

10. Part VII contains provisions relating to the procedure for making claims and notifying decisions. A right is given to a claimant who is aggrieved by a decision on a compensation question or the failure of the compensating authority to notify its decision to refer the question for determination by a tribunal in accordance with the Industrial Tribunals (Labour Relations) Regulations 1974 as amended by the Industrial Tribunals (Labour Relations) (Amendment) Regulations 1976.

11. The regulations revoke the Land Drainage (Compensation) Regulations 1964 as amended.

STATUTORY INSTRUMENTS

1977 No. 339

LAND DRAINAGE

The Land Drainage (Compensation) Regulations 1977

Made - - - - 1st March 1977

Laid before Parliament 11th March 1977

Coming into Operation 1st April 1977

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The Minister of Agriculture, Fisheries and Food, in exercise of the powers conferred upon him by section 94 of the Land Drainage Act 1976(a) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

PART I

PRELIMINARY

Title and commencement

1. These regulations may be cited as the Land Drainage (Compensation) Regulations 1977 and shall come into operation on 1st April 1977.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

“accrued pension”, in relation to a pensionable officer who has suffered loss of employment, means—

(a) if his last relevant pension scheme provided benefits in which he had a right to participate, the pension to which he would have become entitled under that scheme according to the method of calculation (modified where necessary for the purpose of giving effect to these regulations) prescribed by that scheme if, at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that scheme as to a minimum period of qualifying service or contribution and completed any additional contributory payments or payments in respect of added years which he was in the course of making; and

(b) in any other case, such portion of the pension (if any) of which he had reasonable expectations as the compensating authority consider equitable, having regard to any practice of the drainage body by whom he was employed on the day immediately preceding the loss, his age, the length of his employment at the date of loss and all the other circumstances of the case;

“accrued retiring allowance”, in relation to a pensionable officer who has suffered loss of employment, means—

(a) if his last relevant pension scheme provided benefits in which he had a right to participate, any lump sum payment to which he would have become entitled under that scheme according to the method of calculation (modified where necessary for the purpose of giving effect to these regulations) prescribed by that scheme, if at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that scheme as to a minimum period of qualifying service or contribution and completed any additional contributory payments or payments in respect of added years which he was in the course of making; and

(b) in any other case, such portion of the lump sum payment (if any) of which he had reasonable expectations as the compensating authority consider equitable, having regard to any practice of the drainage body by whom he was employed on the day immediately preceding the loss,

his age, the length of his employment at the date of loss and all the other circumstances of the case;

"accrued incapacity pension" and "accrued incapacity retiring allowance" have the same respective meanings as "accrued pension" and "accrued retiring allowance" except that the reference to a person's attaining normal retiring age shall be construed as a reference to his becoming incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

"the Act" means the Land Drainage Act 1976;

"the Act of 1972" means the Local Government Act 1972(a);

"added years", in relation to a person who suffers loss of employment, means—

(a) in the case of a pensionable officer, any additional years of service being purchased by him in his employment immediately prior to the loss in question under regulation D10 or regulation D11 of the Local Government Superannuation Regulations 1974(b) and includes any additional years of service which, having been granted under any provision similar to that referred to in either of the said regulations D10 and D11, were being so purchased under or by virtue of interchange rules, and

(b) in the case of any other person, any additional years of service similar to those mentioned in paragraph (a) of this definition being purchased by him under the last relevant pension scheme,

being in either case additional years which were being purchased partly at the expense of the employer and partly at the expense of the person under arrangements which were entered into before the employer either informed him in writing that his employment was to be terminated, or was likely to be terminated, or gave him written notice of termination of his employment;

"additional contributory payments" means—

(a) additional contributory payments of the kind referred to in any of regulations D6, D7 and D8 of the Local Government Superannuation Regulations 1974, or

(b) any similar payments made under the last relevant pension scheme as a condition of

(i) reckoning any period of employment as service for the purposes of the scheme, or

(ii) reckoning non-contributing service as contributing service (which expressions have the same meaning as in the scheme) for the purposes of the scheme, or

(iii) increasing the length at which any period of service or contributions would be reckonable for the purpose of calculating a benefit under the scheme, or

(c) any payments similar to any of those mentioned in the foregoing paragraphs made in pursuance of interchange rules;

"compensating authority", in relation to compensation for loss of employment or loss or diminution of emoluments attributable to any instrument mentioned in column 1 of Schedule 2 or anything done in pursuance of such an instrument, means the drainage authority specified or referred to in column 3 of that Schedule opposite the description of that instrument;

(a) 1972 c. 70.

