1978 No. 262

SOCIAL SECURITY

The Social Security Benefits Up-rating Regulations (Northern Ireland) 1978

Made . . . . . *5th September* 1978

Coming into operation—

except regulation 8 . . . *13th November* 1978

regulation 8 . . . . . *6th April* 1979

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 17(2)(*a*), 36(9)(*b*), 58(3) and 126 of, and paragraph 2(1) of Schedule 14 to, the Social Security (Northern Ireland) Act 1975(**a**) and section 2(1) of, and paragraph 7 of Schedule 3 to, the Social Security (Consequential Provisions) Act 1975(**b**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security Benefits Up-rating Regulations (Northern Ireland) 1978.

(2) Regulation 8 shall come into operation on 6th April 1979 and the remainder of these regulations on 13th November 1978.

(3) In these regulations, unless the context otherwise requires—

"the Act" means the Social Security (Northern Ireland) Act 1975;

"the up-rating order" means the Social Security Benefits Up-rating Order (Northern Ireland) 1978(**c**).

(4) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**d**) shall apply in relation to this statutory rule and in relation to the revocations effected by it as if this statutory rule and the regulations revoked were Acts of Parliament and as if each revocation were a repeal.

Conditions relating to payment of benefit under awards made before the appointed or prescribed day

2.—(1) This regulation applies to a case where—

(*a*) either—

(i) an award of any benefit under Chapters I to III of Part II of the Act has been made before the day appointed or prescribed for the payment of the benefit in question at a higher rate provided in or by virtue of the up-rating order, or

(a) 1975 c. 15
(b) 1975 c. 18
(c) S.R. 1978 No. 202
(d) 1889 c. 63

(ii) an award of any benefit under Part II of the Act has been made before the day appointed or prescribed for the payment of the benefit in question at a lower rate provided in or by virtue of the up-rating order;

(*b*) the period to which the award relates has not ended before that day; and

(*c*) the award does not, in accordance with the provisions of paragraph 2(2) of Schedule 14 to the Act, provide for the payment of the benefit at the higher or lower rate (as the case may be) as from that day.

(2) In a case to which this regulation applies, paragraphs 1 and 2 of Schedule 14 to the Act shall have effect subject to the condition that if a question arises as to either—

(*a*) the weekly rate at which the benefit is payable by virtue of the up-rating order; or

(*b*) whether the conditions for the receipt of the benefit at the altered rate are satisfied,

the benefit shall, until the question has been determined in accordance with the provisions of the Act, be or continue to be payable at the weekly rate specified in paragraph (3) below.

(3) The weekly rate referred to in paragraph (2) above is the weekly rate specified in the award or the weekly rate at which the benefit would have been paid if the question had not arisen, whichever is the lower.

Amendment of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1975

3. Regulation 7 of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1975(**e**), as amended(**f**) (days not to be treated as days of unemployment or incapacity for work), shall be further amended by the substitution in paragraph (1)(*g*) for "£10·00" of "£11·00".

Amendment of the Social Security (Non-Contributory Invalidity Pension) Regulations (Northern Ireland) 1975

4. Regulation 12 of the Social Security (Non-Contributory Invalidity Pension) Regulations (Northern Ireland) 1975(**g**), as amended (**f**) (disqualification for non-contributory invalidity pension), shall be further amended by the substitution in paragraph (*d*)(iii) for "£10·00" of "£11·00".

Amendment of the Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976

5. Regulation 8 of the Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976(**h**), as amended(**i**) (earnings level for the purposes of unemployability supplement under section 58), shall be further amended by the substitution for "£520" of "£572".

(e) S.R. 1975 No. 86 (I, p. 504) as applied by s. 56(6) of the Social Security (Northern Ireland) Act 1975
(f) The relevant amending regulation is S.R. 1977 No. 258 (II, p. 1370)
(g) S.R. 1975 No. 202 (II, p. 1036)
(h) S.R. 1976 No. 42 (I, p. 194)
(i) The relevant amending regulation is S.R. 1977 No. 258 (II, p. 1370)

Persons not ordinarily resident in Northern Ireland

6. Regulation 5 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(j) (application of disqualification in respect of up-rating of benefit), shall apply to any additional benefit payable by virtue of the up-rating order.

Continuation in force of sections 35(1) *and* (4) *and* 36(1) *of the National Insurance Act* (*Northern Ireland*) 1966

7.—(1) The provisions of this regulation shall have effect for the purpose of securing continuity between the Social Security (Northern Ireland) Act 1975 and the National Insurance Act (Northern Ireland) 1966(k) in the case of persons who had, immediately before 6th April 1975, rights or prospective rights to or expectations of graduated retirement benefit under sections 35 and 36 of the said Act of 1966, by preserving those rights and temporarily retaining the effect of those sections for transitional purposes.

