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## STATUTORY INSTRUMENTS

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# 1965 No. 620

## The Probation (Compensation) Regulations 1965

### PART VII

#### PROCEDURE AND MISCELLANEOUS

##### Procedure on making claims

**37.**—(1) Every claim for compensation under these Regulations and every request for a review of an award of long-term or retirement compensation shall be made in accordance with the provisions of this Regulation.

(2) Every such claim and request shall be made to the compensating authority in a form approved by the Secretary of State for the purpose and shall state whether any other claim for compensation has been made by the claimant under these Regulations.

(3) Resettlement compensation shall be claimed separately from any other form of compensation claimable under these Regulations.

(4) The compensating authority shall consider any such claim or request in accordance with the relevant provisions of these Regulations and shall notify the claimant and, where the compensating authority is a probation committee, each interested authority, in writing of their decision—

- (a) in the case of a claim for resettlement compensation, not later than one month after the receipt of the claim, and
- (b) in the case of a claim for, or request for the review of an award of, compensation under Part IV or Part V of these Regulations, not later than thirteen weeks after the receipt of the claim or request, and
- (c) in any other case, as soon as may be after the decision.

(5) Every notification of a decision by the compensating authority (whether granting or refusing compensation or reviewing an award, or otherwise affecting any compensation under these Regulations) shall contain a statement—

- (a) giving reasons for the decision;
- (b) showing how any compensation has been calculated and, in particular, if the amount is less than the maximum which could have been awarded under these Regulations, showing the factors taken into account in awarding that amount; and
- (c) directing the attention of the claimant to his right, if he is aggrieved by the decision, to refer the matter to the tribunal, and giving him the address of the office to which the reference should be sent.

##### Claimants to furnish information

**38.**—(1) Any person claiming or receiving compensation or whose award of compensation is being reviewed shall furnish all such information as the compensating authority or the tribunal may at

any time reasonably require; and shall verify the same in any such manner, including the production of books or of original documents in his possession or control, as may be reasonably so required.

(2) Any such person as aforesaid shall, on receipt of reasonable notice, present himself for interview at any such place as the compensating authority or the tribunal may reasonably require.

(3) Any person who attends for interview as aforesaid may, if he so desires, be represented by his adviser.

### **Procedure on death of claimant**

**39.**—(1) In the event of the death of a claimant or of a person who, if he had survived, could have been a claimant, the claim for compensation under these Regulations may be continued or made (as the case may be) by his personal representative.

(2) Where any such claim is continued or made as aforesaid by a personal representative, the personal representative shall, as respects any steps to be taken or thing to be done by him in order to continue or make the claim, be deemed for the purposes of these Regulations to be the claimant, but, save as aforesaid, the person in right of whom he continues or makes the claim shall be deemed for all the purposes of these Regulations to be the claimant, and the relevant provisions of these Regulations shall be construed accordingly:

Provided that the compensating authority may in any such case extend the period within which a claim is required to be made by Regulation 7 or 13 of these Regulations.

### **Calculation of service**

**40.**—(1) For the purpose of determining the amount of any compensation payable in respect of the loss of an office to which, or of any two or more offices to which in the aggregate, an officer devoted substantially the whole of his time, any previous period of part-time employment shall be treated as though it were whole-time employment for a proportionately reduced period calculated, in the case of service as a probation officer, in accordance with Regulation 6(3) of the Probation Officers and Clerks (Superannuation) Regulations 1954<sup>(1)</sup> as amended<sup>(2)</sup>.

(2) For the purpose of making any calculation under these Regulations in respect of the reckonable service of an officer, all periods of such service shall be aggregated, and if the aggregated service includes a fraction of a year, that fraction shall, if it equals or exceeds six months, be treated as a year, and in any other case be disregarded.

### **Emoluments of part-time employments**

**41.** In ascertaining for the purposes of these Regulations whether, and how far, the remuneration of alternative employment falls short of emoluments which have been lost where those emoluments were payable in respect of two or more part-time employments, the remuneration of the alternative employment or of the aggregate of two or more such employments shall be apportioned in the proportion which the emoluments of the part-time employments bore to each other.

### **Compensation not assignable**

**42.**—(1) Subject to any statutory provision in that behalf, 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 to a person by a compensating authority shall be recoverable as a debt due from the authority.

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(1) (1954 II, p. 1749).

(2) The relevant amending instrument is S.I. 1965/422 (1965 I, p. 1119).

### **Right of appeal from decision of the compensating authority**

**43.**—(1) Every claimant who is aggrieved by any decision of the compensating authority with respect to compensation under these Regulations or by any failure on the part of the compensating authority to notify him of any such decision within the appropriate time prescribed by these Regulations may within three months of the notification to him of the decision or the expiry of the prescribed time, as the case may be, refer the matter to the tribunal.

(2) Every interested authority which is aggrieved by any decision of the compensating authority with respect to compensation under these Regulations may, within three months of the notification to it of the decision, refer the matter to the tribunal.

(3) Reference of a matter to the tribunal as aforesaid by a claimant or an interested authority shall be made in writing.

(4) On receipt of such a reference, the tribunal shall consider and determine the matter in accordance with the provisions of these Regulations and the compensating authority shall give effect to the decision of the tribunal with any modifications that may be required in consequence of any appeal from the decision on a point of law.

(5) On any such reference the tribunal may, if it thinks fit, appoint a person having special knowledge or experience in relation to the subject matter of the reference to sit with the tribunal as an assessor.

### **Application of payments**

**44.** Any sums paid to a compensating authority under Regulation 23(1) of these Regulations in respect of returned contributions shall, except in so far as they are repaid to the officers concerned, be applied for the payment of compensation which the authority are liable to pay under Part V of these Regulations.