



National Insurance Act 1965

1965 CHAPTER 51

PART I

INSURED PERSONS AND CONTRIBUTIONS

^{F1}1—
16.

Textual Amendments

F1 Act repealed with saving by [Social Security \(Consequential Provisions\) Act 1975 \(c. 18\)](#), s. 2, Sch. 1 Pt. 1, [Sch. 3 para. 7](#); and ss. 36, 37, 118(1) continued in force (with modifications) by S.I. 1978/393, regs. 2, 3, Schs. 1, 2

PART II

BENEFIT

^{F2}17—
35.

Textual Amendments

F2 Act repealed with saving by [Social Security \(Consequential Provisions\) Act 1975 \(c. 18\)](#), s. 2, Sch. 1 Pt. 1, [Sch. 3 para. 7](#); and ss. 36, 37, 118(1) continued in force (with modifications) by S.I. 1978/393, regs. 2, 3, Schs. 1, 2

Status: Point in time view as at 13/04/1995.

Changes to legislation: There are currently no known outstanding effects for the National Insurance Act 1965. (See end of Document for details)

Graduated retirement benefit

[^{F3}36 Graduated retirement benefit.

- (1) Subject to the provisions of the Act, graduated retirement benefit shall be payable to any person who is over pensionable age and who [^{F4}is entitled to a retirement pension], and shall be an increase in the weekly rate of his retirement pension equal to [^{F5}7.64] 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 1/2p as nearest to the next whole penny above.
- (2) For the purpose of graduated retirement benefit the units of graduated contributions shall be £7.50 for men and £9.00 for women.
- (3) Where a person’s graduated contributions calculated at the said rate do not make an exact number of units any incomplete fraction of a unit shall, if it is one-half or more, be treated as a complete unit.
- (4) Where a person [^{F6}defers his entitlement to a Category A or Category B retirement pension] after attaining pensionable age or has made an election by virtue of section 30(3) of the Act and has not revoked it, then, for the purpose of calculating the graduated retirement benefit payable to him from the date of his retirement, there shall be applied the provisions of Schedule 2 to the ^{M1}Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978, and those provisions shall be construed and have effect as if they were part of this subsection.
- (5) For the purposes of subsection (4) of this section, the Secretary of State may by regulations provide for treating all or any of the graduated contributions paid by a person in the tax year in which he attained pensionable age as having been paid before, or as having been paid after, the day on which he attained that age, whether or not the contribution in question was so paid.
- (6) ^{F7}
- (7) A person who has attained pensionable age and [^{F8}has claimed], but is not entitled to a retirement pension, shall be treated for the purposes of the foregoing provisions of this section as receiving a retirement pension at a nominal weekly rate:

Provided that—

- (a) this subsection shall not confer any right to graduated retirement benefit on a person who would be entitled to a retirement pension but for some provision of the Act or of regulations disqualifying him for receipt of it; and
- (b) regulations may provide that any right by virtue of this subsection to benefit at less than a specified weekly rate shall be satisfied either altogether or for a specified period by the making of a single payment of the prescribed amount.

- (8) In this section and in section 37 below—
 - “graduated contributions” means graduated contributions under the National Insurance Act 1965 or the ^{M2}National Insurance Act 1959;
 - “insured person” means insured person under the National Insurance Act 1965 or the ^{M3}National Insurance Act 1946;
 - “retirement pension” means retirement pension of any category;
 - “the Act” means the ^{M4}Social Security Act 1975;

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and any reference in section 37 below to “section 36 of this Act” or to any of its subsections is a reference to that section or subsection as it is here set out.

- (9) This section and section 37 below and the Act shall be construed and have effect as if this section and section 37 below were included in Chapter I of Part II or that Act (contributory benefits); and references to that Chapter, that Part of that Act in any other enactment or in any instrument shall be construed accordingly:

Provided that nothing in this subsection shall affect the construction of any reference to section 36 or 37 of this Act or of that Act or to any of the subsections of those sections; and any increase in the weekly rate of a person’s retirement pension, to the extent that it is attributable to subsection (4) of this section, shall be left out of account in determining the weekly rate of that pension for the purposes of [F9sections 25(5) and 30B(3)(1) of the Social Security Contributions and Benefits Act 1992 and regulations 11(1) and 18(7) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995(2) (rate of unemployment benefit and rate of incapacity benefit in transitional cases for persons over pensionable age)].

- (10) The provisions of Part III of the Act (determination of claims and questions) relating to contributions shall be construed and have effect as if graduated contributions were contributions under the Act.]

