



National Insurance Act (Northern Ireland) 1966

1966 CHAPTER 6

Sections 35 and 36 (relating to graduated pensions) are continued in force in modified form together with section 110(1) (short title) by the Social Security (Graduated Retirement Benefit) (No. 2) Regs. (NI) 1978 (SR 1978/105) and, as these sections affect a considerable number of persons, they are set out in full.

GRADUATED RETIREMENT BENEFIT

^{F1}35 **Graduated retirement benefit.**

^{F2}(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 [^{F3} 3.54] 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.

[^{F4}(4) Where a person's entitlement to graduated retirement benefit is deferred—

- (a) Schedule 2 to the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978; and
- (b) Schedule 1 to the 2005 Regulations,

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shall have effect and both those Schedules shall be construed and have effect as if they were part of this subsection.

(4A) For the purposes of subsection (4) a person's entitlement to graduated retirement benefit is deferred where—

- (a) he would be entitled to a Category A or Category B retirement pension but for the fact that his entitlement is deferred within the meaning in section 55(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, if and so long as his entitlement to such a pension is deferred;
- (b) he is treated under subsection (7) as receiving a Category A or a Category B retirement pension at a nominal weekly rate, if and so long as he does not become entitled to graduated retirement benefit by reason only of not satisfying the conditions in section 1 of the Social Security Administration (Northern Ireland) Act 1992 (entitlement to benefit dependent on claim),

and in relation to graduated retirement benefit, “period of deferment” shall be construed accordingly.]

(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 [^{F5}attained pensionable age before 6 April 2016] 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 ;

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

“retirement pension” means retirement pension of any category [^{F6}under the Social Security Contributions and Benefits (Northern Ireland) Act 1992] ;

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

[^{F4}“the 2005 Regulations” means the Social Security (Graduated Retirement Benefit) Regulations (Northern Ireland) 2005;]

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:

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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.

- F1** mod. by SR 2005/121
F2 mod. by SR 2003/155
F3 SR 1980/294
F4 SR 2005/121
F5 Words in s. 35(7) substituted (6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 12 para. 45\(2\)](#)
F6 Words in s. 35(8) inserted (6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 12 para. 45\(3\)](#)

Modifications etc. (not altering text)

- C1** S. 35 restricted (prosp.) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 81\(7\), 118\(1\)](#) (with s. 73)
C2 S. 35(1) modified (10.4.2006) by [Social Security Benefits Up-rating Order \(Northern Ireland\) 2006 \(S.R. 2006/109\), arts. 1\(1\)\(g\), 12\(1\)](#) (with art. 6)
C3 S. 35(1) modified (9.4.2007) by [Social Security Benefits Up-rating Order \(Northern Ireland\) 2007 \(S.R. 2007/153\), arts. 1\(1\)\(g\), 12\(1\)](#) (with art. 6)
C4 S. 35(1) amended (7.4.2008) by [Social Security Benefits Up-rating Order \(Northern Ireland\) 2008 \(S.R. 2008/92\), arts. 1\(1\)\(g\), 12\(1\)](#) (with art. 6)
C5 S. 35(1) amended (6.4.2009 with effect as mentioned in art. 6 of the amending S.R.) by [Social Security Benefits Up-rating Order \(Northern Ireland\) 2009 \(S.R. 2009/89\), arts. 1\(1\)\(f\), 12\(1\)](#)
C6 S. 35(1): sum specified (12.4.2010 with effect as mentioned in art. 6 of the amending Order) by [Social Security Benefits Up-rating Order \(Northern Ireland\) 2010 \(S.R. 2010/118\), arts. 1\(1\)\(c\), 12\(1\)](#)
C7 S. 35(1) amended (11.4.2011 with effect as mentioned in art. 6 of the amending Order) by [Social Security Benefits Up-rating Order \(Northern Ireland\) 2011 \(S.R. 2011/119\), arts. 1\(1\)\(c\), 12\(1\)](#)
C8 S. 35(1) sum amended (with effect in accordance with arts. 1(2), 6 of the commencing Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2012 \(S.R. 2012/116\), arts. 1\(1\)\(c\), 12\(1\)\(a\), 12\(1\)\(b\)](#)
C9 S. 35(1) sum amended (with effect in accordance with arts. 1(2), 6 of the commencing Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2013 \(S.R. 2013/69\), arts. 1\(1\)\(c\), 11\(1\)\(a\), 11\(1\)\(b\)](#)
C10 S. 35(1) sum amended (with effect in accordance with arts. 1(2), 6 of the commencing Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2014 \(S.R. 2014/78\), arts. 1\(1\)\(c\), 11\(1\)\(a\), 11\(1\)\(b\)](#)
C11 S. 35(1) sum amended (with effect in accordance with arts. 1(2), 6 of the commencing Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2015 \(S.R. 2015/124\), arts. 1\(1\)\(c\), 11\(1\)\(a\), 11\(1\)\(b\)](#)
C12 S. 35(1) sum amended (with effect in accordance with arts. 1(2)(3), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2017 \(S.R. 2017/56\), arts. 1\(1\)\(c\), 12\(1\)\(a\), \(b\)](#)

