

Status: Point in time view as at 07/06/2012.

Changes to legislation: Social Security Contributions and Benefits (Northern Ireland) Act 1992, SCHEDULE 5 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 55.

[^{F1}PENSION INCREASE OR LUMP SUM WHERE ENTITLEMENT TO RETIREMENT PENSION IS DEFERRED]

Textual Amendments

- F1** Sch. 5 heading substituted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by *The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255)*, art. 1(4), **Sch. 9 para. 2**

Modifications etc. (not altering text)

- C1** Sch. 5 modified (temp. from 1.12.1999 until 5.10.2002) by *The Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))*, arts. **1(4)(b)**, 49(7)(b) (the temp. modification lapsing on the coming into operation of S.R. 2001/441)
- C2** Sch. 5 modified (6.4.2005) by *The Social Security (Retirement Pensions etc.) (Transitional Provisions) Regulations (Northern Ireland) 2005 (S.R. 2005/123)*, regs. 1(1), **2**
- C3** Sch. 5: sums amended (with effect in accordance with arts. 1(2), 6 of the amending Rule) by *The Social Security Benefits Up-rating Order (Northern Ireland) 2012 (S.R. 2012/116)*, arts. 1(1)(c), **4(4)(b)**

[^{F2}Choice between increase of pension and lump sum where pensioner's entitlement is deferred

Textual Amendments

- F2** Sch. 5 para. A1 and cross-heading inserted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by *The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255)*, art. 1(4), **Sch. 9 para. 3**

- A1. (1) Where a person's entitlement to a Category A or Category B retirement pension is deferred and the period of deferment is at least 12 months, the person shall, on claiming his pension or within a prescribed period after claiming it, elect in the prescribed manner either—
- that paragraph 1 (entitlement to increase of pension) is to apply in relation to the period of deferment, or
 - that paragraph 3A (entitlement to lump sum) is to apply in relation to the period of deferment.
- (2) If no election under sub-paragraph (1) is made within the period prescribed under that sub-paragraph, the person is to be treated as having made an election under sub-paragraph (1)(b).
- (3) Regulations—
- may enable a person who has made an election under sub-paragraph (1) (including one that the person is treated by sub-paragraph (2) as having

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- made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and
- (b) if they enable a person to make an election under sub-paragraph (1)(b) in respect of a period of deferment after receiving any increase of pension under paragraph 1 by reference to that period, may for the purpose of avoiding duplication of payment—
 - (i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or
 - (ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 3A.
- (4) Where the Category A or Category B retirement pension includes any increase under [^{F3}paragraphs 5 to 6A], no election under sub-paragraph (1) applies to so much of the pension as consists of that increase (an entitlement to an increase of pension in respect of such an increase after a period of deferment being conferred either by paragraphs 1 and 2 or by paragraph 2A).]

Textual Amendments

F3 Words in [Sch. 5 para. A1\(4\)](#) substituted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(3), [Sch. para. 6\(a\)](#)

Increase of pension where pensioner’s entitlement is deferred

- [^{F4}1 (1) This paragraph applies where a person’s entitlement to a Category A or Category B retirement pension is deferred and one of the following conditions is met—
 - (a) the period of deferment is less than 12 months, or
 - (b) the person has made an election under paragraph A1(1)(a) in relation to the period of deferment.
- (2) The rate of the person’s Category A or Category B retirement pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under paragraph 2, but only if that amount is enough to increase the rate of the pension by at least 1 per cent.]

Textual Amendments

F4 [Sch. 5 para. 1](#) substituted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#), art. 1(4), [Sch. 9 para. 4](#)

- 2 (1) Subject to paragraph 3 below, a person is entitled to an increment under this paragraph for each complete incremental period in his [^{F5}period of deferment].
- (2) In this Schedule—
 - “incremental period” means any period of six days which are treated by regulations as days of increment for the purposes of this Schedule in relation to the person and the pension in question; ^{F6}...