(b) S.I. 1974/520 (1974 I, p. 1986).

"compensation question" means a question arising under these regulations—

(a) as to a person's entitlement to compensation for loss of employment, or for loss or diminution of emoluments; or

(b) as to the manner of a person's employment or the comparability of his duties;

"contributory employee", "contributing service", "non-contributing service", "local Act contributor" and "local Act scheme" have the same meanings as in the Local Government Superannuation Act 1937(a);

"drainage authority" means a water authority or internal drainage board;

"drainage body" means a drainage authority or any other body having power to make or maintain works for the drainage of land;

"emoluments" has the meaning given by regulation 38(1), and

"annual rate of emoluments" has the meaning given by regulation 38(3);

"enactment" means any Act or any instrument made under an Act;

"fund authority" in relation to any person, means the authority maintaining the superannuation fund or account in relation to that person;

"Health Act" means the National Health Service Re-organisation Act 1973(b);

"health authority" means any Regional Hospital Board, Board of Governors or Executive Council, any pricing committee mentioned in section 14(1) of the Health Act, any Regional or Area Health Authority and any special health authority;

"instrument" means an Order in Council, regulation, order, rule, scheme, direction or agreement;

"interchange rules" means rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948(c) (which provides for the pensions of persons transferring to different employment) and includes any similar instrument made, or having effect as if made, under any other Act which makes similar provision;

"last relevant pension scheme", in relation to a pensionable officer, means the pension scheme to which he was subject immediately before suffering loss of employment or loss or diminution of emoluments;

"local authority" means—

(a) (i) the council of an administrative county, county borough or county district, or the representative body of a parish (ceasing to exist after 31st March 1974),

(ii) the council of a county or district (established by or under the Act),

(iii) in England, any parish council, common parish council or parish meeting,

(iv) in Wales, a parish council, common parish council or parish meeting (ceasing to exist after 31st March 1974), or

(v) in Wales, a community council (established by or under the Act of 1972);

(b) the council of a metropolitan borough or London borough, the Common Council of the City of London, the Greater London Council and the Council of the Isles of Scilly;

(a) 1937 c. 68.

(b) 1973 c. 32.

(c) 1948 c. 33.

(c) any joint board or joint body constituted by or under any enactment for the purpose of exercising the functions of two or more authorities described in paragraphs (a) or (b) above, and any special planning board within the meaning of paragraph 3 of Schedule 17 to the Act of 1972;

(d) any other authority or body, not specified in paragraphs (a), (b) or (c) above, established by or under any enactment for the purpose of exercising the functions of or advising one or more of the authorities specified in paragraphs (a), (b) or (c) above;

(e) any committee (including a joint committee) established by or under any enactment for the purpose of exercising the functions of, or advising, one or more authorities described in paragraphs (a), (b), (c) or (d) above;

(f) any two or more authorities described in paragraphs (a), (b), (c), (d) or (e) above acting jointly or as a combined authority; or

(g) a police authority for a county, a borough or a combined area;

"long-term compensation" means compensation payable in accordance with the provisions of Part IV of these regulations for loss of employment or loss or diminution of emoluments;

"material date" in relation to any person who has suffered loss of employment or loss or diminution of emoluments in consequence of any instrument mentioned in column 1 of Schedule 2 or of anything done under such an instrument shall, for any purposes mentioned in the heading to column 4 or column 5 of that Schedule, be the date specified in that column opposite the description of that instrument;

"minimum pensionable age" means, in relation to a pensionable officer, the earliest age at which, under his last relevant pension scheme, he could have become entitled to receive payment of an unreduced pension solely by virtue of his having attained a specified age and completed a specified period of service;

"Minister" means Minister of Agriculture, Fisheries and Food;

"national service" means, in relation to any person, service which is compulsory national service or relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(a) and any similar service immediately following such service entered into with the consent of the authority or person under whom an officer held his last relevant employment, or, where appropriate, the authority by whom such an officer was appointed;

