

SCHEDULE 4

Paragraph 72 of Schedule 3

Elections in respect of additional benefits - Schedule to be inserted as Schedule 2A to the Teachers' Pensions Regulations 1997

Interpretation

1. In this Schedule—

“additional benefits” means—

- (a) where the election is an election such as is mentioned in paragraph 5(a) or 12(a), an increased retirement pension, and
- (b) where the election is an election such as is mentioned in paragraph 5(b) or 12(b), an increased retirement pension and increased benefits for the person's dependants,

“financial year” means—

- (a) the period starting on 1st January 2007 and ending on 31st March 2008, and
- (b) each subsequent period of 12 months ending on 31st March.

“monthly contribution election” means an election which, pursuant to paragraph 3(a) states that the additional contributions are to be paid in monthly payments,

“the payment period” has the meaning in paragraph 3(a),

“the start date” in relation to any election means the date on which the first contribution or, as the case may be, the lump sum contribution is received by the Secretary of State pursuant to the election.

Election by a person in pensionable employment

2. Paragraphs 3 to 10 apply in relation to an election by a person in pensionable employment pursuant to regulation C3C(1).

3. An election shall state whether the additional contributions—

- (a) are to be paid in monthly payments and, if so, the length of the period over which they are to be paid (“the payment period”), or
- (b) are to be paid in a single lump sum.

4. The length of the payment period must be such that—

- (a) the period ends before the person attains the normal pension age, and
- (b) the period does not end on a date which is more than 20 years after the date of the election.

5. An election shall be an election—

- (a) to be credited with an increased retirement pension of an amount specified in the election (but subject to paragraphs 7 and 18 to 22), or
- (b) to be credited with an increased retirement pension as mentioned in sub-paragraph (a) and with increased benefits for the person's dependants.

6. An election shall contain such further information as may be specified by the Secretary of State.

7. The amount of an increased retirement pension specified in the election must be a multiple of such amount as may be specified from time to time by the Secretary of State.

8. An election is to contain a declaration by the person making it that he is in normal health.

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9. An election only has effect if the Secretary of State notifies the person making it in writing that it has been accepted.

10. Where an election has been made, nothing in this Schedule shall prevent further elections being made (but subject to paragraphs 18 to 22).

Election by employer

11. Paragraphs 12 to 16 apply in relation to an election made by an employer under regulation C3C(2).

12. An election shall be an election that additional contributions are to be paid in a single lump sum and shall be an election—

- (a) that the person in respect of whom the election is made should be credited with an increased retirement pension of an amount specified in the election (but subject to paragraphs 15 and 18 to 22), or
- (b) that the person in respect of whom the election is made should be credited with an increased retirement pension as mentioned in sub-paragraph (a) and with increased benefits for his dependants.

13. An election shall be accompanied by a declaration by the person in respect of whom it is made that he is in normal health.

14. An election shall contain such other information as may be specified from time to time by Secretary of State.

15. The amount of increased retirement pension specified in the election must be a multiple of such amount as may be specified from time to time by the Secretary of State.

16. An election only has effect if—

- (a) it is made with the consent of the person in respect of whom it is made, and
- (b) the Secretary of State notifies the employer in writing that it has been accepted.

Effect of election

17. Where an election has been accepted by the Secretary of State, and has not ceased to have effect, the person in respect of whom the election was made shall, subject to paragraphs 26, 28, 29 to 31,32(2), 33, 35, and 36(2) be credited with the additional benefits specified in the election.

Maximum amount of increased pension

18. Where the election is the first election made by, or in respect of, a person the maximum amount of increased retirement pension that may be specified in the election is—

- (a) where the election is made in the financial year starting on 1st January 2007 and ending on 31st March 2008, £5000,
- (b) where the election is made in any subsequent financial year, $AxRI/RE$ rounded to the nearest £100 where—

A is the maximum amount of increased retirement pension for the financial year before the financial year in which the election is made (whether determined under this paragraph or under paragraph 19),

RI is the retail prices index for the month of February in the financial year before the financial year in which the election is made, and

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RE is the retail prices index for the month of February in the second financial year before the financial year in which the election is made (or the index for January 2007 where the financial year before the financial year in which the election is made is the period starting on 1st January 2007 and ending on 31st March 2008).

19. The Treasury shall from time to time review the operation of paragraph 18 and as a result of such review may substitute a different maximum amount of increased pension for the amount determined under paragraph 18.

20. Where an election has previously been made in relation to a person (whether by the person under regulation C3C(1), or by the person's employer under regulation C3C(2)) the maximum amount of increased retirement pension is the amount specified in paragraph 18, or, as the case may be, paragraph 19, less the aggregate of the amounts of increased retirement pensions, multiplied by the factor specified in paragraph 21, specified in previous elections.

21. For the purposes of paragraph 20 the factor is RI/RE where—

RI is the retail prices index for the month of February in the financial year before the financial year in which the new election is made, and

RE is the retail prices index for the month of February in the financial year before the financial year in which the start date in relation to the previous election in question election fell (or the index for January 2007, where the start date in relation to that election fell in the financial year starting on 1st January 2007 and ending on the 31st March 2008).

22. Where a previous election has been revoked the references in paragraph 20 to the amount of an increased retirement pension specified in a previous election shall be taken as the amount of an increased pension with which a person has been credited pursuant to regulation 26.

Determination of contributions for given level of increased pension

23. The Secretary of State shall from time to time determine the amount of monthly payments of contributions or lump sum payment of contributions required for any given amount of increased retirement pension and different amounts may be specified—

- (a) in relation to different classes or descriptions of persons, and
- (b) depending on whether the election is one specified in paragraph 5(a) or 12(a) or in paragraph 5(b) or 12(b),

and, where additional contributions are paid in monthly payments, different amounts may be determined depending on the length of the contribution period.

