

SCHEDULE 11

Regulation E14

ALLOCATION OF PART OF RETIREMENT PENSION

PART I

CONTENTS OF DECLARATION

- 1.—(1) A declaration shall specify—
- (a) the part of the retirement pension allocated; and
  - (b) the alternative benefit it shall provide.
- (2) The part allocated, to be expressed as a whole number of pounds, shall not exceed the lower of—
- (a) 1/3 of the annual rate of the retirement pension, disregarding any actuarial reduction required by regulation E7(4) (actuarial reduction of pension on early retirement) and any National Insurance modification under Schedule 9; and
  - (b) the amount that would result in the reduction of that rate to less than the rate of, as the case may be, the annuity mentioned in regulation E14(2)(a) or the subsequent annuity mentioned in regulation E14(2)(b),
- and shall not be such as to effect any equivalent pension benefits.
- (3) The part allocated must not be such as to cause the retirement pension payable to be less than the guaranteed minimum.

PART II

PROCEDURE

- 2.—(1) A teacher who, with a view to making an allocation, gives the Scottish Ministers at least 4 months' notice of his or her intended retirement referred to in this Schedule as a “retiring employee”.
- (1) For the purposes of this Schedule a teacher’s relevant birthday shall be—
- (a) where retirement benefits become payable by virtue of regulation E6(1)(c), his or her 50th; and
  - (b) in any other case, his or her 60th.
- 3.—(1) Before delivering a declaration, a teacher shall give the Scottish Ministers written notice of his or her intention to make an allocation.
- (1) The notice shall be given—
- (a) in the case of a retiring employee, no later than his or her application for payment of retirement benefits; and
  - (b) in any other case, no earlier than 4 months before the later of—
    - (i) the date on which the person becomes qualified for retirement benefits; and
    - (ii) his or her relevant birthday.
- 4.—(1) Before delivering a declaration, a teacher shall, at his or her own expense—
- (a) satisfy the Scottish Ministers as to his or her health; and

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- (b) provide the Scottish Ministers with such information about the person for whose benefit the allocation is to be made, and verify it in such manner as the Scottish Ministers may reasonably require.

(2) In order to satisfy the Scottish Ministers as to his or her health, the teacher shall submit himself or herself for examination by a medical practitioner nominated by the Scottish Ministers; he or she may if he or she wishes be examined by a second medical practitioner so nominated if the Scottish Ministers are not satisfied as a result of the first examination.

5.—(1) On receiving a notice under paragraph 3, the Scottish Ministers shall notify the person in writing of—

- (a) the amount or estimated amount of his or her retirement pension;
- (b) if paragraph 4 of regulation E7 applies, the amount or estimated amount of the retirement pension to which he or she would be entitled if that paragraph did not apply;
- (c) the name and address of the nominated medical practitioner; and
- (d) the time within which any declaration is to be delivered.

(2) A declaration shall be delivered—

- (a) if the person is resident outside the United Kingdom, within 4 months; and
- (b) in any other case, within 3 months,

after receipt of the Scottish Ministers' notification under sub paragraph (1).

(3) If they are satisfied as to the teacher's health, and with the information provided in accordance with paragraph 4(1)(b), the Scottish Ministers shall send him or her a suitable form on which to make the declaration.

(4) On the delivery to them of a declaration, the Scottish Ministers shall provide the teacher making it with written particulars of the alternative benefit.

6. A declaration, and any notice or other communication under this Part, may be sent by post.

## PART III

### OTHER MATTERS

7.—(1) Subject to sub paragraphs (2) to (6), a declaration shall take effect as such on the day on which it is delivered to the Scottish Ministers.

(2) A declaration shall not have effect before the teacher's relevant birthday.

(3) A declaration shall not have effect if either the teacher making it or the person for whose benefit the allocation was to be made dies before the material time.

(4) In the case of a declaration made by a retiring employee, the material time shall be the later of—

- (a) the day after that on which the declaration is delivered; and
- (b) the day before that on which he or she becomes entitled to payment of retirement benefits.

(5) In any other case the material time shall be the day on which the declaration is delivered.

(6) A declaration may be revoked or varied by a further declaration delivered—

- (a) in the case of a retiring employee, before the day on which he or she becomes entitled to payment of retirement benefits; and
- (b) in any other case, before the day on which the original declaration is delivered.

**8.—(1)** An allocation takes effect on the day on which the person making it becomes entitled to payment of retirement benefits.

(2) For the purposes of sub-paragraph (1), if a teacher other than a retiring employee dies in pensionable employment after his or her declaration has taken effect, he or she shall be taken to have become entitled to payment of retirement benefits on the date of his or her death.

**9.—(1)** If notice of intention has been given under paragraph 3 and by the later of—

- (a) the date of the teacher becoming entitled to retirement benefits; and
- (b) his or her relevant birthday,

no declaration has been delivered, then, from the later of those dates until he or she has either delivered a declaration or failed to satisfy the Scottish Ministers as mentioned in paragraph 5(3), one third of his or her retirement pension disregarding any actuarial reduction required by regulation E7(4) may be withheld.

(2) Any resulting underpayment or overpayment shall be adjusted in due course.

**10.—(1)** If after a retiring employee has delivered a declaration the rate of his or her retirement pension is increased, otherwise than under the 1971 Act<sup>(1)</sup>, the part allocated shall be correspondingly increased.

(2) Sub paragraph (1) applies even if the increase in the retirement pension takes effect from a date earlier than the date of delivery of the declaration.

(3) The corresponding increase in the part allocated, which shall be rounded down to the nearest pound, takes effect from the same date as the increase in the retirement pension.

(4) If the alternative benefit is the one described in regulation E14(2)(b), the resulting increase in the first of those annuities shall take effect from the same date as the increase in the retirement pension.

**11.** If after a person has delivered a declaration the rate of his or her retirement pension is reduced, the declaration continues to have effect but the part allocated shall be reduced to any extent necessary to secure that the restrictions in paragraph 1(2) are still complied with.

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(1) 1971 c. 56.