"normal retiring age" means, in the case of a pensionable officer to whom an age of compulsory retirement applied by virtue of any enactment to which he was subject in the employment which he has lost or the emoluments of which have been diminished or by virtue of the conditions of that employment, that age and, in any other case, the age of 65 if the officer is a male or 60 if the officer is a female;

"officer" includes any other employee;

"pensionable officer", in relation to a person who has suffered loss of employment or loss or diminution of emoluments, means a person who immediately before such loss or diminution was subject to a pension scheme;

"pension scheme", in relation to a pensionable officer, means any form of arrangement associated with his employment for the payment of super-

(a) 1951 c. 65.

annuation benefits, whether subsisting by virtue of any enactment, trust, contract or otherwise;

"reckonable service", in relation to a person, means any period of whole-time or part-time employment in any relevant employment and includes any period of national service or war service undertaken on his ceasing to hold such an employment, but does not include employment in respect of which he has become entitled to receive a benefit from a pension scheme other than his last relevant pension scheme;

"relevant authority", in relation to any officer who suffers loss of employment or loss or diminution of emoluments which is attributable to any instrument mentioned in column 1 of Schedule 2 or anything done in pursuance of such an instrument, means the drainage body specified in column 2 of Schedule 2 opposite the description of that instrument;

"relevant employment" means employment—

(a) under the Crown or by any person, authority or body for the purposes of the Crown;

(b) under any officer employed as mentioned in paragraph (a) of this definition for the purposes of the functions of that person, authority or body;

(c) by any drainage authority or local authority;

(d) by any health authority;

(e) as clerk of the peace or deputy clerk of the peace, and employment in assisting such a person in the performance of the duties of that office;

(f) which amounts to service or employment as described in paragraph (e) of the definition of "relevant employment" in regulation 2 of the Justices of the Peace Act 1949 (Compensation) Regulations 1965(a);

(g) for the purposes of any statutory provision in the United Kingdom, being employment preceding any of the foregoing employment;

(h) by a body which provides a public service in the United Kingdom otherwise than for the purpose of gain or to whom any grant is made out of monies provided by Parliament, being employment preceding any of the foregoing employments;

(i) in such other service as the Minister may, in the case of any named officer, approve;

but, except for national service and war service, does not include service in the armed forces of the Crown;

"resettlement compensation" means compensation payable in accordance with Part III of these regulations for loss of employment;

"retirement compensation" means compensation payable in accordance with the provisions of regulation 18, 19 or 20;

"tribunal" means a tribunal established under section 12 of the Industrial Training Act 1964(b);

"war service" means war service within the meaning of the Local Government Staffs (War Service) Act 1939(c), the Police and Firemen (War Service) Act 1939(d), the Teacher's Superannuation (War Service) Act 1939(e), the Education (Scotland) (War Service Superannuation) Act 1939(f) or employment for war purposes within the meaning of the Superannuation Schemes (War Service) Act 1940(g).

(a) S.I. 1965/283 (1965 I, p. 720).

(b) 1964 c. 16.
(e) 1939 c. 95.

(c) 1939 c. 94.
(f) 1939 c. 96.

(d) 1939 c. 103.
(g) 1940 c. 26.

(2) The holder of any office, appointment, place, situation or employment shall, for the purposes of these regulations, be regarded as an officer employed in that office, appointment, place, situation or employment, and the expressions "officer" and "employment" shall be construed accordingly.

(3) Where under any provision of these regulations an annual value is to be assigned to a capital sum or a capital value to an annual amount—

(a) the annual or capital value shall be ascertained in accordance with the tables set out in Schedule 1 in so far as they provide for the particular case;

(b) where the said tables do not provide for a case in which an annual value is to be assigned to a capital sum or a capital value to an annual amount, the annual or capital value shall be the value as may be agreed between the compensating authority and the person to whom the capital sum or annual amount is payable; and

(c) for the purpose of determining the application of the said tables, the headings and the note to each table shall be treated as part of the table.

(4) In these regulations, unless the context otherwise requires,—

(a) references to any enactment shall be construed as references thereto as amended, re-enacted, applied or modified by any subsequent enactment; and

(b) references to the Local Government Superannuation Act 1937 and the Local Government Superannuation Act 1953(a) shall be construed as references thereto as having effect by virtue of paragraph 5(1) of Schedule 7 to the Superannuation Act 1972(b).