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- C13** S. 35(1) sum amended (25.9.2017) by The Social Security Benefits Up-rating (No. 2) Order (Northern Ireland) 2017 (S.R. 2017/187), arts. 1, **11(1)(a)(b)**
- C14** S. 35(1) sum amended (24.3.2018) by The Social Security (2017 Benefits Up-rating) Order (Northern Ireland) 2018 (S.R. 2018/56), arts. 1, **11(1)(a)(b)**
- C15** S. 35(1) sum amended (with effect in accordance with arts . 1(2)(3), 7 of the amending Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2018 (S.R. 2018/58), arts. 1(1)(c), **12(1)(a)(b)**
- C16** S. 35(1) sum amended (29.9.2018) by The Social Security Benefits Up-rating (No. 2) Order (NorthernIreland)2018 (S.R. 2018/167), arts. 1, **11(1)(a)(b)**
- C17** S. 35(1) sum amended (26.3.2019) by The Social Security (2018 Benefits Up-rating) Order (NorthernIreland)2019 (S.R. 2019/46), arts. 1, **11(1)(a)(b)**
- C18** S. 35(1) sum amended (with effect in accordance with arts . 1(2)(3), 7 of the amending Rule) by The Social Security Benefits Up-rating Order (NorthernIreland)2019 (S.R. 2019/58), arts. 1(1)(c), **12(1)(a)(b)**
- C19** S. 35(1) sum amended (27.9.2019) by The Social Security Benefits Up-rating (No. 2) Order (Northern Ireland) 2019 (S.R. 2019/188), arts. 1, **11(1)(a)(b)**
- C20** S. 35(1) sum amended (with effect in accordance with arts. 1(2)(3)(a), 7 of the amending Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2020 (S.R. 2020/40), arts. 1(1)(c), **12(1)**
- C21** S. 35(1): sum amended (with effect in accordance with arts. 1(2)(3), 7 of the amending Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2021 (S.R. 2021/82), arts. 1(1)(c), **12(1)(a)**
- C22** S. 35(2) amended by S.R. 1978/105, Sch. 1 (as amended (6.4.2010) by Social Security (State Pension and National Insurance Credits) Regulations (Northern Ireland) 2010 (S.R. 2010/56), regs. 1(3), **2(1)-(3)**)

^{F7}36 Special provisions as to graduated retirement benefit for widows and widowers.

- (1) Subject to the provisions of this section^{F8} and to Schedule 1 to the 2005 Regulations.]
- (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 $\frac{1}{2}p$ being rounded to the next whole penny above); and where a man, having paid graduated contributions as an insured person, dies after 5th April 1979 leaving a widow and she has attained pensionable age at the time of his death but has not retired from regular employment, section 35 shall apply as if the increase in the weekly rate of her retirement pension provided for by subsection (1) thereof were one-half of the weekly rate of the graduated retirement benefit of her former husband (any amount including $\frac{1}{2}p$ being rounded to the next whole penny above).

- (2) For the purposes of subsection (1) of this section, the weekly rate of the deceased spouse's graduated retirement benefit shall (whether or not he or she 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 or her (determined as if any orders which have come into force under section 120^{F9} of the Act (increases in rates

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of benefit) since the date of the deceased spouse's death had come into force before that date), excluding any addition under section 36(1) of this Act, but including any addition under section 35(4) thereof (and for the purpose of calculating the addition under section 35(4), taking into account any addition under section 36(1)); and where at his or her death he or she had attained pensionable age but had neither retired from regular employment nor otherwise become entitled to graduated retirement benefit, that addition shall be computed as if he or she had retired from regular employment or otherwise become entitled to graduated retirement benefit immediately before his or her death.

- (3) A person'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 him or her under the said section 35:

Provided that, if the termination of the marriage by death occurred after he or she attained pensionable age, he or she shall for the purposes of this subsection be treated as not having attained pensionable age until the date of that termination.

- (4) A person's right to graduated retirement benefit by virtue of this section in respect of a spouse he or she marries after attaining pensionable age shall be subject to such additional conditions as may be prescribed; and except as may be provided by regulations a person 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 his or her spouses.
- (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 the benefit is such an increase, section 35(7) of this Act shall not apply.

