



National Insurance Act (Northern Ireland) 1966

1966 CHAPTER 6

GRADUATED RETIREMENT BENEFIT

^{F136} **Special provisions as to graduated retirement benefit for widows and widowers.**

- (1) Subject to the provisions of this section^{F2} 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^{F3} of the Act (increases in rates of benefit) since the date of the deceased spouse's death had come into force before

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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.

F1 mod. by SR 2003/155
F2 SR 2005/121
F3 1975 (NI 15)

Modifications etc. (not altering text)

- C1** 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)
- C2** 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)
- C3** 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)
- C4** 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)**
- C5** 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)**)
- C6** 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)**
- C7** 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)**
- C8** 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)**
- C9** 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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- C10 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)**
- C11 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)**
- C12 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)**
- C13 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)**
- C14 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)**
- C15 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)**
- C16 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)**
- C17 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)**
- C18 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)**
- C19 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)**
- C20 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)**
- C21 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)**
- C22 S. 36(1): sum amended (with effect in accordance with art. 1(2)(3)(a) of the amending Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2022 (S.R. 2022/143), arts. 1(1)(c), **12(4)**
- C23 S. 36(1): sums modified (28.9.2022) by The Social Security Benefits Up-rating (No. 2) Order (Northern Ireland) 2022 (S.R. 2022/231), arts. 1, **11(4)**
- C24 S. 36(1): sum modified (27.3.2023) by The Social Security (2022 Benefits Up-rating) Order (Northern Ireland) 2023 (S.R. 2023/27), arts. 1, **11(4)**
- C25 S. 36(1): sums modified (with effect in accordance with arts. 1(2)(3), 7 of the amending Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2023 (S.R. 2023/43), arts. 1(1)(c), **12(4)**
- C26 S. 36(1): sum modified (26.9.2023) by The Social Security Benefits Up-rating (No. 3) Order (Northern Ireland) 2023 (S.R. 2023/150), arts. 1, **11(4)**

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Changes and effects yet to be applied to :

- s. 36(1) sum modified by [S.R. 2023/143 art. 11\(4\)](#) (This amendment not applied to legislation.gov.uk. S.R. 2023/143 revoked before coming into operation (26.9.2023) by The Social Security Benefits Up-rating (No. 3) Order (Northern Ireland) 2023 (S.R. 2023/150), arts. 1, 33)
- s. 36(1) sums modified by [S.R. 2024/73 art. 11\(4\)](#)
- s. 36(1) sums modified by [S.R. 2024/73 art. 11\(4\)](#)