(5) References in these regulations to a numbered regulation or Schedule shall, unless the reference is to a regulation or a Schedule of specified regulation, be construed as references to the regulation or Schedule bearing that number in these regulations.

(6) References in any of these regulations to a numbered paragraph shall, unless the reference is to a paragraph of a specified regulation, be construed as references to the paragraph bearing that number in the first mentioned regulation.

(7) The Interpretation Act 1889(c) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

PART II

ENTITLEMENT TO COMPENSATION

Persons to whom the regulations apply

3. These regulations shall apply to any person who—

(a) was employed immediately before the material date for the whole or for part only of his time as an officer of a relevant authority, or

(b) would have been so employed but for any national service on which he was then engaged.

Grounds of entitlement to compensation

4. Subject to the provisions of these regulations, any person to whom these regulations apply and who, after the commencement of these regulations, suffers

(a) 1953 c. 25.
(c) 1889 c. 63.

(b) 1972 c. 11.

loss of employment or loss or diminution of emoluments which is attributable to any instrument mentioned in column 1 of Schedule 2 or anything done in pursuance of such an instrument shall be entitled to have his case considered for the payment of compensation under these regulations, and such compensation shall be determined in accordance with these regulations.

National Service

5.—(1) Where any person to whom these regulations apply would have been employed immediately before the material date in any capacity referred to in paragraph (1)(a) of regulation 3 but for any national service on which he was then engaged, then, if before the expiry of two months after ceasing to be so engaged or, if prevented by sickness or other reasonable cause, as soon as practicable thereafter, he gives notice to the compensating authority that he is available for employment, that person shall be entitled to have his case considered for the payment of compensation on the ground—

(a) if he is not given or offered re-employment in his former office or in any reasonably comparable office (whether in the same or in a different service), of loss of employment; or

(b) if he is so re-employed with diminished emoluments as compared with the emoluments which he would have enjoyed had he continued in his former employment, of diminution of emoluments.

(2) The loss of employment which is the cause of a claim for compensation under paragraph (1)(a) shall be treated as having occurred on the earlier of the two following dates, that is to say, the date of the refusal of re-employment or a date one month after the date on which the person gave notice that he was available for employment; and the person shall be deemed to have been entitled to the emoluments which he would have enjoyed at such earlier date had he continued in his former employment.

PART III

RESETTLEMENT COMPENSATION

Resettlement compensation for loss of employment

6. The compensating authority shall, subject to the provisions of these regulations, pay resettlement compensation to any person to whom these regulations apply and who satisfies the conditions set out in regulation 7.

Conditions for payment of resettlement compensation

7.—(1) Without prejudice to any other requirement of these regulations, the conditions for the payment of resettlement compensation to any person are that—

(a) he has suffered loss of employment attributable to any instrument which is mentioned in column 1 of Schedule 2, or anything done in pursuance of such an instrument, not later than 10 years after the material date;

(b) he had not at the date of the loss attained normal retiring age;

(c) he had been for a period of 2 years immediately before the material date continuously engaged (disregarding breaks not exceeding in the aggregate 6 months) for the whole or part of his time in relevant employment;

(d) he has made a claim for such compensation in accordance with the provisions of Part VII of these regulations not later than 13 weeks after the loss of employment which is the cause of his claim or within any

longer period which the compensating authority allow in any particular case where they are satisfied that the delay in making the claim was due to ill-health or other circumstances beyond the claimant's control;

- (e) the loss of employment which is the cause of his claim has occurred for some reason other than misconduct or incapacity to perform the duties that, immediately before the loss, he was performing or might reasonably have been required to perform; and
- (f) he has not, subject to paragraphs (2) and (3), after the employer either informed him in writing that his employment was to be terminated or was likely to be terminated or gave him written notice of termination of his employment, been offered in writing—
 - (i) any relevant employment which is reasonably comparable with the employment which he has lost, or
 - (ii) any employment by a drainage body which is suitable for him at the same place or in the same locality as that where he was employed immediately before the loss.

(2) In ascertaining for the purposes of this regulation whether a person has been offered employment which is reasonably comparable with the employment which he has lost, no account shall be taken of the fact that the duties of the employment offered are in relation to a different service from that in connection with which his employment was held or are duties which involve a transfer of his employment from one place to another within England and Wales.

