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SCHEDULES

SCHEDULE 1

Regulation 3(3)

SECTIONS 36 AND 37 OF THE NATIONAL INSURANCE ACT 1965 AS CONTINUED IN FORCE BY THESE REGULATIONS

Graduated retirement benefit

Graduated retirement benefit

36.—(1) Subject to the provisions of the Act, graduated retirement benefit shall be payable to any person who is over pensionable age and who [^{F1}is entitled to a retirement pension], and shall be an increase in the weekly rate of his retirement pension equal to [^{F2}12.79] 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 $\frac{1}{2}$ p as nearest to the next whole penny above.

(2) For the purpose of graduated retirement benefit [^{F3}, a unit of graduated contributions shall be £7.50.]

(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.

[^{F4}(4) Where a person's entitlement to graduated retirement benefit is deferred—

- (a) Schedule 2 to the Social Security (Graduated Retirement Benefit) (No.2) Regulations 1978; and
- (b) Schedule 1 to the 2005 Regulations,

shall have effect and both those Schedules shall be construed and have effect as if they were part of this subsection.

(4A) For the purposes of subsection (4), a person's entitlement to graduated retirement benefit is deferred—

- (a) where he would be entitled to a Category A or Category B retirement pension but for the fact that his entitlement is deferred within the meaning in section 55(3) of the Social Security Contributions and Benefits Act 1992, if and so long as his entitlement to such a pension is deferred;
- (b) where he is treated under subsection (7) as receiving a Category A or a Category B retirement pension at a nominal weekly rate, if and so long as he does not become entitled to graduated retirement benefit by reason only of not satisfying the conditions in section 1 of the Social Security Administration Act 1992 (entitlement to benefit dependent on claim),

and in relation to graduated retirement benefit, “period of deferment” shall be construed accordingly.]

(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

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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.

(7) A person who has attained pensionable age and [^{F5}has claimed], but is not entitled to a retirement pension [^{F6}(except a person who is not so entitled because of an election under section 54(1) of the Social Security Contributions and Benefits Act 1992 or because he has withdrawn his claim)], 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 National Insurance Act 1959;

“insured person” means insured person under the National Insurance Act 1965 or the National Insurance Act 1946;

“retirement pension” means retirement pension of any category;

“the Act” means the Social Security Act 1975;

[^{F7}“the 2005 Regulations” means the Social Security (Graduated Retirement Benefit) Regulations 2005,]

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 of that Act (contributory benefits); and references to that Chapter, that Part or 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 [^{F8}section 30B(3) of the Social Security Contributions and Benefits Act 1992, regulations 11(1) and 18(7) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 and [^{F9}regulation 10(6) of the Jobseeker’s Allowance (Transitional Provisions) Regulations 1996] (rates of incapacity benefit and jobseeker’s allowance in transitional cases for persons over pensionable age).]

^{F10}(10)

Textual Amendments

F1 Words in Sch. 1 s. 36(1) substituted (1.10.1989) by [The Social Security \(Abolition of Earnings Rule\) \(Consequential\) Regulations 1989 \(S.I. 1989/1642\)](#), regs. 1, **5(2)(a)(i)**

F2 Sum in Sch. 1 s. 36(1) amended (8.4.2013) by [The Social Security Benefits Up-rating Order 2013 \(S.I. 2013/574\)](#), arts. 1(2)(c), 11(1)(a)(b)

