

## SCHEDULE 1

Regulation 4

### FURTHER PROVISIONS REPLACING SECTION 35(4) OF THE 1966 ACT: INCREASES OF GRADUATED RETIREMENT BENEFIT AND LUMP SUMS

#### PART 1

##### INCREASE AND LUMP SUM WHERE ENTITLEMENT TO RETIREMENT PENSION IS DEFERRED

###### Scope

1. This Part applies only in respect of a person who is deferring entitlement to graduated retirement benefit by virtue of section 35(4A)(a) of the 1966 Act.

###### Increase or lump sum where pensioner's entitlement is deferred

2.—(1) Where a person's entitlement to a Category A or Category B retirement pension is deferred and that person elects, on claiming his pension either –

- (a) that paragraph 1 of Schedule 5 (increase of pension where pensioner's entitlement is deferred) is to apply in relation to the period of deferment, paragraph 3 of this Schedule shall also apply in relation to that period;
- (b) that paragraph 3A of Schedule 5 (lump sum where pensioner's entitlement is deferred) is to apply in relation to the period of deferment, paragraph 5 of this Schedule shall also apply in relation to that period.

(2) The reference to an election in sub-paragraph (1) includes an election a person is treated as having made under paragraph A1(2) of Schedule 5.

###### Increase where pensioner's entitlement is deferred

3.—(1) This paragraph applies where –

- (a) entitlement to a Category A or Category B retirement pension is deferred and the period of deferment is less than 12 months; or
- (b) paragraph 2(1)(a) applies.

(2) The rate of the person's graduated retirement benefit shall be increased by an amount equal to the aggregate of the increments to which he is entitled under paragraph 4 but only if that amount is enough to increase the rate of the benefit by at least 1 per cent.

###### Calculation of increment

4.—(1) A person is entitled to an increment under this paragraph for each complete incremental period in his period of deferment.

(2) The amount of the increment for an incremental period shall be #th per cent. of the weekly rate of the graduated retirement benefit to which the person would have been entitled for the period if his entitlement to a Category A or Category B retirement pension had not been deferred.

(3) For the purposes of sub-paragraph (2), the weekly rate of graduated retirement benefit shall be taken to include any increase in the weekly rate of that benefit and the amount of the increment in respect of such an increase shall be #th per cent. of its weekly rate for each incremental period in the period of deferment beginning on the day the increase occurred.

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(4) Amounts under sub-paragraphs (2) and (3) shall be rounded to the nearest penny, taking any  $\frac{1}{2}$ p as nearest to the next whole penny.

(5) Where an amount under sub-paragraph (2) or (3) would, apart from this sub-paragraph, be a sum less than  $\frac{1}{2}$ p, the amount shall be taken to be zero, notwithstanding any provision of the Contributions and Benefits Act, the Administration Act or the Pension Schemes Act.

(6) In this paragraph, “incremental period” means any period of six days which are treated by the Social Security (Widow’s Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(1) as days of increment for the purposes of paragraph 2 of Schedule 5 in relation to the person and pension in question.

(7) Where one or more orders have come into operation under section 132 of the Administration Act during the period of deferment, the rate for any incremental period shall be determined as if the order or orders had come into operation before the beginning of the period of deferment.

### **Lump sum where pensioner’s entitlement is deferred**

5.—(1) This paragraph applies where paragraph 2(1)(b) applies.

(2) The person is entitled to an amount calculated in accordance with paragraph 6 (calculation of lump sum).

### **Calculation of lump sum**

6.—(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 sub-paragraph (3);

“accrual period” means any period of seven days beginning with the day of the week on which Category A or Category B retirement pension would have been payable to a person in accordance with regulation 22(3) of, and paragraph 5 of Schedule 6 to, the Claims and Payments Regulations(2), if his entitlement to a retirement pension had not been deferred, where that day falls within the period of deferment.