Textual Amendments

- F3** Act repealed with saving by [Social Security \(Consequential Provisions\) Act 1975 \(c. 18\)](#), s. 2, [Sch. 1 Pt. 1](#), [Sch. 3 para. 7](#); and ss. 36, 37, 118(1) continued in force (with modifications) by [S.I. 1978/393](#), regs. 2, 3, [Schs. 1, 2](#)
- F4** Words in s. 36(1) (as continued in force by [S.I. 1978/393](#), [Sch. 1](#)) substituted (1.10.1989) by [S.I. 1989/1642](#), regs. 1, [5\(2\)\(a\)\(i\)](#)
- F5** S. 36(1) sum amended (10.4.1995) by [S.I. 1995/559](#), arts. 1(2)(d), [11\(1\)](#)
- F6** Words in s. 36(4) (as continued in force by [S.I. 1978/393](#), [Sch. 1](#)) substituted (1.10.1989) by [S.I. 1989/1642](#), regs. 1, [5\(2\)\(a\)\(ii\)](#)
- F7** S. 36(6) repealed by [Social Security \(Consequential Provisions\) Act 1975 \(c. 18\)](#), s. 2, [Sch. 1 Pt. I](#)
- F8** Words in s. 36(7) (as continued in force by [S.I. 1978/393](#), [Sch. 1](#)) substituted (1.10.1989) by [S.I. 1989/1642](#), regs. 1, [5\(2\)\(a\)\(iii\)](#)
- F9** Words in s. 36(9) (as continued in force by [S.I. 1978/393](#), [Sch. 1](#)) substituted (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), regs. 1(1), [11](#)

Modifications etc. (not altering text)

- C1** Power to amend ss. 36 and 37 conferred by [Social Security Administration Act 1992 s. 150\(11\)](#) (c. 5, SIF 113:1)
- C2** Sum in s. 36(1) amended (as from 6.4.1992) by virtue of [S.I. 1991/2910](#), [art. 7\(1\)](#)
- C3** S. 36(4): Power to replace s. 36(4) conferred (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\)](#), [ss. 62\(1\)\(a\)](#), 177(4).

Marginal Citations

- M1** [S.I. 1978/393](#).
- M2** 1959 c. 47.
- M3** 1946 c. 67.
- M4** 1975 c. 14.

Status: Point in time view as at 13/04/1995.

Changes to legislation: There are currently no known outstanding effects for the National Insurance Act 1965. (See end of Document for details)

37 Special provisions as to graduated retirement benefit for widows and widowers.

(1) Subject to the provisions of this section—

- (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 36 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 . . . ^{F10}, section 36 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 124 of the Act (increases in rates of benefit) since the date of the deceased spouse's death had come into force before that date), excluding any addition under section 37(1) of this Act, but including any addition under section 36(4) thereof (and for the purpose of calculating the addition under section 36(4), taking into account any addition under section 37(1)); and where at his or her death he or she had attained pensionable age but had [^{F11}not] become entitled to graduated retirement benefit, that addition shall be computed as if he or she had . . . ^{F10} 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 36(4) of this Act in determining the graduated retirement benefit payable to him or her under the said section 36:

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 provided that where a woman is entitled to graduated retirement benefit and to a widowed mother's allowance the graduated retirement benefit shall

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be an increase in the weekly rate of that allowance; and where the benefit is such an increase, section 36(7) of this Act shall not apply.

Textual Amendments

- F10** Words in s. 37(1)(2) (as continued in force by S.I. 1978/393, **Sch. 1**) repealed (1.10.1989) by S.I. 1989/1642, regs. 1, **5(2)(b)(i)**
- F11** Word in s. 37(2) (as continued in force by S.I. 1978/393, **Sch. 1**) substituted (1.10.1989) by S.I. 1989/1642, regs. 1, **5(2)(b)(ii)**

Modifications etc. (not altering text)

