EXPLANATORY NOTE

(This Note is not part of the Order but is intended to indicate its general purport.)

This Order abolishes the Railway Executive, the Road Haulage Executive, the Docks and Inland Waterways Executive and the Hotels Executive and includes transitional provisions as to the parties by or against whom legal proceedings are to be instituted or continued and other consequential transitional provisions.

1953 No. 1193

The British Transport Commission (Compensation to Employees) Regulations, 1953

Made - - - -	31*st July*, 1953
Coming into Operation	14*th August*, 1953

Whereas a draft of these Regulations has been approved by resolution of each House of Parliament:

Now, therefore, the Minister of Transport in exercise of the powers conferred upon him by Section 28 of the Transport Act, 1953(**a**), and of all other powers him enabling in that behalf, hereby makes the following Regulations:—

1.—(1) These Regulations shall come into operation on the fourteenth day after the date upon which these Regulations are made and shall have effect from the 6th May, 1953.

(2) These Regulations may be cited as the British Transport Commission (Compensation to Employees) Regulations, 1953.

(3) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"the Act" means the Transport Act, 1953:

"the Act of 1947" means the Transport Act, 1947(**b**);

"the Commission" means the British Transport Commission:

"completed year of whole time service" means service for a period of three hundred and sixty-five days, or a number of periods amounting in the aggregate to three hundred and sixty-five days:

Provided that if the period or periods of whole time service when aggregated include a fraction of a year, that fraction shall, if it exceeds one hundred and eighty-two days, be treated as a year, and in any other case be disregarded:

"current net emoluments", in relation to an officer or servant suffering loss of employment or loss or diminution of emoluments or worsening of conditions, means his annual rate of emoluments as an officer or servant at the date of such loss, diminution or worsening, after deducting therefrom any contribution payable by the officer or servant under any pension scheme associated with his employment; furthermore, any amount by which emoluments exceed £4,000 shall be disregarded:

(**a**) 1 & 2 Eliz. 2. c. 13. (**b**) 10 & 11 Geo. 6. c. 49.

"emoluments" means any of the following payments or other benefits made to or enjoyed by an officer or servant in respect of services rendered by him as such:—

(*a*) all salary, wages, and other payments of a similar nature for his own use;

(*b*) all bonuses, allowances, commission, gratuities, special duty and overtime pay that are of a recurrent nature, whether seasonal or otherwise and whether obtaining legally or by customary practice; and

(*c*) the money value of all travel privileges, free accommodation, and any other allowance in kind, privileges or benefits, whether obtaining legally or by customary practice;

but does not include payments for travelling, subsistence, accommodation, engagement of assistance and other expenses incurred in the course of employment, overtime and other payments that do not reflect a permanent state of affairs:

"an Executive" means an Executive established by or under Section 5 of the Act of 1947:

"insurance scheme" means a scheme for the provision of pensions by means of contracts or policies made or effected with an insurance company carrying on life assurance business within the meaning of the Assurance Companies Acts, 1909-1946(**a**) including contracts or policies made or effected with such a company for the purpose of implementing any form of private superannuation fund:

"the Minister" means the Minister of Transport:

"officer or servant" means a person employed as a member of the Commission or of an Executive or as an officer or servant by the Commission (whether or not the employment is by virtue of the Act of 1947 to be treated as employment by an Executive):

"pensionable officer or servant" means an officer or servant having pension rights:

"pensionable service" in relation to an officer or servant means any period ranking for benefit under his pension scheme:

"the relevant age" means 65 years for males and 60 years for females:

"relevant event" means—

(*a*) in relation to an officer or servant to whom Regulation 3 or 4 of these Regulations applies, the exercise by the Commission of the duties imposed on them by the Act as to the disposal of the property held by the Commission for the purposes of the existing road haulage undertaking or the modifications of the functions of the Commission effected by the Act, as the case may be;

(*b*) in relation to an officer or servant to whom Regulation 5 of these Regulations applies, the coming into operation of any provisions of a scheme under the Act relating to the re-organisation of that part of the Commission's undertaking which consists in the operation of the railways or of any Order of the Minister amending such a scheme:

"tribunal" means a referee or board of referees appointed by the Minister of Labour and National Service after consultation with the Lord Chancellor or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State:

(**a**) *See* 9 Edw. 7. c. 49 and 9 & 10 Geo. 6. c. 28.

