

SCHEDULE

DETERMINATION OF COMPENSATION

II

Compensation for Loss of Employment

B

Assessment of Compensation

6. Having determined the amount of the interim payments (if any) to be made under the preceding provisions of this schedule to a claimant whose claim has been accepted, the compensating authority shall, within a period of three months after the date of receipt of the claim, assess the just amount (if any) of the compensation payable under the succeeding provisions of this schedule, and shall forthwith notify the claimant in writing of their decision.

7.—(1) The compensating authority shall, within a period of two years after the date on which any decision is notified to a claimant under paragraph 6 of this schedule, or if the claimant has referred any such decision to the tribunal under regulation 6, within a period of two years after the date of the decision of the tribunal, review their decision or the decision of the tribunal, as the case may be, at intervals of not more than six months, and on any review the compensating authority may, in light of any material change in the circumstances of the case, award compensation or increase or reduce the amount of any compensation awarded.

(2) If the claimant obtains other employment within the said period of two years, he shall immediately notify the compensating authority in writing accordingly.

(3) A claimant to whom a decision under paragraph 6 of this schedule has been notified may, within the like period as is mentioned in sub-paragraph (1) of this paragraph, require the compensating authority to review their decision or the decision of the tribunal, as the case may be, if he considers that there has been a material change in the circumstances of his case.

(4) The compensating authority shall forthwith notify the claimant in writing of their decision on any review under the preceding provisions of this paragraph, and if the claimant is aggrieved by such decision he may refer the matter to the tribunal within three months after the date on which he receives notice of the decision, and the tribunal shall determine any matter so referred, and the compensating authority shall give effect to the determination of the tribunal.

Compensation payable, subject to earlier cesser in certain cases, until normal retiring age

8. For the purpose of determining whether any compensation, apart from any interim compensation paid under paragraphs 4 and 5 of this schedule, is payable to any person for loss of employment, and if so the amount of the compensation to be paid, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, the compensating authority shall have regard to—

- (a) the conditions upon which his appointment was made;
- (b) the nature of his office;
- (c) the extent to which he has sought suitable alternative employment; and
- (d) all the other circumstances of his case:

Provided that no compensation shall be payable to such a claimant as is mentioned in proviso (i) to sub-paragraph (2) of the next succeeding paragraph if the security of tenure

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more***

of the work or employment undertaken, obtained or offered as therein mentioned is substantially similar to that of the employment lost and the amount of the annual rate of the emoluments of the employment lost does not exceed the amount of the annual rate of the emoluments of the work or employment undertaken, obtained or offered as aforesaid by more than five per cent. of the first mentioned amount.

9.—(1) Compensation for loss of employment shall be an annual sum calculated in accordance with the provisions of sub-paragraph (2) of this paragraph, and shall be payable, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, as from the date of loss, if the claim was made within three months thereafter, and in any other case, as from the date on which the claim was made or from such earlier date not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

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

- (a) for every completed year of the claimant's service, one-sixtieth of the net emoluments of the employment he has lost; and
- (b) in the case of a claimant over the age of forty-five years at the date of loss, a further one-sixtieth of the said net emoluments for every completed year of service since he attained the age of forty-five:

Provided that—

- (i) where the claimant has undertaken or obtained other work or employment in place of the employment he has lost or has been offered other suitable employment, the said annual sum shall be calculated by reference only to the amount (if any) by which the annual rate of the emoluments of the employment he has lost exceeds the annual rate of the emoluments of the work or employment undertaken, obtained or offered to him as aforesaid;
- (ii) if the said annual sum is required to be calculated in accordance with proviso (i) to this sub-paragraph, it shall be reduced or increased by such amount (if any) as the compensating authority think fit, having regard to the relative security of tenure of the employment lost and the work or employment undertaken, obtained or offered as aforesaid, so however, that the said annual sum shall not by virtue of any such increase as aforesaid be greater than if it were calculated without reference to proviso (i) and this proviso;
- (iii) the said annual sum shall also be reduced by such an amount (if any) as the compensating authority think fit having regard to the matters to which they are required to have regard by the last preceding paragraph and to any compensation payable to the claimant under the Re-instatement in Civil Employment Act, 1944, or under or in pursuance of any other enactment; and
- (iv) the said annual sum shall in no case exceed two-thirds of the net emoluments of the employment which the claimant has lost.

