

SCHEDULE 10

Regulations E10, H1, H2

MODIFIED APPLICATION IN CERTAIN CASES

PART I

NATIONAL INSURANCE MODIFICATION OF PENSIONS

1. In this Part, unless the context otherwise requires—

“the Act” means the National Insurance Act 1965(1);

“non-participating employment” has the meaning assigned to it by section 56(1) of the Act;

“part-time teacher” means a person who has elected under regulation B1 that his part-time employment is to be pensionable employment;

“retired teacher” means a person who has ceased to be in pensionable employment and has attained state pensionable age.

2.—(1) A retirement pension payable in the case of a retired teacher who—

(a) by virtue of the Modification Regulations or of interchange rules was subject to the modifications of the Acts of 1918 to 1956 made by those Regulations and applicable to new entrants within the meaning of those Regulations, or

(b) not being an existing teacher within the meaning of the Modification Regulations or a teacher in whose case by virtue of interchange rules those Regulations applied as they applied in the case of such an existing teacher, entered pensionable employment after 31st March 1967 and before 1st April 1980,

is reduced by an amount calculated by multiplying £1.70 by his reckonable service on or after 1st July 1948 but before 1st April 1980, expressed in years and any fraction of a year.

(2) In the case of a retired teacher—

(a) who was last in pensionable employment before 1st April 1980, and

(b) whose retirement pension is one to which he became entitled by virtue of regulation E4(3) or (4),

any additional period of reckonable service taken into account under regulation E8(2) is deemed for the purposes of sub-paragraph (1) to be such service as is there mentioned.

(3) Where the retired teacher before 1st April 1980 elected for the purposes of regulation 24 of the 1976 Regulations to purchase added years, those added years are deemed for the purposes of sub-paragraph (1) to be such reckonable service as is there mentioned.

(4) Sub-paragraph (1) applies not only in the case of such a retired teacher as is there mentioned but also in the case of a retired teacher to whom paragraph 2(1) of Schedule 9 to the 1976 Regulations did not apply if the Secretary of State is satisfied that the contributions paid by him before 1st April 1980 were modified on the assumption that the said paragraph 2(1) did apply in his case.

3.—(1) This paragraph applies to a retired teacher who—

(a) by virtue of the Modification Regulations or of interchange rules, was subject to the modifications of the Acts of 1918 to 1956 made by those Regulations and applicable to existing teachers within the meaning of those Regulations, or

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(1) 1965 c. 51.

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(b) before 1st April 1980 paid contributions at a reduced rate by virtue of an election under paragraph 2(1)(c) of Schedule 9 to the 1976 Regulations.

(2) A retirement pension payable to such a retired teacher is reduced in respect of his reckonable service after the relevant date but before 1st April 1980 by the amount calculated by multiplying by such reckonable service, expressed in years and a fraction of a year, the sum specified in column 2, in the case of a man, or column 3, in the case of a woman, of Table 1 below opposite his age at the date of modification for the purposes of the Modification Regulations.

**TABLE 1**

<i>Age at date of modification</i>	<i>Yearly reduction of retirement pension for each completed year of reckonable service after date of modification</i>	
	<i>Men</i>	<i>Women</i>
(1)	(2)	(3)
	£	£
20 or under	1.70	1.70
21	1.65	1.60
22	1.60	1.53
23	1.55	1.45
24	1.50	1.37
25	1.47	1.30
26	1.45	1.23
27	1.43	1.17
28	1.40	1.13
29	1.35	1.07
30	1.33	1.03
31	1.30	0.97
32	1.27	0.95
33	1.25	0.93
34	1.23	0.90
35	1.20	0.87
36	1.17	0.85
37	1.15	0.83
38	1.13	0.80
39	1.10	0.77
40	1.07	0.75
41	1.07	0.73
42	1.05	0.73
43	1.03	0.70

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<i>Age at date of modification</i>	<i>Yearly reduction of retirement pension for each completed year of reckonable service after date of modification</i>	
	<i>Men</i>	<i>Women</i>
(1)	(2)	(3)
44	1.00	0.70
45	0.97	0.67
46	0.95	0.65
47	0.95	0.65
48	0.93	0.63
49	0.93	0.63
50 and over	0.93	0.60

