\(1\)](#) (with [Sch. 4 para. 3\(2\)\(3\)](#))

**F89** Ss. 48A, 48AA substituted for s. 48A (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 12 para. 60](#) (with ss. 8, 9, [Sch. 5 paras. 2–4](#))

#### [<sup>F89</sup> 48AA Category B retirement pension for divorcee or former civil partner **E+W+S**

- (1) A person who has been in a marriage that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former spouse if—
- (a) the person attained pensionable age—
    - (i) before 6 April 2016, and
    - (ii) before the marriage was dissolved, and
  - (b) the former spouse—
    - (i) attained pensionable age before the marriage was dissolved, and
    - (ii) satisfied the relevant contribution condition.
- (2) But subsection (1) does not confer a right to a Category B retirement pension on—
- (a) a man whose former spouse was born before 6 April 1950, or
  - (b) a woman whose former wife was born before 6 April 1950.

*Status: Point in time view as at 06/04/2016.*

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- (3) A person who has been in a civil partnership that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former civil partner if—
  - (a) the person attained pensionable age—
    - (i) before 6 April 2016, and
    - (ii) before the civil partnership was dissolved, and
  - (b) the former civil partner—
    - (i) was born on or after 6 April 1950,
    - (ii) attained pensionable age before the civil partnership was dissolved, and
    - (iii) satisfied the condition in paragraph 5A of Schedule 3.
- (4) During any period when the person's former spouse or civil partner is alive, a Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.
- (5) During any period after the person's former spouse or civil partner is dead, a Category B retirement pension payable under this section is payable at the weekly rate of the basic pension specified in section 44(4).
- (6) In subsection (1)(b)(ii) “the relevant contribution condition” means—
  - (a) in a case where the former spouse was born before 6 April 1945, the conditions in paragraph 5 of Schedule 3;
  - (b) in any other case, the condition in paragraph 5A of Schedule 3.
- (7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the former spouse or civil partner for the tax year beginning with 6 April 2016 or any later tax year.
- (8) A voidable marriage or civil partnership which has been annulled is to be treated for the purposes of this section as if it had been a valid marriage or civil partnership which was dissolved at the date of annulment.
- (9) Section 51ZA contains special rules for cases involving changes in gender.]

#### Textual Amendments

**F89** Ss. 48A, 48AA substituted for s. 48A (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 12 para. 60](#) (with ss. 8, 9, [Sch. 5 paras. 2-4](#))

#### [<sup>F88</sup> **48B** **Category B retirement pension for widows and widowers.** **E+W+S**

- [<sup>F90</sup>(1) A person (“the pensioner”) whose spouse died while they were married is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if—
- (a) the pensioner attained pensionable age—
    - (i) before 6 April 2016, and
    - (ii) before the spouse died, and
  - (b) the spouse satisfied the relevant contribution condition.
- (1ZA) But subsection (1) does not confer a right to a Category B retirement pension on—
- (a) a man who attained pensionable age before 6 April 2010, or

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- (b) a woman who attained pensionable age before 6 April 2010 and whose spouse was a woman.

(1ZB) In subsection (1)(b) “the relevant contribution condition” means—

- (a) in a case where the spouse—
  - (i) died before 6 April 2010, or
  - (ii) died on or after that date having attained pensionable age before that date,

the conditions in paragraph 5 of Schedule 3, and

- (b) in any other case, the condition in paragraph 5A of Schedule 3.

(1A) A person (“the pensioner”) whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner if—

- (a) the pensioner attained pensionable age—
  - (i) on or after 6 April 2010 but before 6 April 2016, and
  - (ii) before the civil partner died, and
- (b) the civil partner satisfied the relevant contribution condition.

(1B) In subsection (1A)(b) “the relevant contribution condition” means—

- (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
- (b) in any other case, the condition in paragraph 5A of Schedule 3.]

