

*Status: Point in time view as at 01/02/1991.*

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## SCHEDULES

### ELEVENTH SCHEDULE

Section 318.

#### PROVISIONS AS TO THE DETERMINATION AND PAYMENT OF COMPENSATION TO OFFICERS IN CASE OF TRANSFER OF FUNCTIONS

**Modifications etc. (not altering text)**

**C1** Sch. 11 incorporated with modifications by [Police \(Scotland\) Act 1967 \(c. 77\), s. 22\(3\)](#)

*Procedure for claiming compensation.*

- 1 (1) For the purpose of enabling a claim for compensation to be assessed, the claimant shall deliver to the local authority with the claim a statement containing such particulars as may be prescribed.
- (2) The said statement shall be accompanied by a statutory declaration that it is a true statement to the best of the knowledge, information and belief of the claimant.
- (3) The local authority shall forthwith take the claim into consideration and assess the just amount of compensation, if any, and shall forthwith inform the claimant of their decision.
- (4) A claimant, if so required by any member of the local authority by notice sent by the clerk of the authority, shall attend at a meeting of the authority or of any committee appointed by the authority for the purpose, and answer on oath all questions asked by any member of the authority or committee touching the matters set forth in his claim and in the said statement, and shall further produce all books, papers and documents in his possession or under his control relating to the claim. The oath shall be administered in the case of a county council by the convener or vice-convener, in the case of a town council by the provost or acting chief magistrate, and in the case of a district council by the chairman of the council, or in any case by any justice of the peace present at the meeting.
- (5) If a local authority fail to inform any claimant of their decision on his claim within six months after it has been delivered to them, the Secretary of State may, on application made to him by the claimant, direct the authority to do so within such time not being less than one month as may be specified in the direction.
- (6) A claim for compensation against a local authority shall not be maintainable unless it is delivered to the authority within two years of the date on which it is alleged to have arisen.

*General considerations to be applied.*

- 2 For the purpose of determining whether compensation is payable to an officer and, if so, the amount of such compensation, regard shall be had to—

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- (a) the conditions upon which his appointment was made;
- (b) the nature of his office;
- (c) all the other circumstances of the case.

*Power to award compensation by way of a lump sum.*

- 3 Compensation shall be awarded by way of an annual sum unless the local authority and the claimant otherwise agree, in which case the compensation may be awarded by way of a lump sum representing the capital value of an annual sum.

*Assessment of compensation for determination of whole-time office.*

- 4 (1) The annual sum payable as compensation in respect of the determination of a whole-time office shall not exceed the aggregate of the following sums:—
- (i) for every year of the officer's service, one-sixtieth of an amount equal to the annual pecuniary loss which he has sustained by reason of the determination of the office;
  - (ii) in the case of service for twenty years or upwards, a sum equal to ten-sixtieths of the said amount;
    - in the case of service for fifteen years and less than twenty years, a sum equal to seven-sixtieths of the said amount;
    - in the case of service for ten years and less than fifteen years, a sum equal to five-sixtieths of the said amount;
    - in the case of service for five years and less than ten years, a sum equal to three-sixtieths of the said amount;
    - in the case of service for less than five years, a sum equal to one-sixtieth of the said amount; and
  - (iii) in the case of an officer who was appointed as a specially qualified person or who before his appointment had been employed (otherwise than in an office within the meaning of this Schedule) as a depute, assistant or clerk by a permanent officer for the purpose of the discharge of the latter's official duties, such additional sum, if any, not exceeding ten-sixtieths of the said amount as the local authority, in their discretion and in consideration of his special qualifications or of his previous employment, as the case may be, may think fit to award:

Provided that the compensation shall not in any event exceed two-thirds of the said amount.

- (2) In assessing the amount of any pecuniary loss sustained by an officer by reason of the determination of his office, regard shall be had as respects any emoluments either—
  - (a) to the amount of those emoluments received by him in respect of that office immediately before the material date; or
  - (b) to the average amount of those emoluments received by him in respect of that office during the period of five years next before the material date, or such shorter period as may be reasonable in the circumstances.
- (3) In assessing the amount of any pecuniary loss sustained by an officer by reason of the determination of his office, regard shall also be had to—

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- (a) any increase of the emoluments enjoyed by the officer at the material date which he has obtained in consequence of the transfer of functions; and
- (b) the emoluments of any office or other public appointment which he would have obtained on or after that date if he had accepted an offer made to him.

*Assessment of compensation for determination of part-time office.*

- 5 In the case of a claim for compensation in respect of the determination of a part-time office, the compensation, if any, which would have been payable if the office had been a whole-time office shall be reduced by one-quarter or by such other amount as may in the circumstances be reasonable:

Provided that no reduction shall be made in the case of an officer who immediately before the material date held two or more offices and who devoted the whole of his time to the duties of such offices.

