

## SCHEDULE D5

### RE-EMPLOYED PENSIONERS

#### PART II

#### COMBINED BENEFITS

##### *Election for application of Part II*

**10.**—(1) Subject to sub-paragraph (1) and paragraphs 11 and 15, where—

- (a) a person has become entitled to a retirement pension (“the first pension”),
- (b) after becoming so entitled he entered further employment which was or became local government employment, and
- (c) he has ceased to hold the further employment and has become entitled in relation to it to a retirement pension (“the second pension”),

he may, by notice in writing to the authority which is the appropriate administering authority in relation to the second pension, given within three months after the date on which he became entitled to the second pension, elect that this Part of this Schedule is to apply to him.

(2) Sub-paragraph (1) does not apply if the first pension is a pension—

- (a) to which the person became entitled under regulation D19, or
- (b) which is reduced under regulation D13.

(3) In this Part of this Schedule “retirement pension” includes an annual pension under the former regulations and a retirement pension under the 1974 regulations or the 1986 regulations.

##### *New entitlement to single pension*

**11.**—(1) Subject to paragraphs 12 to 14, a person to whom this Part of this Schedule applies is to be treated as having, on the date on which the second pension became or becomes payable—

- (a) ceased to be entitled to the first pension and the second pension; and
- (b) become instead entitled to payment of an annual retirement pension (“the annual pension”) and a lump sum payment (“the lump sum”) each calculated by reference to both his total period of membership in the further employment and the total period of membership taken into account in calculating the first pension.

(2) In sub-paragraph (1) “total period of membership” includes any period by reference to which an additional benefit has been granted under regulation E13 of the 1986 regulations or under regulation 13 of the Benefits regulations (both of which concern additional benefits for certain female nursing staff).

**12.** If in conjunction with the first pension the person was entitled to a retirement grant—

- (a) in calculating the lump sum no account is to be taken of any additional period excluded in accordance with regulation D2(2)(ii) from the calculation of the retirement grant,
- (b) if he has not received the grant before becoming entitled as mentioned in paragraph 11(1) (b), he ceases to be entitled to it,
- (c) if he has received the retirement grant—

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- (i) he is only entitled to payment of the excess, if any, of the lump sum over the retirement grant, and
- (ii) if the retirement grant exceeds the lump sum, he is only entitled to the annual pension if, within three months after giving notice under paragraph 10, he pays an amount equal to the excess to the appropriate administering authority.

**13.** If—

- (a) the first pension was, and
- (b) the second pension would not have been,

subject to reduction under Part F of the 1974 regulations or regulation H2, the annual pension is subject to reduction by the same amount as the first pension.

**14.** If part of the first pension was surrendered under regulation D14—

- (a) the annual pension is to be treated as having been surrendered to the same extent, and
- (b) any resulting pension becoming payable on the person's death is to be paid by the authority by whom the annual pension is payable.

**15.** In relation to a person who—

- (a) before 1st April 1972—
  - (i) became entitled to a superannuation allowance under Part I of the Act of 1937 or to an annual pension under the former regulations, and
  - (ii) again became a contributory employee, and
- (b) has not since he again became a contributory employee had a disqualifying break of service,

this Part has effect as if references to the first retirement pension were references to that superannuation allowance or annual pension and references to a retirement grant were references to a retirement grant under the former regulations.