10. There shall be deducted from any payments made under paragraph 9 of this schedule in respect of any period in respect of which interim payments have been made under paragraphs 4 and 5 the amount of such payments, so far as they do not exceed the payments due under paragraph 9 in respect of that period.

Compensation payable to pensionable officer on his becoming incapacitated or reaching pensionable age

11.—(1) If the claimant was a pensionable officer, and before attaining normal retiring age—

- (a) he becomes incapacitated in circumstances in which if he had continued in the employment he has lost he would have become entitled to a pension under the pension scheme to which he was last subject before losing his employment; or
- (b) he attains an age at which had he continued to serve in the employment he has lost he would have become entitled to retire with a pension on the ground of having attained that age and completed a prescribed period of service,

and compensation is not then payable to him under these regulations, or compensation by way of annual sum equal to the amount of his accrued incapacity pension or his accrued pension, as the case may be, together with the annual value of his accrued retiring allowance (if any), would be greater than the annual amount of any compensation to which he may then be entitled under these regulations, he shall be entitled, if he so requests at any time thereafter by notice in writing to the compensating authority, as from the date on which the compensating authority receive such notice, in lieu of any compensation to which he would otherwise be entitled under these regulations—

- (i) in the case mentioned in head (a) of this sub-paragraph, to an annual sum equal to the amount of his accrued incapacity pension, and a lump sum equal to the amount of his accrued retiring allowance (if any); and
- (ii) in the case mentioned in head (b) of this sub-paragraph, to an annual sum equal to the amount of his accrued pension and a lump sum equal to the amount of his accrued retiring allowance (if any):

Provided that if in calculating the amount of compensation payable to a person who has given such notice as aforesaid, the compensating authority, by virtue of paragraph 19 of this schedule, have credited him with additional years of service or contributions, no account shall be taken for the purpose of the foregoing provision of any number of such additional years beyond the number of years which he could have served, had he not lost his employment, before the date on which such notice as aforesaid was received by the compensating authority.

(2) On receipt of a notice under the last preceding sub-paragraph, the compensating authority shall consider forthwith whether the person giving the notice is a person to whom that sub-paragraph applies, and within three months after the date of the receipt of the notice—

- (a) if they are satisfied that he is not such a person, they shall notify him in writing accordingly; and
- (b) if they accept the notice, they shall assess the amount of compensation payable to the person, and notify him in writing accordingly,

and any such notification shall, for the purposes of these regulations, be deemed to be a notification by the authority of a decision on a claim to compensation.

(3) A compensating authority may require any such person as is mentioned in head (a) of sub-paragraph (1) of this paragraph, who gives a notice under that sub-paragraph, to submit himself to a medical examination by a registered medical practitioner selected by that authority, and, if they do so, they shall also offer the person an opportunity of submitting a report from his own medical adviser as a result of an examination by him, and the authority shall take that report into consideration, together with the report of the medical practitioner selected by them.

Compensation payable to a pensionable officer on attainment of normal retiring age

12. Subject as hereinafter provided, the compensation payable to a claimant who was a pensionable officer (not being a person to whom paragraph 11 has been applied) on his attaining normal retiring age shall be—

- (a) an annual sum equal to the amount of his accrued pension; and
- (b) a lump sum equal to the amount of his accrued retiring allowance (if any).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more**

Supplementary provisions as to compensation payable to pensionable officer

13.—(1) Where a claimant, after suffering loss of employment, enters employment in which he participates in the benefits of the pension scheme associated with the employment he has lost, or becomes entitled to participate in any other pension scheme, in circumstances in which he is entitled to reckon for the purposes thereof service which falls to be taken into account for the purpose of assessing compensation under paragraph 11 or 12 of this schedule, no compensation under either of those paragraphs shall be payable unless the amount of the annual rate of the emoluments of the employment he has lost exceeds the amount of the annual rate of the emoluments to which he becomes entitled on entering such employment as aforesaid by more than five per cent. of the first-mentioned amount, and any compensation payable thereunder shall be calculated by reference only to the amount of the difference.