^{F6}

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- (3) Subject to paragraph 3 below, the amount of the increment for any such incremental period shall be [^{F7}1/5th per cent.] of the weekly rate of the Category A or Category B retirement pension to which that person would have been entitled for the period if his entitlement had not been deferred.
- (4) Where an amount is required to be calculated in accordance with the provisions of sub-paragraph (3) above—
 - (a) the amount so calculated shall be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny above; and
 - (b) where the amount so calculated would, apart from this sub-paragraph, be a sum less than 1/2p, that amount shall be taken to be zero, notwithstanding any other provision of this Act, the Pensions Order or the Administration Act.
- (5) For the purposes of sub-paragraph (3) above the weekly rate of pension for any period shall be taken—
 - (a) to include any increase under section 47(1) above and any increase under [^{F8}paragraph 4, 5, 5A, 6 or 6A] below, but
 - (b) not to include any increase under section ^{F9}... [^{F10}83A or] 85 above or any graduated retirement benefit.
- (6) The reference in sub-paragraph (5) above to any increase under subsection (1) of section 47 above shall be taken as a reference to any increase that would take place under that subsection if subsection (2) of that section and [^{F11}section 42(5) of the Pensions Act] were disregarded.
- (7) Where one or more orders have come into force under section 132 [^{F12}or 132A] of the Administration Act during the [^{F5}period of deferment] the rate for any incremental period shall be determined as if the order or orders had come into force before the beginning of the [^{F5}period of deferment].
- (8) Where a pensioner's rights premium is paid in respect of a person who is, or if his entitlement had not been deferred would be, entitled to a Category A or Category B retirement pension, then, in calculating any increment under this paragraph which falls to be paid to him in respect of such a pension after the date on which the premium is paid there shall be disregarded any guaranteed minimum pension to which the pensioner was entitled in connection with the employment to which the premium relates.

Textual Amendments

- F5** Words in Sch. 5 para. 2 substituted (with effect in relation to incremental periods beginning on or after 6.4.2005) by [The Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213\)](#), **Sch. 2 para. 6(2)(b)** (with [Sch. 2 para. 6\(5\)](#) (as amended by [S.I. 2005/255](#), **art. 273(3)**))
- F6** Words in Sch. 5 para. 2(2) repealed (with effect in relation to incremental periods beginning on or after 6.4.2005) by [The Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213\)](#), **Sch. 2 para. 6(2)(a)**, **Sch. 5 Pt. II** (with [Sch. 2 para. 6\(5\)](#) (as amended by [S.I. 2005/255](#), **art. 273(3)**))
- F7** Words in Sch. 5 para. 2(3) substituted (with effect in relation to incremental periods beginning on or after 6.4.2005) by [The Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213\)](#), **Sch. 2 para. 6(3)** (with [Sch. 2 para. 6\(5\)](#) (as amended by [S.I. 2005/255](#), **art. 273(3)**))

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- F8** Words in Sch. 5 para. 2(5)(a) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 6(b)**
- F9** Word in Sch. 5 para. 2(5)(b) repealed (6.4.2003) by Tax Credits Act 2002 (c. 21), s. 61, **Sch. 6**; S.I. 2003/962, art. 2(3)(e), Sch. 1 (with savings in S.R. 2003/212, art. 2)
- F10** Words in Sch. 5 para. 2(5)(b) substituted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255), art. 1(4), **Sch. 9 para. 5(1)** (with Sch. 9 para. 5(2))
- F11** Words in Sch. 5 para. 2(6) substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 36(a)**; S.R. 1995/17, art. 2
- F12** Words in Sch. 5 para. 2(7) inserted (with effect in accordance with s. 5(3)-(5) of the amending Act) by Pensions Act (Northern Ireland) 2008 (c. 1), **Sch. 1 para. 19**

[^{F13}2A.(1) This paragraph applies where—

- (a) a person's entitlement to a Category A or Category B retirement pension is deferred,
 - (b) the pension includes an increase under [^{F14}paragraphs 5 to 6A], and
 - (c) the person has made (or is treated as having made) an election under paragraph A1(1)(b) in relation to the period of deferment.
- (2) The rate of the person's Category A or Category B retirement pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under sub-paragraph (3).
- (3) For each complete incremental period in the person's period of deferment, the amount of the increment shall be 1/5th per cent. of the weekly rate of the increase to which the person would have been entitled under [^{F14}paragraphs 5 to 6A] for the period if his entitlement to the Category A or Category B retirement pension had not been deferred.]

Textual Amendments

- F13** Sch. 5 para. 2A inserted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255), art. 1(4), **Sch. 9 para. 6**
- F14** Words in Sch. 5 para. 2A substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 6(c)**

- 3 (1) Regulations may provide that sub-paragraphs (1) to (3) of paragraph 2 above shall have effect with such additions, omissions and amendments as are prescribed in relation to a person during whose [^{F15}period of deferment] there has been a change, other than a change made by such an order as is mentioned in sub-paragraph (7) of that paragraph, in the rate of the Category A or Category B retirement pension to which he would have been entitled if his entitlement to the pension had commenced on attaining pensionable age.
- (2) Any regulations under this paragraph may make such consequential additions, omissions and amendments in paragraph 8(3) below as the Department considers are appropriate in consequence of any changes made by virtue of this paragraph in paragraph 2 above.

