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 2½ 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.)