(3) The accrued amount for an accrual period for a person is –

$$(A + P) \times \sqrt[2]{\left(1 + \frac{R}{100}\right)}$$

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, subject to sub-paragraph (5), the amount of the graduated retirement benefit to which the person would have been entitled for the accrual period if his entitlement to a Category A or Category B retirement pension had not been deferred;

R is –

(a) a percentage rate two per cent. higher than the Bank of England base rate; or

(1) S.R. 1979 No. 243; the relevant amending regulations are S.R. 1989 No. 373, S.R. 1992 Nos. 6 and 318, S.R. 1996 No. 289, S.R. 1999 No. 371 and S.R. 2005 No. 120

(2) Paragraph 5 of Schedule 6 was amended by regulation 10(6)(a) of S.R. 2001 No. 108 and regulation 2(10)(a) and (b) of S.R. 2002 No. 297

- (b) if a higher rate is prescribed for the purposes of paragraphs 3B and 7B of Schedule 5, that higher rate.
- (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 under paragraph 3B(4) of Schedule 5 so provide, at such other time as may be prescribed in those Regulations.
- (5) Regulation 3 of the Deferral Regulations shall have effect for the purposes of this paragraph in like manner to graduated retirement benefit as it does to retirement pension in the calculation of the lump sum under paragraph 3B of Schedule 5.

#### **Increase or lump sum where pensioner's deceased spouse has deferred entitlement**

- 7.—(1) This paragraph applies where –
- (a) a widow or widower (“W”) is entitled to a Category A or Category B retirement pension;
  - (b) W was married to the other party to the marriage (“S”) when S died;
  - (c) S’s entitlement to a Category A or Category B retirement pension was deferred when S died, and
  - (d) S’s entitlement had been deferred throughout the period of 12 months ending with the day before S’s death.
- (2) Where W elects –
- (a) that paragraph 4 of Schedule 5 (increase of pension where pensioner’s deceased spouse has deferred entitlement) is to apply in relation to the period of deferment, paragraph 8 of this Schedule shall also apply in relation to that period;
  - (b) that paragraph 7A of Schedule 5 (entitlement to lump sum where pensioner’s deceased spouse has deferred entitlement) is to apply in relation to the period of deferment, paragraph 9 of this Schedule shall also apply in relation to that period.
- (3) The reference to an election in sub-paragraph (2) includes an election W is treated as having made under paragraph 3C(3) of Schedule 5.

#### **Increase where pensioner's deceased spouse has deferred entitlement**

- 8.—(1) This paragraph applies where a widow or widower is entitled to a Category A or Category B retirement pension, was married to the other party to the marriage when S died and one of the following conditions is met –
- (a) S was entitled to graduated retirement benefit with an increase under this Schedule;
  - (b) paragraph 7(2)(a) applies; or
  - (c) paragraph 7 would apply to W but for the fact that the condition in sub-paragraph (1)(d) of that paragraph is not met.
- (2) The increase in the weekly rate of W’s graduated retirement benefit shall, in a case to which sub-paragraph (1) applies, be determined in accordance with section 36 of the 1966 Act as continued in force by regulation 2 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978.

#### **Entitlement to lump sum where pensioner's deceased spouse has deferred entitlement**

- 9.—(1) This paragraph applies where paragraph 7(2)(b) applies.

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(2) W is entitled to an amount calculated in accordance with paragraph 10 (calculation of widowed person's lump sum).

### Calculation of widowed person's lump sum

10.—(1) The widowed person'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;

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

“accrual period” means any period of seven days beginning with the day of the week on which Category A or Category B retirement pension would have been payable to S in accordance with regulation 22(3) of, and paragraph 5 of Schedule 6 to, the Claims and Payments Regulations, if his entitlement to a retirement pension had not been deferred, where that day falls within S's period of deferment.

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

$$(1 + P) \times \sqrt[10]{1 - \frac{R}{100}}$$

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, subject to sub-paragraph (5), one-half of the graduated retirement benefit 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 two per cent. higher than the Bank of England base rate; or
- (b) if a higher rate is prescribed for the purposes of paragraphs 3B and 7B of Schedule 5, that higher rate.

(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 under paragraph 7B(4) of Schedule 5 so provide, at such other time as may be prescribed.

(5) Regulation 3 of the Deferral Regulations shall have effect for the purposes of this paragraph in like manner to graduated retirement benefit as it does to retirement pension in the calculation of the lump sum under paragraph 7B of Schedule 5.