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Textual Amendments

- F15** Words in Sch. 5 para. 3 substituted (with effect in relation to incremental periods beginning on or after 6.4.2005) by [The Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213\)](#), [Sch. 2 para. 6\(2\)\(b\)](#) (with [Sch. 2 para. 6\(5\)](#) (as amended by [S.I. 2005/255](#), [art. 273\(3\)](#)))

^{F16}Lump sum where pensioner's entitlement is deferred

Textual Amendments

- F16** [Sch. 5 paras. 3A, 3B](#) and cross-heading inserted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#), [art. 1\(4\)](#), [Sch. 9 para. 7\(1\)](#) (with [Sch. 9 para. 7\(2\)](#))

- 3A. (1) This paragraph applies where—
- (a) a person's entitlement to a Category A or Category B retirement pension is deferred, and
 - (b) the person has made (or is treated as having made) an election under paragraph A1(1)(b) in relation to the period of deferment.
- (2) The person is entitled to an amount calculated in accordance with paragraph 3B (a "lump sum").]

^{F16}Calculation of lump sum

- 3B. (1) The lump sum is the accrued amount for the last accrual period beginning during the period of deferment.
- (2) In this paragraph—
- "accrued amount" means the amount calculated in accordance with subparagraph (3);
 - "accrual period" means any period of seven days beginning with a prescribed day of the week, where that day falls within the period of deferment.
- (3) The accrued amount for an accrual period for a person is—

$$(A+P) \times 52(1+R100)$$

where—

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period of deferment, zero);

P is the amount of the Category A or Category B retirement pension to which the person would have been entitled for the accrual period if his entitlement had not been deferred;

R is—

- (a) a percentage rate 2 per cent. higher than the Bank of England base rate, or
- (b) such higher rate as may be prescribed in regulations under paragraph 7C(2).

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- (4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—
- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
 - (b) if regulations so provide, at such other time as may be prescribed.
- (5) For the purposes of the calculation of the lump sum, the amount of Category A or Category B retirement pension to which the person would have been entitled for an accrual period—
- (a) includes any increase under section 47(1) and any increase under paragraph 4 of this Schedule, but
 - (b) does not include—
 - (i) any increase under section 83A or 85 or [F17 paragraphs 5 to 6A] of this Schedule,
 - (ii) any graduated retirement benefit, or
 - (iii) in prescribed circumstances, such other amount of Category A or Category B retirement pension as may be prescribed.
- (6) The reference in sub-paragraph (5)(a) to any increase under subsection (1) of section 47 shall be taken as a reference to any increase that would take place under that subsection if subsection (2) of that section and section 42(5) of the Pensions Act were disregarded.]

Textual Amendments

- F17** Words in Sch. 5 para. 3B(5)(b)(i) substituted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(3), [Sch. para. 6\(d\)](#)

[F18 Choice between increase of pension and lump sum where pensioner's deceased spouse [F19 or civil partner] has deferred entitlement

Textual Amendments

- F18** Sch. 5 para. 3C and cross-heading inserted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#), art. 1(4), [Sch. 9 para. 8](#)
- F19** Words in Sch. 5 para. 3C heading inserted (10.11.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(2)(b)(3), [Sch. para. 6\(e\)\(i\)](#)

- 3C. (1) Subject to paragraph 8, this paragraph applies where—
- (a) a [F20 widow, widower or surviving civil partner] (“W”) is entitled to a Category A or Category B retirement pension,
 - (b) W was married to [F21 or was the civil partner of] the other party to the marriage [F22 or civil partnership] (“S”) when S died,
 - (c) S’s entitlement to a Category A or Category B retirement pension was deferred when S died, and

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- (d) S's entitlement had been deferred throughout the period of 12 months ending with the day before S's death.
- (2) W shall within the prescribed period elect in the prescribed manner either—
- (a) that paragraph 4 (entitlement to increase of pension) is to apply in relation to S's period of deferment, or
- (b) that paragraph 7A (entitlement to lump sum) is to apply in relation to S's period of deferment.
- (3) If no election under sub-paragraph (2) is made within the period prescribed under that sub-paragraph, W is to be treated as having made an election under sub-paragraph (2) (b).
- (4) Regulations—
- (a) may enable a person who has made an election under sub-paragraph (2) (including one that the person is treated by sub-paragraph (3) as having made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and
- (b) if they enable a person to make an election under sub-paragraph (2)(b) in respect of a period of deferment after receiving any increase of pension under paragraph 4 by reference to that period, may for the purpose of avoiding duplication of payment—
- (i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or
- (ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 7A.
- (5) The making of an election under sub-paragraph (2)(b) does not affect the application of [^{F23}paragraphs 5 to 6A] (which relate to an increase in pension where the pensioner's deceased spouse [^{F24}or civil partner] had deferred an entitlement to a guaranteed minimum pension).]

