



# Compensation of Displaced Officers (War Service) Act 1945

## 1945 CHAPTER 10

An Act to provide for the compensation of persons who have been engaged in war service and are not reemployed or suffer loss of employment, reduction of emoluments or deterioration in their conditions, of employment by reason of changes affecting the functions of local or public authorities or public utility undertakers or changes in the management of schools. [7th March 1945.]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

### **1 Application of Act to changes in the functions of local authorities**

This Act shall apply in any case where—

- (a) in consequence of any enactment or statutory order passed or made before or after the passing of this Act (hereafter in this Act referred to as " the special Act ") or anything done thereunder, any of the following changes (hereafter in this Act referred to as " the change in functions") have occurred in relation to any local or public authority (hereafter in this Act referred to as " the local authority"), namely, that any functions have ceased to be exercisable by the local authority (whether as a result of a transfer to another authority or otherwise) or any functions have been transferred to" the local authority from another authority or any functions exercisable by the local authority have been altered ; and
- (b) the special Act makes provision for the compensation of affected officers' of the local authority who held office immediately before the special Act came into operation, and for that purpose applies or incorporates the Fourth Schedule to the Local Government Act, 1933, with or without modifications or adaptations :

Provided that this section shall not affect the application of section five and section six of this Act.

## **2 Compensation of officers of a local authority on war service who are affected by change of functions**

- (1) Subject to the provisions of this section, if in consequence of the change in functions any officer of the local authority on war service has suffered any direct pecuniary loss by reason that, on ceasing to be engaged in war service, he was not re-employed in his former office or was so re-employed with reduced emoluments, or by reason of the determination of his office or the reduction of his emoluments after he was so re-employed, he shall be entitled to recover compensation for that loss from the local authority :

Provided that no person shall, by virtue of this subsection, be entitled to recover compensation for any loss, if provision is made for compensating him for that loss by or under any other enactment which is for the time being in force except the special Act and the Reinstatement in Civil Employment Act, 1944.

- (2) No person shall, by virtue of the last foregoing subsection, be entitled to recover compensation for any loss suffered by him by reason of his not being re-employed in his former office on ceasing to be engaged in war service unless, within two months from the date on which he ceased to be so engaged or the date of the passing of this Act, whichever is the later, he gives notice in writing that he is available for re-employment to the local authority or, if the local authority have ceased to exist in consequence of the change in functions, to the authority from whom the compensation is recoverable by virtue of subsection (5) of this section :

Provided that, if the officer was prevented from notifying the said authority within the said two months by his sickness or other reasonable cause, the notice may be given as soon as reasonably may be after the expiration of that period.

- (3) For the purposes of this section a person—
- (a) who on ceasing to be engaged in war service refused an offer of re-employment in his former office on the ground that he would be required to perform duties which are not analogous to, or which are an unreasonable addition to, those which he was required to perform immediately before the date on which the special Act came into operation, or, in the case of a person engaged in war service on that date, which he would have been required to perform immediately before that date if he had continued to be employed in that office ; or
  - (b) who on ceasing to be engaged in war service was not re-employed in his former office, or was so re-employed with reduced emoluments, because his services were not required or his duties were diminished (no misconduct being established) ; or
  - (c) who at any time during the period of five years from the said date or a period of twelve months from the date on which he ceased to be engaged in war service, whichever period last expires, has relinquished any office in the service of the local authority on the ground that he has been required to perform such duties as are referred to in paragraph (a) hereof; or
  - (d) whose office, being an office in the service of the local authority, has been determined or whose emoluments have been reduced during the period of five years from the date on which the special Act came into operation because

his services were not required or his duties were diminished (no misconduct being established) ;

shall be deemed unless the contrary is shown to have suffered direct pecuniary loss in consequence of the change in functions and by reason of the matters referred to in subsection (1) of this section. References in paragraph (c) and paragraph (d) of this subsection to the service of the local authority shall, in a case where the change in functions consists in the transfer of functions from the local authority to another local or public authority other than the Crown, be construed as including references to the service of that other authority.

- (4) The provisions of the Fourth Schedule to the Local Government Act, 1933, as set out with modifications in the Schedule to this Act, shall have effect in relation to claims for compensation under this section.
- (5) Where the special Act provides that the compensation of affected officers of the local authority who held office immediately before the special Act came into operation is to be recoverable from an authority other than the local authority, the compensation recoverable under subsection (1) of this section shall be recoverable from that other authority, and accordingly references in the Schedule to this Act to "the local authority" shall be construed as references to that other authority, and it shall be the duty of the local authority on receiving a notification under subsection (2) of this section, to notify the contents thereof to that other authority and state whether or not the local authority propose to re-employ the officer concerned.
- (6) Where any person is entitled to claim compensation under this section and under the special Act in respect of the same loss, he shall be entitled to claim compensation either under this section or under the special Act but not under both.

