STATUTORY INSTRUMENTS

1965 No. 517

LOCAL GOVERNMENT, ENGLAND AND WALES

LONDON GOVERNMENT

The Clerks of the Peace and Justices' Clerks (Compensation) Regulations 1965

Made - - - -	18*th March* 1965
Laid before Parliament	29*th March* 1965
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Whereas the Treasury have determined under section 60(2) of the Local Government Act 1958(a), both as originally enacted and as applied by section 29(6) of the Administration of Justice Act 1964(b), that the Secretary of State is the appropriate Minister to make Regulations thereunder in relation to the persons to whom these Regulations relate:

And whereas the Secretary of State is the appropriate Minister for the purposes of section 85(4) of the London Government Act 1963(c) as applied by section 35 of the Administration of Justice Act 1964 in relation to those persons:

(a) 6 & 7 Eliz. 2. c. 55. (b) 1964 c. 42. (c) 1963 c. 33.

Now therefore, in pursuance of the powers conferred on me by the said section 60(2), both as originally enacted and so applied, and the said section 85(4) as so applied, I hereby make the following Regulations:—

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Clerks of the Peace and Justices' Clerks (Compensation) Regulations 1965 and shall come into operation on 1st April 1965.

Interpretation

2.—(1) 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 office, means the pension to which he would have become entitled in respect of his pensionable service according to the method of calculation (modified where necessary in accordance with Regulation 23(2) of these Regulations) prescribed by the pension scheme to which he was last subject before suffering loss of office 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 completed any additional contributory payments or payments in respect of added years which he was in course of making:

Provided that in the case of a pensionable officer whose pension would have been calculated by reference to remuneration in the office of clerk of the peace or deputy clerk of the peace and to remuneration as an officer of a local authority, account shall be taken only of that part of the pension which would have been calculated by reference to his remuneration in the office of clerk of the peace or deputy clerk of the peace;

"accrued retiring allowance" in relation to a pensionable officer who has suffered loss of office means any lump sum payment to which he would have become entitled in respect of his pensionable service according to the method of calculation (modified where necessary in accordance with Regulation 23(2) of these Regulations) prescribed by the pension scheme to which he was last subject before suffering loss of office 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 completed any additional contributory payments or payments in respect of added years which he was in course of making:

Provided that in the case of a pensionable officer whose lump sum payment would have been calculated by reference to remuneration in the office of clerk of the peace or deputy clerk of the peace and to remuneration as an officer of a local authority, account shall be taken only of that part of the lump sum payment which would have been calculated by reference to his remuneration in the office of clerk of the peace or deputy clerk of the peace;

"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

having attained normal retiring age shall be construed as a reference to his having become incapable of discharging efficiently the duties of his office by reason of permanent ill-health or infirmity of mind or body;

"the Act of 1933" means the Local Government Act 1933(a);

"the Act of 1958" means the Local Government Act 1958;

"the Act of 1964" means the Administration of Justice Act 1964;

"added years" in relation to a contributory employee or local Act contributor who suffers loss of office, means any additional years of service reckonable by him in his office immediately prior to the loss in question under Regulation 12 of the Local Government Superannuation (Benefits) Regulations 1954(b) or any corresponding provision of a local Act scheme, or that Regulation or any such provision as aforesaid as applied by regulations made under Schedule 3 or Schedule 4 to the Local Government Superannuation Act 1953(c), and includes any additional years of service which, having been granted under any such provision or under any similar provision contained in any other enactment or scheme, have subsequently become and are reckonable under or by virtue of rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948(d), or any other enactment;

"additional contributory payments" means—

(*a*) additional contributory payments of the kind referred to in section 2(3) and (4) of the Local Government Superannuation Act 1953; or

(*b*) any similar payments made under a local Act scheme as a condition of reckoning any period of office as service or as a period of contribution for the purposes of the scheme, or, where the scheme provides for the reckoning of non-contributing service, as contributing service for the purposes of the scheme; or

