

STATUTORY INSTRUMENTS

1978 No. 391

SOCIAL SECURITY

**The Social Security (Graduated Retirement Benefit)
Regulations 1978**

<i>Made - - - -</i>	<i>9th March 1978</i>
<i>Laid before Parliament</i>	<i>15th March 1978</i>
<i>Coming into Operation</i>	<i>5th April 1978</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 36(5) and 37(4) of the National Insurance Act 1965(a), and of all other powers enabling him in that behalf, after reference to the National Insurance Advisory Committee, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Graduated Retirement Benefit) Regulations 1978 and shall come into operation on 5th April 1978.

(2) In these regulations “the 1965 Act” means the National Insurance Act 1965 and other expressions have the same meanings as in the 1965 Act.

(3) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(b) shall apply in relation to this instrument as they apply in relation to an Act of Parliament.

Graduated retirement benefit when retirement is deferred

2. For the purposes of section 36(4) of the 1965 Act (provision, where a person does not retire from regular employment on attaining pensionable age, 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

- (a) 1965 (c. 51). (These provisions were repealed by the Social Security Act 1973 (c. 38) but were continued in force in a modified form by regulation 2 of the Social Security (Graduated Retirement Benefit) Regulations 1975 (S.I. 1975/557)).
- (b) 1889 c. 63.

into account under section 4(1)(c) of the 1965 Act as amended(a), the excess shall be treated as having been paid after the day on which he attained that age.

Graduated retirement benefit for women 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) a woman who has been married more than once 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 husband shall not be precluded from entitlement to graduated retirement benefit for that period by virtue of that section in respect of a former husband, but shall be so entitled to the extent only that it is payable to her by the application of section 36(4) of the 1965 Act in respect of any period before the death of the first-mentioned husband.

David Ennals,

Secretary of State for Social Services.

9th March 1978.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations make provision for certain persons who, on 5th April 1975, had rights or prospective rights to, or expectations of, graduated retirement benefit under sections 36 and 37 of the National Insurance Act 1965 and who have deferred their retirement beyond pensionable age.

Regulation 2 provides that where a person has deferred his retirement beyond pensionable age all the graduated contributions paid by him in the tax year in which he attained that age shall be treated as if they had been paid before he attained that age, except to the extent that the amount of such contributions exceeds the amount he would have paid in that part of the tax year before he attained pensionable age had he not been in a non-participating employment and had he been paying graduated contributions at the maximum level applicable during that period. Regulation 3 preserves the entitlement of a woman who has been widowed more than once and who has deferred her retirement beyond pensionable age to receive additional graduated retirement benefit in respect of a former husband by reason of any period of such deferment prior to the death of her second or subsequent husband.

The Report of the National Insurance Advisory Committee dated 6th March 1978 on the draft of the regulations which was referred to them is contained in House of Commons Paper No. 290 (Session 1977/78) published by Her Majesty's Stationery Office.

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- (a) 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 Act 1972 (c. 57), section 2(2) of the National Insurance and Supplementary Benefit Act 1973 (c. 42) and section 2(2) of the National Insurance Act 1974 (c. 14).

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