"war service" means—

(*a*) service in any of Her Majesty's forces;

(*b*) any employment in the merchant navy or fishing fleets;

(*c*) any full-time employment in the Civil Defence Services (including the National Fire Service), the Royal Observer Corps, the Police War Reserve, the Nursing and First Aid Services, the Women's Land Army;

(*d*) any full-time employment into which the officer or servant entered by direction of the Minister of Labour and National Service;

(*e*) detention by the enemy as a prisoner, military or civil, in any enemy or enemy-occupied country, or internment in any enemy or enemy-occupied or neutral country in consequence of the war;

(*f*) such other employment as the Minister may in writing approve;

such service, employment, detention or internment being on or after the twenty-sixth day of May, 1939, or during the war of 1914-1918, but not including any voluntary enlistment after the cessation of hostilities or voluntary extension of war service otherwise than with the consent of the person in whose service the officer or servant was or would, but for his war service, have been at the time of the consent.

(4) The Interpretation Act, 1889(a), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

2. Without prejudice to any other requirements of these Regulations nothing in these Regulations shall entitle an officer or servant to compensation unless in consequence of the relevant event one or more of the following conditions are satisfied in relation to that officer or servant, that is to say:—

(*a*) his office or situation as an officer or servant is abolished or he is required by the Commission to vacate that office or situation for any reason other than reaching the relevant age, misconduct or incapacity to perform such duties as immediately before vacating that office he was performing or might reasonably have been required to perform, and he is not offered by the Commission a reasonably comparable office or situation; or

(*b*) his services are dispensed with by the Commission on the ground that they are not required or for any reason other than reaching the relevant age, misconduct or incapacity to perform such duties as immediately before his services were dispensed with he was performing or might reasonably have been required to perform; or

(*c*) his emoluments are reduced; or

(*d*) he otherwise suffers any direct pecuniary loss (including loss of pension rights); or

(*e*) he is without his consent in a worse position with respect of the conditions of his service as a whole (including tenure of office, emoluments, sick fund or sick pay, and pension rights) as compared with the conditions of service formerly obtaining in respect of him:

Provided that the duties which an officer or servant is required to perform shall not, for the purposes of this Regulation, be deemed to be not reasonably comparable to those which (apart from any war service) he last performed by reason only that they are duties in connection with activities which did not form part of the activities of that part of the Commission's undertaking in which he was employed or that they involve a transfer of his employment from one place to another place in Great Britain.

(a) 52 & 53 Vict. c. 63.

3.—(1) This Regulation applies to every officer or servant who loses his employment as an officer or servant in consequence of the duties imposed on the Commission by the Act as to the disposal of the property held by them for the purpose of the existing road haulage undertaking or of the modifications of the functions of the Commission effected by the Act.

(2) Subject to the provisions of this Regulation, every officer or servant to whom this Regulation applies shall, subject to his complying with the procedure and conditions set out in the First Schedule to these Regulations, be entitled to receive by way of compensation in respect of that loss resettlement payment to be determined in accordance with the provisions of the Second Schedule to these Regulations.

(3) Without prejudice to any other requirement of these Regulations, nothing in this Regulation shall entitle an officer or servant to whom this Regulation applies to compensation under the foregoing provisions of this Regulation unless—

(*a*) the cause of claim to compensation arises not later than ten years after the date on which these Regulations come into operation ;

(*b*) he is, at the date of losing his employment as an officer or servant, an officer or servant who has been continuously so employed since the 31st December, 1951 ; and

(*c*) except in the case of an officer or servant on the permanent staff of the Commission, he has been continuously engaged (exclusive of any breaks due to sickness or personal injury not exceeding in the aggregate six months) in whole time service for the period of three years immediately preceding the date on which he loses his employment as an officer or servant.

(4) In this Regulation the expression " whole time service " means employment after attaining the age of eighteen years—

(*a*) as an officer or servant ;

(*b*) before becoming an officer or servant, by any person whose undertaking or part of whose undertaking has been transferred to the Commission by a notice of acquisition under Part III of the Act of 1947, or by agreement, being employment in that part of the undertaking the activities of which were such activities as are specified in subsection (1) of Section 2 of the said Act ;

(*c*) where an undertaking has become, as the result of an acquisition or merger, part of an undertaking so transferred to the Commission, by the persons carrying on the first mentioned undertaking, and in the case of previous acquisitions or mergers of undertakings which were indirectly represented by any undertaking so transferred to the Commission, by the persons carrying on the undertaking so acquired or merged :

Provided that the employment was in every case in connection with that part of the undertaking the activities of which were such activities as are specified in subsection (1) of Section 2 of the Act of 1947 ;

(*d*) on war service following immediately upon any of the preceding employments ;

(*e*) on such other service as the Minister may in the case of any named employee in writing approve ;

to which the employee is required to devote on the average not less than 30 hours per week during which he is not at liberty to undertake other work in consideration of a fee or remuneration and includes any period after

attaining that age and before the date of becoming an officer or servant during which he was the owner or part owner of any such undertaking as is referred to in sub-paragraphs (*b*) and (*c*) of this paragraph.

