
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 315

The State Pension Regulations (Northern Ireland) 2015

[^{F1}PART 6

Graduated Retirement Benefit

Textual Amendments

- F1** Pts. 6, 7 added (6.4.2016) by [The State Pension \(Amendment\) Regulations \(Northern Ireland\) 2016](#) (S.R. 2016/80), regs. 1, **2(4)**

Survivor's state pension based on inheritance of graduated retirement benefit

15.—(1) A person (“P”) whose deceased spouse or civil partner paid graduated contributions as an insured person is entitled to a state pension in accordance with this regulation.

(2) P is entitled to a state pension if—

- (a) P has reached pensionable age;
- (b) P's spouse died while they were married or P's civil partner died while they were civil partners of each other;
- (c) the marriage took place, or the civil partnership was formed, before 6th April 2016; and
- (d) P is entitled to an inherited amount under regulation 16(1), (2) or (3).

(3) A state pension under this regulation is payable at a weekly rate equal to the inherited amount determined in accordance with regulation 16(4) to (6).

(4) The rate of the state pension for a person under this regulation is to be increased from time to time in accordance with regulation 17.

Survivor's state pension under regulation 15: inherited amount

16.—(1) For the purposes of regulation 15(2)(d), a person (“P”) is entitled to an inherited amount if—

- (a) P's spouse or civil partner died before 6th April 2016;
- (b) P was under pensionable age when the spouse or civil partner died; and
- (c) P has not married or formed a civil partnership after the death and before the time P reaches pensionable age.

(2) For the purposes of regulation 15(2)(d), P is entitled to an inherited amount if—

- (a) P's spouse or civil partner reached pensionable age before 6th April 2016 but died on or after 6th April 2016;
- (b) P was under pensionable age when the spouse or civil partner died; and

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- (c) P has not married or formed a civil partnership after the death and before the time P reaches pensionable age.
- (3) For the purposes of regulation 15(2)(d), P is entitled to an inherited amount if—
 - (a) the spouse or civil partner reached pensionable age before 6th April 2016 but died on or after 6th April 2016; and
 - (b) P was over pensionable age when the spouse or civil partner died.
- (4) The inherited amount is half of the weekly rate of the deceased spouse's or civil partner's graduated retirement benefit, determined in accordance with paragraph (5), on the date referred to in paragraph (6) (whether or not the deceased was receiving, or entitled to receive, any such benefit).
- (5) The determination for the purposes of paragraph (4) is carried out by—
 - (a) taking the weekly rate of graduated retirement benefit appropriate to the amount of graduated contributions paid by the deceased;
 - (b) determining that weekly rate as if any provisions in orders under section 132 of the Administration Act (annual up-rating of benefits) which—
 - (i) increase that weekly rate; and
 - (ii) have come into operation since the date of the deceased's death, had come into operation before that date; and
 - (c) excluding any addition under—
 - (i) section 35(4) of the 1966 Act (graduated retirement benefit); or
 - (ii) section 36(1) of that Act (special provisions as to graduated retirement benefit for widows, widowers and surviving civil partnerships).
- (6) The date mentioned in paragraph (4) is—
 - (a) where the person falls within paragraph (1) or (2), the date on which the person reaches pensionable age; or
 - (b) where the person falls within paragraph (3), the date on which the person's spouse or civil partner died.

Survivor's state pension under regulation 15: up-rating

17.—(1) The rate of a person's state pension under regulation 15 is to be increased in accordance with the following paragraphs.

- (2) In this regulation, a reference to the rate of a person's state pension is to the rate—
 - (a) without any reduction under regulations made under section 7(4) (survivor's pension based on inheritance of additional old state pension) of the Act (in the case of a state pension under section 7 of the Act);
 - (b) taking into account any reduction under section 14 (pension sharing: reduction in the sharer's section 4 pension) of the Act (in the case of a state pension under section 4 of the Act); and
 - (c) without any increase under section 17 of the Act.
- (3) The rate of a person's state pension is increased in accordance with paragraph (4) where—
 - (a) that rate, when added to the sum of the rate of any state pension to which the person is entitled under section 7 and section 2, 4 or 12 of the Act (entitlement to state pension at various rates), is equal to, or less than, the full rate of the state pension; and
 - (b) the full rate of the state pension is increased at any time.
- (4) Where paragraph (3) applies—