(2) Notwithstanding their repeal by the Social Security Act 1973(l) subsections (1) and (4) of section 35 and subsection (1) of section 36 of the said Act of 1966 shall, for the purpose aforesaid, continue in force subject to the making in them of the modifications required to bring them into conformity with the provisions of the said Act of 1975 and to enable them to have effect as if contained in the scheme of social security benefits established by the Act; and on or after the 13th November 1978 those subsections shall accordingly continue in force in the modified form in which they are set out in the Schedule to these regulations.

Amendment of the Social Security (*Graduated Retirement Benefit*) (*No.* 2) *Regulations* (*Northern Ireland*) 1978

8. Schedule 1 to the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978(m), so far as it relates to section 35(1) of the National Insurance Act (Northern Ireland) 1966, shall be amended by the substitution for "2½ pence" of "2·59 pence".

Regulations revoked and ceasing to have effect

9.—(1) The Social Security Benefits Up-rating Regulations (Northern Ireland) 1977(n) are hereby revoked.

(2) Regulation 2(2) of and Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations (Northern Ireland) 1975(o), to the extent only that they provide for the continuance in force, in a modified form, of subsections (1) and (4) of section 35 and subsection (1) of section 36 of the National Insurance Act (Northern Ireland) 1966, are hereby revoked.

(3) Regulation 7 of these regulations shall cease to have effect on 6th April 1979.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 5th September 1978.

(L.S.) *W. J. Sloane*
Senior Assistant Secretary

(j) S.R. 1978 No. 114
(k) 1966 c. 6 (N.I.)
(l) 1973 c. 38
(m) S.R. 1978 No. 105
(n) S.R. 1977 No. 258 (II, p. 1370)
(o) S.R. 1975 No. 96 (I, p. 574)

SCHEDULE Regulation 7(2)

Sections 35(1) and (4) and 36(1) of the National Insurance Act (Northern Ireland) 1966 as continued in force by these regulations

35(1) Subject to the provisions of the Act, graduated retirement benefit shall be payable to any person who is over pensionable age and has retired from regular employment, and shall be an increase in the weekly rate of his retirement pension equal to 2·59 pence for each unit, ascertained in accordance with subsections (2) and (3) of this section, of the graduated contributions properly paid by him as an insured person, the result being rounded to the nearest whole penny, taking ½p as nearest to the next whole penny above.

35(4) Where a person does not retire from regular employment on attaining pensionable age then for the purpose of calculating the graduated retirement benefit payable to him from the date of his retirement there shall be added to the amount of the graduated contributions properly paid by him one-half of the aggregate graduated retirement benefit which would have been payable to him for the period before that date (disregarding the effect of any order made under section 120 of the Social Security (Northern Ireland) Act 1975) if he had retired from regular employment on attaining pensionable age and had received that benefit for the whole of the period without any interruption or abatement.
Provided that, in computing the addition to be made in accordance with this subsection in the case of a person who has made an election by virtue of section 30(3) of the Act (re-entry into regular employment) or the corresponding provisions of any earlier Act, no account shall be taken of any period on or after 6th April 1975 which falls between the date of that election and the date of his previous retirement.

36(1) Subject to the provisions of this section, 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, section 35 of this Act shall apply as if the increase in the weekly rate of her retirement pension provided for by subsection (1) thereof were the amount there specified by reference to her graduated contributions plus 2·59 pence for every 2 units or part of 2 units of graduated contributions by reference to which the weekly rate of his graduated retirement benefit was calculated, (the additional amount being rounded to the nearest whole penny, taking ½p as nearest to the next whole penny above).

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport.)

These regulations are made in consequence of the Social Security Benefits Up-rating Order (Northern Ireland) 1978 ("the up-rating order"). They specify circumstances in which the award of benefit which has been made before the date from which higher or lower rates become payable, is not automatically altered by virtue of paragraph 2 of Schedule 14 to the Social Security (Northern Ireland) Act 1975. In such cases benefit remains in payment at the existing rate until any question arising in connection with it has been determined. They apply the provisions of regulation 5 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1975, relating to the position of persons who are absent from and not ordinarily resident in Northern Ireland when the weekly rate of certain benefits is increased, to the increases of benefit provided by virtue of the up-rating order. They amend the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1975, the Social Security (Non-Contributory Invalidity Pension) Regulations (Northern Ireland) 1975 and the Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976 so as to raise to £11 a week or £572 a year, as the case may be, the earnings limits in respect of work which a person in receipt of benefit to which those regulations apply may do in certain circumstances. The regulations also further modify the provisions of sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966, which relate to graduated retirement benefit.