### **3 Provisions as to teachers in certain schools**

- (1) Subject to the following provisions of this section, if in consequence of any school becoming a special agreement school or a controlled school, or in consequence of the discontinuance within six years after the passing of the Education Act, 1944, of any school maintained by a local education authority, any person who, at the date when the school became a special agreement or a controlled school, or before the school was discontinued, as the case may be, was engaged in war service, having ceased to be a teacher in that school in order to be so engaged, has suffered direct pecuniary loss by reason that, on ceasing to be engaged in war service, he was not re-employed as a teacher in the school, or was so re-employed with reduced emoluments, or by reason of the determination of his appointment or the reduction of his emoluments after he was so re-employed, he shall be entitled to recover compensation for that loss from the local education authority :

Provided that no person shall, by virtue of this subsection, be entitled to recover compensation for any loss, if provision is made for compensating him for that loss by or under any other enactment which is for the time being in force except the Reinstatement in Civil Employment Act, 1944.

- (2) Subsections (2) and (4) of the last foregoing section and the Schedule to this Act shall apply to claims for compensation under this section as they apply to claims for compensation under that section, subject to the modifications that references to subsection (1) of that section shall be construed as references to subsection (1) of this section and the references to the local authority shall be construed as references to the local education authority.

#### **4 Power to pay compensation in certain additional cases**

- (1) Where any person has been engaged in war service and it appears to the authority to whom, any claim for compensation under section two or section three of this Act would be made by that person that he would have been entitled to claim such compensation but for the fact that his war service came to an end before the date on which the special Act came into operation or, as the case may be, the school became a special agreement school or a controlled school or was discontinued, the authority may, if in all the circumstances of the case it considers it just to do so, pay the like compensation as if his war service had continued until the said date.
- (2) Any person applying for compensation by virtue of this section shall make a claim therefor in accordance with the Schedule to this Act, but shall include in the statement delivered with the claim such further particulars as may be prescribed, and the said Schedule (and in particular paragraph 8 thereof which gives a right of appeal to the Minister) shall apply in relation to the authority's decision on the claim in like manner as in the case of decisions on other claims.

#### **5 Power by Order in Council to provide for the compensation of officers of public authorities and public utility undertakers on war service**

- (1) Where it appears to His Majesty that, in the case of any change affecting the exercise of functions of any public authority or public utility undertakers (not being a case to which the foregoing provisions of this Act apply), any enactment or statutory order makes provision for the compensation of affected officers of the authority or undertaking who hold office before any such change occurs, and that it is expedient to make provision for the compensation of persons who have been engaged in war service and have not been re-employed or have suffered loss of employment, reduction of emoluments or deterioration in their conditions of employment by reason of any such change, he may by Order in Council make provision for the compensation of the last mentioned persons similar to the provision made by the foregoing provisions of this Act for the compensation of officers of local authorities on war service. Any such Order in Council may make provision as respects changes in functions occurring before or after the date of the Order.
- (2) Every Order in Council made under this section shall be laid as soon as may be before Parliament, and if an Address is presented to His Majesty by either House of Parliament, within the period of forty days beginning with the day on which any such Order is laid before it, praying that the Order be annulled, His Majesty in Council may annul the Order and it shall thereupon cease to have effect, but without prejudice to the validity of anything done thereunder in the meantime or to the making of a new Order. In reckoning the said period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.
- (3) Section one of the Rules Publication Act, 1893, shall not apply to any Order in Council made under this section.
- (4) Any Order in Council made under this section may be varied or revoked by a subsequent Order made in like manner.

## **6 Amendment of Fourth Schedule to Local Government Act, 1933, and section sixteen of Electricity (Supply) Act, 1919**

- (1) Any period during which a person has been engaged in war service shall be reckoned for the purposes of the Fourth Schedule to the Local Government Act, 1933, as applied by or incorporated, with or without modifications or adaptations, in any enactment or statutory order (except this Act or any other enactment or order which contains a provision to the like effect as this section), as a period of service in his office, and where any such period is so reckoned, his emoluments during that period shall, for the purposes of sub-paragraph (2) of paragraph 4 of the said Schedule as so applied or incorporated, be deemed to be such as he would have received if he had not been engaged in war service.
- (2) Section sixteen of the Electricity (Supply) Act, 1919 (which provides among other matters for the reckoning of certain kinds of war service as service under the authorised undertakers), as amended by any subsequent enactment, and the said section as so amended and as applied, with or without modifications or adaptations, by any subsequent enactment, shall have effect as if the reference to " the present war " or to " the war " included a reference to " the period of the present emergency " as defined by the Local Government Staffs (War Service) Act, 1939.
- (3) This section shall be deemed to have had effect as from the first day of September, nineteen hundred and thirty-nine.