- (a) the rate of a person's state pension is increased by the same percentage as the increase in the full rate; and
 - (b) that increase of the person's state pension is to be made at the same time as the increase in the full rate.
- (5) The rate of a person's state pension is increased in accordance with either or both of paragraphs (6) and (7) where—
- (a) both—
 - (i) that rate, when added to the sum of the rate of any state pension to which a person is entitled under section 7 and section 2, 4 or 12 of the Act, exceeds the full rate of the state pension; and
 - (ii) the sum of the rate of any state pension to which a person is entitled under section 7 and section 2, 4 or 12 of the Act is less than the full rate of the state pension; and
 - (b) either or both of the following occurs at any time—
 - (i) the full rate of the state pension is increased;
 - (ii) an up-rating order comes into operation.
- (6) Where paragraph (5)(a) and (b)(i) applies, the rate of a person's state pension is increased—
- (a) by an amount equal to the appropriate percentage of the shortfall immediately before the full rate of the state pension is increased ("the appropriate percentage" means the percentage by which the full rate is increased); and
 - (b) at the same time as paragraph (5)(b)(i) applies.
- (7) Where paragraph (5)(a) and (b)(ii) applies, the rate of a person's state pension is increased—
- (a) by an amount equal to the appropriate percentage of the excess immediately before the up-rating order mentioned in paragraph (5)(b)(ii) comes into operation ("the appropriate percentage" means the percentage specified in that up-rating order); and
 - (b) at the same time as that up-rating order comes into operation.
- (8) The rate of a person's state pension is increased in accordance with paragraph (9) where—
- (a) the sum of the rate of any state pension to which a person is entitled under section 7 and section 2, 4 or 12 of the Act is equal to, or higher than, the full rate of the state pension; and
 - (b) an up-rating order comes into operation at any time.
- (9) Where paragraph (8) applies—
- (a) the rate of a person's state pension is increased by the percentage specified in the up-rating order mentioned in paragraph (8)(b); and
 - (b) that increase of a person's state pension is to be made at the same time as that up-rating order comes into operation.
- (10) In this regulation—
- "the excess" means the amount by which the rate of the state pension, when added to the sum of the rate of any state pension to which a person is entitled under section 7 and section 2, 4 or 12 of the Act, exceeds the full rate;
- "the shortfall" means the amount by which the sum of the rate of any state pension to which a person is entitled under section 7 and section 2, 4 or 12 of the Act, is less than the full rate;
- "up-rating order" means an order under section 132B of the Administration Act (up-rating of transitional state pensions under Pensions Act (Northern Ireland) 2015).

Choice of lump sum or state pension based on inheritance of deferred graduated retirement benefit

- 18.—(1) Subject to paragraph (8), a person (“P”) is entitled to a choice under this regulation if—
- (a) P has reached pensionable age;
 - (b) P’s spouse died while they were married or P’s civil partner died while they were civil partners of each other;
 - (c) the spouse’s or civil partner’s entitlement to graduated retirement benefit was deferred at the time of death and throughout the period of 12 months ending with the day before the death; and
 - (d) either—
 - (i) P was under pensionable age when the spouse or civil partner died and did not marry or form a civil partnership between the date of death and the date P reached pensionable age; or
 - (ii) P was over pensionable age when the spouse or civil partner died.
- (2) P may choose to be paid—
- (a) a lump sum under regulation 19; or
 - (b) a state pension under regulation 20.
- (3) The manner in which that choice is to be made is the manner set out in regulation 5(2) and (3).
- (4) The period within which that choice is to be made is the period set out in regulation 4(2) and (3) and P may make a late choice after that period where—
- (a) the Department considers it is reasonable in any particular case; and
 - (b) any amount paid by way of (or on account of) a lump sum under regulation 19 has been repaid to the Department—
 - (i) in full; and
 - (ii) in the currency in which that amount was originally paid.
- (5) Where P fails to make a choice within the period set out in regulation 4(2) and (3), P is to be paid a lump sum under regulation 19.
- (6) The amount of any lump sum to be paid to a person under regulation 19 is reduced to nil where that person makes a late choice under paragraph (4) to be paid a state pension under regulation 20.
- (7) A choice under this regulation may be altered in the circumstances specified in regulation 6(2), and for that purpose—
- (a) regulation 6(3) applies where the circumstance in regulation 6(2)(f) applies;
 - (b) any references in regulation 6(2) and (3) to “section 8 of the Act” are to be read as references to regulation 19; and
 - (c) any references in regulation 6(2) and (3) to “section 9 of the Act” are to be read as references to regulation 20.
- (8) P is not entitled to a choice under this regulation if P is entitled to a choice under section 8(2) of the Act.
- (9) Where paragraph (1) applies to P and P makes a choice under—
- (a) section 8(2)(a) of the Act, P is to be paid a lump sum under regulation 19 (subject to paragraph (10));
 - (b) section 8(2)(b) of the Act, P is to be paid a state pension under regulation 20 (subject to paragraph (10)).
- (10) Where paragraph (1) applies to P and P alters a choice under regulation 6—

