

1975 No. 96

SOCIAL SECURITY

**The Social Security (Graduated Retirement Benefit) Regulations
(Northern Ireland) 1975**

Made 4th April 1975

Coming into operation 6th April 1975

The Department(a) of Health and Social Services for Northern Ireland, in exercise of powers conferred by section 100(1) of and paragraphs 2, 4 and 6 of Schedule 26 to the Social Security Act 1973(b) and section 2(1) of and paragraphs 3, 7 and 9 of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(c), and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Graduated Retirement Benefit) Regulations (Northern Ireland) 1975 and shall come into operation on 6th April 1975.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security (Northern Ireland) Act 1975(d);

“the 1966 Act” means the National Insurance Act (Northern Ireland) 1966(e);

“the 1961 Regulations” means the National Insurance (Graduated Retirement Benefit and Consequential Provisions) Regulations (Northern Ireland) 1961(f);

and other expressions have the same meanings as in the Act.

(3) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(g) shall apply in relation to this statutory rule and in relation to the revocation effected by it as if this statutory rule and the regulation revoked by it were Acts of Parliament and as if the revocation were a repeal.

(5) So much of regulation 3(1) below as provides for the revocation of a regulation, but no other provision of these regulations, is made in the exercise of powers conferred by the Social Security Act 1973.

(a) Formerly Ministry: see 1973 c. 36 Sch. 5 para. 8(1)

(b) 1973 c. 38

(c) 1975 c. 18

(d) 1975 c. 15

(e) 1966 c. 6 (N.I.)

(f) S.R. & O. (N.I.) 1961 No. 86 (p. 388)

(g) 1889 c. 63

Continuation in force of sections 35, 36 and 110(1) of the 1966 Act

2.—(1) The provisions of this regulation shall have effect for the purpose of securing continuity between the Act and the 1966 Act in the case of persons who have, immediately before 6th April 1975, rights or prospective rights to or expectations of graduated retirement benefit under sections 35 and 36 of the 1966 Act, by preserving those rights and temporarily retaining the effect of those sections for transitional purposes.

(2) Notwithstanding their repeal by the Social Security Act 1973 those sections shall, for the purpose aforesaid, continue in force subject to the making in them of the modifications required to bring them into conformity with the provisions of the Act and to enable them to have effect as if contained in the scheme of social security benefits established by the Act; and on and after 6th April 1975 those sections shall accordingly continue in force in the modified form in which they are set out in Schedule 1 to these regulations but not so as to save the 1961 Regulations, so far as deemed to have been made under those sections^(h), from being invalidated by the repeal, except to the extent to which regulation 3(2) below provides for their continuance in force, and section 110(1) of the 1966 Act (short title) shall also continue in force.

Replacement and modification of regulations concerning graduated retirement benefit

3.—(1) The provisions of regulation 2 above replace those of regulation 15 of the Social Security (Widow's Benefit, Retirement Pension and Other Benefits) (Transitional) (Northern Ireland) Regulations 1975(i); and that regulation is accordingly revoked.

(2) The provisions of regulations 2 and 4 of the 1961 Regulations (which are deemed to have been made under sections 35 and 36 of the 1966 Act) shall continue in force in the modified form in which they are set out in Schedule 2 to these regulations; and paragraph (1) (so far as it relates to citation) of regulation 1 of the 1961 Regulations shall also continue in force.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 4th April 1975.

(L.S.)

C. G. Oakes

Assistant Secretary

(h) See National Insurance Act (Northern Ireland) 1966 (c. 6) s. 109

(i) S.R. 1975 No. 14

SCHEDULE 1

Regulation 2(2)

Sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966
as continued in force by these regulations

Graduated retirement benefit

Graduated
retirement
benefit.

35.—(1) Subject to the provisions of the Act, graduated retirement benefit shall be payable to any person who is over pensionable age and has retired from regular employment, and shall be an increase in the weekly rate of his retirement pension equal to $2\frac{1}{2}$ pence for each unit, ascertained in accordance with subsections (2) and (3) of this section, of the graduated contributions properly paid by him as an insured person.

(2) For the purposes of graduated retirement benefit the units of graduated contributions shall be £7.50 for men and £9.00 for women.

(3) Where a person's graduated contributions calculated at the said rate do not make an exact number of units any incomplete fraction of a unit shall, if it is one half or more, be treated as a complete unit.

(4) Where a person does not retire from regular employment on attaining pensionable age, then for the purpose of calculating the graduated retirement benefit payable to him from the date of his retirement there shall be added to the amount of the graduated contributions properly paid by him one half of the aggregate graduated retirement benefit which would have been payable to him for the period before that date if he had retired from regular employment on attaining pensionable age and had received that benefit for the whole of the period without any interruption or abatement:

Provided that, in computing the addition to be made in accordance with this subsection in the case of a person who has made an election by virtue of section 30(3) of the Act (re-entry into regular employment) or the corresponding provisions of any earlier Act, no account shall be taken of any period on or after 6th April 1975 which falls between the date of that election and the date of his previous retirement.