4.—(1) This regulation applies to every officer or servant who suffers loss of employment or loss or diminution of emoluments or pension rights, or whose position is worsened, in consequence of the duties imposed on the Commission by the Act as to the disposal of the property held by them for the purpose of the existing road haulage undertaking or of the modifications of the functions of the Commission effected by the Act.

(2) Without prejudice to any other requirements of these Regulations, nothing in these Regulations shall entitle an officer or servant to whom this Regulation applies to compensation (other than a resettlement payment) unless—

(*a*) the cause of claim arises not later than ten years after—

(i) in any case where the relevant event is the modifications of the functions of the Commission effected by the Act, the 6th May, 1953; or

(ii) in any other case, the date on which these Regulations come into operation;

and within two years of the date on which he loses his employment as an officer or servant;

(*b*) a claim to compensation is made, in the manner set out in the First Schedule to these Regulations, not later than two years after the date on which the cause of claim arises, or where the claimant could not reasonably have known that a cause of claim had arisen at the date when it in fact arose, not later than two years after the first date upon which he could reasonably have known that a cause of claim had arisen; and

(*c*) he was immediately before the date on which he becomes an officer or servant to whom this Regulation applies, an officer or servant who had been continuously engaged (exclusive of breaks due to sickness or personal injury not exceeding in the aggregate eighteen months) in whole time service for the period of eight years immediately preceding that date.

(3) In this Regulation the expression "whole time service" means employment after attaining the age of eighteen years—

(*a*) as an officer or servant;

(*b*) immediately before becoming an officer or servant, by a person whose undertaking or part of whose undertaking was transferred to the Commission by Part II of the Act of 1947, by a notice of acquisition under Part III of that Act or by agreement, being employment in that part of the undertaking the activities of which were such activities as are specified in subsection (1) of Section 2 of the said Act, or by the Railway Clearing House;

(*c*) where an undertaking had become, as the result of an acquisition or merger, part of the undertaking so transferred to the Commission, by the persons carrying on the first mentioned undertaking, and in the case of previous acquisitions or mergers of undertakings which were indirectly represented by the undertaking so transferred to the Commission, by the persons carrying on the undertaking so acquired or merged:

Provided that the employment was in every case in connection with that part of the undertaking the activities of which were such activities as are specified in subsection (1) of Section 2 of the Act of 1947;

(*d*) on war service following immediately upon any of the preceding employments;

(*e*) on such other service as the Minister may in the case of any named employee in writing approve;

to which the employee is required to devote on the average not less than 30 hours per week during which he is not at liberty to undertake other work in consideration of a fee or remuneration, and includes any period after attaining that age and before the date of his becoming an officer or servant during which he was the owner or part owner of any undertaking referred to in sub-paragraphs (*b*) and (*c*) of this paragraph.

5.—(1) This regulation applies to every officer or servant who suffers loss of employment or loss or diminution of emoluments or pension rights, or whose position is worsened, in consequence of the powers and duties conferred on the Commission and the Minister by the Act in connection with the re-organisation of that part of the Commission's undertaking which consists of the operation of the railways.

(2) Without prejudice to any other requirements of these Regulations, nothing in these Regulations shall entitle an officer or servant to whom this Regulation applies to compensation unless—

(*a*) the cause of claim to compensation arises not later than ten years after the relevant event, and the claim is made, in the manner set out in the First Schedule to those Regulations, not later than two years after the date on which the cause of claim arises, or where the claimant could not reasonably have known that a cause of claim had arisen at the date when it in fact arose, not later than two years after the first date upon which he could reasonably have known that a cause of claim had arisen; and

(*b*) he was immediately before the date of the relevant event an officer or servant who had been continuously engaged (exclusive of any breaks due to sickness or personal injury not exceeding in the aggregate eighteen months) in whole time service for the period of eight years immediately preceding that date.