- (a) P is to be paid a lump sum under regulation 19 where P's new choice is to be paid a lump sum under section 8 of the Act;
 - (b) P is to be paid a state pension under regulation 20 where P's new choice is to be paid a state pension under section 9 of the Act.
- (11) Where paragraph (1) applies to P and P fails to make a choice under section 8(2) of the Act, P is to be paid a lump sum under regulation 19.

Survivor's lump sum based on inheritance of deferred graduated retirement benefit

19.—(1) Where a person ("P") is to be paid a lump sum by virtue of regulation 18, P is entitled to a lump sum calculated in accordance with paragraph 10 or, where appropriate, paragraph 20 (calculation of widowed person's or surviving civil partner's lump sum) of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations (Northern Ireland) 2005.

(2) In paragraphs 10(6) and 20(6) of Schedule 1 to those Regulations as they apply for the purposes of this regulation, the references to the date on which the person becomes entitled to a Category A or Category B retirement pension or to graduated retirement benefit are to be read as a reference to the date on which the person becomes entitled to make a choice under regulation 18.

Survivor's state pension based on inheritance of deferred graduated retirement benefit

20.—(1) A person ("P") is entitled to a state pension under this regulation if—

- (a) P has reached pensionable age;
 - (b) P's spouse died while they were married or P's civil partner died while they were civil partners of each other;
 - (c) either—
 - (i) P was under pensionable age when the spouse or civil partner died and did not marry or form a civil partnership between the date of death and the date P reached pensionable age; or
 - (ii) P was over pensionable age when the spouse or civil partner died;
 - (d) either—
 - (i) P's spouse or civil partner was entitled to an increase in graduated retirement benefit; or
 - (ii) P's spouse's or civil partner's entitlement to graduated retirement benefit was deferred when the spouse or civil partner died;
 - (e) where P is entitled to a choice under regulation 18, P has chosen to be paid a state pension under this regulation; and
 - (f) where P is not entitled to a choice under regulation 18 because regulation 18(8) applies to P, P is to be paid a state pension under this regulation by virtue of regulation 18(9)(b) or (10)(b).
- (2) Subject to paragraph (3), a state pension under this regulation is payable at a weekly rate equal to half of the weekly rate of—
- (a) the deceased spouse's or civil partner's increase in graduated retirement benefit; or
 - (b) where the deceased spouse's or civil partner's entitlement to graduated retirement benefit was deferred when the deceased died, the increase in graduated retirement benefit, determined in accordance with paragraph (4), that would have been payable if the deferral had ended immediately before the deceased's death.

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(3) For the purposes of paragraph (2), if at any time an order under section 132B of the Administration Act comes into operation, the rate of P's state pension under this regulation is increased (at that time) by the percentage specified in the order.

(4) For the purposes of paragraph (2), the increase is to be determined as if—

(a) any provisions in orders under section 132 of the Administration Act which—

(i) increase the weekly rate of the graduated retirement benefit; and

(ii) have come into operation between the date of the deceased's death and the date on which P reaches pensionable age,

had come into operation before the date of death; and

(b) the weekly rate of the deceased spouse's or civil partner's increase did not include any addition under section 36(1) of the 1966 Act (special provisions as to graduated retirement benefit for widows, widowers and surviving civil partnerships).

(5) In this regulation, "increase in graduated retirement benefit" means an increase determined in accordance with section 35(4) of the 1966 Act (graduated retirement benefit).]

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