(3) For the purposes of this regulation, where the compensating authority are satisfied—

- (a) that acceptance of an offer would have involved undue hardship to the person,
- (b) that he was prevented from accepting an offer by reason of ill-health or other circumstances beyond his control, or
- (c) that, before the commencement of these regulations, an offer—
 - (i) has not been accepted by him, and
 - (ii) has lapsed or otherwise terminated,

no account shall be taken of that offer.

Amount of resettlement compensation

8.—(1) The amount of resettlement compensation which may be paid to a person shall, subject to the provisions of paragraphs (2) to (6), be the amount described in sub-paragraph (a) or (b) whichever is the greater, namely—

- (a) an amount equal to 13 weeks' emoluments and, in the case of a person who has attained the age of 45 one additional week's emoluments for every year of his age after attaining the age of 45 and before the loss of employment, subject to a maximum addition of 13 such weeks; or
- (b) an amount equal to
 - (i) one and one half week's emoluments for each completed year of reckonable service in which the person was not below the age of 41,
 - (ii) one week's emoluments for each completed year of reckonable service (not falling within sub-paragraph (i) above) in which the person was not below the age of 22, and
 - (iii) one half week's emoluments for each completed year of reckonable service not falling within sub-paragraph (i) or (ii) above.

(2) For the purposes of paragraph (1)(a), if the loss of employment takes place within three years of the date on which the person would have attained normal retiring age, the amount shall be reduced by the fraction of which—

- (a) the numerator is the number of complete periods of 6 months in the period beginning on the date 3 years before that on which he would have attained normal retiring age and ending on the date of loss of employment, and
- (b) the denominator is 6;

but the amount payable to a person who, on the material date, has not been continuously engaged in relevant employment as described in regulation 11(1)(c) shall not by this paragraph be reduced to less than the equivalent of 13 weeks' emoluments.

(3) For the purpose of paragraph (1)(b), in the case of a person who has completed more than 20 years' reckonable service, only the period of 20 years immediately prior to the loss of employment shall be taken into account.

(4) For the purpose of paragraph (1)(b), if the loss of a person's employment takes place after he has attained the age described in paragraph (5), the amount shall be reduced by the fraction of which the numerator is the number of whole months in the period beginning on the date on which he attained that age and ending on the date of loss of employment and of which the denominator is 12.

(5) The age mentioned in paragraph (4) is—

- (a) the age of compulsory retirement applied to the person by virtue of any enactment to which he was subject in the employment which he has lost or by virtue of the conditions of that employment, less 12 months, or
- (b) if no age of compulsory retirement is applied to the person as described in sub-paragraph (a) above, the age of 64.

(6) For the purposes of this regulation, the weekly rate of emoluments shall be deemed to be seven 365ths of the annual rate of emoluments.

Adjustment of resettlement compensation

9. A person who is entitled to—

- (a) a redundancy payment under the Redundancy Payments Act 1965(a), or
- (b) any similar payment in consequence of the loss of his employment under any other enactment or under any contract or arrangement with the drainage body by whom he was employed (other than payments by way of a return of contributions under a pension scheme), or
- (c) any payment under or by virtue of the provisions of any enactment relating to the reinstatement in civil employment of persons who have been in the service of the Crown,

shall—

- (i) if the amount of any resettlement compensation that would, apart from this regulation, be payable exceeds the payment or payments specified in (a), (b) and (c) above, be entitled to resettlement compensation equal to that excess, or
- (ii) if the amount of any resettlement compensation that would apart from this regulation be payable is equal to or less than the payment or payments specified in (a), (b) and (c) above, not be entitled to resettlement compensation.

(a) 1965 c. 62.

PART IV

LONG-TERM COMPENSATION

Long-term compensation for loss of employment or loss or diminution of emoluments

10. The compensating authority shall, subject to the provisions of these regulations, pay long-term compensation to any person to whom these regulations apply and who satisfies the conditions set out in regulation 11.