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- F3** Words in Sch. 1 s. 36(2) substituted (6.4.2010) by The Social Security (State Pension and National Insurance Credits) Regulations 2009 (S.I. 2009/2206), regs. 1(3), **3(1)** (with reg. 3(2))
- F4** Sch. 1 s. 36(4)(4A) substituted for s. 36(4) (6.4.2005) by The Social Security (Graduated Retirement Benefit) Regulations 2005 (S.I. 2005/454), regs. 1(1), **2(2)(a)**
- F5** Words in Sch. 1 s. 36(7) substituted (1.10.1989) by The Social Security (Abolition of Earnings Rule) (Consequential) Regulations 1989 (S.I. 1989/1642), regs. 1, **5(2)(a)(iii)**
- F6** Words in Sch. 1 s. 36(7) inserted (1.11.1995) by The Social Security (Graduated Retirement Benefit) Amendment Regulations 1995 (S.I. 1995/2606), regs. 1(1), **3**
- F7** Words in Sch. 1 s. 36(8) inserted (6.4.2005) by The Social Security (Graduated Retirement Benefit) Regulations 2005 (S.I. 2005/454), regs. 1(1), **2(2)(b)**
- F8** Words in Sch. 1 s. 36(9) substituted (7.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Consequential Amendments) Regulations 1996 (S.I. 1996/1345), regs. 1, **18**
- F9** Words in Sch. 1 s. 36(9) substituted (21.3.1997) by The Social Security (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/454), regs. 1(a), **5**
- F10** Sch. 1 s. 36(10) omitted (6.9.1999) by virtue of The Social Security Act 1998 (Commencement No. 9, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2422), arts. 2, **3(3)**

Special provisions as to graduated retirement benefit for widows and widowers

37.—(1) Subject to the provisions of this section [^{F11}and to Schedule 1 to the 2005 Regulations][^{F12}, where a person, having paid graduated contributions as an insured person, dies leaving a widow, widower or surviving civil partner and the survivor—

- (a) has attained pensionable age at the time of the death; or
- (b) remains that person's widow, widower or surviving civil partner (as the case may be) when attaining pensionable age,]

then section 36 of this Act shall apply as if the increase in the weekly rate of the retirement pension of the [^{F13}widow, widower or surviving civil partner], 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 [^{F14}or civil partner] (any amount including $\frac{1}{2}p$ being rounded to the next whole penny above) ^{F15}...

(2) For the purposes of subsection (1) of this section, the weekly rate of the deceased spouse's [^{F16}or civil partner'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 [^{F16}or civil partner'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 [^{F17}not] become entitled to graduated retirement benefit, that addition shall be computed as if he or she had ^{F18}... 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 [^{F19}or civil partnership] 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 [^{F20}, or as the case may be, a civil partner he or she forms a civil partnership with,]

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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 [^{F21}or who has formed a civil partnership more than once or who has been both married and a civil partner] 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 [^{F22}or civil partners].

(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 36(7) of this Act shall not apply.

Textual Amendments

- F11** Words in Sch. 1 s. 37(1) inserted (6.4.2005) by The Social Security (Graduated Retirement Benefit) Regulations 2005 (S.I. 2005/454), regs. 1(1), **2(3)**
- F12** Sch. 1 s. 37(1)(a)(b) and words substituted for s. 37(1)(a)-(c) (6.4.2010) by The Social Security (State Pension and National Insurance Credits) Regulations 2009 (S.I. 2009/2206), regs. 1(3), **4(2)** (with reg. 4(4))
- F13** Words in Sch. 1 s. 37(1) substituted (5.12.2005) by The Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005 (S.I. 2005/3078), regs. 1(1)(c), **2(4)(a)(ii)(aa)**
- F14** Words in Sch. 1 s. 37(1) inserted (5.12.2005) by The Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005 (S.I. 2005/3078), regs. 1(1)(c), **2(4)(a)(ii)(bb)**
- F15** Words in Sch. 1 s. 37(1) omitted (6.4.2010) by virtue of The Social Security (State Pension and National Insurance Credits) Regulations 2009 (S.I. 2009/2206), regs. 1(3), **4(3)**
- F16** Words in Sch. 1 s. 37(2) inserted (5.12.2005) by The Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005 (S.I. 2005/3078), regs. 1(1)(c), **2(4)(b)**
- F17** Word in Sch. 1 s. 37(2) substituted (1.10.1989) by The Social Security (Abolition of Earnings Rule) (Consequential) Regulations 1989 (S.I. 1989/1642), regs. 1, **5(2)(b)(ii)**
- F18** Words in Sch. 1 s. 37(2) omitted (1.10.1989) by virtue of The Social Security (Abolition of Earnings Rule) (Consequential) Regulations 1989 (S.I. 1989/1642), regs. 1, **5(2)(b)(i)**
- F19** Words in Sch. 1 s. 37(3) inserted (5.12.2005) by The Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005 (S.I. 2005/3078), regs. 1(1)(c), **2(4)(c)**
- F20** Words in Sch. 1 s. 37(4) inserted (5.12.2005) by The Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005 (S.I. 2005/3078), regs. 1(1)(c), **2(4)(d)(i)**
- F21** Words in Sch. 1 s. 37(4) inserted (5.12.2005) by The Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005 (S.I. 2005/3078), regs. 1(1)(c), **2(4)(d)(ii)**
- F22** Words in Sch. 1 s. 37(4) inserted (5.12.2005) by The Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005 (S.I. 2005/3078), regs. 1(1)(c), **2(4)(d)(iii)**