(3) In this Regulation the expression "whole time service" means employment after attaining the age of eighteen years—

(*a*) as an officer or servant;

(*b*) before becoming an officer or servant, by any person whose undertaking or part of whose undertaking has been transferred to the Commission under Part II of the Act of 1947, by a notice of acquisition under Part III of that Act or by agreement, being employment in that part of the undertaking the activities of which were such activities as are specified in subsection (1) of Section 2 of the said Act, or by the Railway Clearing House;

(*c*) where an undertaking has become, as the result of an acquisition or merger, part of an undertaking so transferred to the Commission, by the persons carrying on the first mentioned undertaking, and in the case of previous acquisitions or mergers of undertakings which were indirectly represented by any undertaking so transferred to the Commission, by the persons carrying on the undertaking so acquired or merged:

Provided that the employment was in every case in connection with that part of the undertaking the activities of which were such activities as are specified in subsection (1) of Section 2 of the Act of 1947 ;

(*d*) on war service following immediately upon any of the preceding employments ;

(*e*) on such other service as the Minister may in the case of any named employee in writing approve ;

to which the employee is required to devote on the average not less than 30 hours per week during which he is not at liberty to undertake other work in consideration of a fee or remuneration, and includes any period after attaining that age and before the date of becoming an officer or servant during which he was the owner or part owner of any such undertaking as is referred to in sub-paragraphs (*b*) and (*c*) of this paragraph.

6.—(1) Subject to the provisions of these Regulations, every officer or servant to whom Regulation 4 or 5 of these Regulations applies who, in consequence of the relevant event, suffers any direct pecuniary loss by reason of the abolition of his office or situation, the dispensing by the Commission with his services, or the loss or diminution of his emoluments or pension rights or otherwise, shall, subject to his complying with the procedure and conditions set out in the First Schedule to these Regulations, be entitled to receive in respect of that loss compensation to be determined in accordance with the provisions of the Second Schedule to these Regulations.

(2) Subject to the provisions of these Regulations, every such officer or servant who, in consequence of the relevant event, suffers any loss or injury, not being a pecuniary loss in respect of which he is entitled to compensation under paragraph (1) of this Regulation, by reason of his position as an officer or servant being without his consent worsened shall, subject to his complying with the procedure and conditions set out in the First Schedule to these Regulations, be entitled to receive in respect of that loss or injury compensation calculated in the following manner, that is to say—

(*a*) the pecuniary value of the loss or injury shall be expressed in terms of current net emoluments ; and

(*b*) the appropriate compensation shall be determined accordingly in accordance with the provisions of the Second Schedule to these Regulations.

7. If an officer or servant who has duly claimed compensation under any of the provisions of these Regulations is aggrieved by the failure of the Commission to inform him of their decision upon his claim within the prescribed time, or by their refusal to grant compensation or by the amount of compensation granted, he may in accordance with the provisions of the First Schedule to these Regulations refer the matter to a tribunal, and the tribunal shall consider the case in accordance with the Second Schedule to these Regulations and determine whether any, and if so what, compensation ought to be granted to the claimant, and the Commission shall give effect to the decision of the tribunal.

8.—(1) Any compensation payable under these Regulations shall be paid by the Commission, subject to the following conditions:—

(*a*) Subject to the provisions of sub-paragraph (*b*) of this paragraph, the compensation shall be paid to, or in trust for, the officer or servant concerned or in the event of his death to his legal personal representatives and not otherwise ;

(*b*) any compensation payable in respect of loss or diminution of pension rights shall, if the officer or servant requests the Commission so to do, be paid to, or in trust for, such person as is entitled to receive the corresponding payments under any regulations made by the Minister under Section 27 of the Act, including any pension scheme established or amended by such regulations;

(*c*) save in so far as is permitted by the foregoing provisions of this Regulation, no compensation payable under these Regulations shall be assignable.

(2) Any compensation payable by the Commission shall be or commence to be payable at the date fixed by the Commission or the tribunal, as the case may be.

Given under the Official Seal of the Minister of Transport this thirty-first day of July, 1953.

(L.S.)

Alan Lennox-Boyd,
The Minister of Transport.

FIRST SCHEDULE

Determination of Compensation

Procedure

1. Every claim for compensation made under these Regulations, and every request for a review of an award of compensation as provided for in paragraphs 9 and 12 of the Second Schedule to the said Regulations, shall be made in accordance with the following provisions of this Schedule.

2. Every such claim and every such request shall be made in such form and in such manner as the Commission may determine.

