
STATUTORY INSTRUMENTS

1977 No. 339

The Land Drainage (Compensation) Regulations 1977

PART I

PRELIMINARY

Title and commencement

1. These regulations may be cited as the Land Drainage (Compensation) Regulations 1977 and shall come into operation on 1st April 1977.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

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

- (a) if his last relevant pension scheme provided benefits in which he had a right to participate, the pension to which he would have become entitled under that scheme according to the method of calculation (modified where necessary for the purpose of giving effect to these regulations) prescribed by that scheme if, at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that scheme as to a minimum period of qualifying service or contribution and completed any additional contributory payments or payments in respect of added years which he was in the course of making; and
- (b) in any other case, such portion of the pension (if any) of which he had reasonable expectations as the compensating authority consider equitable, having regard to any practice of the drainage body by whom he was employed on the day immediately preceding the loss, his age, the length of his employment at the date of loss and all the other circumstances of the case;

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

- (a) if his last relevant pension scheme provided benefits in which he had a right to participate, any lump sum payment to which he would have become entitled under that scheme according to the method of calculation (modified where necessary for the purpose of giving effect to these regulations) prescribed by that scheme, if at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that scheme as to a minimum period of qualifying service or contribution and completed any additional contributory payments or payments in respect of added years which he was in the course of making; and
- (b) in any other case, such portion of the lump sum payment (if any) of which he had reasonable expectations as the compensating authority consider equitable, having regard to any practice of the drainage body by whom he was employed on the day immediately

preceding the loss, his age, the length of his employment at the date of loss and all the other circumstances of the case;

“accrued incapacity pension” and “accrued incapacity retiring allowance” have the same respective meanings as “accrued pension” and “accrued retiring allowance” except that the reference to a person's attaining normal retiring age shall be construed as a reference to his becoming incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

“the Act” means the Land Drainage Act 1976;

“the Act of 1972” means the Local Government Act 1972;

“added years”, in relation to a person who suffers loss of employment, means—

- (a) in the case of a pensionable officer, any additional years of service being purchased by him in his employment immediately prior to the loss in question under regulation D10 or regulation D11 of the Local Government Superannuation Regulations 1974 and includes any additional years of service which, having been granted under any provision similar to that referred to in either of the said regulations D10 and D11, were being so purchased under or by virtue of interchange rules, and
- (b) in the case of any other person, any additional years of service similar to those mentioned in paragraph (a) of this definition being purchased by him under the last relevant pension scheme,

being in either case additional years which were being purchased partly at the expense of the employer and partly at the expense of the person under arrangements which were entered into before the employer either informed him in writing that his employment was to be terminated, or was likely to be terminated, or gave him written notice of termination of his employment;

“additional contributory payments” means—

- (a) additional contributory payments of the kind referred to in any of regulations D6, D7 and D8 of the Local Government Superannuation Regulations 1974, or
- (b) any similar payments made under the last relevant pension scheme as a condition of
 - (i) reckoning any period of employment as service for the purposes of the scheme, or
 - (ii) reckoning non-contributing service as contributing service (which expressions have the same meaning as in the scheme) for the purposes of the scheme, or
 - (iii) increasing the length at which any period of service or contributions would be reckonable for the purpose of calculating a benefit under the scheme, or
- (c) any payments similar to any of those mentioned in the foregoing paragraphs made in pursuance of interchange rules;

“compensating authority”, in relation to compensation for loss of employment or loss or diminution of emoluments attributable to any instrument mentioned in column 1 of Schedule 2 or anything done in pursuance of such an instrument, means the drainage authority specified or referred to in column 3 of that Schedule opposite the description of that instrument;

“compensation question” means a question arising under these regulations—

- (a) as to a person's entitlement to compensation for loss of employment, or for loss or diminution of emoluments; or
- (b) as to the manner of a person's employment or the comparability of his duties;

“contributory employee”, “contributing service”, “non-contributing service”, “local Act contributor” and “local Act scheme” have the same meanings as in the Local Government Superannuation Act 1937;

