

SCHEDULE 11

Regulation E11

ALLOCATION OF PART OF RETIREMENT PENSION

PART 1

CONTENTS OF DECLARATION

- 1.—(1) A declaration is to specify—
- (a) the part of the retirement pension allocated, and
 - (b) which alternative benefit it is to provide.
- (2) The part allocated, which is to be expressed as a whole number of pounds, must not exceed the lower of—
- (a) 1/3rd of the annual rate of the retirement pension, disregarding any actuarial reduction required by regulation E5(5) and any National Insurance modification under Schedule 10, 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 E11(2)(a) or the subsequent annuity mentioned in regulation E11(2)(b),
- and must not be such as to affect 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 in relation to employment up to 6th April 1997.

PART II

PROCEDURE

- 2.—(1) A person 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 person’s relevant birthday is—
- (a) where retirement benefits become payable by virtue of regulation E4(5) (redundancy, etc.), his 50th, and
 - (b) in any other case, his 60th.
- 3.—(1) Before delivering a declaration a person must have given the Secretary of State written notice of his intention to make an allocation.
- (2) The notice is to be given—
- (a) in the case of a retiring employee, no later than his 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 relevant birthday.
- 4.—(1) Before delivering a declaration a person must also at his own expense—
- (a) have satisfied the Secretary of State as to his health, and

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(b) have provided the Secretary of State with such information about the person for whose benefit the allocation is to be made, and verified it in such manner, as the Secretary of State may reasonably require.

(2) In order to satisfy the Secretary of State as to his health the person must have been examined by a medical practitioner nominated by the Secretary of State; he may if he wishes be examined by a second such practitioner 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 is to notify the person in writing of—

- (a) the amount or estimated amount of his retirement pension,
- (b) if paragraph (3) of regulation E5 applies, the amount or estimated amount of the retirement pension to which he 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 is to 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 person's health, and with the information provided in accordance with paragraph 4(1)(b), the Secretary of State is to send the person a suitable form on which to make the declaration.

(4) On the delivery to him of a declaration, the Secretary of State is to provide the person 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 takes effect as such on the day on which it is delivered to the Secretary of State.

(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 is to 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 Secretary of State as mentioned in paragraph 5(3), 1/3rd of his retirement pension disregarding any actuarial reduction required by regulation E5(3) may be withheld.

(2) Any resulting underpayment or overpayment is to 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 is 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 is to 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.

(1) 1971 c. 56.