(*c*) any payments made for the purpose of increasing the length at which any period of service or of contribution would be reckonable for the purpose of calculating a benefit under a local Act scheme; or

(*d*) any payments similar to any of those mentioned in the foregoing sub-paragraphs made in pursuance of rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948;

"contributory employee" and "local Act contributor" have the same meanings as in the Local Government Superannuation Act 1937(e);

"determining authority" means—

(*a*) in relation to an officer who after being transferred from one authority to another authority under the Act of 1933, the Act of 1958 or the Act of 1964, as the case may be, has suffered loss of office or loss or diminution of emoluments—

(i) where the office in respect of which a claim arises was that of clerk of the peace or deputy clerk of the peace for any borough, the paying authority;

(ii) where the office in respect of which a claim arises was that of clerk of the peace or deputy clerk of the peace for any county or for one of the London commission areas or a justices' clerk, the authority under whom the officer was last employed prior to the loss or diminution;

(a) 23 & 24 Geo. 5. c. 51. (b) S. I. 1954/1048 (1954 II, p. 1595). (c) 1 & 2 Eliz. 2. c. 25.
(d) 11 & 12 Geo. 6. c. 33. (e) 1 Edw. 8 & 1 Geo. 6. c. 68.

(iii) where the office in respect of which a claim arises consisted of assisting a holder of the office of clerk of the peace or deputy clerk of the peace for any county in the performance of the duties of his office and was in the service of the council of that county, the paying authority;

(iv) where the office in respect of which a claim arises consisted of assisting a holder of the office of clerk of the peace, deputy clerk of the peace or justices' clerk in the performance of the duties of his office but was not employment falling within sub-paragraph (iii) of this paragraph, the authority which would be the determining authority if the claim were in respect of that office;

(v) in any other case, the paying authority;

(*b*) in relation to an officer not transferred as aforesaid who has suffered loss of office or loss or diminution of emoluments, such authority as is mentioned in paragraph (*a*) of this definition with respect to the office concerned or, if that authority has ceased to exist, such other authority as the Secretary of State may determine;

" 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 office, but does not include payments for overtime, other than payments which are a usual incident of his office, 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 office; and

" net emoluments " means—

(*a*) in relation to an office which has been lost or in which an officer has suffered a diminution of emoluments, the annual rate of the emoluments of that office immediately before such loss or diminution, less such part of those emoluments as the officer was then liable to contribute under any pension scheme associated with his office, except any periodical sum payable in respect of additional contributory payments;

(*b*) in relation to any other office, the annual rate of the emoluments of that office at the time in question, less such part of those emoluments as the officer was then liable to contribute under any pension scheme associated with his office:

Provided that where fees were paid to a person as part of his emoluments during any year prior to that immediately preceding the loss or diminution, the amount in respect of fees to be included in the annual rate of emoluments mentioned in sub-paragraph (*a*) hereof shall be the annual average of the fees paid to him during the period of five years immediately preceding the loss or diminution, or such shorter period as may be reasonable in the circumstances;

" justices' clerk " includes a clerk to a stipendiary magistrate, a clerk to a metropolitan stipendiary court and a clerk to the justices of a liberty;

" local authority " means the council of a county, county borough, metropolitan borough, London borough, county district, rural parish or borough included in a rural district and includes the Greater London Council, the Common Council of the City of London, the council of the Isles of Scilly,

any two or more of those authorities acting jointly, and any joint committee, combined authority or joint board and a police authority for a county, a borough or a combined police area;

"London commission areas" has the same meaning as in the Act of 1964;

"long-term compensation" means compensation payable in accordance with the provisions of Part IV of these Regulations for loss of office or loss or diminution of emoluments;

"material date" in relation to any person who has suffered loss of office or loss or diminution of emoluments means—

(*a*) where the loss or diminution is attributable to any provision of the Act of 1964, 1st April 1965;

(*b*) where the loss or diminution is attributable to the provisions of any order or scheme made under Part VI of the Act of 1933 or of any order made under Part II of the Act of 1958 or of any instrument made under the Act of 1964, the date on which the order, scheme or instrument was made, or such other date or dates as may be specified therein for all or any of the purposes of these Regulations; and