(2) If a claimant has unreasonably refused a suitable offer of such employment as is mentioned in the preceding sub-paragraph, he shall be deemed for the purposes of that sub-paragraph to have entered the employment so offered to him.

14.—(1) If the claimant was a person in respect of whose service a widow's pension might have become payable under the pension scheme to which he was last subject before losing his employment, then, if he so desires and informs the compensating authority by notice in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of widow's pension, in consideration of the payment by the compensating authority to the person who as his widow might have become entitled to such widow's pension as aforesaid in the event of her surviving him—

- (a) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled had he, immediately before he died, become entitled to a pension under the pension scheme on grounds of ill-health of an amount equal to the amount of his accrued incapacity pension, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 16; and
- (b) if he dies on or after attaining normal retiring age, or after giving a notice pursuant to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled in accordance with the method of calculation prescribed by the pension scheme had he, at the date on which he attained normal retiring age, or gave the said notice, become entitled to a pension under the pension scheme of an amount equal to the amount of his accrued pension or accrued incapacity pension, as the case may be, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 16.

(2) In the calculation of the amount of the annual sum payable to a widow under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 19 of this schedule:

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

(3) Any sum payable to a widow under this paragraph shall cease to be payable or shall be suspended in any circumstances in which a widow's pension under the aforesaid pension scheme would have ceased to be payable or would have been suspended.

15. If under the pension scheme to which he was last subject before losing his employment, the claimant would have been entitled to surrender a proportion of any pension which might have

become payable to him in favour of his spouse or any dependant, then, if he so desires and informs the compensating authority by notice in writing accordingly within one month after becoming entitled to compensation under paragraph 11 or 12 of this schedule, he may surrender a proportion of so much of the said compensation as is payable by way of an annual sum on the like terms and conditions and in consideration of the like payments by the compensating authority as if the said annual sum were a pension to which he had become entitled under the said pension scheme.

16.—(1) If the claimant was a person in respect of whose service a death benefit might have become payable to his legal personal representatives under the pension scheme to which he was last subject before losing his employment, then, if he so desires, and informs the compensating authority by notice in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of the said benefit, in consideration of the payment by the compensating authority to his legal personal representatives—

- (a) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum equal to the amount of any death benefit which would have become payable in accordance with the method of calculation, as modified by the next succeeding paragraph, prescribed by the pensions scheme to which he was last subject before losing his employment, had he died immediately before the date on which he lost his employment and complied with any requirement of the said scheme as to a minimum period of qualifying service; or
- (b) if he dies on or after attaining normal retiring age or after giving a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum equal to the amount of any such death benefit as aforesaid, less a sum equal to the aggregate amount of any payments made to him by way of compensation under paragraph 11 or 12 of this schedule.

(2) In the calculation of the amount of the sum payable under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 19 of this schedule:

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

17. For the purposes of these regulations—

- (a) the amount of any accrued pension or accrued incapacity pension, if the number of years of service by reference to which the pension is to be calculated is less than any minimum number of years of qualifying service prescribed by the pension scheme, shall, notwithstanding any minimum benefit prescribed by the pension scheme, not exceed such proportion of such minimum benefit as the number of years of pensionable service bears to the minimum number of years of qualifying service; and
- (b) if the amount of any death benefit falls to be ascertained, by virtue of any pension scheme, wholly or partly by reference to the emoluments or average emoluments of a pensionable officer, and the number years of his pensionable service is less than any minimum number of years of qualifying service prescribed by the pension scheme for the receipt of a death benefit, the said amount shall not exceed such proportion of the emoluments or average emoluments of the officer as the number of years of pensionable service bears to the minimum number of years of qualifying service.

18. If under the pension scheme to which the claimant was last subject before suffering loss of employment the amount of any pension to which he might have become entitled might have been increased at the discretion of the authority administering the pension scheme or of any other body, the compensating authority may increase the compensation payable under paragraph 11 or 12 of this schedule by an annual sum not exceeding the amount by which his accrued incapacity pension or

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more***

accrued pension might have been increased or the annual value of the payments which might have been made to him by way of addition to or supplementation of his accrued pension.