(2) A Category B retirement pension payable by virtue of subsection (1) [<sup>F91</sup>or (1A)] above shall be payable at a weekly rate corresponding to—

- (a) the weekly rate of the basic pension, plus
- (b) half of the weekly rate of the additional pension,

determined in accordance with the provisions of sections 44 to [<sup>F92</sup>45B] above [<sup>F93</sup>and [<sup>F94</sup>Schedules 4A and 4B] below] as they apply in relation to a Category A retirement pension, but subject to section [<sup>F95</sup>46] above and the modifications in subsection (3) below and section 48C(4) below.

(3) Where the spouse [<sup>F96</sup>or civil partner] died under pensionable age, references in the provisions of sections 44 to [<sup>F92</sup>45B] above [<sup>F93</sup>and Schedule 4A below] as applied by subsection (2) above to the tax year in which the pensioner attained pensionable age shall be taken as references to the tax year in which the spouse [<sup>F96</sup>or civil partner] died.

[ For the purposes of any provision of this Act as it applies in relation to this section, no <sup>F97</sup>(3A) account is to be taken of any earnings factors of the deceased for the tax year beginning with 6 April 2016 or any later tax year.]

[<sup>F98</sup>(4) A woman (“the pensioner”) whose husband died before she attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of her husband if—

- (a) she attained pensionable age before 6 April 2016, and
- (b) the condition in subsection (5) is satisfied.

(4A) A man (“the pensioner”) whose wife died before he attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of his wife if—

- (a) he attained pensionable age on or after 6 April 2010 but before 6 April 2016, and

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- (b) the condition in subsection (5) would have been satisfied on the assumption mentioned in subsection (7).]
- (5) The condition is that the pensioner—
- (a) is entitled (or is treated by regulations as entitled) to a widow’s pension by virtue of section 38 above, and
- (b) became entitled to that pension in consequence of the spouse’s death.
- (6) A Category B retirement pension payable by virtue of subsection (4) [<sup>F99</sup>or (4A)] above shall be payable—
- (a) where the pensioner is a woman, at the same weekly rate as her widow’s pension, and
- (b) where the pensioner is a man, at the same weekly rate as that of the pension to which he would have been entitled by virtue of section 38 above on the assumption mentioned in subsection (7) below.
- (7) The assumption referred to in subsections [<sup>F100</sup>(4A)] and (6) above is that a man is entitled to a pension by virtue of section 38 above on the same terms and conditions, and at the same rate, as a woman.
- [ Nothing in subsections (4) to (7) above applies in a case where the spouse dies on or <sup>F101</sup>(8) after the appointed day (as defined by section 36A(3)).]
- [ Section 51ZA contains special rules for cases involving changes in gender.] <sup>F102</sup>(9)
- [ Subsection (11) applies in the case of a pensioner entitled to a Category B retirement <sup>F103</sup>(10) pension by virtue of subsection (1) or (1A) whose spouse or civil partner—
- (a) attained pensionable age on or after 6 April 2016, and
- (b) died after attaining pensionable age.
- (11) Where this subsection applies, the amount determined in accordance with subsection (2) as the weekly rate of the additional pension payable to the pensioner must be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date when the spouse or civil partner reached pensionable age until the spouse’s or civil partner’s death, that weekly rate would have increased during that period by virtue of orders under section 150 of the Administration Act (annual uprating of benefits).]]

#### Textual Amendments

- F88** Ss. 48A-48C substituted for ss. 49, 50 (19.7.1995) by Pensions Act 1995 (c. 26), s. 180(2)(a), **Sch. 4 para. 3(1)** (with **Sch. 4 para. 3(2)(3)**)
- F90** S. 48B(1)-(1B) substituted for s. 48B(1)-(1A) (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 61(2)** (with ss. 8, 9, **Sch. 5 paras. 2-4**)
- F91** Words in s. 48B(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 26(3)**; S.I. 2005/3175, art. 2(1), **Sch. 1**
- F92** Words in s. 48B(2)(3) substituted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 20**; S.I. 2000/1047, art. 2(2)(d), **Sch. Pt. IV**
- F93** Words in s. 48B(2)(3) 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(10)**, 86(1)(b)(2); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F94** Words in s. 48B(2) substituted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 2 para. 8**