- (3) The relevant date for the purposes of sub-paragraph (2) is—
- (a) in relation to a retired teacher to whom this paragraph applies by virtue of sub-paragraph (1)(a), the date which was in relation to him the date of modification for the purposes of the Modification Regulations, and
  - (b) in relation to a retired teacher to whom this paragraph applies by virtue of sub-paragraph (1)(b), the first day of the month next following that in which the election mentioned in that sub-paragraph was made.
- (4) In the case of a retired teacher—
- (a) who was last in pensionable employment before 1st April 1980, and
  - (b) whose retirement pension is one to which he became entitled by virtue of regulation E4(3) or (4),

any additional period of reckonable service taken into account under regulation E8(2) is deemed for the purposes of sub-paragraph(2) to be such service as is there mentioned.

4. For the purposes of paragraphs 2 and 3 the reckonable service of a retired teacher is his effective reckonable service.

5. If, in calculating the amount of a retirement pension, there is taken into account any period of employment after 2nd April 1961 and before 6th April 1975 which was not non-participating employment the pension is, except as provided in paragraphs 7 and 8, reduced, for each year of such period, and proportionately for part of a year, by the appropriate amount specified in Table 2 below.

**TABLE 2**

<i>Annual rate of salary during period</i>	<i>Reduction in retirement pension for each whole year of period</i>			
	<i>From 3rd April 1961 to 5th January 1964</i>		<i>From 6th January 1964 to 5th April 1975</i>	
	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>
	£	£	£	£

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<i>Annual rate of salary during period</i>	<i>Reduction in retirement pension for each whole year of period</i>			
	<i>From 3rd April 1961 to 5th January 1964</i>		<i>From 6th January 1964 to 5th April 1975</i>	
	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>
Not exceeding £468	nil	nil	nil	nil
Over £468 but not exceeding £520	0.19	0.16	0.19	0.16
Over £520 but not exceeding £572	0.58	0.48	0.58	0.48
Over £572 but not exceeding £624	0.96	0.80	0.96	0.80
Over £624 but not exceeding £676	1.35	1.12	1.35	1.12
Over £676 but not exceeding £728	1.73	1.44	1.73	1.44
Over £728 but not exceeding £780	2.12	1.76	2.12	1.76
Over £780 but not exceeding £832	2.31	1.92	2.51	2.09
Over £832 but not exceeding £884	2.31	1.92	2.90	2.42
Over £884 but not exceeding £936	2.31	1.92	3.29	2.74
Over £936	2.31	1.92	3.48	2.90

6. If, in calculating the amount of a retirement pension, there is taken into account any period of employment after 2nd April 1961 in respect of which a payment in lieu of contributions has been made, the retirement pension is, except as provided in paragraphs 7 and 8, reduced—

- (a) by £2.31 in the case of a man and by £1.92 in the case of a woman for each year, and proportionately for part of a year, of any period from 3rd April 1961 to 5th January 1964, and
- (b) by £3.48 in the case of a man and by £2.90 in the case of a woman for each year, and proportionately for part of a year, of any period from 6th January 1964 to 5th April 1975.

7. Where—

- (a) a period of employment of a retired teacher which was not non-participating employment or in respect of which a payment in lieu of contributions had been made is treated as reckonable service by virtue of interchange provisions, and
- (b) the Secretary of State is informed of the amount by which his pension under the pension scheme applicable to him before interchange provisions applied to him would have been

reduced in respect of that period by reason of graduated retirement benefit payable under the Act or of the method of calculating such reduction,

the retirement pension in respect of that period is reduced by that amount or by an amount calculated in accordance with that method, as the case may be, and no reduction, is to be made under paragraph 5 or 6 in respect of that period.

**8.** No reduction in the amount of a retirement pension is to be made under paragraph 5 or 6 in respect of any period which is reckonable service by virtue of regulation D3 or D4 or of regulations under section 1 of the Superannuation (Miscellaneous Provisions) Act 1948(2) (employment in national service).

**9.** A retirement pension payable to a part-time teacher, so far as it is attributable to any part-time service which was non-participating employment within the meaning of the Act (exclusive of any period of such employment in respect of which a payment in lieu of contributions has been made), is not to be less than the amount required to constitute the benefits in respect of that service equivalent pension benefits.