Textual Amendments

- F20** Words in Sch. 5 para. 3C(1)(a) substituted (10.11.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(2)(b)(3), **Sch. para. 6(e)(ii)**
- F21** Words in Sch. 5 para. 3C(1)(b) inserted (10.11.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(2)(b)(3), **Sch. paras. 6(e)(iii)(aa)**
- F22** Words in Sch. 5 para. 3C(1)(b) inserted (10.11.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(2)(b)(3), **Sch. paras. 6(e)(iii)(bb)**
- F23** Words in Sch. 5 para. 3C(5) substituted (10.11.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(2)(b)(3), **Sch. paras. 6(e)(iv)(aa)**
- F24** Words in Sch. 5 para. 3C(5) inserted (10.11.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(2)(b)(3), **Sch. paras. 6(e)(iv)(bb)**

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Modifications etc. (not altering text)

- C4** Sch. 5 para. 3C restricted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#), art. 1(4), [Sch. 9 para. 21](#)

Increase of pension where pensioner's deceased spouse ^[F25]or civil partner] has deferred entitlement

Textual Amendments

- F25** Words in Sch. 5 para. 4 cross-heading inserted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(3), [Sch. para. 6\(f\)\(i\)](#)

- 4 ^[F26](1) Subject to paragraph 8, this paragraph applies where a ^[F27]widow, widower or surviving civil partner] (“W”) is entitled to a Category A or Category B retirement pension and was married to ^[F28]or was the civil partner of] the other party to the marriage ^[F29]or civil partnership] (“S”) when S died and one of the following conditions is met—

- (a) S was entitled to a Category A or Category B retirement pension with an increase under this Schedule,
- (b) W is a ^[F27]widow, widower or surviving civil partner] to whom paragraph 3C applies and has made an election under paragraph 3C(2)(a), or
- (c) paragraph 3C would apply to W but for the fact that the condition in sub-paragraph (1)(d) of that paragraph is not met.]

- ^[F26](1A) Subject to sub-paragraph (3), the rate of W’s pension shall be increased—

- (a) in a case falling within sub-paragraph (1)(a), by an amount equal to the increase to which S was entitled under this Schedule, apart from ^[F30]paragraphs 5 to 6A]^[F31](as those provisions have effect by virtue of section 3(7) of the Pensions Act (Northern Ireland) 2012)],
- (b) in a case falling within sub-paragraph (1)(b), by an amount equal to the increase to which S would have been entitled under this Schedule, apart from ^[F30]paragraphs 5 to 6A]^[F31](as those provisions have effect by virtue of section 3(7) of the Pensions Act (Northern Ireland) 2012)], if the period of deferment had ended immediately before S’s death and S had then made an election under paragraph A1(1)(a), or
- (c) in a case falling within sub-paragraph (1)(c), by an amount equal to the increase to which S would have been entitled under this Schedule, apart from ^[F30]paragraphs 5 to 6A]^[F31](as those provisions have effect by virtue of section 3(7) of the Pensions Act (Northern Ireland) 2012)], if the period of deferment had ended immediately before S’s death.]

^{F32}(2)

- (3) If a married person dies after ^[F33]5th October 2002]^[F34]or a civil partner dies on or after 5th December 2005], the rate of the retirement pension for that person’s ^[F35]widow, widower or surviving civil partner] shall be increased by an amount equivalent to the sum of—

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- (a) the increase in the basic pension to which the deceased spouse [^{F36}or civil partner] was entitled; and
- (b) one-half of the increase in the additional pension.

(4) In any case where—

- (a) there is a period between the death of the former spouse [^{F37}or civil partner] and the date on which the surviving spouse [^{F37}or civil partner] becomes entitled to a Category A or Category B retirement pension, and
- (b) one or more orders have come into force under section 132 of the Administration Act during that period,

the amount of the increase to which the surviving spouse [^{F37}or civil partner] is entitled under this paragraph shall be determined as if the order or orders had come into force before the beginning of that period.

(5) This paragraph does not apply in any case where the deceased spouse died before 6th April 1979 and the widow or widower attained pensionable age before that date.