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- F95** Word in s. 48B(2) substituted (3.1.2012) by Pensions Act 2008 (c. 30), s. 149(1), **Sch. 4 para. 8(b)**; S.I. 2011/3033, art. 2(c)(ix)
- F96** Words in s. 48B(3) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 26(4)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F97** S. 48B(3A) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 61(3)**
- F98** S. 48B(4)(4A) substituted for s. 48B(4) (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 61(4)** (with ss. 8, 9, Sch. 5 paras. 2-4)
- F99** Words in s. 48B(6) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 61(5)**
- F100** Word in s. 48B(7) substituted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 61(6)**
- F101** S. 48B(8) added (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 8 para. 6**; S.I. 2000/1047, art. 2(2)(a), Sch. Pt. I
- F102** S. 48B(9) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 61(7)**
- F103** S. 48B(10)(11) inserted (6.4.2016) by The Pensions Act 2014 (Consequential and Supplementary Amendments) Order 2016 (S.I. 2016/224), arts. 1(2), 2(3)

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

- C6** S. 48B modified (6.10.2002) by The Social Security (Inherited SERPS) Regulations 2001 (S.I. 2001/1085), regs. 1(1), 2, **Sch.** (as amended (5.12.2005) by S.I. 2005/3030, regs. 1, 2)

**[<sup>F104</sup>48B] Category B retirement pension: entitlement by reference to benefits under section 39A or 39B. **E+W+S****

- (1) Subsection (2) below applies where a person (“the pensioner”) [<sup>F105</sup>who attained pensionable age before 6 April 2016]—
  - (a) was, immediately before attaining that age, entitled to a widowed parent’s allowance in consequence of the death of his or her spouse [<sup>F106</sup>or civil partner]; and
  - (b) has not [<sup>F107</sup>following that death married or formed a civil partnership].
- (2) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse [<sup>F106</sup>or civil partner], which shall be payable at the same weekly rate as the widowed parent’s allowance.
- (3) Subsections (4) to (10) below apply where a person (“the pensioner”) [<sup>F108</sup>who attained pensionable age before 6 April 2016]—
  - (a) was in consequence of the death of his or her spouse [<sup>F106</sup>or civil partner] either—
    - (i) entitled to a bereavement allowance at any time prior to attaining that age, or
    - (ii) entitled to a widowed parent’s allowance at any time when over the age of 45 (but not immediately before attaining pensionable age); and
  - (b) has not [<sup>F109</sup>following that death married or formed a civil partnership].
- (4) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse [<sup>F106</sup>or civil partner].
- (5) A Category B retirement pension payable by virtue of subsection (4) above shall be payable at a weekly rate corresponding to the weekly rate of the additional pension determined in accordance with the provisions of sections 44 to [<sup>F110</sup>45AA][<sup>F111</sup>and 45B] above [<sup>F112</sup>and [<sup>F113</sup>Schedules 4A and 4B] below] as they apply in relation to a Category