**10.—(1)** An annual pension in respect of any such service as is mentioned in paragraph 9 is to be paid to a part-time teacher to whom no retirement pension is payable under regulation E4 if he is in pensionable employment on attaining state pensionable age.

(2) A pension under this paragraph is of the amount required to constitute the benefits in respect of the service equivalent pension benefits and is payable from the day following that on which the part-time teacher ceases to be in pensionable employment or in employment which would, if he had not attained the age of 70, be pensionable employment.

(3) Regulation E33(2) (application for payment) applies in relation to a pension payable under this paragraph.

**11.** A part-time teacher to whom paragraph 10 applies is entitled to be paid a sum equal to the balance of his contributions computed as at the date of repayment in accordance with regulation C13 reduced by half the actuarial value of the pension payable to him under paragraph 10.

**12.—(1)** Any person who was employed in non-participating employment and attains state pensionable age is to be paid by way of equivalent pension benefits a sum equal to the actuarial value of a retirement pension at the following rate for each year of reckonable service—

	Man	Woman
during the period from 3rd April 1961 to 5th January 1964	£2.31	£1.92
during the period from 6th January 1964 to 5th April 1975	£3.48	£2.90

but excluding any period of such employment in respect of which—

- (a) a payment in lieu of contributions has been made, or
- (b) any retirement benefits are payable under regulation E4.

(2) If on attaining state pensionable age he is still in pensionable employment payment is to be deferred until he ceases to be in pensionable employment, or in employment which would be pensionable employment if he had not attained the age of 70.

(3) Regulation E33(2) (application for payment) applies in relation to a sum payable under this paragraph.

(2) 1948 c. 33.

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## PART II

### EMPLOYMENT AT REDUCED SALARY

**13.** Subject to paragraphs 14 to 19, these Regulations apply as if the person had been one person in relation to pensionable employment (“the earlier employment”) up to the end of his employment at the previous rate and a separate person in relation to pensionable employment (“new employment”) from the start of his employment at the reduced rate, and accordingly apply separately in relation to each of those employments.

**14.** For the purposes of regulation E3 (qualification for retirement benefits), periods counting towards a qualifying period in relation to one of the employments count also in relation to the other.

**15.—(1)** For the purposes of regulation E32(2) (limits on reckonable service for calculating benefits), periods counting as reckonable service in relation to one of the employments count also in relation to the other.

(2) Any period excluded by regulation E32(2) is excluded in relation to new employment only.

**16.—(1)** A period for which the person has, before the first day of new employment, elected to pay additional contributions under regulation C4 does not count as reckonable service in relation to new employment but does, subject to sub-paragraph (2), count in relation to the earlier employment.

(2) An election to pay such contributions by Method A which was made less than 12 months before the first day of new employment ceases to have effect on that day, and any contributions paid in pursuance of it are to be refunded.

(3) If an election to pay such contributions is made on or after the first day of new employment—

- (a) the period to which it relates counts as reckonable service in relation to new employment but does not count in relation to the earlier employment, and
- (b) if the contributions are to be paid by Method B paragraph 14 of Schedule 4 (calculation of lump sum where salary reduced) does not apply.

**17.—(1)** This paragraph applies if the person becomes entitled to payment of retirement benefits by virtue of regulation E4(3) or(4) (incapacity).

(2) For the purposes of regulation E8 (enhancement) the appropriate period is to be calculated by reference to the aggregate of the period counting as reckonable service in relation to the earlier employment and the period so counting in relation to new employment, and

- (a) if he becomes entitled to payment of the benefits within 3 years after the start of new employment, the period counting as reckonable service in relation to the earlier employment, or
- (b) in any other case, the period so counting in relation to new employment,

is increased by the appropriate period so calculated.

**18.—(1)** For the purpose of calculating any death grant under regulation E20 or supplementary death grant under regulation E21 that may become payable in respect of the person—

- (a) the average salary mentioned in regulations E20(2) and E21(2)—
  - (i) if the grant becomes payable within 3 years after the start of new employment, is his average salary in respect of the earlier employment, and
  - (ii) in any other case, is his average salary in respect of new employment,

- (b) the retirement lump sum mentioned in regulation E20(2) is the aggregate of the lump sums that would have become payable as there mentioned in respect of each of the employments, enhanced in accordance with paragraph 17, and
  - (c) the retirement pension mentioned in E21(3) is the aggregate of the retirement pensions paid in respect of each of the employments.
- (2) Only one of either kind of grant is to be paid.
19. Regulation E26(7) does not have effect so as to preclude the payment of a children's pension in respect of each of the employments.

