

SCHEDULE 10

Regulation E12

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) $\frac{1}{3}$ of the annual rate of the retirement pension, disregarding 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 E12(2)(a) or the subsequent annuity mentioned in regulation E12(2)(b),
- and shall not be such as to effect any equivalent pension benefits.

PART II

PROCEDURE

- 2.—(1) A teacher who, with a view to making an allocation, gives the Secretary of State at least 4 months' notice of his intended retirement is referred to in this Schedule as a “retiring employee”.
- (2) For the purposes of this Schedule a teacher’s relevant birthday shall be—
- (a) where retiring allowances become payable by virtue of regulation E5(1)(f) (redundancy, etc.), his 50th; and
 - (b) in any other case, his 60th.
- 3.—(1) Before delivering a declaration, a teacher shall give the Secretary of State written notice of his intention to make an allocation.
- (2) The notice shall be given—
- (a) in the case of a retiring employee, no later than his application for payment of retiring allowances; 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 retiring allowances; and
 - (ii) his relevant birthday.
- 4.—(1) Before delivering a declaration, a teacher shall, at his own expense—
- (a) satisfy the Secretary of State as to his health; and
 - (b) provide the Secretary of State with such information about the person for whose benefit the allocation is to be made, and verify it in such manner, as the Secretary of State may reasonably require.

Status: This is the original version (as it was originally made).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

(2) In order to satisfy the Secretary of State as to his health, the teacher shall submit himself for examination by a medical practitioner nominated by the Secretary of State; he may if he wishes be examined by a second medical practitioner so nominated if the Secretary of State is not satisfied as a result of the first examination.

5.—(1) On receiving a notice under paragraph 3, the Secretary of State shall notify the teacher in writing of—

- (a) the amount or estimated amount of his retirement pension;
- (b) the name and address of the nominated medical practitioner; and
- (c) 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 Secretary of State's notification under sub-paragraph (1).

(3) If he is satisfied as to the teacher's health, and with the information provided in accordance with paragraph 4(1)(b), the Secretary of State shall send him a suitable form on which to make the declaration.

(4) On the delivery to him of a declaration, the Secretary of State 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 Secretary of State.

(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 becomes entitled to payment of retiring allowances.

(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 becomes entitled to payment of retiring allowances; 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 retiring allowances.

(2) For the purposes of sub-paragraph (1), if a teacher 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 retiring allowances 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 teacher's becoming entitled to retiring allowances; 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 Secretary of State as mentioned in paragraph 5(3), $\frac{1}{3}$ 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 1971⁽¹⁾, 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 E12(2)(b) (annuity for declarant followed by annuity for surviving spouse), 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 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.

⁽¹⁾ 1971 c. 56.