3. In the event of the death of a person who has made a claim or who, if he had survived, could have made a claim for compensation under the said Regulations, such claim may be continued by or may be made by his legal personal representative.

4. On receipt of any such claim or request the Commission shall consider the same in accordance with the provisions of the said Regulations and the Second Schedule thereto, and shall within the time therein prescribed notify the claimant in writing of their decision in respect thereto.

5. Every such notification of a decision by the Commission shall in the case of an award or a review of an award of compensation or of a refusal to make or review an award of compensation, contain a statement directing the attention of the claimant to his right, if he is aggrieved by the decision, to refer the matter to a tribunal and informing him of the address of the appropriate tribunal.

6. Every claimant for compensation who is aggrieved by a decision of the Commission, including a decision reviewing or refusing to review an award of compensation, may within three months of the decision being notified to him, refer the matter to a tribunal.

7. A claimant, if so required by the Commission, shall attend before the Commission or any person duly appointed in that behalf by the Commission, and answer any questions touching the matters set forth in his claim, and shall further produce all books, papers and other documents in his possession or under his control relating to his claim, so however that, when so attending, a claimant may, if he so desires, be accompanied by and be represented by his adviser.

SECOND SCHEDULE

ASSESSMENT OF RESETTLEMENT PAYMENT AND COMPENSATION FOR PECUNIARY LOSS OR WORSENING OF CONDITIONS

I. *Resettlement Payment*

1. On receipt of a claim for resettlement payment made after the manner set out in the First Schedule to these Regulations, the Commission shall consider forthwith whether the claimant satisfies the conditions of eligibility set out in Regulations 2 and 3 of these Regulations and shall decide whether, and if so what, resettlement payment should be awarded and shall advise the applicant of their decision not later than fourteen days after the receipt of the claim.

2. Resettlement payment shall subject to the provisions of this paragraph be payable in respect of the period of thirteen weeks next succeeding the week in which the applicant loses his employment as an officer or servant or, in the case of an applicant aged over forty-five, of the said thirteen weeks extended by an additional period of one week for every year of age after attaining the age of forty-five subject to a maximum addition of thirteen such periods and shall be payable at intervals equivalent to those at which the applicant's emoluments were previously paid.

Provided that no resettlement payment shall be payable in respect of any period during which, for any reason other than by reason of his obtaining other employment or becoming entitled to sickness or injury benefits, an applicant is not registered with the Ministry of Labour and National Service or ceases to be entitled to unemployment benefit, or in respect of which he fails to satisfy the Commission that he was actively seeking suitable employment.

3. The amount of the resettlement payment payable to an applicant in respect of loss of employment shall be a sum which, when added to a sum equal to the aggregate of the following sums:—

(i) two-thirds of any sums the applicant is receiving under a service agreement or contract; and

(ii) where he is or would if he made a claim thereto be entitled to draw unemployment, sickness or injury benefits, the sum which would be so payable in respect of a person having no dependants,

is equal to two-thirds of his current net emoluments immediately before his loss of employment.

II. *Loss of Emoluments through Abolition of Office or Discharge*

Interim Payment of Compensation

4. On receipt of a first claim for compensation in respect of loss of employment (not being a claim for resettlement payment) made after the manner set out in the First Schedule to these Regulations, the Commission shall consider forthwith whether the claimant satisfies the conditions of eligibility for payment of compensation set out in Regulation 2 and in Regulation 4, or as the case may be, in Regulation 5 of these Regulations, and if they consider that these conditions are not satisfied, shall advise the claimant within four weeks of the receipt of the claim.

5. If the Commission do not advise the claimant within four weeks that they consider his claim is unfounded, they shall, subject to the provisions of this paragraph, forthwith commence to make an interim payment of compensation to him until such time, not being later than thirteen weeks after the receipt of the claim, as they decide the amount of compensation payable to him in accordance with paragraphs 7 and 8 of this Schedule, and advise him accordingly.

Provided that no interim payment shall be made in the case of an officer or servant to whom resettlement payment has or would but for the proviso to paragraph 2 of this Schedule have been paid.

6. The interim payment shall not exceed an amount which, together with two-thirds of any sums the applicant is receiving under a service agreement or contract and, where the applicant is or would if he made a claim thereto be entitled to draw unemployment, sickness or injury benefits, the sum which would be so payable in respect of a person having no dependants, would equal two-thirds of his current net emoluments. It shall be made at intervals equivalent to those at which the applicant's emoluments were previously paid, and may be reduced or terminated by the Commission if during its currency the applicant obtains employment.