(5) For the purposes of subsection (4) of this section, the Department may by regulations provide for treating all or any of the graduated contributions paid by a person in the tax year in which he attained pensionable age as having been paid before, or as having been paid after, the day on which he attained that age, whether or not the contribution in question was so paid.

(6) Except to the extent that regulations otherwise provide, the foregoing provisions of this section shall have effect subject to section 30(1) and (2) of the Act (reduction on account of earnings).

(7) A person who has attained pensionable age and retired from regular employment, but is not entitled to a retirement pension, shall be treated for the purposes of the foregoing provisions of this section as receiving a retirement pension at a nominal weekly rate:

Provided that—

- (a) this subsection shall not confer any right to graduated retirement benefit on a person who would be entitled to a retirement pension but for some provision of the Act or of regulations disqualifying him for receipt of it; and
- (b) regulations may provide that any right by virtue of this subsection to benefit at less than a specified weekly rate shall be satisfied either altogether or for a specified period by the making of a single payment of the prescribed amount.

(8) In this section and in section 36 below—

“graduated contributions” means graduated contributions under the National Insurance Act (Northern Ireland) 1966 or the National Insurance Act (Northern Ireland) 1959(j);

“insured person” means insured person under the National Insurance Act (Northern Ireland) 1966 or the National Insurance Act 1946(k);

“retirement pension” means retirement pension of any category;

“the Act” means the Social Security (Northern Ireland) Act 1975;

“the Department” means the Department of Health and Social Services for Northern Ireland;

and any reference in section 36 below to “section 35 of this Act” or to any of its subsections is a reference to that section or subsection as it is here set out.

(9) This section and section 36 below and the Act shall be construed and have effect as if this section and section 36 below were included in Chapter I of Part II of that Act (contributory benefits); and references to that Chapter, that Part or that Act in any other enactment shall be construed accordingly;

Provided that nothing in this subsection shall affect the construction of any reference to section 35 or 36 of this Act or of that Act or to any of the subsections of those sections; and any increase in the weekly rate of a person’s retirement pension by virtue of this section shall be left out of account in determining the weekly rate of that pension for the purposes of sections 14(6) and 15(4) of the Act (rate of unemployment benefit, sickness benefit or invalidity pension for persons over pensionable age).

(10) The provisions of Part III of the Act (determination of claims and questions) relating to contributions shall be construed and have effect as if graduated contributions were contributions under the Act.

(j) 1959 c. 21 (N.I.)

(k) 1946 c. 23 (N.I.)

Special provisions as to graduated retirement benefit for widows.

36.—(1) Subject to the provisions of this section, where a man, having paid graduated contributions as an insured person, dies leaving a widow, and she either has attained pensionable age at the time of his death or remains his widow when she attains that age, then section 35 of this Act shall apply as if the increase in the weekly rate of her retirement pension provided for by subsection (1) thereof were the amount there specified by reference to her graduated contributions plus $2\frac{1}{2}$ pence for every 5 pence or part of 5 pence of the weekly rate of his graduated retirement benefit.

(2) For the purposes of subsection (1) of this section, the weekly rate of the husband's graduated retirement benefit shall (whether or not he was receiving or entitled to receive any such benefit) be taken to have been the weekly rate appropriate to the amount of graduated contributions paid by him together with any addition under section 35(4) of this Act; and where at his death he had attained pensionable age but had not retired from regular employment, that addition shall be computed as if he had retired from regular employment immediately before his death.

(3) A woman's right to graduated retirement benefit by virtue of this section shall be brought into account under section 35(4) of this Act in determining the graduated retirement benefit payable to her under the said section 35:

Provided that, if the husband died after she attained pensionable age, she shall for the purposes of this subsection be treated as not having attained pensionable age until the date of his death.

(4) A woman's right to graduated retirement benefit by virtue of this section in respect of a husband she marries after she attains pensionable age shall be subject to such additional conditions as may be prescribed; and except as may be provided by regulations a woman more than once married shall not be entitled for the same period to any graduated retirement benefit by virtue of this section in respect of more than one of the husbands.

(5) Regulations may provide that where a woman is entitled to graduated retirement benefit and to a widowed mother's allowance the graduated retirement benefit shall be an increase in the weekly rate of that allowance; and where that benefit is such an increase, section 35(6) and (7) of this Act shall not apply.

SCHEDULE 2

Regulation 3(2)

Regulations 2 and 4 of the 1961 Regulations as modified by these regulations*Single payment in satisfaction of right to graduated retirement-benefit*

2.—(1) Subject to the following provisions of this regulation, where at the appropriate date a person is entitled to graduated retirement benefit at less than 15 pence a week by virtue of section 35(7) of the National Insurance Act (Northern Ireland) 1966 (which confers a right to graduated retirement benefit in certain cases of persons not entitled to a retirement pension), his right for life to such benefit shall, as from that date, be satisfied altogether by the making of a single payment ascertained in accordance with the provisions of the next following paragraph.