## **7 Increase of grants to be defrayed out of moneys provided by Parliament**

Any increase ascribable to the provisions of this Act in any grant payable by any Minister of the Crown shall be defrayed out of moneys provided by Parliament.

## **8 Interpretation**

- (1) In this Act the following expressions have the meanings hereby respectively assigned to them :—

" emoluments " includes all salary, wages, fees, poundage and other payments paid or made to an officer as such for his own use, including the money value of any apartments, rations or other allowances in kind appertaining to his office, but does not include payments for overtime or any sum paid to him to cover travelling expenses, cost of office accommodation, assistance of deputies, or clerical, or other assistance;

" enactment " includes an enactment in a local or personal Act;

" office " means any place, situation or employment, and the expression " officer " shall be construed accordingly ;

" the Minister " means the Minister of Health : Provided that the said expression—

(a) in a case where the special Act substitutes for the purposes of the Fourth Schedule to the Local Government Act, 1933, any other Minister for the Minister of Health, means that other Minister ;

(b) in a case to which section three or section four of this Act applies, being a case relating to a school, means the Minister of Education ;

" officer of the local authority on war service " means a person who at the date when the special Act came into operation was engaged in war service, having ceased to be an officer of the local authority in order to be so engaged

or who, being an officer of that authority at that date, ceased on or after that date to be an officer of that authority in order to be so engaged : Provided that, in the application of this Act in a case where the change in functions arose in consequence of the Agriculture (Miscellaneous Provisions) Act, 1944, references in this definition to an officer shall be construed as referring only to officers employed in a whole-time capacity wholly or mainly on or in connection with the giving of advice or education on agricultural matters, and this definition shall only include persons who have, between the twenty-third day of August, nineteen hundred and thirty-nine, and the day appointed by the Minister of Agriculture and Fisheries under section one of the said Act, been continuously employed in a whole-time capacity in local government service (within the meaning of the said Act) or, while not so employed, been engaged in a whole-time capacity in war service or partly engaged in war service and partly employed in such local government service;

" prescribed " means prescribed by regulations made by the Minister;

" public utility undertakers " means any persons authorised by any enactment or order to carry on any railway, canal, inland navigation, dock, harbour, gas, electricity or water undertaking

" statutory order " means any order or scheme made under an enactment;

" war service " has the same meaning as in the Local Government Staffs (War Service) Act, 1939 : Provided that, in a case where the said expression has a different meaning in the special Act or in any such enactment or statutory order as is referred to in section five of this Act, it shall have the same meaning in this Act.

- (2) References in this Act to the re-employment of any person with reduced emoluments shall be construed as referring to re-employment with emoluments less than those which he would have received in respect of employment in his former office or, as the case may be, employment as a teacher immediately before the date on which he ceased to be engaged in war service if he had continued to be so employed until that date.
- (3) Where the special Act provides for appointing a day which, for the purposes of the provisions relating to the compensation of officers, is substituted for the date on which the special Act comes into operation, references in this Act to the said date shall be construed as referring to the said appointed day.

## **9 Application to Scotland**

This Act shall, in its application to Scotland, have effect subject to the following modifications—

- (a) for references to the Minister of Health there shall be substituted references to the Secretary of State ;
- (b) for references to the Fourth Schedule to the Local Government Act, 1933, there shall be substituted references to the provisions of section one hundred and twenty of the Local Government (Scotland) Act, 1889, or of the Second Schedule to the Rating (Scotland) Act, 1926, and paragraph (i) of subsection (1) of section seven of the Local Government (Scotland) Act, 1929;
- (c) in section two, for subsection (4) there shall be substituted the following subsection—

“(4) The provisions of the Schedule to this Act shall have effect in relation to claims for compensation under this section.”;

- (d) in subsection (1) of section six for the words " sub-paragraph (2) of paragraph 4 of the said Schedule " there shall be substituted the words  
    "the said provisions";
- (e) in paragraph 1 of the Schedule the reference to a justice of the peace shall be construed as including a reference to the convener or vice-convener of a county council, to the provost or acting chief magistrate of a burgh or to the chairman of a district council; and
- (f) the provisions of paragraph (i) of subsection (1) of section seven of the Local Government (Scotland) Act, 1929, shall have effect in relation to the computation of the service of an officer for the purposes of the Schedule to this Act.

## **10 Provisions as to Northern Ireland**

- (1) Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall have power to make laws, as respects officers of local and public authorities and public utility undertakers in Northern-Ireland and as respects teachers in Northern Ireland, for purposes similar to the purposes of this Act.
- (2) This Act, except the last foregoing subsection, shall not extend to Northern Ireland.

## **11 Citation**

This Act may be cited as the Compensation of Displaced Officers (War Service) Act, 1945.