Provided that no interim payment shall be payable in respect of any period during which, for any reason other than by reason of his obtaining other employment or becoming entitled to sickness or injury benefits, an applicant is not registered with the Ministry of Labour and National Service or ceases to be entitled to unemployment benefit, or in respect of which he fails to satisfy the Commission that he was actively seeking suitable employment.

Compensation Award

7. For the purpose of determining whether compensation should be awarded to any person for loss of emoluments, and if so the amount of that compensation, regard shall be had to—

(i) the conditions upon which he held his appointment, including in particular its security of tenure, whether by law or by practice;

(ii) the conditions, including security of tenure, whether by law or by practice, of any other employment he may have obtained;

(iii) the extent to which the claimant has sought suitable employment and the emoluments which he has, or might have, acquired by accepting other suitable employment, including retraining, offered to him;

(iv) the amount of any compensation recovered under the Reinstatement in Civil Employment Act, 1944(a);

(v) all the other circumstances of his case.

8. Compensation for loss of emoluments shall, subject to paragraph 22 of this Schedule be awarded by way of an annual sum, payable until the relevant age, or the commencement, if earlier, of periodical payments by virtue of any regulations made by the Minister under Section 27 of the Act, including any pension scheme established or amended by such regulations, which shall not exceed the aggregate of the following sums:—

(i) for every completed year of whole time service, one-sixtieth of the applicant's current net emoluments;

(ii) in the case of an applicant aged over forty-five, one-sixtieth of his current net emoluments for every completed year of whole time service since he attained the age of forty-five:

Provided that the annual rate of compensation shall not in any event exceed two-thirds of the current net emoluments of the applicant immediately before his loss of employment.

In this paragraph the expression "whole time service" means employment after attaining the age of eighteen years—

(*a*) as an officer or servant;

(*b*) before becoming an officer or servant, by the persons carrying on any undertaking the activities of which were such activities as are specified in subsection (1) of Section 2 of the Act of 1947, or by the Railway Clearing House;

(*c*) by the Minister of War Transport in connection with the Road Haulage Organisation established by him;

(*d*) on war service following immediately upon any of the preceding employments;

(a) 7 & 8 Geo. 6. c. 15.

(*e*) on such other service as the Minister may in the case of any named employee in writing approve;

to which the employee is required to devote on the average not less than 30 hours per week during which he is not at liberty to undertake other work in consideration of a fee or remuneration, and includes any period after attaining that age and before becoming an officer or servant during which he was the owner or part owner of any such undertaking as is referred to in subparagraph (*b*) of this paragraph.

9. The Commission shall have discretion to review an award of compensation at intervals of not less than six months and to alter it, either upwards or downwards, in the light of any change in the circumstances of the case, subject, however, to no such review being, save in exceptional circumstances, made later than two years after the first award of compensation. Similarly an applicant may at intervals of not less than six months and within a period not, save in exceptional circumstances, exceeding two years, request the Commission to review the award made to him if he considers that there has been a material change in the circumstances to which regard was had when the award was made.

III. *Diminution of Emoluments or Non-pecuniary Worsening of Conditions*

10. No interim payment shall be made in respect of compensation for diminution of emoluments or worsening of conditions, but the Commission shall decide the amount of compensation payable and advise the applicant accordingly not later than three months after the date of receipt of the claim.

11. In determining whether compensation shall be awarded and, if so, the amount of that compensation, regard shall be had to the conditions upon which an applicant held his appointment, including in particular its security of tenure, whether by law or by practice, and all the other circumstances of the case.

12. Awards for diminution of emoluments or worsening of conditions shall be subject to review on the same basis as is set out in paragraph 9 of this Schedule, except that in the case of officers or servants remaining with the Commission such reviews may take place at intervals of not less than six months, any time after the relevant event.

13. The compensation awarded to an applicant who suffers diminution of emoluments shall, subject to paragraph 22 of this Schedule, be awarded by way of an annual sum payable until the relevant age or the commencement, if earlier, of periodical payments by virtue of any regulations made by the Minister under Section 27 of the Act, including any pension scheme established or amended by such regulations, which sum shall not exceed the figure which bears to the maximum amount which could have been awarded had he lost his employment the same ratio as the amount by which his current net emoluments are diminished bears to their amount before diminution. Furthermore, no compensation shall be payable if this ratio is less than two and a half per cent.