“drainage authority” means a water authority or internal drainage board;

“drainage body” means a drainage authority or any other body having power to make or maintain works for the drainage of land;

“emoluments” has the meaning given by regulation 38(1), and

“annual rate of emoluments” has the meaning given by regulation 38(3);

“enactment” means any Act or any instrument made under an Act;

“fund authority” in relation to any person, means the authority maintaining the superannuation fund or account in relation to that person;

“Health Act” means the National Health Service Re-organisation Act 1973;

“health authority” means any Regional Hospital Board, Board of Governors or Executive Council, any pricing committee mentioned in section 14(1) of the Health Act, any Regional or Area Health Authority and any special health authority;

“instrument” means an Order in Council, regulation, order, rule, scheme, direction or agreement;

“interchange rules” means rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 (which provides for the pensions of persons transferring to different employment) and includes any similar instrument made, or having effect as if made, under any other Act which makes similar provision;

“last relevant pension scheme”, in relation to a pensionable officer, means the pension scheme to which he was subject immediately before suffering loss of employment or loss or diminution of emoluments;

“local authority” means—

- (a) (i) the council of an administrative county, county borough or county district, or the representative body of a parish (ceasing to exist after 31st March 1974),
- (ii) the council of a county or district (established by or under the Act),
- (iii) in England, any parish council, common parish council or parish meeting,
- (iv) in Wales, a parish council, common parish council or parish meeting (ceasing to exist after 31st March 1974), or
- (v) in Wales, a community council (established by or under the Act of 1972);
- (b) the council of a metropolitan borough or London borough, the Common Council of the City of London, the Greater London Council and the Council of the Isles of Scilly;
- (c) any joint board or joint body constituted by or under any enactment for the purpose of exercising the functions of two or more authorities described in paragraphs (a) or (b) above, and any special planning board within the meaning of paragraph 3 of Schedule 17 to the Act of 1972;
- (d) any other authority or body, not specified in paragraphs (a), (b) or (c) above, established by or under any enactment for the purpose of exercising the functions of or advising one or more of the authorities specified in paragraphs (a), (b) or (c) above;
- (e) any committee (including a joint committee) established by or under any enactment for the purpose of exercising the functions of, or advising, one or more authorities described in paragraphs (a), (b), (c) or (d) above;
- (f) any two or more authorities described in paragraphs (a), (b), (c), (d) or (e) above acting jointly or as a combined authority; or
- (g) a police authority for a county, a borough or a combined area;

“long-term compensation” means compensation payable in accordance with the provisions of Part IV of these regulations for loss of employment or loss or diminution of emoluments;

“material date” in relation to any person who has suffered loss of employment or loss or diminution of emoluments in consequence of any instrument mentioned in column 1 of Schedule 2 or of anything done under such an instrument shall, for any purposes mentioned in the heading to column 4 or column 5 of that Schedule, be the date specified in that column opposite the description of that instrument;

“minimum pensionable age” means, in relation to a pensionable officer, the earliest age at which, under his last relevant pension scheme, he could have become entitled to receive payment of an unreduced pension solely by virtue of his having attained a specified age and completed a specified period of service;

“Minister” means Minister of Agriculture, Fisheries and Food;

“national service” means, in relation to any person, service which is compulsory national service or relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 and any similar service immediately following such service entered into with the consent of the authority or person under whom an officer held his last relevant employment, or, where appropriate, the authority by whom such an officer was appointed;

“normal retiring age” means, in the case of a pensionable officer to whom an age of compulsory retirement applied by virtue of any enactment to which he was subject in the employment which 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 65 if the officer is a male or 60 if the officer is a female;

“officer” includes any other employee;

“pensionable officer”, in relation to a person who has suffered loss of employment or loss or diminution of emoluments, means a person who immediately before such loss or diminution was subject to a pension scheme;