- C4** Ss. 36, 37: power to amend conferred by Social Security Administration Act 1992 (c. 5), s. **150(11)**
- C5** S. 37: power to extend conferred (1.7.1992) by Social Security Contributions and Benefits Act 1992 (c. 4), ss. **62(1)(b)**, 177(4)
- C6** S. 37(1): sums amended (8.4.1996) by S.I. 1996/599, arts. 1(2)(d), 6, **11(3)** (which amending S.I. was revoked (1.4.1997) by S.I. 1997/543, **art. 27**)
S. 37(1): sums amended (7.4.1997) by S.I. 1997/543, arts. 1(2)(d), 6, **11(3)** (which amending S.I. was revoked (1.4.1998) by S.I. 1998/470, **art. 27**)
S. 36(1): sums amended (6.4.1998) by S.I. 1998/470, arts. 1(2)(d), 6, **11(3)** (which amending S.I. was revoked (1.4.1999) by S.I. 1999/264, **art. 27**)
S. 37(1): sums amended (12.4.1999) by S.I. 1999/264, arts. 1(2)(c), 6, **11(3)** (which amending S.I. was revoked (1.4.2000) by S.I. 2000/440, **art. 24**)
S. 37(1): sums amended (10.4.2000) by S.I. 2000/440, arts. 1(2)(c), 6, **11(3)** (which amending S.I. was revoked (1.4.2001) by S.I. 2001/207, **art. 24**)
S. 37(1): sums amended (9.4.2001) by S.I. 2001/207, arts. 1(2)(c), 6, **11(3)** (which amending S.I. was revoked (1.4.2002) by S.I. 2002/668, **art. 24**)
S. 37(1): sums amended (8.4.2002) by S.I. 2002/668, arts. 1(2)(c), 6, **11(3)** (which amending S.I. was revoked (1.4.2003) by S.I. 2003/526, **art. 26**)
S. 37(1) sums amended (7.4.2003) by S.I. 2003/526, arts. 1(2)(c), **12(3)** (which amending S.I. was revoked by S.I. 2004/552, **art. 27**)
S. 37(1) sums amended (12.4.2004) by S.I. 2004/552, arts. 1(2)(c), **12(3)** (which amending S.I. was revoked by S.I. 2005/522, **art. 27**)

F12³⁸
55.

Textual Amendments

- F12** Act repealed with saving by Social Security (Consequential Provisions) Act 1975 (c. 18), s. 2, Sch. 1 Pt. 1, **Sch. 3 para. 7**; and ss. 36, 37, 118(1) continued in force (with modifications) by S.I. 1978/393, regs. 2, 3, Schs. 1, 2

PART III

NON-PARTICIPATING EMPLOYMENTS

F13⁵⁶
63.

Status: Point in time view as at 13/04/1995.

Changes to legislation: There are currently no known outstanding effects for the National Insurance Act 1965. (See end of Document for details)

Textual Amendments

F13 Act repealed with saving by [Social Security \(Consequential Provisions\) Act 1975 \(c. 18\)](#), s. 2, Sch. 1 Pt. 1, [Sch. 3 para. 7](#); and ss. 36, 37, 118(1) continued in force (with modifications) by S.I. 1978/393, regs. 2, 3, Schs. 1, 2

PART IV

DETERMINATION OF CLAIMS AND QUESTIONS

^{F14}~~64~~
82.

Textual Amendments

F14 Act repealed with saving by [Social Security \(Consequential Provisions\) Act 1975 \(c. 18\)](#), s. 2, Sch. 1 Pt. 1, [Sch. 3 para. 7](#); and ss. 36, 37, 118(1) continued in force (with modifications) by S.I. 1978/393, regs. 2, 3, Schs. 1, 2

PART V

FINANCE, ADMINISTRATION AND LEGAL PROCEEDINGS

^{F15}~~83~~
97.

Textual Amendments

F15 Act repealed with saving by [Social Security \(Consequential Provisions\) Act 1975 \(c. 18\)](#), s. 2, Sch. 1 Pt. 1, [Sch. 3 para. 7](#); and ss. 36, 37, 118(1) continued in force (with modifications) by S.I. 1978/393, regs. 2, 3, Schs. 1, 2

PART VI

MISCELLANEOUS AND GENERAL

^{F16}~~98~~
117.

Textual Amendments

F16 Act repealed with saving by [Social Security \(Consequential Provisions\) Act 1975 \(c. 18\)](#), s. 2, Sch. 1 Pt. 1, [Sch. 3 para. 7](#); and ss. 36, 37, 118(1) continued in force (with modifications) by S.I. 1978/393, regs. 2, 3, Schs. 1, 2

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Changes to legislation: *There are currently no known outstanding effects for the National Insurance Act 1965. (See end of Document for details)*

[^{F17} **118 Short title.**

(1) This Act may be cited as the National Insurance Act 1965.

(2)]

Textual Amendments

F17 Act repealed with saving by [Social Security \(Consequential Provisions\) Act 1975 \(c. 18\), s. 2, Sch. 1 Pt. 1, Sch. 3 para. 7](#); and ss. 36, 37, 118(1) continued in force (with modifications) by S.I. 1978/393, regs. 2, 3, Schs. 1, 2

Status:

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Changes to legislation:

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