IV. *Extension of Compensation after the Relevant Age*

14. In the case of a person receiving compensation for loss or diminution of emoluments, the Commission or the tribunal may in their discretion, when they are satisfied that the person would have continued to work as an officer or servant beyond the relevant age, extend the period of the award of compensation beyond that age, but at a rate one half of the rate of compensation being paid before the relevant age.

15. If an officer or servant suffers loss or diminution of emoluments after the relevant age, the Commission or the tribunal may, in their discretion, award him compensation at a rate not exceeding one half of that which would have been awarded to him had the loss or diminution occurred shortly before the relevant age, but at a salary and with length of whole time service equal to those at the time of the loss or diminution.

V. *Compensation for Loss or Diminution of Pension Rights in the case of Pensionable Officers and Servants*

16. Compensation for loss or diminution of pension rights, where such loss or diminution is established, shall be awarded by way of a payment or payments additional to those payable to or in respect of the officer or servant by virtue of any regulations made by the Minister under Section 27 of the Act, including any pension scheme established or amended by such regulations. Subject to paragraphs 17, 18 and 19 of this Schedule, any payments so made shall not exceed the difference between the payment made by virtue of the said regulations and the payment which would have been made by virtue of those regulations if the officer or servant had had one additional completed year of whole time service without increase in emoluments for each completed year of whole time service above the age of 40, not exceeding the number of years to be served by him before reaching the relevant age (or where the Commission or the tribunal are satisfied that the officer or servant would have continued to work beyond that age, the age to which they are satisfied that he would have continued to work), or ten years, which ever shall be the less. In the calculation of such difference in the case of an award for diminution of pension rights, the Commission may disregard any limitation in a pension scheme on the number of years of service ranking for benefit. Any payment made shall be made at the same times, in the same manner and subject to the same conditions as the corresponding payments made by virtue of the said regulations.

17. In the case of an officer or servant who, immediately before the date of losing his employment as an officer or servant, is a participant in an insurance scheme, being a scheme under which any payments made in respect of pension rights are related to the participant's years of pensionable service, and the payment or payments in respect of pension rights secured to or in respect of the officer or servant after that date by virtue of any regulations made by the Minister under Section 27 of the Act, is less than those which would have been payable had they been related to his years of pensionable service, there shall be awarded by way of compensation in respect of that loss a payment or payments additional to those payable to or in respect of the officer or servant by virtue of the said regulations equal in amount to the difference between any payment made by virtue of the said regulations and the payment which would have been made by virtue of those regulations had the payment been related to the years of pensionable service of the officer or servant concerned before he lost his employment as an officer or servant.

18. No payment of compensation under the two last preceding paragraphs made at any time shall be such that the amount of that payment, when added to any payment due to be made to or in respect of an officer or servant by virtue of any regulations made by the Minister under Section 27 of the Act, including any pension scheme established or amended by such regulations, at that time, exceeds the amount which would have been payable to or in respect of him by virtue of those regulations at that time had he suffered no loss or diminution of pension rights.

19. In determining the number of years, if any, to be added for the purpose of assessing the compensation to be awarded under paragraph 16 of this Schedule, regard shall be had to the consideration set out in paragraph 7 of this Schedule, and also to the pension arrangements attaching to any employment which the officer or servant may have obtained. Such determination shall be made at the same time as the award, if any, of compensation for loss or diminution of emoluments is determined, or, if no application for such an award has been made, within thirteen weeks of the receipt of the claim for compensation for loss or diminution of pension rights, and any award made shall be subject to review on the same basis as is set out in paragraph 12 of this Schedule.

VI. *Miscellaneous*

20. If a person receiving compensation from the Commission for loss of employment, diminution of emoluments or worsening of conditions becomes an officer or servant of the Commission or of an Executive, he shall not, so long as he remains such an officer or servant, be entitled to receive any greater sum by way of compensation than that which would have been awarded to him for diminution of emoluments or worsening of conditions had he been or remained in the employment of the Commission.

21. An award of compensation may be made retrospective, but not, save in exceptional circumstances, to a date more than thirteen weeks earlier than the date of receipt of the claim by the Commission or, in the case of a person to whom a resettlement payment has or but for the proviso to paragraph 2 of this Schedule would have been paid for any period, to a date earlier than the end of that period.