*Assessment of compensation for diminution of emoluments.*

- 6 In the case of an officer who suffers any diminution of the emoluments of an office, the compensation shall not exceed a sum bearing the same proportion to the amount of compensation which could have been awarded if his office had been determined as the amount by which the emoluments of the office are diminished bears to the amount of those emoluments before diminution.

*Rules for computing period of service.*

- 7
- (1) In computing the period of service of an officer for the purposes of assessing any compensation payable to him, account shall, subject to the provisions of the subparagraphs of this paragraph, be taken of all the service in any capacity of the officer under any local authority, whether he was appointed annually or otherwise.
  - (2) Where the material date has occurred at any time other than the expiration of a complete year of an officer's service, the portion then expired of that year shall be treated as a complete year if it exceeds six months and, if it does not, shall be ignored.
  - (3) Where the claim is in respect of the loss of a whole-time office or of two or more offices which in the aggregate involve the whole-time service of the officer, any previous period of part-time service shall be treated as though it were whole-time service for a proportionately reduced period.
  - (4) Where the claim is in respect of the loss of one or some only of several offices held by the officer, account shall not be taken of service in an office which the officer continues to hold unless throughout the period of his service in that office he devoted the whole of his time to the duties of the several offices held by him.
  - (5) Where the claim is in respect of the loss of an office held by an officer who while holding that office was also employed in an office the employment in which is ordinarily regarded as full-time employment, no account shall be taken of service in the last-mentioned office.
  - (6) If an officer was temporarily absent from his office during any war whilst serving in His Majesty's forces or the forces of any Allied or Associated Powers or on any other form of war service within the meaning of the <sup>M1</sup>Local Government Staffs (War

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Service) Act, 1939, such period of temporary absence shall be reckoned as service under that authority:

Provided that in the case of an officer who after the eleventh day of November nineteen hundred and eighteen voluntarily extended his term of service in the forces, no period of absence during any such extension shall be reckoned.

#### **Marginal Citations**

**M1** 1939 c. 94.

#### *Right of appeal.*

- 8 An appeal may be submitted to the Secretary of State—
- (a) by a claimant who is aggrieved by the failure of a local authority to inform him of their decision upon his claim within the time required by any direction of the Secretary of State or by the refusal of the authority to grant any compensation or by the amount of compensation assessed, within three months after the failure or after the date on which he receives notice of the decision of the authority, as the case may be, and
  - (b) if not less than one-third of the members of a local authority subscribe to a protest against the amount of compensation granted by the authority as being excessive, by any subscriber to the protest, within three months after the decision of the authority,

and the Secretary of State shall consider the case and determine whether any compensation and if so what amount ought to be granted to the claimant, and his determination shall be final.

#### *Date on which compensation commences.*

- 9 The sum payable as compensation shall be or commence to be payable at the date fixed by the local authority on granting compensation or, in the case of appeal, by the Secretary of State, and shall be recoverable as a debt due from the authority.

#### *Suspension of compensation.*

- 10 (1) If a person receiving compensation in pursuance of the provisions of this Act—
- (a) obtains any office or other public appointment, or
  - (b) receives by virtue of any thing done in consequence of the transfer of functions any increase of the emoluments which were enjoyed by him at the date as at which the compensation was assessed,

he shall not, so long as he holds that office or other public appointment or receives those increased emoluments, be entitled to receive any greater sum by way of compensation in respect of the office for which compensation is awarded than would make up the amount, if any, by which the emoluments which he is receiving fall short of the emoluments of the office in respect of which compensation was awarded:

Provided that where a person held two or more offices at the date as at which the compensation was assessed or has been awarded compensation in respect of two or more offices, the Secretary of State may, on the application of that person or of any authority by whom the compensation is payable, modify the operation of the

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foregoing sub-paragraph in relation to that person so far as is in the opinion of the Secretary of State necessary in order equitably to meet the circumstances of the case.

- (2) Where an officer to whom compensation has been awarded in pursuance of the provisions of this Act subsequently becomes entitled to a superannuation allowance in respect of any office or other public appointment which he has accepted after the material date, and in calculating the amount of such allowance account is taken of any period of service in respect of which compensation is payable, then if the compensation does not exceed such part of the superannuation allowance as is attributable solely to that service, the compensation shall cease to be payable, and if it exceeds such part of the superannuation allowance as aforesaid, it shall be reduced by an amount equal to that part of the allowance.

*Forms.*

- 11 The Secretary of State may prescribe the form of any notice, statement, award or other document to be used in connection with a claim for compensation, and the forms so prescribed or forms substantially to the like effect shall be used in all cases to which the forms are applicable.

*Interpretation.*

- 12 For the purposes of this Schedule—  
“Public appointment” means any employment the emoluments of which are payable out of public funds;  
“Service” means whole-time or part-time service in any office after the officer has attained the age of eighteen years;  
“Material date” means the date on which the determination of office or diminution of emoluments, as the case may be, takes effect.

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