(*c*) where the loss or diminution is attributable to the fact of the clerk of a county council's becoming or, as the case may be, ceasing to be clerk of the peace for the county, the date on which that fact occurred;

"minimum pensionable age" means, in relation to a pensionable officer, the earliest age at which, under the pension scheme associated with the office he has lost or the emoluments of which have been diminished, he could have become entitled to a pension other than a pension payable in consequence of his incapacity to discharge efficiently the duties of his office by reason of permanent ill-health or infirmity of mind or body;

"national service" means service which is relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(a), and includes service immediately following such service as aforesaid, being service in any of Her Majesty's naval, military or air forces pursuant to a voluntary engagement entered into with the consent—

(*a*) in the case of a person whose last relevant employment was as a clerk of the peace, deputy clerk of the peace or justices' clerk, of the authority by whom he was appointed, or

(*b*) in the case of any other person, of the authority or person under whom he held his last relevant employment;

"normal retiring age" means, in the case of a pensionable officer to whom an age of compulsory retirement applied by virtue of any pension scheme to which he was subject in the office he has lost or the emoluments of which have been diminished or by virtue of the conditions of that office, that age, and in any other case—

(*a*) in relation to a person claiming compensation in respect of the office of justices' clerk, the age of seventy years, and

(*b*) in relation to any other person, the age of sixty-five years if the officer is a male, or sixty years if the officer is a female;

"office" includes employment, and the expression "officer" shall be construed accordingly;

(a) 14 & 15 Geo. 6. c 65.

"paying authority" means—

(*a*) in relation to an officer who after being transferred from the service of one authority to the service of another authority under the Act of 1933, the Act of 1958 or the Act of 1964, as the case may be, has suffered loss of office or loss or diminution of emoluments—

(i) where the office in respect of which a claim arises was that of clerk of the peace, deputy clerk of the peace for any county or one of the London commission areas or justices' clerk, the authority by whom the officer's emoluments were last paid prior to the loss or diminution;

(ii) where the office in respect of which a claim arises was that of deputy clerk of the peace for any borough, the authority which would be the paying authority if the claim were in respect of the office of clerk of the peace for that borough;

(iii) where the office in respect of which a claim arises consisted of assisting a holder of the office of clerk of the peace, deputy clerk of the peace or justices' clerk, the authority which would be the paying authority if the claim were in respect of that office; and

(iv) in any other case, the authority by whom the officer's emoluments were last paid prior to the loss or diminution; and

(*b*) in relation to an officer not transferred as aforesaid who suffers loss of office or loss or diminution of emoluments, such authority as is mentioned in paragraph (*a*) of this definition with respect to the office concerned or, if that authority has ceased to exist, such other authority as the Secretary of State may determine;

"pensionable officer" in relation to an officer who has suffered loss of office or loss or diminution of emoluments, means an officer who immediately before such loss or diminution was entitled to participate in the benefits of any pension scheme associated with his office;

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

"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 war service or national service undertaken on the person's ceasing to hold any such employment but does not include employment of which account has been taken, or is required to be taken, in calculating the amount of any superannuation benefit to which the person has become entitled;

"relevant employment" means employment in any of the following offices or employments, that is to say:—

(*a*) clerk of the peace,

(*b*) deputy clerk of the peace,

(*c*) justices' clerk,

(*d*) employment in assisting the holder of an office mentioned in any of the foregoing paragraphs of this definition in the performance of the duties of that office,

(*e*) service as collecting officer or in the employment of a collecting officer,

(*f*) employment under the Crown or in the service of a local authority in Great Britain,

(*g*) employment by any authority or body for the purposes of the Crown or of local government in Great Britain,

(*h*) employment under any officer employed as mentioned in paragraph (*f*) or (*g*) of this definition for the purposes of the functions of the employing authority or body,

(*i*) employment preceding any of the foregoing offices or employments which was reckonable for the purposes of any pension scheme associated with the office which has been lost, or