Conditions for payment of long-term compensation

11.—(1) Without prejudice to any other requirement of these regulations, the conditions for the payment of long-term compensation to any person are that—

- (a) he has suffered loss of employment or loss or diminution of emoluments attributable to any instrument which is mentioned in column 1 of Schedule 2, or to anything done in pursuance of such an instrument, not later than 10 years after the material date;
- (b) he had not, save as is provided in regulation 26, at the date of the loss or diminution attained normal retiring age;
- (c) he had been, for a period of not less than 5 years immediately before the material date, continuously engaged (without a break of more than 12 months at any one time) for the whole or part of his time in relevant employment;
- (d) he has made a claim for such compensation in accordance with the provisions of Part VII of these regulations not later than 2 years after the loss or diminution which is the cause of the claim or 2 years after the coming into operation of these regulations whichever is the later; and
- (e) if the cause of the claim for compensation is loss of employment—
 - (i) the loss has occurred for some reason other than misconduct or incapacity to perform the duties that, immediately before the loss, he was performing or might reasonably have been required to perform; and
 - (ii) he has not, subject to paragraph (2), after the employer either informed him in writing that his employment was to be terminated or was likely to be terminated or gave him written notice of termination of his employment, been offered in writing any relevant employment which is reasonably comparable with the employment which he has lost.

(2) Regulation 7(2) and (3) (which relate to offers of employment) shall apply for the purposes of this regulation in ascertaining whether a person has been offered reasonably comparable employment.

(3) Claims for long-term compensation for loss of employment shall in all respects be treated as claims for such compensation for the loss of emoluments occasioned thereby and the provisions of these regulations shall apply to all such claims accordingly.

Factors to be considered in determining payment of long-term compensation

12.—(1) For the purpose of determining whether long-term compensation for loss or diminution of emoluments should be paid to any person and, if so, the amount of the compensation (subject to the limits set out in these regulations),

the compensating authority shall, subject to the provisions of paragraphs (2) and (3), have regard to such of the following factors as may be relevant, that is to say—

- (a) the conditions upon which the person held the employment which he has lost, including in particular its security of tenure, whether by law or practice;
- (b) the emoluments and other conditions, including security of tenure, whether by law or practice, of any work or employment undertaken by the person as a result of the loss of employment;
- (c) the extent to which he has sought suitable employment and the emoluments which he might have acquired by accepting other suitable employment which, after the employer either informed him in writing that his employment was to be terminated or was likely to be terminated or gave him written notice of termination of his employment, has been offered to him in writing;
- (d) any award of compensation under regulations made under section 24 of the Superannuation Act 1972 or under any similar provision except an award of compensation corresponding to the payments referred to in regulation 9; and
- (e) all the other circumstances of his case;

but, subject to the provisions of regulation 40, no account shall be taken of the fact that he entered the employment which he has lost or the emoluments of which have been diminished after the making of the instrument to which, or in pursuance of which anything is done to which, the loss or diminution is attributable.

(2) In ascertaining for the purposes of paragraph (1)(b) and (1)(c) the emoluments in respect of any work or employment that gives the employee or his widow, child or other dependant the right to benefit under a pension scheme under which the employee is not under an obligation to pay contributions, the amount of emoluments shall be increased by the amount of contributions which the employee would have to pay to secure equivalent benefits under a pension scheme in respect of which both the employer and the employee are under an obligation to pay equal contributions.

(3) Regulation 7(3) shall apply for the purposes of this regulation in ascertaining whether a person has been offered suitable employment.

Amount of long-term compensation payable for loss of emoluments

13.—(1) Long-term compensation for loss of emoluments shall, subject to the provisions of these regulations, be payable until the normal retiring age or death of a person to whom it is payable, whichever first occurs, and shall not exceed a maximum annual sum calculated in accordance with the provisions of paragraphs (2) to (4).

(2) The said maximum annual sum shall, subject as hereinafter provided, be the aggregate of the following sums, namely—

- (a) for every year of the person's reckonable service, one sixtieth of the emoluments which he has lost; and
- (b) in the case of a person who has attained the age of 40 at the date of the loss, a sum calculated in accordance with the provisions of paragraph (3) appropriate to his age at that date,

but the said maximum annual sum shall in no case exceed two thirds of the emoluments which the person has lost.

