
STATUTORY INSTRUMENTS

1948 No. 1236

**THE TOWN AND COUNTRY PLANNING
(TRANSFER OF PROPERTY AND OFFICERS AND
COMPENSATION TO OFFICERS) REGULATIONS, 1948.**

PART III

COMPENSATION TO OFFICERS

14. For the purposes of this Part and of the schedule to these Regulations:—

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

- (a) if the pension scheme to which the officer was last subject before losing his employment consisted of arrangements for the provision of superannuation benefits in which he had no right to participate but had reasonable expectations of participating, such proportion of the pension of which he had reasonable expectations as the compensating authority considers equitable, having regard to his age, the length of his employment at the date of loss and all the other circumstances of the case; and
- (b) in any other case the pension to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 18 of the Schedule to these Regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service or contribution,

and includes the annual value as ascertained by an actuary of any contingent right under the scheme in respect of widow's pension or any other benefit which might have become payable to his widow or to his legal personal representatives on his death had he not lost his employment, but does not include any part of such pension as aforesaid which is attributable to any remuneration enjoyed, whether before or after the appointed day, in consequence of an increase between the 7th day of January, 1947, and the appointed day in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connection with the discharge of the existing functions of the body employing him;

“accrued incapacity pension” has the same meaning as “accrued pension” except that the reference to a person's having attained normal retiring age shall be construed as a reference to his having become incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

“accrued retiring allowance,” in relation to a pensionable officer who has suffered loss of employment, means any lump sum payment to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 18 of the Schedule to these Regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto

he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service;

“compensating authority” means, in relation to an existing officer, the local planning authority to whom he has been transferred under the provisions of these Regulations, or, if he is not so transferred, in the case of an officer who immediately before the appointed day was employed by a joint planning committee, the local planning authority for the area in which such committee exercised their functions or, if there is more than one such authority, the local planning authority for the largest part of such area, and in any other case, such local planning authority or other local authority or authorities as the Minister may determine;

“emoluments” means all salary, wages, fees and other payments paid or made to an officer as such for his own use and includes the money value of any apartments, rations or other allowances in kind appertaining to his employment but does not include payments for overtime or any allowance payable to him to cover the cost of providing office accommodation, or clerical or other assistance or any travelling or subsistence allowances or other moneys to be spent, or to cover expenses incurred by him, for the purpose of his employment and also does not include any remuneration enjoyed, whether before or after the appointed day, in consequence of an increase between the 7th day of January, 1947, and the appointed day in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connection with the discharge of the existing functions of the body employing him;

“existing officer” means a person who immediately before the appointed day—

- (a) devoted the whole of his time to any of the following employments or to any combination of such employments, namely employment by any local authority or any other body for the purposes of the local government service, by an officer of any such authority or body for the purposes of the functions of such authority or body, or by the Crown; and
- (b) was employed for at least part of his time by a local planning authority, the council of a county district, the Common Council of the City of London, or a joint planning committee;

and who had devoted the whole of his time for a period of not less than eight years before the appointed day after attaining the age of eighteen years without a break of more than twelve months at any one time to any such employments as aforesaid or to any combination of the said employments or to war service undertaken on ceasing to follow any of the said employments or any combination thereof;

“net emoluments,” in relation to an officer who suffers loss of employment or diminution of emoluments, means the annual rate of his emoluments immediately before such loss or diminution, after deducting therefrom the like percentage thereof as the percentage of his emoluments which he was then liable to contribute under any pension scheme associated with his employment; Provided that—

- (a) if, for the purposes of the foregoing definition, account is required to be taken of any fees payable to a person as part of his emoluments, the amount thereof shall be taken to be the annual average of the fees paid to him during the three years immediately preceding the loss of employment or diminution of emoluments, or, if the fees were payable in respect of a shorter period, such shorter period; and
- (b) any amount by which the annual rate of his emoluments exceeds £4,000 shall be disregarded; and
- (c) if the officer was not a pensionable officer, no deductions shall be made on account of pension contributions;

“normal retiring age” means, in relation to an officer in whose case an age of compulsory retirement applied by virtue of any pension scheme associated with the employment he has lost or the emoluments of which have been diminished or by virtue of the condition of that employment, that age, and, in any other case, the age of sixty-five years if the officer is a male, or sixty years if the officer is a female;

“pensionable officer”, in relation to an officer who has suffered loss of employment, means an officer who immediately before the appointed day was subject to a pension scheme;

“pension scheme” means a scheme of arrangements for the payment of superannuation benefits to a person as part of the terms and conditions of any employment held by him, and includes arrangements for the provision of superannuation benefits in which, by virtue of any employment held by him, a person had reasonable expectations of participating immediately before the appointed day;

“service” in relation to a person means any period of whole-time or part-time employment in Great Britain, after attaining the age of eighteen years, under the Crown, or under any local authority or any other body for the purposes of the local government service, or under an officer of any such authority or body for the purposes of the functions of that authority or body; and includes any period of war service undertaken on the person's ceasing to hold any such employment as aforesaid, but does not include employment of which account has been taken, or is required to be taken, in calculating the amount of any superannuation benefits to which the person has become entitled;

“tribunal” means such referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, as has jurisdiction in respect of the district in which a claimant for compensation is or was last employed;

“war service” means service in any of His Majesty's Forces and any other war service within the meaning of the Local Government Staffs (War Service) Act, 1939 or employment for war purposes within the meaning of the Superannuation Schemes (War Service) Superannuation Act, 1940.

