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STATUTORY INSTRUMENTS

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**1965 No. 620**

**The Probation (Compensation) Regulations 1965**

**PART IV**

**LONG-TERM COMPENSATION FOR LOSS OF EMPLOYMENT  
OR LOSS OR DIMINUTION OF EMOLUMENTS**

**Persons to whom Parts IV and V of the Regulations apply**

**12.—**(1) The compensating authority shall, subject to the provisions of these Regulations—

- (a) consider and determine the entitlement to long-term and retirement compensation of every person to whom this and the next succeeding Part of these Regulations apply who claims such compensation and in relation to whom the conditions set out in the next succeeding Regulation are satisfied, and
- (b) pay the amount of any compensation so determined.

(2) This Part and Part V of these Regulations apply to a person who had been for a period of not less than eight years immediately preceding the material date continuously engaged (without a break of more than twelve months at any one time) for the whole or part of his time in relevant employment (which expression for this purpose includes any period of national service immediately following such employment), and who at the date of the loss of employment or loss or diminution of emoluments had not, save as is provided in Regulation 29 of these Regulations, attained normal retiring age.

**Conditions for payment of long-term and retirement compensation**

**13.—**(1) Without prejudice to any other requirement of these Regulations, nothing in these Regulations shall entitle a person to long-term or retirement compensation unless—

- (a) he has suffered loss of employment or loss or diminution of emoluments attributable to any provision mentioned in Regulation 4 of these Regulations not later than ten years after the material date;
- (b) he has made his claim for compensation in accordance with the provisions for making claims set out in Part VII of these Regulations not later than two years after the loss or diminution which is the cause of the claim; and
- (c) if the cause of the claim for compensation is loss of employment—
  - (i) his employment was terminated for some reason other than misconduct or incapacity to perform such duties as immediately before the loss he was performing or might reasonably have been required to perform; and
  - (ii) he has not been offered any reasonably comparable employment as a probation officer or by a probation committee in connection with the work of probation officers or under the Crown or in the service of a local authority.

(2) Regulation 7(2) and (3) of these Regulations as to offers of employment shall apply for the purposes of this Regulation.

(3) Claims for long-term and retirement 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 and retirement compensation**

**14.**—(1) For the purpose of determining whether long-term or retirement compensation for loss or diminution of emoluments should be paid to a claimant, and if so the amount of the compensation (subject to the limits set out in these Regulations), regard shall be had to such of the following factors as may be relevant, that is to say:—

- (a) the conditions upon which the claimant held the employment which he has lost, including in particular its security of tenure, whether by law or by practice;
- (b) the emoluments and other conditions, including security of tenure, whether by law or practice, of any work or employment undertaken by the claimant in place of the employment he has lost;
- (c) the extent to which he has sought suitable employment and the emoluments which he might have acquired by accepting other suitable employment offered to him;
- (d) the amount of any compensation recovered by him 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, or payable to him otherwise than under these Regulations in respect of the loss or diminution, whether by reason of any service agreement or contract or otherwise howsoever;
- (e) the amount of any benefit to which he is immediately entitled by virtue of any pension scheme associated with the employment which he has lost; and
- (f) all the other circumstances of his case:

Provided that no account shall be taken of the fact that a claimant undertook the office which he has lost or the emoluments of which have been diminished—

- (i) after 10th June 1964, where the loss or diminution is attributable to any provision of the Act of 1964;
- (ii) after the making of any order or scheme made under Part VI of the Act of 1933 or of any order made under Part II of the Act of 1958 or of any instrument made under the Act of 1964, where the loss or diminution was attributable to any provision of that order, scheme or instrument.

(2) In ascertaining for the purposes of sub-paragraph (c) of the last foregoing paragraph whether a person has been offered suitable employment, Regulation 7(3) of these Regulations shall apply as it applies for the purposes of that Regulation.

#### **Amount of long-term compensation payable to an officer for loss of emoluments**

**15.**—(1) In the case of a person to whom this Part of these Regulations applies, long-term compensation for loss of emoluments shall, subject to the provisions of these Regulations, be payable until normal retiring age or death, whichever first occurs, and shall not exceed a maximum annual sum calculated in accordance with the provisions of paragraphs (2), (3) and (4) of this Regulation.