(3) The sum referred to in paragraph (2)(b) shall be—

(a) in the case of a person who has attained the age of 40 but has not attained the age of 50 at the date of the loss, the following fraction of the emoluments which he has lost—

- (i) where his reckonable service is less than 10 years, one sixtieth for each year of that service after attaining the age of 40; or
- (ii) where his reckonable service amounts to 10 years but is less than 15 years, one sixtieth for each year of that service after attaining the age of 40 and one additional sixtieth; or
- (iii) where his reckonable service amounts to 15 years but is less than 20 years, one sixtieth for each year of that service after attaining the age of 40 and two additional sixtieths; or
- (iv) where his reckonable service amounts to 20 years or more, one sixtieth for each year of that service after attaining the age of 40 and three additional sixtieths;

but the sum so calculated shall not in any case exceed one sixth of the said emoluments;

(b) in the case of a person who has attained the age of 50 but has not attained the age of 60 at the date of the loss, one sixtieth of the said emoluments for each year of his reckonable service after attaining the age of 40, up to a maximum of 15 years; and

(c) in the case of a person who has attained the age of 60 at the date of the loss, one sixtieth of the said emoluments for each year of his reckonable service after attaining the age of 45.

(4) The amount of long-term compensation calculated in accordance with paragraphs (2) and (3) shall be reduced by the amount by which the aggregate of—

(a) the emoluments of any work or employment undertaken by him as a result of the loss of employment, and

(b) the long-term compensation which apart from this paragraph and any reduction under regulation 30(3) and (4) would be payable to him, exceeds the emoluments of the employment which has been lost.

(5) Long-term compensation shall be payable to a person at intervals equivalent to those at which the emoluments of his employment were previously paid or at such other intervals as may be agreed between the person and the compensating authority.

Long-term compensation for diminution of emoluments

14.—(1) Long-term compensation for diminution of emoluments in respect of any employment shall, subject to the provisions of these regulations, consist of an annual sum calculated in accordance with the provisions of paragraph (2).

(2) The said annual sum shall not exceed the sum that would be the annual sum under the provisions of regulations 13(1) to (4) calculated on the assumptions—

(a) that there was a loss of employment, and

(b) that emoluments after diminution were emoluments of any work or employment undertaken as a result of a loss of employment within the meaning of regulation 12(1)(b).

(3) Long-term compensation for diminution of emoluments shall be payable to a person at intervals equivalent to those at which the emoluments of his employment are or were previously paid or at such other intervals as may be agreed between the person and the compensating authority.

Period during which long-term compensation is to be payable

15.—(1) Long-term compensation shall be payable with effect from the date of the claim or from any earlier date permitted by the succeeding provisions of this regulation.

(2) Where a claim for long-term compensation is duly made within 13 weeks of the occurrence of the loss or diminution which is the cause of the claim, the award shall be made effective from the date on which the loss or diminution occurred.

(3) Where a claim for long-term compensation is made after the expiry of the period mentioned in paragraph (2), the compensating authority may—

(a) at their discretion make the award effective from a date not earlier than thirteen weeks prior to the date on which the claim was made, or

(b) if they are satisfied that the failure to make the claim within the period mentioned in paragraph (2) was due to ill-health or other circumstances beyond the claimant's control, make the award effective from a date not earlier than that on which the loss or diminution occurred.

(4) Long-term compensation shall not be payable to a person for any period in respect of which compensation under Part V of these regulations is payable to him.

PART V

RETIREMENT COMPENSATION AND PAYMENTS ON DEATH

Entitlement to retirement compensation and other payments

16.—(1) The compensating authority shall, subject to the provisions of these regulations, pay retirement compensation to any person to whom this Part of these regulations applies and shall make the other payments for which provision is made in regulations 23 to 27.

(2) Save as is provided in regulation 26, this part of these regulations applies to a pensionable officer who satisfies the conditions set out in regulation 11.

(3) Regulation 12 shall apply in relation to compensation under this part of these regulations as it applies in relation to compensation under Part IV.

Additional factors governing payment of retirement compensation

17.—(1) Where retirement compensation is payable under any one of regulations 18, 19 or 20, compensation shall not be payable under any other of those regulations.

(2) If a person has attained the age of 40 at the date on which he lost his employment or suffered a diminution of his emoluments, the compensating authority, in calculating the amount of the retirement compensation payable to him, shall credit him with an additional period of service on the following basis, namely—

(a) 2 years, whether or not he has completed any years of service after attaining the age of 40,