Textual Amendments

- F26** Sch. 5 para. 4(1)(1A) substituted for Sch. 5 para. 4(1) (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255), art. 1(4), **Sch. 9 para. 9**
- F27** Words in Sch. 5 para. 4(1) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 6(f)(ii)(aa)**
- F28** Words in Sch. 5 para. 4(1) inserted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 6(f)(ii)(bb)**
- F29** Words in Sch. 5 para. 4(1) inserted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 6(f)(ii)(cc)**
- F30** Words in Sch. 5 para. 4(1A) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 6(f)(iii)**
- F31** Words in Sch. 5 para. 4(1A) inserted (7.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 2 para. 3(7)** (with s. 3(8)); S.R. 2012/233, art. 2(2)(j)(iii)
- F32** Sch. 5 para. 4(2) omitted by virtue of S.I. 1995/3213 (N.I. 22), arts. 1, 123, **Sch. 2 Pt. III para. 18(13)(14)**
- F33** Words in Sch. 5 para. 4(3) substituted (*retrospectively*) by virtue of 2000 c. 4 (N.I.), s. 35(1)(a)(2)(c)
- F34** Words in Sch. 5 para. 4(3) inserted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 6(f)(iv)(aa)**
- F35** Words in Sch. 5 para. 4(3) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 6(f)(iv)(bb)**
- F36** Words in Sch. 5 para. 4(3)(a) inserted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 6(f)(iv)(cc)**
- F37** Words in Sch. 5 para. 4(4) inserted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 6(f)(v)**

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Modifications etc. (not altering text)

- C5** Sch. 5 paras. 4-7 modified (6.10.2002) by S.R. 2001/441, **art. 2**
- C6** Sch. 5 para. 4 restricted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by **The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255), art. 1(4), Sch. 9 para. 21**
- C7** Sch. 5 para. 4(1) modified (16.12.1995) by S.I. 1995/3213 (N.I. 22), arts. 1, 123, **Sch. 2 para. 18(14)**

[^{F38}5^{F39}(1) Where—

- (a) a [^{F40}widow, widower or surviving civil partner] (call that person “W”) is entitled to a Category A or Category B retirement pension and was married to [^{F41}or was the civil partner of] the other party to the marriage [^{F42}or civil partnership] (call that person “S”) when S dies, and
- (b) S either—
- (i) was entitled to a guaranteed minimum pension with an increase under section 11(1) of the Pensions Act, or
 - (ii) would have been so entitled if S had retired on the date of S’s death, the rate of W’s pension shall be increased by the following amount.

(2) The amount is—

- (a) where W is a widow, an amount equal to the sum of the amounts set out in paragraph 5A(2) or (3) below (as the case may be), ^{F43}...
- (b) where W is a widower, an amount equal to the sum of the amounts set out in paragraph 6(2), (3) or (4) below (as the case may be) [^{F44}, and
- (c) where W is a surviving civil partner, an amount equal to the sum of the amounts set out in paragraph 6A(2) below].]

Textual Amendments

- F38** Sch. 5, paras. 5, 5A, 6 substituted (16.12.1995) for Sch. 5 paras. 5 and 6 by S.I. 1995/3213 (N.I. 22), arts. 1, 123, **Sch. 2 para. 18(15)(16)**
- F39** Sch. 5 para. 1 modified (13.12.1995) by S.I. 1995/3213, art. 123, **Sch. 2 Pt. III para. 18(16)**
- F40** Words in Sch. 5 para. 5(1)(a) substituted (5.12.2005) by **The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), Sch. para. 6(g)(i)(aa)**
- F41** Words in Sch. 5 para. 5(1)(a) inserted (5.12.2005) by **The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), Sch. para. 6(g)(i)(bb)**
- F42** Words in Sch. 5 para. 5(1)(a) inserted (5.12.2005) by **The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), Sch. para. 6(g)(i)(cc)**
- F43** Word in Sch. 5 para. 5(2) omitted (5.12.2005) by virtue of **The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), Sch. para. 6(g)(ii)(aa)**
- F44** Sch. 5 para. 5(2)(c) and preceding word inserted (5.12.2005) by **The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), Sch. para. 6(g)(ii)(bb)**

Modifications etc. (not altering text)

- C8** Sch. 5 paras. 4-7 modified (6.10.2002) by S.R. 2001/441, **art. 2**

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C9 Sch. 5 para. 5 applied (with modifications) (3.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act (Northern Ireland) 2008 (c. 1), ss. 12(10), 21(1); S.R. 2009/75, art. 2(a)(b)

- [^{F45}~~5A~~^{F46}(1) This paragraph applies where W (referred to in paragraph 5 above) is a widow.
- (2) Where the husband dies before [^{F47}6th October 2002], the amounts referred to in paragraph 5(2)(a) above are the following—
- (a) an amount equal to one-half of the increase mentioned in paragraph 5(1)(b) above,
 - (b) the appropriate amount, and
 - (c) an amount equal to any increase to which the husband had been entitled under paragraph 5 above.
- (3) Where the husband dies after [^{F47}5th October 2002], the amounts referred to in paragraph 5(2)(a) above are the following—
- (a) one-half of the appropriate amount ^{F48}... , and
 - (b) one-half of any increase to which the husband had been entitled under paragraph 5 above.]]