### PART III

#### POLICY SCHEMES

20. In this Part "policy scheme service" has the meaning that was given in regulation 3(2) of the Teachers' Superannuation (Policy Schemes) Regulations 1979(3) ("the 1979 Regulations").

21. For the purposes of regulation C4(1) (case in which additional contributions may be paid for past period), if the person's policy scheme service began before he first became employed in pensionable employment he is to be treated as having first become so employed when his policy scheme service began.

22. For the purposes of regulation E3 (qualification for retirement benefits), paragraph 1 of Schedule 8 has effect as if the person's policy scheme service had been pensionable employment beginning after 5th April 1988.

23. Only 9/10ths of the person's policy scheme service is effective reckonable service.

24.—(1) For the purposes of paragraphs 1 and 2 of Schedule 3 (maximum length of additional periods), if paragraph 1(2)(a) of Schedule 3 (continuous pensionable employment) applies the person's adjusted age—

- (a) if when he made the election under regulation 4 of the 1979 Regulations he was subject to the policy scheme, is

**A – C,**

and

- (b) in any other case, is

**B – C,**

where—

A is his age when the election took effect,

B is his age when pensionable employment in continuation of his policy scheme service began, and

C is 9/10ths of his policy scheme service.

(2) If paragraph 1(2)(b) of Schedule 3 applies, his adjusted age for the purposes mentioned in sub-paragraph (1) above is

**D – (E + F),**

where—

D is his age at the start of his most recent pensionable employment,

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(3) [S.I. 1979/47.](#)

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E is the total time spent by him in pensionable employment, and  
F is 9/10ths of his policy scheme service.

- 25.—(1) For the purposes of paragraph 2 (National Insurance modifications), the person’s policy scheme service is to be treated as service after the end of June 1948.
- (2) No reduction in the amount of his retirement pension is to be made under paragraph 5 or 6 in respect of the period of his policy scheme service.

## PART IV

### ADMITTED SERVICE

26.—(1) In the case of a person with admitted service who has not been in pensionable employment, regulation C12(1) (entitlement to repayment of contributions) has effect with the substitution—

- (a) for “pensionable employment” of “admitted service”, and
- (b) for “retirement benefits” of the benefits described in paragraph 27(1).

(2) In the case of any person with admitted service, regulation C13 (calculation of contributions to be repaid) has effect as if the amounts specified in regulation C13(3) included the contributions paid by him in respect of that service.

27.—(1) Subject to sub-paragraphs (2) to (5) and paragraph 29, an annual pension and a lump sum (“admitted service benefits”) are payable in respect of admitted service.

(2) A person who has not been in pensionable employment is qualified for admitted service benefits if his admitted service amounts to at least 5 years.

(3) Any other person with admitted service is qualified for admitted service benefits if he is qualified for retirement benefits.

(4) A person who has not been in pensionable employment and is qualified for admitted service benefits becomes entitled to payment of them on his 60th birthday.

(5) Any other person qualified for admitted service benefits becomes entitled to payment of them when he becomes entitled to payment of retirement benefits.

28.—(1) The rate of the annual pension is

$$\left(\frac{A}{80} \times B\right) + \frac{C}{5}$$

where—

- A is the average annual rate of the person’s salary during his admitted service,
- B is the length of the admitted service, expressed in years and any fraction of a year, and
- C is so much of

$$\left(\frac{A}{80} \times B\right)$$

as is attributable to admitted service before 1st April 1962.

(2) The amount of the lump sum is

$$\left(\frac{A}{30} \times D\right) + \left(\frac{3 \times A}{80} \times E\right),$$

where—

A is the same as in sub-paragraph (1) and—

D is the length, expressed in years and any fraction of a year, of admitted service before 1st April 1963, and

E is the length, so expressed, of admitted service after 31st March 1963.

**29.** Regulations E18 (deferment etc. of benefits), E33 (payment of benefits) and E35 (benefits not assignable) apply in relation to admitted service benefits as they apply in relation to retirement benefits.