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SCHEDULE 2

Regulation 3(3)

PROVISIONS REPLACING SECTION 36(4) OF THE NATIONAL INSURANCE ACT 1965

Modifications etc. (not altering text)

- C1 Sch. 2 sum amended (11.4.1988 in so far as not already in force) by [The Social Security Benefits Up-rating \(No.2\) Order 1987 \(S.I. 1987/1978\)](#), arts. 1(1), **6(2)**
- C2 Sch. 2 modified (12.4.1993) by [The Social Security Benefits Up-rating Order 1993 \(S.I. 1993/349\)](#), arts. 1(2)(d), **11(2)**
- C3 Sch. 2 modified (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 1999 \(S.I. 1999/264\)](#), arts. 1(2)(c), 11(2)
- C4 Sch. 2 modified (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(c), 11(2)
- C5 Sch. 2 modified (9.4.2001) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), arts. 1(2)(c), **11(2)**
- C6 Sch. 2 modified (8.4.2002) by [The Social Security Benefits Up-rating Order 2002 \(S.I. 2002/668\)](#), arts. 1(2)(c), **11(2)**
- C7 Sch. 2 modified (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), **12(2)**
- C8 Sch. 2 sums amended (12.4.2004) by [The Social Security Benefits Up-rating Order 2004 \(S.I. 2004/552\)](#), arts. 1(2)(c), **12(2)**
- C9 Sch. 2 sum amended (11.4.2005) by [The Social Security Benefits Up-rating Order 2005 \(S.I. 2005/522\)](#), arts. 1(2)(c), **12(2)**
- C10 Sch. 2 modified (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), **12(2)**
- C11 Sch. 2 modified (7.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(d), **12(2)**
- C12 Sch. 2 modified (with effect in accordance with art. 1(3)(a), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(d), **12(2)**
- C13 Sch. 2 sums confirmed (12.4.2010) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(d), **12(2)**
- C14 Sch. 2 sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(c), **12(2)**
- C15 Sch. 2 sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), arts. 1(2)(c), **12(2)**
- C16 Sch. 2 sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2013 \(S.I. 2013/574\)](#), arts. 1(2)(c), **11(2)**
- C17 Sch. 2 sums amended (for specified purposes and with effect in accordance with arts. 1(2)(c)(1)(3)(4), 6 of the amending S.I., so far as not already in force and with effect in accordance with arts. 1(2)(c)(4), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2014 \(S.I. 2014/516\)](#), art. 1(2)(c)(1)(3), **8(2)**
- C18 Sch. 2 sums amended (for specified purposes and with effect in accordance with arts. 1(2)(c)(1)(3)(4), 6 of the amending S.I., in force in so far as not already in force and with effect in accordance with arts. 1(2)(c)(4), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2015 \(S.I. 2015/457\)](#), art. 1(2)(c)(1)(3), **8(2)**
- C19 Sch. 2 sums amended (with effect in accordance with arts. 1(3)(4), 7 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2017 \(S.I. 2017/260\)](#), arts. 1(2)(c), **12(2)**
- C20 Sch. 2 sums amended (with effect in accordance with arts. 1(4)(5), 7 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2019 \(S.I. 2019/480\)](#), arts. 1(3)(c), **12(2)**
- C21 Sch. 2 sums amended (with effect in accordance with arts. 1(4)(5), 7 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2020 \(S.I. 2020/234\)](#), arts. 1(3)(c), **12(2)**