Textual Amendments

- F45** Sch. 5 paras. 5, 5A, 6 substituted (16.12.1995) for Sch. 5 paras. 5 and 6 by S.I. 1995/3213 (N.I. 22), arts. 1, 123, **Sch. 2 para. 18(15)(16)**
- F46** Sch. 5 para. 5A omitted (7.6.2012 for specified purposes) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), ss. 3(5), 34(3) (with s. 3(7)); S.R. 2012/233, art. 2(2)(c)
- F47** Words in Sch. 5 para. 5A(2)(3) substituted (*retrospectively*) by virtue of 2000 c. 4 (N.I.), s. 35(1)(2)(c)
- F48** Words in Sch. 5 para. 5A(3)(a) omitted (with effect in accordance with s. 5(3)-(5) of the amending Act) by virtue of Pensions Act (Northern Ireland) 2008 (c. 1), **Sch. 1 para. 20**

Modifications etc. (not altering text)

- C10** Sch. 5 paras. 4-7 modified (6.10.2002) by S.R. 2001/441, art. 2

- [^{F49}~~6~~^{F50}(1) This paragraph applies where W (referred to in paragraph 5 above) is a widower.
- (2) Where the wife dies before 6th April 1989, the amounts referred to in paragraph 5(2)(b) above are the following—
- (a) an amount equal to the increase mentioned in paragraph 5(1)(b) above,
 - (b) the appropriate amount, and
 - (c) an amount equal to any increase to which the wife had been entitled under paragraph 5 above.
- (3) Where the wife dies after 5th April 1989 but before [^{F51}6th October 2002], the amounts referred to in paragraph 5(2)(b) above are the following—
- (a) the increase mentioned in paragraph 5(1)(b) above, so far as attributable to employment before 6th April 1988,
 - (b) one-half of that increase, so far as attributable to employment after 5th April 1988,
 - (c) the appropriate amount reduced by the amount of any increases under section 105 of the Pension Act, and
 - (d) any increase to which the wife had been entitled under paragraph 5 above.

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- (4) Where the wife dies after [^{F51}5th October 2002], the amounts referred to in paragraph 5(2)(b) above are the following—
- (a) one-half of the increase mentioned in paragraph 5(1)(b) above, so far as attributable to employment before 6th April 1988,
 - (b) one-half of the appropriate amount ^{F52}... , and
 - (c) one-half of any increase to which the wife had been entitled under paragraph 5 above.]]

Textual Amendments

- F49** Sch. 5 paras. 5, 5A, 6 substituted (16.12.1995) for Sch. 5 paras. 5 and 6 by S.I. 1995/3213 (N.I. 22), arts. 1, 123, **Sch. 2 Pt. III paras. 18(15)(16)**
- F50** Sch. 5 para. 6 omitted (7.6.2012 for specified purposes) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), **ss. 3(5), 34(3)** (with s. 3(7)); S.R. 2012/233, **art. 2(2)(c)**
- F51** Words in Sch. 5 para. 6(3)(4) substituted (*retrospectively*) by virtue of 2000 c. 4 (N.I.), **s. 35(1)(2)(c)**
- F52** Words in Sch. 5 para. 6(4)(b) omitted (with effect in accordance with s. 5(3)-(5) of the amending Act) by virtue of Pensions Act (Northern Ireland) 2008 (c. 1), **Sch. 1 para. 20**

Modifications etc. (not altering text)

- C11** Sch. 5 paras. 4-7 modified (6.10.2002) by S.R. 2001/441, **art. 2**

- [^{F53}~~6A~~^{F54}(1) This paragraph applies where W (referred to in paragraph 5 above) is a surviving civil partner.
- (2) The amounts referred to in paragraph 5(2)(c) above are the following—
- (a) one-half of the increase mentioned in paragraph 5(1)(b) above, so far as attributable to employment before 6th April 1988,
 - (b) one-half of the appropriate amount ^{F55}... , and
 - (c) one-half of any increase to which the deceased civil partner had been entitled under paragraph 5 above.]]

Textual Amendments

- F53** Sch. 5 para. 6A inserted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 6(h)**
- F54** Sch. 5 para. 6A omitted (7.6.2012 for specified purposes) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), **ss. 3(5), 34(3)** (with s. 3(7)); S.R. 2012/233, **art. 2(2)(c)**
- F55** Words in Sch. 5 para. 6A(2)(b) omitted (with effect in accordance with s. 5(3)-(5) of the amending Act) by virtue of Pensions Act (Northern Ireland) 2008 (c. 1), **Sch. 1 para. 20**

- 7 [^{F56}(1) For the purposes of [^{F57}paragraphs 5 to 6A] above, the “appropriate amount” means the greater of—
- (a) the amount by which the deceased person’s Category A or Category B retirement pension had been increased [^{F58}by virtue of] section 132 of the Administration Act corresponding to an order [^{F58}by virtue of] section 150(1)(e) of the Great Britain Administration Act; or
 - (b) the amount by which his Category A or Category B retirement pension would have been so increased had he died immediately before his surviving spouse

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[^{F59}or civil partner] became entitled to a Category A or Category B retirement pension.