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- A retirement pension, but <sup>F114</sup>subject to section <sup>F115</sup>46] above and to the following provisions of this section and the modification in section 48C(4) below.]
- (6) Where the spouse <sup>F106</sup>or civil partner] died under pensionable age, references in the provisions of sections 44 to <sup>F116</sup>45AA]<sup>F117</sup>and 45B] above <sup>F112</sup>and Schedule 4A below], as applied by subsection (5) above, to the tax year in which the pensioner attained pensionable age shall be taken as references to the tax year in which the spouse <sup>F106</sup>or civil partner] died.
- (7) Where the spouse <sup>F106</sup>or civil partner] dies after <sup>F118</sup>5th October 2002], the pension payable by virtue of subsection (4) above shall (before making any reduction required by subsection (8) below) be one half of the amount which it would be apart from this subsection.
- (8) Where the pensioner was under the age of 55 at the relevant time, the weekly rate of the pension shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied—
- (a) by the number of years by which the pensioner’s age at that time was less than 55 (any fraction of a year being counted as a year), or
- (b) by ten, if that number exceeds ten.
- (9) In subsection (8) above “the relevant time” means—
- (a) where the pensioner became entitled to a widowed parent’s allowance in consequence of the death of the spouse <sup>F106</sup>or civil partner], the time when the pensioner’s entitlement to that allowance ended; and
- (b) otherwise, the time of the spouse’s <sup>F119</sup>or civil partner's] death.
- (10) The amount determined in accordance with subsections (5) to (9) above as the weekly rate of the pension payable to the pensioner by virtue of subsection (4) above shall be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date of the spouse’s <sup>F119</sup>or civil partner's] death until the date when the pensioner attained pensionable age, that weekly rate would have been increased during that period by virtue of any orders under section 150 of the Administration Act (annual up-rating of benefits).]

#### Textual Amendments

- F104** S. 48BB inserted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), **ss. 56**, 89(1); S.I. 2000/1047, art. 2(2)(a), Sch. Pt. I
- F105** Words in s. 48BB(1) substituted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), **Sch. 12 para. 62(2)** (with **ss. 8, 9**, Sch. 5 paras. 2-4)
- F106** Words in s. 48BB inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), **Sch. 24 para. 27(2)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F107** Words in s. 48BB(1)(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), **Sch. 24 para. 27(4)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F108** Words in s. 48BB(3) substituted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), **Sch. 12 para. 62(3)** (with **ss. 8, 9**, Sch. 5 paras. 2-4)
- F109** Words in s. 48BB(3)(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), **Sch. 24 para. 27(4)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F110** Word in s. 48BB(5) substituted (with application in accordance with Sch. 4 para. 5(2)-(5) of the amending Act) by [Pensions Act 2008 \(c. 30\)](#), s. 149(1), **Sch. 4 para. 9(2)(a)**; S.I. 2011/3033, art. 2(c) (xi)
- F111** Words in s. 48BB(5) inserted (3.1.2012) by [Pensions Act 2008 \(c. 30\)](#), s. 149(1), **Sch. 4 para. 9(2)(b)**; S.I. 2011/3033, art. 2(c)(xi)

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- F112** Words in s. 48BB(5)(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(11), 86(1)(b)(2)**; S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F113** Words in s. 48BB(5) substituted (26.9.2007) by **Pensions Act 2007** (c. 22), s. 30(3), **Sch. 2 para. 9(a)**
- F114** Words in s. 48BB(5) substituted (26.9.2007) by **Pensions Act 2007** (c. 22), s. 30(3), **Sch. 2 para. 9(b)**
- F115** Word in s. 48BB(5) substituted (3.1.2012) by **Pensions Act 2008** (c. 30), s. 149(1), **Sch. 4 para. 9(2)(d)**; S.I. 2011/3033, art. 2(c)(xi)
- F116** Word in s. 48BB(6) substituted (with application in accordance with Sch. 4 para. 5(2)-(5) of the amending Act) by **Pensions Act 2008** (c. 30), s. 149(1), **Sch. 4 para. 9(3)(a)**; S.I. 2011/3033, art. 2(c)(xi)
- F117** Words in s. 48BB(6) inserted (3.1.2012) by **Pensions Act 2008** (c. 30), s. 149(1), **Sch. 4 para. 9(3)(b)**; S.I. 2011/3033, art. 2(c)(xi)
- F118** Words in s. 48BB(7) substituted (with retrospective effect) by **Child Support, Pensions and Social Security Act 2000** (c. 19), **ss. 39(1)(a)(2)(b), 86(1)(b)(2)** (with s. 83(6))
- F119** Words in s. 48BB inserted (5.12.2005) by **Civil Partnership Act 2004** (c. 33), s. 263(8)(d), **Sch. 24 para. 27(3)**; S.I. 2005/3175, art. 2(1), Sch. 1

