1978 No. 105

SOCIAL SECURITY

The Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978

Made	17*th April* 1978
Coming into operation—	
for the purpose specified in regulation 1(2) . .	6*th December* 1978
for all other purposes . . .	6*th April* 1979

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by paragraphs 3, 7 and 9 of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(**a**) and Article 26(1) of the Social Security Pensions (Northern Ireland) Order 1975(**b**), 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) (No. 2) Regulations (Northern Ireland) 1978 and, subject to paragraph (2) below, shall come into operation on 6th April 1979.

(2) For the purpose only of determining, before 6th April 1979, claims for, or questions arising as to, benefit for any period after 5th April 1979, these regulations shall come into operation on 6th December 1978.

(3) In these regulations—

"the Act" means the Social Security (Northern Ireland) Act 1975(**c**);

"the Pensions Order" means the Social Security Pensions (Northern Ireland) Order 1975;

"the Act of 1966" means the National Insurance Act (Northern Ireland) 1966(**d**);

"the 1975 regulations" means the Social Security (Graduated Retirement Benefit) Regulations (Northern Ireland) 1975(**e**), as amended(**f**);

"the 1978 regulations" means the Social Security (Graduated Retirement Benefit) Regulations (Northern Ireland) 1978(**g**);

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

(4) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except insofar 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.

(**a**) 1975 c. 18
(**b**) S.I. 1975/1503 (N.I. 15)
(**c**) 1975 c. 15
(**d**) 1966 c. 6 (N.I.)
(**e**) S.R. 1975 No. 96 (I, p. 574)
(**f**) S.R. 1976 No. 99 (I, p. 415)
(**g**) S.R. 1978 No. 78

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(h) shall apply in relation to this statutory rule and in relation to the revocations effected by it as if this statutory rule and the regulations revoked by it were Acts of Parliament and as if the revocations were repeals.

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

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

(2) Paragraph (3) below shall have effect so that notwithstanding their repeal by the Social Security Act 1973(i) those sections shall, for the purpose aforesaid, continue in force subject to the making in them of the modifications required—

(*a*) to bring them into conformity with the provisions of the Act and the Pensions Order and to enable them to have effect as if contained in the scheme of social security benefits established by that Act and that Order;

(*b*) to replace section 35(4) of the Act of 1966 (increase of graduated retirement benefit in cases of deferred retirement) with provisions corresponding to those of paragraphs 1 to 3 of Schedule 1 to the Pensions Order; and

(*c*) to extend section 36 of the Act of 1966 (increase of woman's retirement pension by reference to her late husband's graduated retirement benefit) to men and their late wives.

(3) On and after 6th April 1979 those sections shall continue in force in the modified form in which they are set out in Schedules 1 and 2 to these regulations, but not so as to save the National Insurance (Graduated Retirement Benefit and Consequential Provisions) Regulations (Northern Ireland) 1961(j), so far as deemed to have been made under those sections(k), from being invalidated by the repeal; and section 110(1) of the Act of 1966 (short title) shall also continue in force.

Modification of regulations concerning graduated retirement benefit

3. The provisions of regulations 2 and 3 of the 1978 regulations (which were made under sections 35 and 36 of the Act of 1966) shall continue in force in the modified form set out in Schedule 3 to these regulations; and paragraphs (1) (so far as it relates to citation), (2) and (3) (interpretation) of regulation 1 of the 1978 regulations shall also continue in force.

Revocations

4. The 1975 regulations and regulation 18 of, and Schedule 2 to, the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(l) are hereby revoked.

(h) 1889 c. 63
(i) 1973 c. 38
(j) S.R. & O. (N.I.) 1961 No. 86 (p. 388)
(k) *See* National Insurance Act (Northern Ireland) 1966 (c. 6) s. 109
(l) S.R. 1976 No. 99 (I, p. 415)

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 17th April 1978.

(L.S.)

C. G. Oakes
Senior Assistant Secretary

SCHEDULE 1 Regulation 2(3)

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 who (except as mentioned in section 36(1) below) 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, the result being rounded to the nearest whole penny, taking $\frac{1}{2}$p as nearest to the next whole penny above.

(2) For the purpose 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 defers his retirement from regular employment after attaining pensionable age or has made an election by virtue of section 30(3) of the Act and has not revoked it, then, for the purpose of calculating the graduated retirement benefit payable to him from the date of his retirement, there shall be applied the provisions of Schedule 2 to the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978, and those provisions shall be construed and have effect as if they were part of this subsection.

(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.

(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 Act of 1966 or the National Insurance Act (Northern Ireland) 1959(**m**);

"insured person" means insured person under the Act of 1966 or the National Insurance Act (Northern Ireland) 1946(**n**);

"retirement pension" means retirement pension of any category;

"the Act" means the Social Security (Northern Ireland) Act 1975;

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 or in any instrument 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, to the extent that it is attributable to subsection (4) 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.

Special provisions as to graduated retirement benefit for widows and widowers.

36.—(1) Subject to the provisions of this section—

(*a*) 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; or

(*b*) where a woman, having paid graduated contributions as an insured person, dies after 5th April 1979 leaving a widower, and she and he have both attained pensionable age at the time of her death,

then section 35 of this Act shall apply as if the increase in the weekly rate of the retirement pension of the widow or widower, as the case may be, provided for by subsection (1) thereof were the amount there specified by reference to his or her graduated contributions with the addition of one-half of the weekly rate of the graduated retirement benefit of his or her former spouse (any amount including ½p being rounded to the next whole

(**m**) 1959 c. 21 (N.I.)
(**n**) 1946 c. 23 (N.I.)