## SCHEDULE

- 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 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) 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 Minister 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.
- (5) A claimant, if so required by any member of the local authority by notice sent through 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, which any justice of the peace present may administer, 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.
- 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—
- (a) the conditions upon which his appointment was made ;
  - (b) the nature of his office;
  - (c) all the other circumstances of the case.
- 3 Compensation may be awarded either by way of an annual sum or by way of a lump sum representing the capital value of an annual sum.
- 4 (1) The annual sum payable as compensation in respect of the loss 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 loss 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;
  - (iii) 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 deputy, assistant or clerk by a permanent officer for the purpose of the discharge of the latter's official

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*Status: This is the original version (as it was originally enacted).*

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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 loss of his office, regard shall be had as respects any emoluments either—
  - (a) to the amount of the emoluments which he received in respect of that office immediately before the material date or, in the case of an officer who, on ceasing to be engaged in war service, was not re-employed in his former office, to the amount of the emoluments which he would have received in respect of that office immediately before the material date if he had continued to be employed in that office until that date; or
  - (b) to the average amount of the emoluments which he received or would have received as aforesaid in respect of that office during the period of five years next before the said 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 loss of his office, regard shall also be had to—
  - (a) any increase of the emoluments enjoyed by the officer at the material date which he has obtained by virtue of the special Act or of anything done in pursuance of or in consequence of the special Act; and
  - (b) the emoluments of any office or other public appointment which he would have obtained on or after the material date if he had accepted an offer made to him.
- (4) For the purpose of assessing any compensation payable in respect of the loss of a whole-time office or of any 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.
- (5) Where the material date has occurred at any time other than at the expiration of a complete year of the officer's service, the portion then expired of that year shall, for the purpose of calculating any period of service under this paragraph, be treated as a complete year if it exceeds six months, and if it does not shall be ignored.

5 In the case of a claim for compensation in respect of the loss of a part-time office, the compensation, if any, which would have been payable if the office had been a whole-time office may be reduced by one quarter or by such other amount, if any, 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 part-time offices and devoted the whole of his time to the duties of such offices.

6 In the case of an officer who suffers any reduction 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 he had lost his office, as the amount by which the emoluments of the office are reduced bears to the amount of those emoluments without reduction.

- 7 (1) If an officer was temporarily absent from his office during the late war Whilst serving in His Majesty's forces, or the forces of the Allied or Associated Powers, either compulsorily or with the sanction or permission of the authority in whose employment he was immediately before such temporary absence, such period of temporary absence shall be reckoned as a period of service in his office:

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.

- (2) Any period during which an officer has been engaged in war service within the meaning of the Local Government Staffs (War Service) Act, 1939, shall be reckoned as a period of service in his office.

- 8 If the claimant is aggrieved by the failure of the local authority to inform him of their decision upon his claim within the time required by any direction of the Minister, or by the refusal of the authority to grant any compensation, or by the amount of compensation assessed, the claimant may, 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, appeal to the Minister, and the Minister 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.

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

- 10 (1) If a person receiving compensation under this Act—
- (a) obtains any office or other public appointment; or
  - (b) receives, by virtue of the special Act, or of anything done in pursuance of or in consequence of the special Act, 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 falls 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 Minister may, on the application of that person or of any authority by whom the compensation is payable, modify the operation of the foregoing subparagraph in relation to that person so far as is, in the opinion of the Minister, necessary in order equitably to meet the circumstances of the case.

- (2) Where an officer to whom compensation has been awarded under 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.

- (3) Where an officer to whom compensation has been awarded under this Act has also recovered, whether before or after the award of compensation under this Act, compensation under the Reinstatement in Civil Employment Act, 1944, the last-named compensation shall be treated for the purposes of sub-paragraph (1) of this paragraph as if it were emoluments received by virtue of the special Act during the period of twelve months beginning with the date on which that compensation was recovered.
- 11 The Minister 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 as near thereto as circumstances admit, shall be used in all cases to which the forms are applicable.
- 12 (1) 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 "—
    - (a) in the case of an officer who, on ceasing to be engaged in war service, was not re-employed in his former office, - or was so re-employed with reduced emoluments, means the date on which he ceased to be engaged in war service except that for the purposes of paragraph 5 of this Schedule it means the date on which he became so engaged ;
    - (b) in the case of an officer who, on ceasing to be engaged in war service, was re-employed in his former office without any reduction of emoluments and whose office has been subsequently determined or whose emoluments have been subsequently reduced means the date on which the determination or reduction of emoluments took effect.
- (2) Any reference in this Schedule' to the loss of an office or to a reduction of the emoluments of an office shall be construed as referring to a case where the officer, on ceasing to be engaged in war service, was not re-employed in that office or, as the case may be, was re-employed therein with reduced emoluments, as well as to a case where the office was determined or, as the case may be, the emoluments reduced after the officer had been re-employed therein on ceasing to be engaged in war service.