- (2) Where an amount is required to be calculated in accordance with the provisions of [^{F60}paragraph 5, 5A, 6 or 6A] or sub-paragraph (1) above—
- (a) the amount so calculated shall be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny above; and
 - (b) where the amount so calculated would, apart from this sub-paragraph, be a sum less than 1/2p, that amount shall be taken to be zero, notwithstanding any other provision of this Act, the [^{F61}Pensions Act] or the Administration Act.]

Textual Amendments

- F56** Sch. 5 para. 7 omitted (7.6.2012 for specified purposes) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), ss. 3(5), 34(3) (with s. 3(7)); S.R. 2012/233, art. 2(2)(c)
- F57** Words in Sch. 5 para. 7(1) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), Sch. para. 6(i)(aa)
- F58** Words in Sch. 5 para. 7(1)(a) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), Sch. 1 para. 40; S.R. 1994/450, art. 2, Sch. Pt. IV
- F59** Words in Sch. 5 para. 7(1)(b) inserted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), Sch. para. 6(i)(bb)
- F60** Words in Sch. 5 para. 7(2) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), Sch. para. 6(i)(ii)
- F61** Words in Sch. 5 para. 7(2)(b) substituted (7.2.1994) by 1993 c. 49, ss. 184, 186(2), Sch. 7 para. 36(d); S.R. 1994/17, art. 2

Modifications etc. (not altering text)

- C12** Sch. 5 paras. 4-7 modified (6.10.2002) by S.R. 2001/441, art. 2

[^{F62}Entitlement to lump sum where pensioner's deceased spouse [^{F63}or civil partner] has deferred entitlement

Textual Amendments

- F62** Sch. 5 paras. 7A, 7B and cross-heading inserted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255), art. 1(4), Sch. 9 para. 10(1) (with Sch. 9 para. 10(2))
- F63** Words in Sch. 5 para. 7A cross-heading inserted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), Sch. para. 6(j)(i)

- 7A. (1) This paragraph applies where a person to whom paragraph 3C applies (“W”) has made (or is treated as having made) an election under paragraph 3C(2)(b).
- (2) W is entitled to an amount calculated in accordance with paragraph 7B (a “widowed person’s [^{F64}or surviving civil partner's] lump sum”).]

Status: Point in time view as at 07/06/2012.

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Textual Amendments

F64 Words in [Sch. 5 para. 7A\(2\)](#) inserted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), [art. 1\(3\)](#), [Sch. para. 6\(j\)\(ii\)](#)

Modifications etc. (not altering text)

C13 [Sch. 5 para. 7A](#) restricted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#), [art. 1\(4\)](#), [Sch. 9 para. 21](#)

C14 [Sch. 5 para. 7A](#): sums amended (with effect in accordance with arts. 1(2), 6 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2012 \(S.R. 2012/116\)](#), [arts. 1\(1\)\(c\)](#), [4\(4\)\(c\)](#)

[^{F62}Calculation of widowed person's [^{F65}or surviving civil partner's] lump sum

Textual Amendments

F65 Words in [Sch. 5 para. 7B](#) heading inserted (10.11.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), [art. 1\(2\)\(b\)\(3\)](#), [Sch. para. 6\(k\)\(i\)](#)

- 7B. (1) The widowed person's [^{F66}or surviving civil partner's] lump sum is the accrued amount for the last accrual period beginning during the period which—
- (a) began at the beginning of S's period of deferment, and
 - (b) ended on the day before S's death.

- (2) In this paragraph—

“S” means the other party to the marriage [^{F67}or civil partnership];

“accrued amount” means the amount calculated in accordance with sub-paragraph (3);

“accrual period” means any period of seven days beginning with a prescribed day of the week, where that day falls within S's period of deferment.

