
STATUTORY INSTRUMENTS

2014 No. 76

SOCIAL SECURITY, ENGLAND AND WALES

**The Social Security (Graduated Retirement Benefit)
(Married Same Sex Couples) Regulations 2014**

<i>Made</i>	- - - -	<i>14th January 2014</i>
<i>Laid before Parliament</i>		<i>23rd January 2014</i>
<i>Coming into force</i>	- -	<i>13th March 2014</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 62(1)(ad) and (ae) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(1).

This instrument has not been referred to the Social Security Advisory Committee because it contains only regulations made by virtue of, or consequential upon, paragraph 14(1) and (2) of Schedule 4 to the Marriage (Same Sex Couples) Act 2013(2) and is made before the end of the period of 6 months beginning with the coming into force of that paragraph(3).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Social Security (Graduated Retirement Benefit) (Married Same Sex Couples) Regulations 2014.

(2) These Regulations come into force on 13th March 2014.

(3) These Regulations extend to England and Wales only.

Amendment of section 37 of the National Insurance Act 1965

2.—(1) In section 37(1) of the National Insurance Act 1965(4) (special provisions as to graduated retirement benefit for widows, widowers and surviving civil partners), as that section has effect in

(1) 1992 c. 4. Section 62(1)(ad) and (ae) was inserted by paragraph 14(1) and (2) of Schedule 4 to the Marriage (Same Sex Couples) Act 2013 (c. 30). Section 175(1) and (4) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(2) 2013 c. 30.

(3) See section 173(5)(b) of the Social Security Administration Act 1992 (c. 5).

(4) 1965 c. 51. Sections 36 and 37 of the National Insurance Act 1965 was repealed by the Social Security Act 1973 (c. 38) with effect from 6th April 1975 but continue in force by virtue of regulations made under Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (c. 6). The relevant regulations are the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (S.I. 1978/393), as amended by S.I. 1989/1642, S.I. 1995/2606, S.I. 1996/1345, S.I. 1997/454, S.I. 1999/2422, S.I. 2005/454, S.I. 2005/3078, S.I. 2009/497 and S.I. 2009/2206.

relation to a survivor who attained pensionable age on or after 6th April 2010⁽⁵⁾, after “widower”, in each place where it occurs, insert “, surviving same sex spouse”.

(2) In section 37(1) of that Act, as that section has effect in relation to a survivor who attained pensionable age before 6th April 2010, after paragraph (c) insert —

“or

- (d) where a man, having paid graduated contributions as an insured person, dies leaving a widower, and they have both attained pensionable age at the time of his death; or
- (e) where a woman, having paid graduated contributions as an insured person, dies leaving a widow, and they have both attained pensionable age at the time of her death.”.

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

3. In regulation 3(2) of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978⁽⁶⁾ (continuation in force of sections 36, 37 and 118(1) of the 1965 Act)—

- (a) omit the “and” at the end of sub-paragraph (c); and
- (b) after sub-paragraph (d) insert—

“and

- (e) to extend section 37 of the 1965 Act to men and their late husbands, and women and their late wives.”.

Signed by the authority of the Secretary of State for Work and Pensions.

14th January 2014

Steve Webb
Minister of State,
Department for Work and Pensions

(5) Section 37(1) was most recently amended by regulation 4(1) to (3) of the Social Security (State Pension and National Insurance Credits) Regulations 2009 (S.I. 2009/2206) but regulation 4(4) of those Regulations provides that the amendment made by regulation 4(2) of those Regulations does not apply where the survivor attained pensionable age before 6th April 2010.

(6) S.I. 1978/393. Regulation 3(2) was amended by regulation 2(1) and (3) of S.I. 2005/3078.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in consequence of the Marriage (Same Sex Couples) Act 2013 (c. 30) and extend section 37 of the National Insurance Act 1965 (c. 51) to surviving same sex spouses.

Regulation 2(1) provides that surviving same sex spouses reaching state pension age on or after 6th April 2010 may inherit their deceased spouse's graduated retirement benefit under the same circumstances as currently apply to widows, widowers and surviving civil partners.

Regulation 2(2) provides that surviving same sex spouses reaching state pension age before 6th April 2010 may inherit their deceased spouse's graduated retirement benefit under the same circumstances as currently apply to widowers and surviving civil partners.

Regulation 3 makes consequential amendments to regulation 3(2) of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (S.I. 1978/393).

An impact assessment has not been produced for this instrument as there is no impact on business or civil society.