
STATUTORY INSTRUMENTS

1948 No. 1458

Local Government (Compensation) Regulations 1948

PART I

Citation and Interpretation

1. These Regulations may be cited as the Local Government (Compensation) Regulations, 1948, and shall come into operation on the fifth day of July, 1948.

2. In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“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 provided benefits in which he had no right to participate but had reasonable expectations of participating, such proportion of the benefit 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 17 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 material date, in consequence of an increase between the 24th day of October, 1947, and the material date 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 17 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;

“the Act” means the Local Government Act, 1948;

“actuary” means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland;

“compensating authority” means—

- (a) in the case of officers of a rating authority, the rating authority;
- (b) in the case of officers of a joint committee of rating authorities, such one of the rating authorities represented on that committee as may be agreed between them or, in default of agreement, as may be determined by the Minister;
- (c) in the case of officers of an assessment committee, the rating authority for the assessment area of that committee, or where the assessment area consists of more than one rating area, such one of the rating authorities in that assessment area as may be agreed between them or, in default of agreement, as may be determined by the Minister;
- (d) in the case of officers of a council of a county or of a county valuation committee, the council of the county;
- (e) in the case of officers of the quarter sessions for the County of London, the London County Council; and
- (f) in the case of officers of the Central Valuation Committee, the Railway Assessment Authority and the Anglo-Scottish Railways Assessment Authority, the Minister;

“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 allowances payable to him to cover the cost of providing office accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment, and also does not include any remuneration enjoyed, whether before or after the material date, in consequence of an increase between the 24th day of October, 1947, and the material date 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 material date:—

- (a) devoted the whole of his time, and had so devoted it for a period of not less than eight years before the material date after attaining the age of eighteen years without a break of more than twelve months at any one time, to employment under the Crown or in the local government service in Great Britain, or to employment by any authority or body functions of which cease or have ceased in consequence of the coming into force of any Part of the Act, or to employment under an officer engaged in any such employment as aforesaid for the purposes of the functions of the employing authority or body or to any combination of such employments, or who would so have devoted his time but for any previous loss of employment which was attributable to the coming into force of any Part of the Act; and
- (b) was employed for at least part of his time for the purposes of any rating authority, any joint committee of rating authorities, any assessment committee, any county valuation committee, any council of a county, the quarter sessions for the County of London, the Central Valuation Committee, the Railway Assessment Authority or the Anglo-Scottish Railways Assessment Authority;

“material date,” in relation to a person who has suffered loss of employment or diminution of the emoluments of any employment, means the date on which functions of the employing authority or body ceased in consequence of the coming into force of any Part of the Act;

“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 deduction 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 conditions 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;

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

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

“pension scheme” means a scheme for the payment of superannuation benefits to a person as part of the terms and conditions of any employment held by him;

“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 in the local government service, or under any authority or body functions of which cease or have ceased in consequence of the coming into operation of any Part of the Act, or under an officer engaged in any such employment as aforesaid for the purposes of the functions of the employing 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 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) Act, 1940.

3. The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

PART II

Compensation of Officers who suffer Loss of Employment or Diminution of Emoluments which is attributable to the passing of the Act

4. 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 passing of the Act 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.

5. 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 ten years after the material date, and the claim is made not later than two years after the date on which the cause of claim arises; and
- (b)
 - (i) his office is abolished and he is not offered a reasonably comparable office under the Crown or in the local government service; or
 - (ii) his appointment is determined because his services are not required or because his duties are diminished (no misconduct being established); or
 - (iii) his emoluments are diminished:

Provided that for the purposes of this regulation a person shall not be deemed to have been offered an office which is not reasonably comparable with an office which is abolished by reason only of the fact that the duties of the office offered are duties in relation to the administration of a different service from that in connection with which his office was held or are duties which involve a transfer of his employment from one place to another within England or Wales.

6. 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 the 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.

7.—(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 to a person by a local authority shall be recoverable as a debt due from the authority.

(3) Where the compensating authority is a rating authority represented on a joint committee of rating authorities or is a rating authority whose rating area is included in an assessment area consisting of more than one rating area, the other rating authorities concerned shall contribute towards the payment of any compensation payable by the compensating authority in proportion to the rateable values of their rating areas on the 31st day of March, 1948.

PART III

Officers on War Service on the Material Date

8.—(1) Any person (hereinafter referred to as an “officer on war service”) who is engaged in war service immediately before the material date and who, if he had continued to be employed until the material date 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.

(2) The expression “the material date,” in relation to an officer on war service, means the date on which functions of the authority or body by whom he was employed before becoming engaged in war service ceased in consequence of the coming into force of any Part of the Act.

9. 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—

- (a) is not given or offered by his former employer re-employment in his former office, or in any reasonably comparable office; or
- (b) is so re-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, and, in the latter case, to have suffered diminution of emoluments which is attributable to the Act.

10. 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 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 that he is available for employment to the authority or body by whom he was employed before becoming engaged in war service or, if that authority or body ceases to exist by virtue of the Act, to the compensating authority in relation to officers of the first mentioned authority or body:

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.

11. For the purpose of ascertaining the net emoluments of a person to whom regulation 9 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.

12. In relation to a pensionable officer to whom sub-paragraph (a) of regulation 9 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 17 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.

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Given under the official seal of the Minister of Health this thirtieth day of June, nineteen hundred and forty-eight.

L.S.

Aneurin Bevan
Minister of Health