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

- C7** S. 48BB modified by **The Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979** (S.I. 1979/642), **reg. 7A** (as inserted (9.4.2001) by S.I. 2000/1483, regs. 1, **7(4)**)
- C8** S. 48BB modified (6.10.2002) by **The Social Security (Inherited SERPS) Regulations 2001** (S.I. 2001/1085), **regs. 1(1), 2, Sch.** (as amended (5.12.2005) by S.I. 2005/3030, regs. 1, **2**)

#### [<sup>F88</sup>48C **Category B retirement pension: general.** **E+W+S**]

- (1) Subject to the provisions of this Act, a person's entitlement to a Category B retirement pension shall begin on the day on which the conditions of entitlement become satisfied and shall continue for life.
- (2) In any case where—
  - (a) a person would, apart from section 43(1) above, be entitled both to a Category A and to a Category B retirement pension, and
  - (b) section 47(1) above would apply for the increase of the Category A retirement pension,
 section 47(1) above shall be taken as applying also for the increase of the Category B retirement pension, subject to reduction or extinguishment of the increase by the application of section 47(2) above or section 46(5) of the Pensions Act.
- (3) In the case of a pensioner whose spouse died on or before [<sup>F120</sup>5th October 2002], [<sup>F121</sup>section] 48B(2)(b) above shall have effect with the omission of the words "half of".
- (4) In the application of the provisions of sections 44 to [<sup>F122</sup>45B] above [<sup>F123</sup>and [<sup>F124</sup>Schedules 4A and 4B] below] by virtue of sections <sup>F125</sup>... [<sup>F126</sup>48B(2) or 48BB(5)] above, references in those provisions to the pensioner shall be taken as references to the spouse [<sup>F127</sup>or civil partner]].

#### Textual Amendments

- F88** Ss. 48A-48C substituted for ss. 49, 50 (19.7.1995) by **Pensions Act 1995** (c. 26), s. 180(2)(a), **Sch. 4 para. 3(1)** (with **Sch. 4 para. 3(2)(3)**)

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- F120** Words in s. 48C(3) substituted (with retrospective effect) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 39(1)(a)(2)(b)**, 86(1)(b)(2) (with s. 83(6))
- F121** Words in s. 48C(3) substituted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), **Sch. 12 para. 63(2)**
- F122** Word in s. 48C(4) substituted (1.12.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), **Sch. 12 para. 21**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. IV
- F123** Words in s. 48C(4) 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(12)**, 86(1)(b)(2); S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F124** Words in s. 48C(4) substituted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), **Sch. 2 para. 10**
- F125** Word in s. 48C(4) omitted (6.4.2016) by virtue of [Pensions Act 2014 \(c. 19\)](#), s. 56(4), **Sch. 12 para. 63(3)**
- F126** Words in s. 48C(4) substituted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), **Sch. 8 para. 7**; S.I. 2000/1047, art. 2(2)(a), Sch. Pt. I
- F127** Words in s. 48C(4) inserted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 1**

**F88 49** **Category B retirement pension for women.** **E+W+S**

.....

**Textual Amendments**

- F88** Ss. 48A-48C substituted for ss. 49, 50 (19.7.1995) by [Pensions Act 1995 \(c. 26\)](#), s. 180(2)(a), **Sch. 4 para. 3(1)** (with [Sch. 4 para. 3\(2\)\(3\)](#))

**F88 50** **Rate of Category B retirement pension for women.** **E+W+S**

.....

