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STATUTORY INSTRUMENTS

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**1967 No. 1889**

**The Harbour Reorganisation (Compensation  
to Employees) Regulations 1967**

**PART IV**

**LONG-TERM COMPENSATION FOR LOSS OF EMPLOYMENT  
OR LOSS OR DIMINUTION OF EMOLUMENTS**

**Persons to whom Part IV of the regulations applies**

**12.—**(1) The compensating authority shall, subject to the provisions of these regulations—

- (a) consider and determine the entitlement to long-term compensation of every person to whom this Part of these regulations applies who claims such compensation and in relation to whom the conditions set out in the next succeeding regulation are satisfied, and
- (b) pay the amount of any compensation so determined.

(2) This Part of these regulations applies to a person who has been for a period of not less than 8 years immediately preceding the material date continuously engaged (without a break of more than 12 months at any one time) for the whole or part of his time in relevant employment (which expression for this purpose includes any period of national service immediately following such employment), and who at the date of the loss of employment or loss or diminution of emoluments had not, save as is provided in regulation 18 of these regulations, attained normal retiring age.

**Conditions for payment of long-term compensation**

**13.—**(1) Without prejudice to any other requirement of these regulations, nothing in these regulations shall entitle a person to long-term compensation unless—

- (a) he has suffered loss of employment or loss or diminution of emoluments in consequence of any of the provisions of a harbour reorganisation scheme not later than 10 years after the material date;
- (b) he has made his claim for compensation in accordance with the provisions for making claims set out in Part VII of these regulations not later than 2 years after the loss or diminution which is the cause of the claim; and
- (c) if the cause of the claim for compensation is loss of employment—
  - (i) his employment was terminated for some reason other than misconduct or incapacity to perform such duties as immediately before the loss he was performing or might reasonably have been required to perform; and
  - (ii) he has not been offered any reasonably comparable employment under the Crown or in the service of any local authority, harbour authority, local lighthouse authority or of any person carrying out harbour operations, or under an officer in any such service, being employment for the purposes of the functions of the authority or person employing that officer.

(2) Regulation 7(2) and (3) of these regulations as to offers of employment shall apply for the purposes of this regulation.

(3) Claims for long-term compensation for loss of employment shall in all respects be treated as claims for such compensation for the loss of emoluments occasioned thereby and the provisions of these regulations shall apply to all such claims accordingly.

### **Factors to be considered in determining payment of long-term compensation**

**14.**—(1) For the purpose of determining whether long-term compensation for loss or diminution of emoluments should be paid to a claimant and, if so, the amount of the compensation (subject to the limits set out in these regulations), regard shall be had to such of the following factors as may be relevant, that is to say:—

- (a) the conditions upon which the claimant held the employment which he has lost, including in particular its security of tenure, whether by law or practice;
- (b) the emoluments and other conditions, including security of tenure, whether by law or practice, of any work or employment undertaken by the claimant in place of the employment he has lost;
- (c) the extent to which he has sought suitable employment and the emoluments which he might have acquired by accepting other suitable employment offered to him;
- (d) the amount of any compensation recovered by him under or by virtue of the provisions of any enactment relating to the reinstatement in civil employment of persons who have been in the service of the Crown, or payable to him otherwise than under these regulations in respect of the loss or diminution, whether by reason of any service agreement or contract or otherwise howsoever;
- (e) the amount of any benefit to which he is immediately entitled by virtue of any pension scheme associated with the employment which he has lost; and
- (f) all the other circumstances of his case:

Provided that if at the time when the claimant entered the employment which he has lost, or in which he has suffered a diminution of emoluments, proceedings had been commenced under section 18 of, and Schedule 4 to, the Act with a view to the confirmation of a harbour reorganisation scheme affecting the authority or person by whom he was employed, no account shall be taken of that fact.

(2) In ascertaining for the purposes of sub-paragraph (c) of the last foregoing paragraph whether a person has been offered suitable employment, regulation 7(3) of these regulation shall apply as it applies for the purposes of that regulation.

### **Amount of long-term compensation payable for loss of emoluments**

**15.**—(1) In the case of a person to whom this Part of these regulations applies, long-term compensation for loss of emoluments shall, subject to the provisions of these regulations, be payable until normal retiring age or death, whichever first occurs, and shall not exceed a maximum annual sum calculated in accordance with the provisions of paragraphs (2), (3) and (4) of this regulation.