(2) Where at the appropriate date the person, being a man, is of any age specified in the first column of the Table below or, being a woman, is of any age specified in the third column of that Table, the single payment referred to in the foregoing paragraph shall be a payment equal to the amount specified opposite to that age, in the case of a man, in the second column of that Table and, in the case of a woman, in the fourth column of that Table, for each $2\frac{1}{2}$ pence of the weekly rate of the person's graduated retirement benefit.

(3) The provisions of this regulation shall not apply to a person unless he does not satisfy the conditions for entitlement to a Category C or D retirement pension and does not satisfy or partially satisfy the contribution conditions for a Category A or B retirement pension and also, in the case of a married woman, her husband is over pensionable age and does not satisfy (or, as the case may be, partially satisfy) any of those conditions.

(4) For the purposes of this regulation—

(a) the weekly rate of a person's graduated retirement benefit shall be calculated without reference to any reduction therein on account of his earnings;

(b) subject to sub-paragraph (c) of this paragraph, a person who does not satisfy the contribution conditions for a Category A or B retirement pension shall be deemed partially to satisfy those conditions if, but only if, he satisfies the conditions set out in regulation 5 of the Social Security (Widow's Benefit and Retirement Pensions) (Northern Ireland) Regulations 1975(I) or regulation 9 of the Social Security (Benefit) (Married Women and Widows Special Provisions) (Northern Ireland) Regulations 1975(m) for the payment of Category A or B retirement pension at a reduced rate;

(c) a woman who is married on attaining pensionable age and is not entitled to a Category A retirement pension by reason of the application to her of section 28(2) of the Act (requirement of the necessary earnings factors for at least half the years between marriage before the age of 55 and her attaining pensionable age) shall be treated as if she did not satisfy or partially satisfy the contribution conditions for a Category A or B retirement pension;

- (d) the "appropriate date" means, in relation to any right of a person to graduated retirement benefit, the date as from which weekly payments in respect of that right would, apart from this regulation and any reduction on account of the person's earnings, have commenced to be payable:

Provided that:—

- (i) where at the date which, apart from this proviso, would be the appropriate date that person is a married woman and her husband has not retired from regular employment, the appropriate date shall be deferred until the date of her husband's retirement or the termination of the marriage, whichever shall first occur; and
 - (ii) the provisions of this paragraph shall have effect subject to the provisions of regulation 31(4) of the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975(n) (decision on review or appeal making single payment payable instead of weekly payments); and
- (e) in determining whether a person's right to graduated retirement benefit is at less than 15 pence a week, all rights he may have to such benefit (other than rights already satisfied by the making of a payment under this regulation or rights in relation to which the appropriate date has not occurred) shall be aggregated.

Graduated retirement benefit as increase of widowed mother's allowance

4.—(1) Where for any week a woman is entitled to graduated retirement benefit and to a widowed mother's allowance, the graduated retirement benefit shall for that week be an increase in the weekly rate of that allowance if the amount payable to her as personal benefit by way of widowed mother's allowance would then equal or exceed the amount which would have been payable to her as personal benefit by way of retirement pension had the graduated benefit been an increase in the weekly rate of that pension.

(2) For the purposes of the foregoing paragraph—

- (a) "personal benefit" has the same meaning as in the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1975(o); and
- (b) the amounts payable as personal benefit shall be calculated after any adjustment required to be made under those regulations other than any adjustment between widowed mother's allowance and retirement pension.

TABLE

Regulation 2(2) of
Schedule 2Amounts of single payments payable in satisfaction of rights to graduated
retirement benefit of 2½ pence a week

MEN		WOMEN	
<i>Age at appropriate date</i>	<i>Amount</i>	<i>Age at appropriate date</i>	<i>Amount</i>
	£		£
65 and under 66	12·00	60 and under 61	17·00
66 " " 67	11·50	61 " " 62	16·50
67 " " 68	11·00	62 " " 63	16·00
68 " " 69	10·50	63 " " 64	15·50
69 " " 70	10·00	64 " " 65	15·00
70 " " 71	9·50	65 " " 66	14·50
71 " " 76	8·50	66 " " 71	13·00
76 " " 81	6·50	71 " " 76	10·00
81 or above	4·50	76 " " 81	7·50
		81 or above	5·00

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport.)

These regulations provide for the continuance in force, with necessary modifications, of the provisions of sections 35 and 36 (relating to graduated retirement benefit) of the National Insurance Act (Northern Ireland) 1966 and related provisions of regulations. The statutory provisions, as so modified, are set out in Schedule 1 and the provisions of regulations in Schedule 2.