24. Where the Secretary of State has, pursuant to paragraph 23, determined any amount of monthly payments of contributions or lump sum payment of contributions required for any given level of increased retirement pension he may at any time redetermine any of the amounts previously determined, and where any amounts are redetermined during a period when the person is paying monthly contributions the person shall, from 1st April following the date of the redetermination, pay the monthly payments in accordance with the redetermination but without prejudice to paragraph 25 (revocation of election) or to any right of the person to make a further election.

Revocation of election

25. A person who has made a monthly contribution election may revoke the election before the end of the payment period.

26. Where an election is revoked the person shall be credited with additional benefits of an amount, determined by the Secretary of State, having regard to the contributions paid before the revocation.

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Election ceasing to have effect

27. An election which states that the additional contributions are to be paid in a single lump sum ceases to have effect if —

- (a) the payment of contributions is not received by the Secretary of State within one month after the date on which the Secretary of State notified the person making the election that the election had been accepted, or
- (b) the payment of contributions is received by the Secretary of State after the person in respect of whom the election is made attains the normal pension age.

Person ceasing to be in pensionable employment

28.—(1) Where a person who has made a monthly contribution election ceases to be in pensionable employment before the end of the payment period and does not again enter pensionable employment within one month the person may (except where paragraph 29 applies)—

- (a) pay to the Secretary of State a lump sum of such amount, determined by him, so that he may be credited with the amount of additional benefits specified in the election, or
- (b) elect to be credited with an amount of additional benefits, determined by the Secretary of State having regard to the contributions paid before he ceased to be in pensionable employment.

(2) Where the lump sum referred to in sub-paragraph (1)(a) is not received by the Secretary of State within one month after the date on which the person ceased to be in pensionable employment the person is treated as having elected to be credited with additional benefits under sub-paragraph (1) (b).

Person becoming entitled to retirement benefits

29. Where a person who has made a monthly contribution election becomes entitled to retirement benefits by virtue of regulation E4(5) or (5A) before the end of the payment period the person shall be credited with an amount of additional benefits, determined by the Secretary of State, having regard to the contributions paid before he became entitled to retirement benefits.

Person making an election under regulation E4A

30. Where a person who has made a monthly contribution election makes an election under paragraph (11) of regulation E4A (phased retirement) before the end of the payment period the person shall be credited with an amount of additional benefits, determined by the Secretary of State, having regard to the contributions paid before the date on which the first payment of additional benefits was made.

Person becoming incapacitated

31. Where a person becomes entitled to payment of retirement benefits by reason of his having become incapacitated within one year after the date on which the election was made—

- (a) where the contributions were made by the person pursuant to an election made by him those contributions shall be repaid to the person, and
- (b) where contributions were made by the person's employer pursuant to an election made by him those contributions shall be repaid to the employer,

but in either event the person will not be credited with any additional benefits.

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32.—(1) Where a person who has made a monthly contribution election becomes entitled to payment of retirement benefits by reason of his having become incapacitated more than one year after the date on which the election was made but before the end of the payment period the person shall nevertheless be credited, pursuant to paragraph 17, with the amount of additional benefits specified in the election unless paragraph (2) applies.

(2) Where a person falls within paragraph (1) but the declaration required by paragraph 8 or 13 was not made in good faith the person shall be credited with an amount of additional benefits determined by the Secretary of State, having regard to the contributions paid before the date on which he became entitled to payment of retirement benefits.

Person ceasing to be incapacitated

33.—(1) This paragraph applies where a person has become entitled to payment of retirement benefits by virtue of regulation E4(4) (incapacity) and subsequently ceases to be incapacitated (so that by virtue of regulation E13A(8) the increased retirement pension with which the person was credited pursuant to paragraph 32(1) ceases to be payable).

(2) Where this paragraph applies the person shall be credited with an amount of additional benefits determined by the Secretary of State having regard to—

- (a) the contributions paid before he became entitled to payment of retirement benefits by virtue of regulation E4(4), and
- (b) the contributions which would have been paid during the period when he was entitled to payment of those retirement benefits, if he had continued to pay monthly contributions during that period.

Death of person

34. Paragraphs 35 and 36 apply where the election is an election, pursuant to paragraph 5(b) or (where applicable) paragraph 12(b) for increased benefits to be paid to the person's dependants (as well as for an increased retirement pension).

35. Where the person dies within one year after the date on which the election was made—

- (a) where the contributions were made by the person pursuant to an election made by him, those contributions shall be repaid to the person's personal representatives, and
- (b) where the contributions were made by the person's employer, pursuant to an election made by him, those contributions shall be repaid to the employer,

but in either event there shall be no credit relating to increased benefits for the person's dependants.

36.—(1) Where the person has made a monthly contribution election and dies more than one year after the date on which the election was accepted, but before the end of the payment period, there shall nevertheless be a credit, pursuant to paragraph 17, relating to increased benefits for the person's dependants as specified in the election, unless paragraph (2) applies.

(2) Where the person falls within paragraph (1) but the declaration required by paragraph 8 or 13 was not made in good faith there shall be a credit relating to increased benefits for the person's dependants of an amount determined by the Secretary of State having regard to the contributions paid before the date of the person's death.

Actuarial advice

37. The Secretary of State shall take advice from the Government Actuary before determining any amount pursuant to paragraphs 23, 24, 26, 28(1), 29, 30, 32(2), 33(2) or 36(2).