F7 mod. by SR 2003/155
F8 SR 2005/121
F9 1975 (NI 15)

Modifications etc. (not altering text)

- C23** S. 36(1) modified (10.4.2006) by Social Security Benefits Up-rating Order (Northern Ireland) 2006 (S.R. 2006/109), arts. 1(1)(g), **12(3)**, (with art. 6)
- C24** S. 36(1) modified (9.4.2007) by Social Security Benefits Up-rating Order (Northern Ireland) 2007 (S.R. 2007/153), arts. 1(1)(g), **12(4)** (with art. 6)
- C25** S. 36(1) amended (7.4.2008) by Social Security Benefits Up-rating Order (Northern Ireland) 2008 (S.R. 2008/92), arts. 1(1)(g), **12(4)** (with art. 6)
- C26** S. 36(1) amended (6.4.2009 with effect as mentioned in art. 6 of the amending S.R.) by Social Security Benefits Up-rating Order (Northern Ireland) 2009 (S.R. 2009/89), arts. 1(1)(f), **12(4)**
- C27** S. 36(1) amended by S.R. 1978/105, Sch. 1 (as amended (6.4.2010) by Social Security (State Pension and National Insurance Credits) Regulations (Northern Ireland) 2010 (S.R. 2010/56), regs. 1(3), **2(4)(5)**)
- C28** S. 36(1): sums specified (12.4.2010 with effect as mentioned in art. 6 of the amending Order) by Social Security Benefits Up-rating Order (Northern Ireland) 2010 (S.R. 2010/118), arts. 1(1)(c), **12(4)**
- C29** S. 36(1) amended (11.4.2011 with effect as mentioned in art. 6 of the amending Order) by Social Security Benefits Up-rating Order (Northern Ireland) 2011 (S.R. 2011/119), arts. 1(1)(c), **12(4)**
- C30** S. 36(1) sums amended (with effect in accordance with arts. 1(2), 6 of the commencing Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2012 (S.R. 2012/116), arts. 1(1)(c), **12(4)**
- C31** S. 36(1) sum amended (with effect in accordance with arts.1(2), 6 of the commencing Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2013 (S.R. 2013/69), arts. 1(1)(c), **11(4)**

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- C32** S. 36(1) sums amended (with effect in accordance with arts . 1(2), 6 of the commencing Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2014 (S.R. 2014/78), arts. 1(1)(c), **11(4)**
- C33** S. 36(1) sums amended (with effect in accordance with arts . 1(2), 6 of the commencing Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2015 (S.R. 2015/124), arts. 1(1)(c), **11(4)**
- C34** S. 36(1) sums amended (with effect in accordance with arts. 1(2)(3), 7 of the amending Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2017 (S.R. 2017/56), arts. 1(1)(c), **12(4)**
- C35** S. 36(1) sums amended (25.9.2017) by The Social Security Benefits Up-rating (No. 2) Order (Northern Ireland) 2017 (S.R. 2017/187), arts. 1, **11(4)**
- C36** S. 36(1) sums amended (24.3.2018) by The Social Security (2017 Benefits Up-rating) Order (Northern Ireland) 2018 (S.R. 2018/56), arts. 1, **11(4)**
- C37** S. 36(1) sums amended (with effect in accordance with arts . 1(2)(3), 7 of the amending Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2018 (S.R. 2018/58), arts. 1(1)(c), **12(4)**
- C38** S. 36(1) sums amended (29.9.2018) by The Social Security Benefits Up-rating (No. 2) Order (NorthernIreland)2018 (S.R. 2018/167), arts. 1, **11(4)**
- C39** S. 36(1) sums amended (26.3.2019) by The Social Security (2018 Benefits Up-rating) Order (NorthernIreland)2019 (S.R. 2019/46), arts. 1, **11(4)**
- C40** S. 36(1) sums amended (with effect in accordance with arts . 1(2)(3), 7 of the amending Rule) by The Social Security Benefits Up-rating Order (NorthernIreland)2019 (S.R. 2019/58), arts. 1(1)(c), **12(4)**
- C41** S. 36(1) sums amended (27.9.2019) by The Social Security Benefits Up-rating (No. 2) Order (Northern Ireland) 2019 (S.R. 2019/188), arts. 1, **11(4)**
- C42** S. 36(1) sums amended (with effect in accordance with arts. 1(2)(3)(a), 7 of the amending Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2020 (S.R. 2020/40), arts. 1(1)(c), **12(4)**
- C43** S. 36(1): sum amended (with effect in accordance with art. 1(2)(3), 7 of the amending Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2021 (S.R. 2021/82), arts. 1(1)(c), **12(4)**

110 Short title.

- (1) This Act may be cited as the National Insurance Act (Northern Ireland) 1966.

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