- (3) The accrued amount for an accrual period for W is—

$$(A+P) \times 52(1+R100)$$

where—

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period mentioned in sub-paragraph (1), zero);

P is—

- (a) the basic pension, and
- (b) half of the additional pension,

to which S would have been entitled for the accrual period if his entitlement had not been deferred during the period mentioned in sub-paragraph (1);

R is—

- (a) a percentage rate 2 per cent. higher than the Bank of England base rate,
- or

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- (b) such higher rate as may be prescribed in regulations made under paragraph 7C(2).
- (4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—
- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
 - (b) if regulations so provide, at such other time as may be prescribed.
- (5) For the purposes of the calculation of the widowed person's [^{F68}or surviving civil partner's] lump sum, the amount of Category A or Category B retirement pension to which S would have been entitled for an accrual period—
- (a) includes any increase under section 47(1) and any increase under paragraph 4 of this Schedule, but
 - (b) does not include—
 - (i) any increase under section 83A or 85 or [^{F69}paragraphs 5 to 6A] of this Schedule [^{F70}(as those provisions have effect by virtue of section 3(7) of the Pensions Act (Northern Ireland) 2012)],
 - (ii) any graduated retirement benefit, or
 - (iii) in prescribed circumstances, such other amount of Category A or Category B retirement pension as may be prescribed.
- (6) The reference in sub-paragraph (5)(a) to any increase under subsection (1) of section 47 shall be taken as a reference to any increase that would take place under that subsection if subsection (2) of that section and section 42(5) of the Pensions Act were disregarded.
- (7) In any case where—
- (a) there is a period between the death of S and the date on which W becomes entitled to a Category A or Category B retirement pension, and
 - (b) one or more orders have come into force under section 132 of the Administration Act during that period,
- the amount of the lump sum shall be increased in accordance with that order or those orders.]

Textual Amendments

- F66** Words in Sch. 5 para. 7B(1) inserted (10.11.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(2)(b)(3), **Sch. para. 6(k)(i)**
- F67** Words in Sch. 5 para. 7B(2) inserted (10.11.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(2)(b)(3), **Sch. para. 6(k)(ii)**
- F68** Words in Sch. 5 para. 7B(5) inserted (10.11.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(2)(b)(3), **Sch. para. 6(k)(i)**
- F69** Words in Sch. 5 para. 7B(5)(b)(i) substituted (10.11.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(2)(b)(3), **Sch. para. 6(k)(iii)**
- F70** Words in Sch. 5 para. 7B(5)(b)(i) inserted (7.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 2 para. 3(8)** (with s. 3(8)); S.R. 2012/233, art. 2(2)(j)(iii)

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[^{F71}Supplementary

Textual Amendments

F71 Sch. 5 para. 7C and cross-heading inserted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#), art. 1(4), **Sch. 9 para. 11**

- 7C. (1) Any lump sum calculated under paragraph 3B or 7B must be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny.
- (2) Where the Secretary of State makes regulations prescribing a percentage rate for the purposes of paragraphs 3B and 7B of Schedule 5 to the Great Britain Contributions and Benefits Act, the Department may make corresponding regulations for Northern Ireland.]

[^{F72}Married couples][^{F73}and civil partners]

Textual Amendments

F72 Sch. 5 para. 8 cross-heading substituted (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#), art. 1(4), **Sch. 9 para. 12**

F73 Words in Sch. 5 para. 8 cross-heading added (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(3), **Sch. para. 6(I)(i)**

- 8 ^{F74}(1)
- ^{F74}(2)
- ^{F75}(3)

[^{F76}(4) The conditions in paragraph 3C(1)(c) and 4(1)(a) are not satisfied by a Category B retirement pension to which S was or would have been entitled by virtue of W's contributions.

- (5) Where the Category A retirement pension to which S was or would have been entitled includes an increase under section 51A(2) attributable to W's contributions, the increase or lump sum to which W is entitled under paragraph 4(1A) or 7A(2) is to be calculated as if there had been no increase under that section.
- (6) In sub-paragraphs (4) and (5), "W" and "S" have the same meaning as in paragraph 3C, 4 or 7A, as the case requires.]

Textual Amendments

F74 Sch. 5 para. 8(1)(2) repealed (with effect in accordance with Sch. 2 para. 6(5) of the amending S.I.) by [The Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213\)](#), Sch. 2 para. 6(4), **Sch. 5 Pt. 2** (as amended by S.I. 2005/255, **art. 273(3)**))

F75 Sch. 5 para. 8(3) repealed (6.4.2010) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\)](#), s. 2(5), Sch. 1 para. 8, **Sch. 6 Pt. 1**

Status: Point in time view as at 07/06/2012.

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F76 Sch. 5 para. 8(4)-(6) substituted for Sch. 5 para. 8(4) (17.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255), art. 1(4), Sch. 9 para. 13(b)

Uprating

- 9 The sums which are the increases in the rates of retirement pensions under this Schedule are subject to alteration by orders made by the Department under section 132 of the Administration Act.

Status:

Point in time view as at 07/06/2012.

Changes to legislation:

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