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- C22** Sch. 2 sums amended (with effect in accordance with arts. 1(4)(5), 7 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2021 \(S.I. 2021/162\)](#), arts. 1(3)(c), **12(2)**
- C23** Sch. 2 sums amended (with effect in accordance with arts. 1(4)(5), 7 of the amending S.I.) by [The Social Security Benefits Up Rating Order 2022 \(S.I. 2022/292\)](#), arts. 1(3)(c), **12(2)**
- C24** Sch. 2: sums amended (with effect in accordance with arts. 1(4)(5), 7 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2023 \(S.I. 2023/316\)](#), arts. 1(3)(c), **12(2)**
- C25** Sch. 2: sums amended (coming into force in accordance with arts. 1(4)(5), 7 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2023 \(S.I. 2023/316\)](#), arts. 1(3)(c), **12(2)**
- C26** Sch. 2: sums amended (coming into force in accordance with arts. 1(4)(5), 7 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2024 \(S.I. 2024/242\)](#), arts. 1(3)(c), **11(2)**

1. Where a person [^{F23}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 [^{F23}entitlement]—

- (a) there shall be added to the amount of the graduated contributions properly paid by him as an insured person one-half of the aggregate graduated retirement benefit which would have been payable to him for any period before 6th April 1979 (disregarding the effect of any order made under section 124 of the Act) 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 paragraph 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 between 6th April 1975 and 5th April 1979 (both dates inclusive) which falls between the date of that election and the date of his previous retirement; [^{F24}and]

- (b) [^{F24}the rate of his graduated retirement benefit shall be increased by an amount equal to the increments to which he is entitled under paragraph 3 below, but only if either—
 - (i) that amount is enough to increase the rate of the benefit by at least 1 per cent., or
 - (ii) he has attained pensionable age before 6th April 1979, and has either deferred his retirement before that date, or made an election by virtue of section 30(3) of the Act taking effect before that date or both.]

Textual Amendments

- F23** Words in Sch. 2 para. 1 substituted (1.10.1989) by [The Social Security \(Abolition of Earnings Rule\) \(Consequential\) Regulations 1989 \(S.I. 1989/1642\)](#), regs. 1, **5(3)(a)**
- F24** Sch. 2 para. (1)(b)-(4) and word omitted (6.4.2005) by virtue of [The Social Security \(Graduated Retirement Benefit\) Regulations 2005 \(S.I. 2005/454\)](#), **regs. 1(1), 3(1)(a)(b)** (with 3(2)(a)(b))

2. [^{F24}Where a woman who is over pensionable age ^{F25}... is entitled by virtue of section 37(1) of the National Insurance Act 1965 to graduated retirement benefit, and she has, on or after 6th April 1979, made an election by virtue of section 30(3) of the Act and has not revoked it, then, for the purpose only of determining her right to increments under this Schedule, her election shall be treated as if it took effect from 6th April 1979, or, if later, the date of the death of her husband by virtue of whose graduated contributions she is so entitled.]

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Textual Amendments

- F24** Sch. 2 para. (1)(b)-(4) and word omitted (6.4.2005) by virtue of [The Social Security \(Graduated Retirement Benefit\) Regulations 2005 \(S.I. 2005/454\)](#), **regs. 1(1), 3(1)(a)(b)** (with 3(2)(a)(b))
- F25** Words in Sch. 2 para. 2 omitted (1.10.1989) by virtue of [The Social Security \(Abolition of Earnings Rule\) \(Consequential\) Regulations 1989 \(S.I. 1989/1642\)](#), **regs. 1, 5(3)(b)**

3.—^[F24](1) Subject to paragraph 4 below, a person is entitled to an increment under this paragraph for each complete incremental period (beginning not earlier than 6th April 1979) in his ^[F26]period of enhancement].