(6) 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 operation 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.

## PART 2

### INCREASE OR LUMP SUM WHERE PERSON IS TREATED AS RECEIVING RETIREMENT PENSION AT A NOMINAL WEEKLY RATE

#### Scope

11. This Part applies only in respect of a person who is deferring entitlement to graduated retirement benefit by virtue of section 35(4A)(b) of the 1966 Act.

#### Choice between increase and lump sum

12.—(1) Where the period of deferment is at least 12 months, a person shall, on becoming entitled to graduated retirement benefit, elect that –

- (a) paragraph 13; or
- (b) paragraph 15,

is to apply in respect of that period.

(2) The election referred to in sub-paragraph (1) shall be made –

- (a) on the date on which he claims graduated retirement benefit; or
- (b) within the period prescribed in regulations under paragraph A1(1) of Schedule 5.

(3) If no election under sub-paragraph (1) is made within the period referred to in sub-paragraph (2)(b), the person is to be treated as having made an election under sub-paragraph (1)(b).

(4) A person who has made an election under sub-paragraph (1) (including one that the person is treated by sub-paragraph (3) as having made) may change the election in the circumstances and within the time specified in regulations made under paragraph A1(4) of Schedule 5.

#### Increase

13.—(1) This paragraph applies where –

- (a) the period of deferment is less than 12 months; or
- (b) the person has made an election under paragraph 12(1)(a) in respect of the period of deferment.

(2) The rate of the person's graduated retirement benefit shall be increased by an amount equal to the aggregate of the increments to which he is entitled under paragraph 14 but only if that amount is enough to increase the rate of the benefit by at least one per cent.

#### Calculation of increment

14.—(1) A person is entitled to an increment under this paragraph for each complete incremental period in the period of deferment.

(2) The amount of the increment for an incremental period shall be #th per cent. of the weekly rate of the graduated retirement benefit to which the person would have been entitled for the period if his entitlement to graduated retirement benefit had not been deferred.

(3) For the purposes of sub-paragraph (2), the weekly rate of graduated retirement benefit shall be taken to include any increase in the weekly rate of that benefit and the amount of the increment

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in respect of such an increase shall be #th per cent. of its weekly rate for each incremental period in the period of deferment beginning on the day the increase occurred.

(4) Amounts under sub-paragraphs (2) and (3) shall be rounded to the nearest penny, taking any ½p as nearest to the next whole penny.

(5) Where an amount under sub-paragraph (2) or (3) would, apart from this sub-paragraph, be a sum less than ½p, the amount shall be taken to be zero, notwithstanding any provision of the Contributions and Benefits Act, the Administration Act or the Pension Schemes Act.

(6) Where one or more orders have come into operation under section 132 of the Administration Act during the period of deferment, the rate for any incremental period shall be determined as if the order or orders had come into operation before the beginning of the period of deferment.

**Lump sum**

15.—(1) This paragraph applies where paragraph 12(1)(b) applies.

(2) The person is entitled to an amount calculated in accordance with paragraph 16 (calculation of lump sum).

**Calculation of lump sum**

16.—(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 sub-paragraph (3);

“accrual period” means any period of seven days beginning with the day of the week on which Category A or Category B retirement pension would have been payable to a person in accordance with regulation 22(3) of, and paragraph 5 of Schedule 6 to, the Claims and Payments Regulations, if he had been entitled to it, where that day falls within the period of deferment.

(3) The accrued amount for an accrual period for a person is –

$$(A + P) \times \sqrt[365]{\left(1 + \frac{R}{100}\right)}$$

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, subject to sub-paragraph (5), the amount of the graduated retirement benefit to which the person would have been entitled for the accrual period if he had been entitled to it;

R is –

- (a) a percentage rate two per cent. higher than the Bank of England base rate; or
- (b) if a higher rate is prescribed for the purposes of paragraphs 3B and 7B of Schedule 5, that higher rate.

(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 under paragraph 3B(4) of Schedule 5 so provide, at such other time as may be prescribed in those Regulations.

