

## SCHEDULE 11

### ALLOCATION OF PART OF RETIREMENT PENSION

#### 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.

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(1) 1971 c. 56.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(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.