(2) In this Schedule—

(a) “incremental period” means any period of 6 days which are treated by the Social Security (Widow's Benefit and Retirement Pensions) (Amendment) Regulations 1978 as days of increment for the purposes of Schedule 1 to the Social Security Pensions Act 1975 as amended by section 3 of the Social Security (Miscellaneous Provisions) Act 1977 in relation to the person and the pension in question; and

^[F27](b) “period of enhancement” in relation to any person means the period which begins on the same day as the period of deferment and ends on the same day as that period ends or, if earlier, on the day before the fifth anniversary of the beginning of that period.]

(3) Subject to paragraph 4 below, the amount of the increment for any such incremental period shall be 1/7th per cent. of the weekly rate of the graduated retirement benefit to which that person would have been entitled for the period if he ^[F28]had not deferred his entitlement to a Category A or Category B retirement pension], the result being rounded to the nearest whole penny, taking ½p as nearest to the next whole penny above.

(4) Where one or more orders have come into force under section 124 of the Act (increases in rates of benefit) during the ^[F29]period of enhancement] the rate of the benefit for any incremental period shall be determined as if the order or orders had come into force before the beginning of the ^[F29]period of enhancement].]

Textual Amendments

- F24** Sch. 2 para. (1)(b)-(4) and word omitted (6.4.2005) by virtue of [The Social Security \(Graduated Retirement Benefit\) Regulations 2005 \(S.I. 2005/454\)](#), **regs. 1(1), 3(1)(a)(b)** (with 3(2)(a)(b))
- F26** Words in Sch. 2 para. 3(1) substituted (1.10.1989) by [The Social Security \(Abolition of Earnings Rule\) \(Consequential\) Regulations 1989 \(S.I. 1989/1642\)](#), **regs. 1, 5(3)(c)(i)**
- F27** Sch. 2 para. 3(2)(b) substituted (1.10.1989) by [The Social Security \(Abolition of Earnings Rule\) \(Consequential\) Regulations 1989 \(S.I. 1989/1642\)](#), **regs. 1, 5(3)(c)(ii)**
- F28** Words in Sch. 2 para. 3(3) substituted (1.10.1989) by [The Social Security \(Abolition of Earnings Rule\) \(Consequential\) Regulations 1989 \(S.I. 1989/1642\)](#), **regs. 1, 5(3)(c)(iii)**
- F29** Words in Sch. 2 para. 3(4) substituted (1.10.1989) by [The Social Security \(Abolition of Earnings Rule\) \(Consequential\) Regulations 1989 \(S.I. 1989/1642\)](#), **regs. 1, 5(3)(c)(iv)**

4.—^[F24](1) Where during a person's ^[F30]period of enhancement] there are one or more increases (other than any made by such an order as is mentioned in paragraph 3(4) above) in the weekly rate of graduated retirement benefit which would have been payable to him during that period if he had not ^[F31]deferred his entitlement to a Category A or Category B retirement pension] or made an election by virtue of section 30(3) of the Act, the total amount of increment for the ^[F30]period of enhancement] shall be—

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- (a) 1/7th per cent., for each incremental period in the [^{F30}period of enhancement], of the weekly rate of the graduated retirement benefit to which he would have been entitled immediately [^{F32}after attaining pensionable age if he had not deferred his entitlement to a Category A or Category B retirement pension]; plus
- (b) in respect of each such increase, 1/7th per cent. of its weekly rate for each incremental period in the period beginning with the day on which that increase occurred and ending with [^{F33}the same day the period of enhancement ends.]
- (2) Where one or more orders have come into force under section 124 of the Act during the [^{F30}period of enhancement] the weekly rates mentioned in sub-paragraph (1) above shall be determined as if the order or orders had come into force before the beginning of the [^{F30}period of enhancement].]