15. Subject to the provisions of the next succeeding regulation every person who was an existing officer and who suffers loss of employment or diminution of emoluments which is attributable to the provisions of the Act or of these Regulations shall be entitled to have his case considered for the receipt of compensation under these Regulations, such compensation to be determined in accordance with the provisions of the schedule hereto.

16. Nothing in the last preceding regulation shall entitle a person to have his case considered for compensation unless

- (a) the cause of the claim to compensation arises not later than 10 years after the appointed day and the claim is made not later than 2 years after the date on which the cause of claim arises, and
- (b) one or more of the following conditions are satisfied in relation to the officer
 - (i) he is not offered by the local planning authority to which he is transferred on the appointed day an office or situation reasonably comparable to the office or situation which he held immediately before the appointed day; or
 - (ii) his office is abolished and he is not transferred to a local planning authority; or
 - (iii) his appointment is determined because his services are not required or because his duties are diminished (no misconduct being established); or
 - (iv) his emoluments are diminished.

Provided that an office or situation which an officer is offered shall not, for the purposes of this regulation, be deemed to be not reasonably comparable to that which he held immediately before the appointed day by reason only that it involves duties

in connection with functions under the Act not corresponding with old planning functions or a transfer of his employment from one place to another place within England and Wales.

17. If a person who has claimed compensation under these Regulations is aggrieved by the refusal of the compensating authority to accept his claim or by their failure to come to a decision on his claim within three months after the date on which it was received by them, or by a decision that no compensation should be paid to him or by the amount of compensation awarded, he may, within three months after the refusal or failure or after the date on which he received notice of the decision, as the case may be, refer the matter to a tribunal, and the tribunal shall consider any matter so referred in accordance with the provisions of these Regulations and determine accordingly whether any, and if so what, compensation ought to be awarded to the claimant, and the compensating authority shall give effect to the decision of the tribunal.

18.—(1) Any compensation to which an officer becomes entitled under these Regulations shall be paid by the compensating authority and shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable.

(2) Any sum payable as compensation shall be recoverable as a debt due from the compensating authority.

(3) In any case where the compensating authority is such an authority because it is the local planning authority for the largest part of an area in which a joint planning committee formerly exercised its functions, the other local planning authority or authorities for the remainder of such area shall contribute to any compensation payable proportionately according to their areas, or on such other basis as may be agreed between them, and the compensating authority shall be entitled to recover such contributions accordingly.

Officers on War Service on the Appointed Day

19. Any person (hereinafter referred to as an “officer on war service”) who is engaged in war service immediately before the appointed day and who, if he had continued to be employed until the appointed day in the capacity in which he was employed before becoming engaged in war service, would have been an existing officer, shall be deemed to be an existing officer within the meaning of these Regulations, and if at the date on which he ceased to be so employed he was subject to a pension scheme, and his war service or any part thereof would be reckonable for the purposes of that scheme if he again became subject thereto on the termination of his war service, he shall also be deemed to be a pensionable officer within the meaning of these Regulations.

20. Subject to the provisions of the next succeeding regulation, if an officer on war service ceases to be engaged in war service and in consequence of the Act or of these Regulations:—

- (a) is not given or offered re-employment in his former office, or in any reasonably comparable office, or is not employed or offered employment in any office to which, but for his war service, he would have been transferred by these Regulations, or any reasonably comparable office; or
- (b) is so re-employed or employed with reduced emoluments,

he shall be deemed for the purposes of these Regulations, in the former case, to have suffered loss of employment which is attributable to the Act owing to the abolition of his office at the date of the refusal to re-employ him or employ him as aforesaid, and, in the latter case, to have suffered diminution of emoluments which is attributable to the Act.

21. No person shall, by virtue of the last preceding regulation, be entitled to have his case considered for compensation for any loss suffered by him by reason of his not being re-employed or employed as therein mentioned unless within a period of two months after the date on which

he ceased to be engaged in war service he gives notice in writing to his former employer or to the authority to whom he would have been transferred by these Regulations, as the case may be, that he is available for employment;

Provided that if the person is prevented from giving notice within the said period by his sickness or other reasonable cause, the notice may be given as soon as reasonably may be after the expiration of that period.

22. For the purpose of ascertaining the net emoluments of a person to whom Regulation 20 applies such person shall be deemed to have continued to follow his former employment until the cause of claim arose and to have been entitled to the emoluments thereof.

23. In relation to a pensionable officer to whom sub-paragraph (a) of Regulation 20 applies, the expression “accrued pension” means the pension to which he would have become entitled according to the method of calculation as modified by paragraph 18 of the Schedule to these Regulations prescribed by the pension scheme to which he was subject before becoming engaged in war service, if at the date on which he ceased to be engaged in war service he had been serving in his civil capacity and had attained normal retiring age, having complied with any requirement of the said pension scheme as to a minimum period of qualifying service.