

SCHEDULE 10

Allocation of part of retirement pension

Part III

Other Matters

7.—(1) Subject to sub-paragraphs (2) to (6), a declaration takes effect on the day on which it is delivered to the Department.

(2) A declaration cannot take effect before the person's relevant birthday.

(3) A declaration has no effect if either the person 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 is the later of—

(a) the day after that on which the declaration is delivered; and

(b) the day before that on which he becomes entitled to payment of retirement benefits.

(5) In any other case the material time is 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 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 person other than a retiring employee dies in pensionable employment after his declaration has taken effect, he shall be taken to have become entitled to payment of retirement benefits on the date of his death.

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

(a) the date of the person's becoming entitled to retirement benefits; and

(b) his relevant birthday,

no declaration has been delivered, then, from the later of those dates until he has either delivered a declaration or failed to satisfy the Department as mentioned in paragraph 5(3), one-third of his retirement pension 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 retirement pension is increased, otherwise than under the Pensions (Increase) Act (Northern Ireland) 1971(1), the part allocated is correspondingly increased.

(1) 1971 c. 35 (N.I.) Part I of the Act has been amended by Article 23(1) of, and paragraphs 8 to 10 of Schedule 6 to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)); Articles 5(2) and (3) of the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I. 2)); Article 74(2) of, and Schedule 6 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and Article 2 of the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.R. & O. (N.I.) 1972 No. 264)). See also Articles 69 and 69A of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503) (N.I. 15) which have effect as if they were contained in Part V of that Act. Article 69A was inserted by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)); Article 10(3) Part I of the Act has also been amended by the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13))

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(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 E11(2)(b) (annuity for declarant followed by annuity for surviving spouse), the resulting increase in the first of those annuities takes 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 retirement pension is reduced, the declaration continues to have effect but the part allocated is reduced to any extent necessary to secure that the restrictions in paragraph 1(2) are still complied with.