Textual Amendments

- F24** Sch. 2 para. (1)(b)-(4) and word omitted (6.4.2005) by virtue of [The Social Security \(Graduated Retirement Benefit\) Regulations 2005 \(S.I. 2005/454\)](#), **regs. 1(1), 3(1)(a)(b)** (with 3(2)(a)(b))
- F30** Words in Sch. 2 para. 4 substituted (1.10.1989) by [The Social Security \(Abolition of Earnings Rule\) \(Consequential\) Regulations 1989 \(S.I. 1989/1642\)](#), **regs. 1, 5(3)(d)**
- F31** Words in Sch. 2 para. 4(1) substituted (1.10.1989) by [The Social Security \(Abolition of Earnings Rule\) \(Consequential\) Regulations 1989 \(S.I. 1989/1642\)](#), **regs. 1, 5(3)(d)(i)**
- F32** Words in Sch. 2 para. 4(1)(a) substituted (1.10.1989) by [The Social Security \(Abolition of Earnings Rule\) \(Consequential\) Regulations 1989 \(S.I. 1989/1642\)](#), **regs. 1, 5(3)(d)(ii)**
- F33** Words in Sch. 2 para. 4(1)(b) substituted (1.10.1989) by [The Social Security \(Abolition of Earnings Rule\) \(Consequential\) Regulations 1989 \(S.I. 1989/1642\)](#), **regs. 1, 5(3)(d)(iii)**

SCHEDULE 3

Regulation 4

REGULATIONS 2 AND 3 OF THE 1978 REGULATIONS AS MODIFIED BY THESE REGULATIONS

Graduated retirement benefit when retirement is deferred

2. For the purposes of paragraph 1(a) of Schedule 2 to the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (provision, where a person attains pensionable age before 6th April 1979 but does not retire from regular employment until after 5th April 1979, for calculating the graduated retirement benefit payable to him from the date of his retirement) all the graduated contributions paid by a person in the income tax year in which he attained pensionable age shall be treated as having been paid before the day on which he attained that age:

Provided that where, in any case, the aggregate amount of the graduated contributions paid by him in that year exceeded the aggregate amount of graduated contributions which would have been payable by him in that part of the year which ended with the income tax week in which he attained pensionable age if, in each income tax week beginning in that part of the year, a graduated contribution as for an employment which was not a non-participating employment had been payable by him in respect of a weekly payment of remuneration made in that week at a level equal to the upper limit on the amount of weekly pay then taken into account under section 4(1)(c) of the 1965 Act as amended⁽¹⁾, the excess shall be treated as having been paid after the day on which he attained that age.

(1) See section 13(1) of, and paragraph 1 of Schedule 3 to, the National Insurance Act 1966 (c. 6), section 1(2) of the National Insurance Act 1969 (c. 44), section 1(3) of the National Insurance Act 1971 (c. 50), section 3(2) of the National Insurance

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Graduated retirement benefit for persons who have been married more than once

3. For the purposes of section 37 of the 1965 Act (special provisions as to graduated retirement benefit for widows and widowers) a person who has been married more than once [^{F34}or has formed more than one civil partnership or who has been both married and a civil partner] and who is entitled to graduated retirement benefit for any period by virtue of the provisions of that section in respect of a second or subsequent spouse [^{F35}or civil partner] shall not be precluded from entitlement to graduated retirement benefit for that period by virtue of that section in respect of a former spouse [^{F35}or civil partner], but shall be so entitled to the extent only that it is payable to him or her by the application of section 36(4) of the 1965 Act in respect of any period before the death of the first-mentioned spouse [^{F35}or civil partner].

Textual Amendments

- F34** Words in Sch. 3 para. 3 inserted (5.12.2005) by [The Social Security \(Retirement Pensions and Graduated Retirement Benefit\) \(Widowers and Civil Partnership\) Regulations 2005 \(S.I. 2005/3078\)](#), regs. 1(1)(c), 2(5)(a)
- F35** Words in Sch. 3 para. 3 inserted (5.12.2005) by [The Social Security \(Retirement Pensions and Graduated Retirement Benefit\) \(Widowers and Civil Partnership\) Regulations 2005 \(S.I. 2005/3078\)](#), regs. 1(1)(c), 2(5)(b)

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