**Textual Amendments**

- F88** Ss. 48A-48C substituted for ss. 49, 50 (19.7.1995) by [Pensions Act 1995 \(c. 26\)](#), s. 180(2)(a), **Sch. 4 para. 3(1)** (with [Sch. 4 para. 3\(2\)\(3\)](#))

**[F128] 51** **Category B retirement pension for widows, widowers and surviving civil partners who attained pensionable age before 6 April 2010** **E+W+S**

- (1) A person (“the pensioner”) whose spouse died while they were married is entitled to a Category B retirement pension if—
  - (a) they were both over pensionable age at the time of the death,
  - (b) the pensioner attained pensionable age before 6 April 2010, and
  - (c) the spouse satisfied the relevant contribution condition.
- (2) But subsection (1) does not confer a right to a Category B retirement pension on—
  - (a) a woman whose husband has died, or
  - (b) a man whose wife died before 6 April 1979.
- (3) In subsection (1)(c) “the relevant contribution condition” means—

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- (a) in a case where the spouse attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
  - (b) in a case where the spouse attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.
- (4) A person (“the pensioner”) whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension if—
- (a) they were both over pensionable age at the time of the death,
  - (b) the pensioner attained pensionable age before 6 April 2010, and
  - (c) the deceased civil partner satisfied the relevant contribution condition.
- (5) In subsection (4)(c) “the relevant contribution condition” means—
- (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
  - (b) in a case where the deceased civil partner attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.
- (6) The weekly rate of a person's Category B retirement pension under this section is to be determined in accordance with sections 44 to 45AA and [F129Schedules 4A and 4B] as they apply in the case of a Category A retirement pension taking references in those sections to the pensioner as references to the spouse or deceased civil partner.
- (7) But in the case of—
- (a) a man whose wife dies after 5 October 2002,
  - (b) a surviving party to a marriage of a same sex couple, or
  - (c) a surviving civil partner,
- any amount of additional pension falling to be calculated under subsection (6) is to be halved.
- (8) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or deceased civil partner for the tax year beginning with 6 April 2016 or any later tax year.
- (9) Subject to the provisions of this Act, a person becomes entitled to a Category B retirement pension under this section on the day on which the conditions of entitlement become satisfied and the entitlement continues throughout the person's life.
- (10) Section 51ZA contains special rules for cases involving changes in gender.
- [F130(11) Subsection (12) applies in the case of a pensioner whose spouse or civil partner—
- (a) attained pensionable age on or after 6 April 2016, and
  - (b) died after attaining pensionable age.
- (12) Where this subsection applies, the amount determined in accordance with this section as the weekly rate of the additional pension payable to the pensioner must be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date when the spouse or civil partner reached pensionable age until the spouse's or civil partner's death, that weekly rate would have increased during that period by virtue of orders under section 150 of the Administration Act (annual uprating of benefits).]]

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#### Textual Amendments

- F128** S. 51 substituted (6.4.2016) by [Pensions Act 2014 \(c. 19\), s. 56\(4\)](#), [Sch. 12 para. 64](#)
- F129** Words in s. 51(6) substituted (6.4.2016) by [The Pensions Act 2014 \(Consequential and Supplementary Amendments\) Order 2016 \(S.I. 2016/224\)](#), arts. 1(2), [2\(4\)\(a\)](#)
- F130** S. 51(11)(12) inserted (6.4.2016) by [The Pensions Act 2014 \(Consequential and Supplementary Amendments\) Order 2016 \(S.I. 2016/224\)](#), arts. 1(2), [2\(4\)\(b\)](#)

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

- C9** S. 51 modified (6.10.2002) by [The Social Security \(Inherited SERPS\) Regulations 2001 \(S.I. 2001/1085\)](#), regs. 1(1), 2, [Sch.](#) (as amended (5.12.2005) by [S.I. 2005/3030](#), regs. 1, 2)

### [<sup>F131</sup> **51ZA** **Special provision for married person whose spouse changed gender** **E+W+S**]

- (1) Section 48A(2)(b) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—
  - (a) her spouse is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) the marriage subsisted before the time when that certificate was issued.
- (2) Section 48AA(2)(b) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—
  - (a) her former spouse was, at the time the marriage was dissolved, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) the marriage subsisted before the time when that certificate was issued.
- (3) Section 48B(1ZA)(b) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—
  - (a) her dead spouse was, at the time of death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) the marriage subsisted before the time when that certificate was issued, and in such a case the reference in section 48B(1ZB)(a)(ii) to the spouse having attained pensionable age before 6 April 2010 is to be read as a reference to the spouse having been born before 6 April 1945.
- (4) Section 51(1) does not confer a right to a Category B retirement pension on a woman if—
  - (a) her dead spouse was, at the time of death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) the marriage subsisted before the time when that certificate was issued.]