“pension scheme”, in relation to a pensionable officer, means any form of arrangement associated with his employment for the payment of superannuation benefits, whether subsisting by virtue of any enactment, trust, contract or otherwise;

“reckonable service”, in relation to a person, means any period of whole-time or part-time employment in any relevant employment and includes any period of national service or war service undertaken on his ceasing to hold such an employment, but does not include employment in respect of which he has become entitled to receive a benefit from a pension scheme other than his last relevant pension scheme;

“relevant authority”, in relation to any officer who suffers loss of employment or loss or diminution of emoluments which is attributable to any instrument mentioned in column 1 of Schedule 2 or anything done in pursuance of such an instrument, means the drainage body specified in column 2 of Schedule 2 opposite the description of that instrument;

“relevant employment” means employment—

- (a) under the Crown or by any person, authority or body for the purposes of the Crown;
- (b) under any officer employed as mentioned in paragraph (a) of this definition for the purposes of the functions of that person, authority or body;
- (c) by any drainage authority or local authority;
- (d) by any health authority;
- (e) as clerk of the peace or deputy clerk of the peace, and employment in assisting such a person in the performance of the duties of that office;
- (f) which amounts to service or employment as described in paragraph (e) of the definition of “relevant employment” in regulation 2 of the Justices of the Peace Act 1949 (Compensation) Regulations 1965;

- (g) for the purposes of any statutory provision in the United Kingdom, being employment preceding any of the foregoing employment;
- (h) by a body which provides a public service in the United Kingdom otherwise than for the purpose of gain or to whom any grant is made out of monies provided by Parliament, being employment preceding any of the foregoing employments;
- (i) in such other service as the Minister may, in the case of any named officer, approve; but, except for national service and war service, does not include service in the armed forces of the Crown;

“resettlement compensation” means compensation payable in accordance with Part III of these regulations for loss of employment;

“retirement compensation” means compensation payable in accordance with the provisions of regulation 18, 19 or 20;

“tribunal” means a tribunal established under section 12 of the Industrial Training Act 1964;

“war service” means war service within the meaning of the Local Government Staffs (War Service) Act 1939, the Police and Firemen (War Service) Act 1939, the Teacher's Superannuation (War Service) Act 1939, the Education (Scotland) (War Service Superannuation) Act 1939 or employment for war purposes within the meaning of the Superannuation Schemes (War Service) Act 1940.

(2) The holder of any office, appointment, place, situation or employment shall, for the purposes of these regulations, be regarded as an officer employed in that office, appointment, place, situation or employment, and the expressions “officer” and “employment” shall be construed accordingly.

(3) Where under any provision of these regulations an annual value is to be assigned to a capital sum or a capital value to an annual amount—

- (a) the annual or capital value shall be ascertained in accordance with the tables set out in Schedule 1 in so far as they provide for the particular case;
- (b) where the said tables do not provide for a case in which an annual value is to be assigned to a capital sum or a capital value to an annual amount, the annual or capital value shall be the value as may be agreed between the compensating authority and the person to whom the capital sum or annual amount is payable; and
- (c) for the purpose of determining the application of the said tables, the headings and the note to each table shall be treated as part of the table.

(4) In these regulations, unless the context otherwise requires,—

- (a) references to any enactment shall be construed as references thereto as amended, re-enacted, applied or modified by any subsequent enactment; and
- (b) references to the Local Government Superannuation Act 1937 and the Local Government Superannuation Act 1953 shall be construed as references thereto as having effect by virtue of paragraph 5(1) of Schedule 7 to the Superannuation Act 1972.

(5) References in these regulations to a numbered regulation or Schedule shall, unless the reference is to a regulation or a Schedule of specified regulation, be construed as references to the regulation or Schedule bearing that number in these regulations.

(6) References in any of these regulations to a numbered paragraph shall, unless the reference is to a paragraph of a specified regulation, be construed as references to the paragraph bearing that number in the first mentioned regulation.

(7) The Interpretation Act 1889 shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.