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

- (a) for every year of the claimant's reckonable service, one sixtieth of the net emoluments he has lost; and
- (b) in the case of a claimant who has attained the age of 40 years at the date of the loss, a sum calculated in accordance with the provisions of paragraph (3) of this regulation appropriate to his age at that date:

Provided that the said maximum annual sum shall in no case exceed two thirds of the net emoluments which the claimant has lost.

- (3) The sum referred to in sub-paragraph (b) of the last foregoing paragraph shall be—
- (a) in the case of a claimant who has attained the age of 40 years but has not attained the age of 50 years at the date of the loss, the following fraction of the net emoluments he has lost—
    - (i) where the claimant's reckonable service is less than 10 years, one sixtieth for each year of such service after attaining the age of 40 years; or
    - (ii) where the claimant's reckonable service amounts to 10 years but is less than 15 years, one sixtieth for each year of such service after attaining the age of 40 years and one additional sixtieth; or
    - (iii) where the claimant's reckonable service amounts to 15 years but is less than 20 years, one sixtieth for each year of such service after attaining the age of 40 years and 2 additional sixtieths; or
    - (iv) where the claimant's reckonable service amounts to 20 years or more, one sixtieth for each year of such service after attaining the age of 40 years and 3 additional sixtieths; but the sum so calculated shall not in any case exceed one sixth of the said net emoluments;
  - (b) in the case of a claimant who has attained the age of 50 years but has not attained the age of 60 years at the date of the loss, one sixtieth of the said net emoluments for each year of the claimant's reckonable service after attaining the age of 40 years, up to a maximum of 15 such years; and
  - (c) in the case of a claimant who has attained the age of 60 years at the date of the loss, one sixtieth of the said net emoluments for each year of the claimant's reckonable service after attaining the age of 45 years.

(4) Where a person has become entitled to a superannuation benefit by way of annual amounts under a pension scheme associated with the employment which he has lost, the maximum annual sum referred to in paragraph (1) of this regulation shall be the maximum sum calculated under paragraph (2) of this regulation as if the superannuation benefit had not been payable, less the amount of the benefit.

(5) Where a sum is payable under this regulation in respect of any period and resettlement compensation has also been paid in respect of that period, the said sum shall be limited to the amount (if any) by which it exceeds the resettlement compensation paid as aforesaid.

(6) Compensation awarded under this regulation shall be payable at intervals equivalent to those at which the emoluments of the claimant's employment were previously paid or at such intervals as may be agreed between him and the compensating authority.

### **Long-term compensation for diminution of emoluments**

**16.** In the case of a person to whom this Part of these regulations applies, long-term compensation for diminution of emoluments in respect of any employment shall be awarded and paid in accordance with the following provisions—

- (a) the compensation shall consist of an annual sum which shall be payable at intervals equivalent to those at which the emoluments of the claimant's employment are or were previously paid or at such other intervals as may be agreed between the claimant and the compensating authority and shall, subject to the provisions of these regulations, be payable until normal retiring age or death, whichever first occurs; and
- (b) the said annual sum shall not exceed the figure which bears to the maximum annual sum which could have been awarded under regulation 15 of these regulations, had the claim been made under that regulation, the same ratio as the amount by which his net emoluments

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have been diminished (calculated as an annual amount) bears to the amount of his net emoluments:

Provided that no compensation shall be payable if this ratio is less than 2½ per cent.

**Date from which long-term compensation is to be payable**

17.—(1) Long-term compensation shall commence to be payable with effect from the date of the claim or from such earlier date as is mentioned in the succeeding provisions of this regulation.

(2) Where a claim for long-term compensation is duly made within 13 weeks of the occurrence of the loss or diminution which is the subject of the claim, the award shall be made retrospective to the date on which the loss or diminution occurred.

(3) Where a claim for long-term compensation is made after the expiry of the period mentioned in the last foregoing paragraph, the award may at the discretion of the compensating authority be made retrospective to a date not earlier than 13 weeks prior to the date on which the claim was made: Provided that, if the compensating authority are satisfied that the failure to make the claim within the period mentioned in the last foregoing paragraph was due to ill-health or other circumstances beyond the claimant's control, the award may be made retrospective to a date not earlier than that on which the loss or diminution occurred.

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

18.—(1) In the case of an officer to whom this Part of these regulations applies and who is 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) In the case of such an officer who 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 regulation 15 of these regulations had he not attained normal retiring age at the date on which he lost his employment.