22. The Commission may, at their sole option, compound their liability to make annual awards of compensation to a person by payment of an immediate lump sum equal to the present actuarial value of such awards, if the lump sum does not exceed £250. In any other case of an annual award the Commission shall have discretion at the request of the person in receipt of compensation, after having regard to his state of health and other circumstances, to compound

(i) up to one quarter of their liability other than their liability to pay compensation for loss or diminution of pension rights; and

(ii) up to one quarter of their liability to pay compensation for loss or diminution of pension rights, or, if the pension scheme relating to those rights enabled them to be compounded to a greater extent, up to that extent.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

(Paragraph numbers refer to the Second Schedule)

These Regulations provide for the payment by the British Transport Commission of compensation to their officers or servants who suffer loss of employment or loss or diminution of emoluments or pension rights or whose position is worsened in consequence of the denationalisation of road haulage, the modifications of the functions of the Commission, or the re-organisation of the railways, provided for by the Transport Act, 1953.

For those who lose their employment with the Commission in consequence of the disposal of the Commission's existing road haulage undertaking or of the modifications of the functions of the Commission, "resettlement payment" is provided. To be eligible for this a claimant must have been employed continuously with the Commission since 31st December 1951 and, unless he is on the permanent staff, must at the date of loss have had three years service, including service with any undertaking transferred to or acquired by the Commission. (Reg. 3). Unless he is sick or injured he must register with the Ministry of Labour and National Service and must actively seek suitable employment. The "resettlement payment" will be two-thirds of his net emoluments before the loss, less two-thirds of any current earnings and, where he could claim unemployment, sickness or injury benefits, the rate of benefit payable to a person without dependants. "Resettlement payment" will be payable for thirteen weeks following the loss of employment, plus one week for each year of age after 45, up to a maximum of 26 weeks (Paragraphs 2 and 3).

To be eligible for long-term compensation a claimant must at a given date have had eight years continuous service after the age of 18. The date from which the eight years are reckoned, and the kind of service which is reckonable, differ according to whether the loss arises in consequence of the disposal of road haulage, or the modifications of the functions of the Commission, or the re-organisation of the railways. (See Regs. 4 (2) (*c*) and 5 (2) (*c*), and 4 (3) and 5 (3)). If he loses his employment and has not refused reasonably comparable alternative work (Reg. 2) and he is not in a class for which "resettlement payment" is provided, he will be eligible for "interim payment" on a similar basis, for a period of up to thirteen weeks (Paragraphs 5 and 6). During this period his claim will be assessed. Compensation will be payable up to age 65 (60 for a female), or the age at which he would have begun to receive a pension had he not lost his employment; it will be subject to a maximum based on his net emoluments and length of service (Paragraph 8). The actual award in any particular case will have regard to the circumstances set out in Paragraph 7, including the extent to which he has sought other suitable work and the earnings he has or could have obtained by so doing. The award will be subject to review for a period of two years (Paragraph 9). Where a claimant would normally have continued in the employment of the Commission after age 65 (60 for a female), the award may be continued after that age at half rate (Paragraphs 14 and 15). For reduction of emoluments or worsening of conditions there will be no "interim payment" and the maximum payment will be proportionately reduced. Similar circumstances will govern the actual amount awarded, but where the claimant remains with the Commission the award will be subject to review at any time (Paragraphs 10 to 13).

Provision will be made in separate regulations for a claimant who had any pension rights to have those rights preserved in the form in which they existed at the time he ceased to be in the employment of the Commission; where, however, a member of an insurance pension scheme has at the date at which he loses his employment the expectation of a pension related to his years of service and the pension secured by the separate regulations is less than this, the difference will be payable by way of compensation under the present Regulations (Paragraph 17). In the case of persons over 40, the present Regulations make provision for crediting them with added years of service in recognition of their loss of future years of pensionable service or reduction of pensionable emoluments (Paragraphs 16, 18 and 19).

Overlap with earnings from subsequent service with the Commission is avoided (Paragraph 20), and there is certain provision for commutation (Paragraph 22). There is provision for appeal to a tribunal (Reg. 7).

No claim will be entertained if its cause arises later than 10 years after a specified date (which differs according to the event in consequence of which the loss is suffered) or, in the case of a claim, other than for "resettlement payment", arising in consequence of the disposal of the road haulage undertaking or of the modifications of the functions of the Commission, if its cause arises later than 2 years after the claimant ceases to be in the employment of the Commission (Regs. 3 (3) (*a*), 4 (2) (*a*) and 5 (2) (*a*)).

A claim to long-term compensation must be made not later than two years after the date on which the cause arises (Regs. 4 (2) (*b*) and 5 (2) (*a*)).