#### Textual Amendments

- F131** S. 51ZA inserted (6.4.2016) by [Pensions Act 2014 \(c. 19\), s. 56\(4\)](#), [Sch. 12 para. 65](#)

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## <sup>F132</sup>51A Special provision for married people. **E+W+S**

- (1) This section has effect where, apart from section 43(1) above, a married person [<sup>F133</sup>or civil partner] would be entitled both—
  - (a) to a Category A retirement pension, and
  - (b) to a Category B retirement pension by virtue of the contributions of the other party to the marriage [<sup>F134</sup>or civil partnership].
- (2) If by reason of a deficiency of contributions the basic pension in the Category A retirement pension falls short of the weekly rate specified in Schedule 4, Part I, paragraph 5, that basic pension shall be increased by the lesser of—
  - (a) the amount of the shortfall, or
  - (b) the amount of the weekly rate of the Category B retirement pension.
- (3) This section does not apply in any case where both parties to the marriage attained pensionable age before 6th April 1979]

### Textual Amendments

**F132** S. 51A inserted (19.7.1995) by Pensions Act 1995 (c. 26), s. 180(2)(a), **Sch. 4 para. 21(6)**

**F133** Words in s. 51A(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 29(a)**; S.I. 2005/3175, art. 2(1), Sch. 1

**F134** Words in s. 51A(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 29(b)**; S.I. 2005/3175, art. 2(1), Sch. 1

## 52 Special provision for surviving spouses. **E+W+S**

- (1) This section has effect where, apart from section 43(1) above, a person would be entitled both—
    - (a) to a Category A retirement pension; and
    - <sup>F135</sup>(b) to a Category B retirement pension by virtue of the contributions of a spouse [<sup>F136</sup>or civil partner] who has died].
  - (2) If by reason of a deficiency of contributions the basic pension in the Category A retirement pension falls short of the full amount, that basic pension shall be increased by the lesser of—
    - (a) the amount of the shortfall, or
    - (b) the amount of the basic pension in the rate of the Category B retirement pension,

“full amount” meaning for this purpose the sum specified in section 44(4) above as the weekly rate of the basic pension in a Category A retirement pension.
  - (3) If the additional pension in the Category A retirement pension falls short of the [<sup>F137</sup>maximum amount specified in regulations], that additional pension shall be increased by the lesser of—
    - (a) the amount of the shortfall, or
    - (b) the amount of the additional pension in the Category B retirement pension.
- <sup>F138</sup>(3A) In subsection (3) the references to additional pension in a Category A or Category B retirement pension do not include any amount of additional pension attributable to units of additional pension.



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- (3B) If an amount of additional pension in the Category B retirement pension is attributable to units of additional pension, the additional pension in the Category A retirement pension is increased by that amount (in addition to any increase under subsection (3)).]
- (4) This section does not apply in any case where the death of the wife or husband, as the case may be, occurred before 6th April 1979 and the surviving spouse had attained pensionable age before that date.

**Textual Amendments**

- F135** S. 52(1)(b) substituted (19.7.1995) by [Pensions Act 1995 \(c. 26\), s. 180\(2\)\(a\), Sch. 4 para. 21\(7\)](#)
- F136** Words in s. 52(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 30; S.I. 2005/3175, art. 2\(1\), Sch. 1](#)
- F137** Words in s. 52(3) substituted (6.4.2016) by [Pensions Act 2014 \(c. 19\), s. 56\(4\), Sch. 12 para. 66](#)
- F138** [S. 52\(3A\)\(3B\)](#) inserted (12.10.2015) by [Pensions Act 2014 \(c. 19\), s. 56\(1\), Sch. 15 para. 8; S.I. 2015/1475, art. 3\(b\)](#)

**F139 53 Special provision for married women. E+W+S**

.....