(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 claimant's reckonable service, one sixtieth of the net emoluments he has lost; and

- (b) in the case of a claimant who has attained the age of forty years at the date of the loss, a sum calculated in accordance with the provisions of paragraph (3) of this Regulation appropriate to his age at that date:

Provided that the said maximum annual sum shall in no case exceed two thirds of the net emoluments which the claimant has lost.

- (3) The sum referred to in sub-paragraph (b) of the last foregoing paragraph shall be—
  - (a) in the case of a claimant who has attained the age of forty years but has not attained the age of fifty years at the date of the loss, the following fraction of the net emoluments he has lost—
    - (i) where the claimant's reckonable service is less than ten years, one sixtieth for each year of such service after attaining the age of forty years; or
    - (ii) where the claimant's reckonable service amounts to ten years but is less than fifteen years, one sixtieth for each year of such service after attaining the age of forty years and one additional sixtieth; or
    - (iii) where the claimant's reckonable service amounts to fifteen years but is less than twenty years, one sixtieth for each year of such service after attaining the age of forty years and two additional sixtieths; or
    - (iv) where the claimant's reckonable service amounts to twenty years or more, one sixtieth for each year of such service after attaining the age of forty years and three additional sixtieths;but the sum so calculated shall not in any case exceed one sixth of the said net emoluments;
  - (b) in the case of a claimant who has attained the age of fifty years but has not attained the age of sixty years at the date of the loss, one sixtieth of the said net emoluments for each year of the claimant's reckonable service after attaining the age of forty years, up to a maximum of fifteen such years; and
  - (c) in the case of a claimant who has attained the age of sixty years at the date of the loss, one sixtieth of the said net emoluments for each year of the claimant's reckonable service after attaining the age of forty-five years.

(4) Where a person has become entitled to a superannuation benefit, by way of annual amounts under a pension scheme associated with the employment which he has lost, the maximum annual sum referred to in paragraph (1) of this Regulation shall be the maximum sum calculated under paragraph (2) of this Regulation as if the superannuation benefit had not been payable, less the amount of the benefit.

(5) Where a sum is payable under this Regulation in respect of any period and resettlement compensation has also been paid in respect of that period, the said sum shall be limited to the amount (if any) by which it exceeds the resettlement compensation paid as aforesaid.

(6) Compensation awarded under this Regulation shall be payable at intervals equivalent to those at which the emoluments of his employment were previously paid or at such intervals as may be agreed between the claimant and the compensating authority.

### **Long-term compensation for diminution of emoluments**

**16.** In the case of a person to whom this Part of these Regulations applies long-term compensation for diminution of emoluments in respect of any employment shall be awarded and paid in accordance with the following provisions—

- (a) the compensation shall consist of an annual sum which shall be payable at intervals equivalent to those at which the emoluments of the claimant's employment are or were previously paid or at such other intervals as may be agreed between the claimant and

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the compensating authority, and shall, subject to the provisions of these Regulations, be payable until normal retiring age or death, whichever first occurs; and

- (b) the said annual sum shall not exceed the figure which bears to the maximum annual sum which could have been awarded under Regulation 15 of these Regulations had the claim been made under that Regulation, the same ratio as the amount by which his net emoluments have been diminished (calculated as an annual amount) bears to the amount of his net emoluments, so however, that no compensation shall be payable if this ratio is less than 2½ per cent.

### **Date from which long-term compensation is to be payable**

**17.**—(1) Long-term compensation shall commence to be payable with effect from the date of the claim or from such earlier date as is mentioned in the succeeding provisions of this Regulation.

(2) Where a claim for long-term compensation is duly made within thirteen weeks of the occurrence of the loss or diminution which is the subject of the claim, the award shall be made with effect 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 the last foregoing paragraph, the award may at the discretion of the compensating authority be made with effect from a date not earlier than thirteen weeks prior to the date on which the claim was made: Provided that if the compensating authority are satisfied that the failure to make the claim within the period mentioned in the last foregoing paragraph was due to ill-health or other circumstances beyond the claimant's control the award may be made with effect from a date not earlier than that on which the loss or diminution occurred.