(5) Regulation 3 of the Deferral Regulations shall have effect for the purposes of this paragraph in like manner to graduated retirement benefit as it does to retirement pension in the calculation of the lump sum under paragraph 3B of Schedule 5.

**Choice between increase and lump sum where person's deceased spouse has deferred entitlement to graduated retirement benefit**

17.—(1) This paragraph applies where –

- (a) a widow or widower (“W”) is entitled to a Category A or a Category B retirement pension;
- (b) W was married to the other party to the marriage (“S”) when S died;
- (c) S’s entitlement to graduated retirement benefit was deferred when S died; and
- (d) S’s entitlement had been deferred throughout the period of 12 months ending with the day before S’s death.

(2) W shall elect either that –

- (a) paragraph 18; or
- (b) paragraph 19,

is to apply in respect of S’s period of deferment.

(3) The election referred to in sub-paragraph (2) shall be made –

- (a) on the date W claims his Category A or Category B retirement pension; or
- (b) within the period prescribed in regulations under paragraph A1(1) of Schedule 5.

(4) If no election under sub-paragraph (2) is made within the period referred to in sub-paragraph (3)(b), the person is to be treated as having made an election under sub-paragraph (2)(b).

(5) A person who has made an election under sub-paragraph (1) (including one that the person is treated by sub-paragraph (3) as having made) may change the election in the circumstances and within the time specified in regulations made under paragraph A1(4) of Schedule 5.

**Increase where person's deceased spouse has deferred entitlement to graduated retirement benefit**

18.—(1) This paragraph applies where a widow or widower is entitled to graduated retirement benefit, was married to the other party to the marriage when S died and one of the following conditions is met –

- (a) S was entitled to graduated retirement benefit with an increase under this Schedule;
- (b) W is a widow or widower to whom paragraph 17 applies and has made an election under paragraph 17(2)(a); or
- (c) paragraph 17 would apply to W but for the fact that the condition in sub-paragraph (1)(d) of that paragraph is not met.

(2) The increase in the weekly rate of W’s graduated retirement benefit shall, in a case to which sub-paragraph (1) applies, be determined in accordance with section 36 of the 1966 Act as continued in force by regulation 2 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978.

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**Entitlement to lump sum where person’s deceased spouse has deferred entitlement to graduated retirement benefit**

19.—(1) This paragraph applies where paragraph 17(2)(b) applies.

(2) W is entitled to an amount calculated in accordance with paragraph 20 (calculation of widowed person’s lump sum).

**Calculation of widowed person’s lump sum**

20.—(1) The widowed person’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;

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

“accrual period” means any period of seven days beginning with the day of the week on which Category A or Category B retirement pension would have been payable to S in accordance with regulation 22(3) of, and paragraph 5 of Schedule 6 to, the Claims and Payments Regulations, if he had been entitled to it, where that day falls within S’s period of deferment.

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

$$A(1 + P)^n \times \sqrt[32]{\left(1 + \frac{R}{100}\right)}$$

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, subject to sub-paragraph (5), one-half of the graduated retirement benefit to which S would have been entitled for the accrual period if he had been entitled to it during the period mentioned in sub-paragraph (1);

R is –

- (a) a percentage rate two per cent. higher than the Bank of England base rate; or
- (b) if a higher rate is prescribed for the purposes of paragraphs 3B and 7B of Schedule 5, that higher rate.

(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 under paragraph 7B(4) of Schedule 5 so provide, at such other time as may be prescribed.

(5) Regulation 3 of the Deferral Regulations shall have effect for the purposes of this paragraph in like manner to graduated retirement benefit as it does to retirement pension in the calculation of the lump sum under paragraph 7B of Schedule 5.

(6) In any case where –



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- (a) there is a period between the death of S and the date on which W becomes entitled to graduated retirement benefit; and
- (b) one or more orders have come into operation 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.

## PART 3

### SUPPLEMENTARY

#### **Supplementary**

21. Any lump sum calculated under paragraph 6, 10, 16 or 20 must be rounded to the nearest penny, taking any  $\frac{1}{2}p$  as nearest to the next whole penny above.