## PART V

### SPECIFIED COUNTRY SERVICE

**30.** Regulations E4 (entitlement to payment of retirement benefits), E6 (amount of retirement lump sum), E13(3) (pension becoming payable again after cessation on pensioner ceasing to be incapacitated), E15 (retirement benefits on cessation of further employment) and E16 (short-service annuity) have effect with the substitution for references (whether direct or not) to the age of 60 of references to the age obtained by deducting from 60 years a period of 3 months in respect of each complete year of up to 20 years of specified country service.

**31.** Subject to paragraph 32—

- (a) for the purpose of calculating retirement benefits, and grants under regulations E17, E20 and E21, and
- (b) for the purposes of regulation E32(2) (restriction of effective reckonable service to 45 years, etc.),

specified country service counts as reckonable service at 1.5 times its actual length.

**32.** For the purposes of regulation E8 (enhancement of retirement benefits in case of incapacity), in calculating relevant service specified country service counts as reckonable service at its actual length.

## PART VI

### PERSONS FORMERLY MEMBERS OF THE NATIONAL HEALTH SERVICE PENSION SCHEME

**33.** In this Part—

- (a) “the 1995 Regulations” means the National Health Service Pension Scheme Regulations 1995(4); and
- (b) the expressions “member” and “scheme” shall be construed in accordance with the 1995 Regulations.

**34.** This Part applies to a person who—

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(4) S.I. 1995/300.

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- (a) immediately before he was in pensionable employment (within the meaning of these Regulations) was in pensionable employment within the meaning of the 1995 Regulations; and
- (b) who ceased to be in pensionable employment within the meaning of the 1995 Regulations and became employed in pensionable employment within the meaning of these Regulations by virtue of a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 1981<sup>(5)</sup>.

**35.** Where a transfer value has been accepted in respect of a person to whom this Part applies pursuant to a written request made by that person within 12 months of the date of the transfer referred to in paragraph 34 he is entitled to count as reckonable service the period which, at the time of that transfer, he was entitled to count as pensionable service for the purposes of the 1995 Regulations.

**36.**—(1) If a person to whom this Part applies—

- (a) chose, while he was a member of the scheme to increase his right to benefits under the scheme by buying additional service under regulation Q1 of the 1995 Regulations by making regular additional contributions; and
- (b) at the time of the relevant transfer referred to in paragraph 34 had not completed the payment of the additional contributions

he may complete the payment of such contributions as if Part Q of the 1995 Regulations applied to him and (if he does so) shall accordingly be entitled to count as reckonable service the additional service which would have been bought under Part Q of the 1995 Regulations by the payment of such contributions.

(2) For the purposes of regulations C13, C18 and H6 the contributions referred to in this paragraph shall be treated as having been paid under regulation C4.

(3) For the purposes of any provision in these Regulations which imposes a maximum on the contributions which a person can make, the contributions referred to in this paragraph shall be treated as paid under Part C.

**37.** Where a person to whom this Part applies—

- (a) was, immediately before the relevant transfer referred to in paragraph 34, a person to whom regulation R2 of the 1995 Regulations or regulation 54 of the National Health Service (Superannuation) Regulations 1980<sup>(6)</sup> (special provision for certain nurses, physiotherapists, midwives and health visitors) or regulation R3 of the 1995 Regulations or regulation 55 of the National Health Service (Superannuation) Regulations 1980 (special provision for certain mental health officers) applied, and
- (b) has continued to be such a person after the said transfer save only that his employer was not an employing authority within the meaning of the 1995 Regulations,

regulation E4 shall apply in relation to that person as if the references to the age of 60 were references to the age of 55.

**38.**—(1) Where a transfer value has not been accepted in relation to a person to whom this Part applies, the period during which the person was in pensionable employment within the meaning of the 1995 Regulations is comprised in a qualifying period for the purposes of Regulation E3.

(2) Sub-paragraph (1) above shall not be taken as precluding such a period from falling within paragraph 4 of Schedule 8 in a case where a transfer value has been accepted.

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(5) [S.I. 1981/1794](#); amended by [S.I. 1987/442](#), [1995/2587](#) and the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 33.

(6) [S.I. 1980/362](#); a relevant amending instrument is [S.I. 1982/1765](#).

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