19. If the claimant had attained the age of forty years at the date on which he lost his employment, the compensating authority in calculating the amount of the compensation payable to him under paragraph 11 or 12 of this schedule may credit him with additional years of service or additional contributions not exceeding one year of service or one year's contributions for each completed year between the date on which he attained the age of forty years and the date on which he lost his employment, but not in any case exceeding ten years or such number of years as the claimant could have served had he continued in his employment until attaining normal retiring age, whichever is the less.

20. In deciding whether to add any number of years under the last preceding paragraph, the compensating authority shall have regard to the considerations set out in paragraph 8 of this schedule, and also to the claimant's rights under any pension scheme associated with any employment which he may have obtained in place of the employment he has lost.

21.—(1) Compensation shall not be payable or shall cease to be payable under paragraph 11 or 12 of this schedule to a person who has received any sum by way of a return of contributions under the pension scheme to which he was last subject on his ceasing to be subject thereto, unless forthwith on receiving such sum he pays to the compensating authority an amount equivalent thereto, such amount to be held by the compensating authority subject to the condition that if the pension scheme made no provision for death benefit and he dies before he has received in the aggregate by way of compensation under paragraph 11 or 12 of this schedule a sum equal to the amount so paid as aforesaid to the compensating authority, together with compound interest thereon, calculated at the rate of 2½ per cent. per annum, with half-yearly rests, up to the date of his death, as from the first day of April or the first day of October following the half year in which the amount was paid, there shall be paid to his legal personal representatives the difference between the aggregate amount received by way of compensation and the said sum:

Provided that—

- (a) if a sum becomes payable to his widow on his death under paragraph 14 of this schedule and on her death or re-marriage the sum ceases to be payable, and the aggregate amount of the payments which were made to her or her husband under these regulations is less than a sum equal to the amount so paid to the compensating authority by her husband as aforesaid on account of contributions, after the addition thereto of interest thereon as aforesaid, there shall be paid to her or her legal personal representatives the difference between the aggregate amount of the payments made to her or her husband as aforesaid and the said sum;
- (b) this paragraph shall not apply to a person to whom paragraph 13 of this schedule applies, and in the event of a claimant becoming such a person after having made a payment under this paragraph, the amount of the sum so paid shall be returned to him by the compensating authority; and
- (c) this paragraph shall not apply to a person who has been an officer on national service to whom regulation 9 applies, and who received a return of contributions before ceasing to be engaged in national service.

(2) A person to whom paragraph 11 or 12 of this schedule may become applicable shall on or before the date on which compensation may become payable to him thereunder be entitled, if he so desires and informs the compensating authority in writing accordingly, to receive from the compensating authority in lieu of any such compensation—

- (a) if the person has paid any sum to the compensating authority under sub-paragraph (1) of this paragraph, an amount equivalent thereto, together with interest thereon, calculated

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more**

in the manner provided by the pension scheme as from the date of payment of the said sum; and

- (b) if the person has not received a return of contributions under the pension scheme, and if, being entitled to such a return he has relinquished that right, an amount equivalent to the amount of such contributions together with interest thereon, calculated in the manner provided by the pension scheme;

and any liability of the compensating authority under paragraph 14 or 16 of this schedule shall cease in the event of his giving such notice as aforesaid.

Compensation payable to non-pensionable officer after attainment of normal retiring age

22.—(1) If the claimant was not a pensionable officer, the compensating authority may, on his attaining normal retiring age, if they are satisfied that he would in the normal course have continued in the employment he has lost for a substantial period beyond that age, continue to pay compensation to him for the remainder of his life at half its former rate.

(2) If the claimant was not a pensionable officer and suffers loss of employment on or after attaining normal retiring age, the compensating authority may, if they are satisfied that he would in the normal course have continued in the employment he has lost for a further substantial period, pay compensation to him for the remainder of his life at half the rate to which he would have been entitled under paragraph 9 of this schedule had he not attained normal retiring age at the date on which he lost employment.