**Textual Amendments**

- F139** S. 53 repealed (19.7.1995) by [Pensions Act 1995 \(c. 26\), s. 180\(2\)\(a\), Sch. 4 para. 21\(6\), Sch. 7](#)

**54 Category A and Category B retirement pensions: supplemental provisions. E+W+S**

- (1) Regulations may provide that in the case of a person of any prescribed description who—
  - (a) has become entitled to a Category A or Category B retirement pension <sup>F140</sup> ... ; 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 become entitled to such a retirement pension [<sup>F141</sup>or to a shared additional pension].
- (2) Regulations under subsection (1) above may make such modifications of the provisions of this Part of this Act, or of those of [<sup>F142</sup>Chapter II of Part I of the Social Security Act 1998] 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.

<sup>F143</sup>(3) .....

<sup>F144</sup>(4) .....

**Textual Amendments**

- F140** Words in s. 54(1)(a) repealed (6.4.2010) by [Pensions Act 1995 \(c. 26\), Sch. 4 para. 6\(1\)\(5\), Sch. 7 Pt. 2](#)



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- F141** Words in s. 54(1) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 22**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. IV
- F142** Words in s. 54(2) substituted (6.9.1999 for specified purposes) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 62**; S.I. 1999/2422, art. 2(c), Sch. 1 (with Sch. 14)
- F143** S. 54(3) repealed (6.4.2010) by Pensions Act 2007 (c. 22), ss. 2(5), 27(4)(a), Sch. 1 para. 6, **Sch. 7 Pt. 1**
- F144** S. 54(4) repealed (19.7.1995) by Pensions Act 1995 (c. 26), ss. 134(2), 180(2)(a), **Sch. 7 Pt. 2** (with Sch. 4)

**[<sup>F145</sup>55 Pension increase or lump sum where entitlement to retirement pension is deferred **E+W+S****

- (1) Where a person's entitlement to a Category A or Category B retirement pension is deferred, Schedule 5 to this Act has effect.
- (2) In that Schedule—
- paragraph A1 makes provision enabling an election to be made where the pensioner's entitlement is deferred
  - paragraphs 1 to 3 make provision about increasing pension where the pensioner's entitlement is deferred
  - paragraphs 3A and 3B make provision about lump sum payments where the pensioner's entitlement is deferred
  - paragraph 3C makes provision enabling an election to be made where the pensioner's deceased spouse [<sup>F146</sup>or civil partner] has deferred entitlement
  - paragraphs 4 to 7 make provision about increasing pension where the pensioner's deceased spouse [<sup>F146</sup>or civil partner] has deferred entitlement
  - paragraphs 7A and 7B make provision about lump sum payments where the pensioner's deceased spouse [<sup>F146</sup>or civil partner] has deferred entitlement
  - paragraphs 7C to 9 make supplementary provision.
- (3) For the purposes of this Act a person's entitlement to a Category A or Category B retirement pension is deferred if and so long as that person—
- [<sup>F147</sup>(a) does not become entitled to that pension by reason only of not satisfying the conditions of section 1 of the Administration Act (entitlement to benefit dependent on claim), or]
  - (b) in consequence of an election under section 54(1), falls to be treated as not having become entitled to that pension,
- and, in relation to any such pension, "period of deferment" shall be construed accordingly.]

**Textual Amendments**

- F145** S. 55 substituted (18.11.2004 for specified purposes, 6.4.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), ss. **297(1)**, 322(3)(a)
- F146** Words in s. 55(2) inserted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053), art. 1(3), **Sch. para. 3(2)**
- F147** S. 55(3)(a) substituted (6.4.2010) by Pensions Act 2007 (c. 22), s. 2(5), **Sch. 1 para. 7**

**Status:**

Point in time view as at 06/04/2016.

**Changes to legislation:**

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