(*j*) such other employment as the Secretary of State may, in the case of any named officer, approve;

" resettlement compensation " means compensation payable in accordance with Part III of these Regulations for loss of office suffered by a person to whom these Regulations apply;

" retirement compensation " means compensation payable in accordance with the provisions of Regulation 18, 19, 20 or 21 of these Regulations;

" tribunal " means a referee or board of referees appointed by the Minister of Labour after consultation with the Lord Chancellor;

" war service " means war service within the meaning of the Local Government Staffs (War Service) Act 1939(**a**), the Teachers Superannuation (War Service) Act 1939(**b**), the Police and Firemen (War Service) Act 1939(**c**) or employment for war purposes within the meaning of the Superannuation Schemes (War Service) Act 1940(**d**) and includes any period of service in the First World War in the armed forces of the Crown or in the forces of the Allied or Associated Powers if such service immediately followed a period of relevant employment and was undertaken either compulsorily or with the permission of the authority or person by whom the holder of that employment was appointed or employed.

(2) In relation to a justices' clerk who before the coming into operation of section 19 of the Justices of the Peace Act 1949(**e**) was a collecting officer of any court, any emoluments in respect of his services as collecting officer shall, for the purposes of these Regulations, be treated as emoluments in respect of the duties of the clerkship and his duties as clerk shall, for the said purposes, be treated as including his services as collecting officer.

(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, the annual or capital value shall be ascertained in accordance with tables for the time being approved by the Secretary of State for the purposes of these Regulations.

(4) The holder of the office of clerk of the peace, deputy clerk of the peace or justices' clerk shall, for the purposes of these Regulations, be regarded as employed in that office, and the expression " employment " shall be construed accordingly.

(5) Unless the context otherwise requires, references in these Regulations to the provisions of any enactment, rule, regulation, order or scheme shall be construed as references to those provisions as amended or re-enacted by any subsequent enactment, rule, regulation, order or scheme.

(6) The Interpretation Act 1889(**f**) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(**a**) 2 & 3 Geo. 6. c. 94. (**b**) 2 & 3 Geo. 6. c. 95. (**c**) 2 & 3 Geo. 6. c. 103.
(**d**) 3 & 4 Geo. 6. c. 26. (**e**) 12, 13 & 14 Geo. 6. c. 101. (**f**) 52 & 53 Vict. c. 63.

PART II

ENTITLEMENT TO COMPENSATION

Persons to whom the Regulations apply

3.—(1) Subject to paragraph (2) of this Regulation, these Regulations shall apply to any person who, immediately before the material date, is—

(*a*) either for the whole or for a part only of his time, the holder of the office of clerk of the peace, deputy clerk of the peace or justices' clerk, or

(*b*) the holder of employment in which substantially the whole of his time was devoted to assisting a holder of the office of clerk of the peace or deputy clerk of the peace in the performance of the duties of his office, or

(*c*) either for the whole or a part only of his time, the holder of employment in assisting a holder of the office of justices' clerk in the performance of the duties of his office, or

(*d*) either for the whole or a part only of his time, the holder of employment under a standing joint committee for a county, not being a person falling within sub-paragraphs (*a*) to (*c*) above, or

would have been the holder of any office or employment mentioned in sub-paragraphs (*a*) to (*d*) above at that time but for any national service on which he was then engaged.

(2) In relation to any holder of the office of clerk of the peace or deputy clerk of the peace of a borough, these Regulations shall not apply to him in his capacity as an officer of a local authority.

Grounds of entitlement to compensation

4. Subject to the provisions of these Regulations, every person to whom these Regulations apply and who suffers loss of office or loss or diminution of emoluments which is attributable to—

(*a*) the provisions of any order or scheme made under Part VI of the Act of 1933 ; or

(*b*) the provisions of any order made under Part II of the Act of 1958 ; or

(*c*) any provision of the Act of 1964 or of any instrument made thereunder ; or

(*d*) the fact of the clerk of a county council's becoming or, as the case may be, ceasing to be clerk of the peace for the county,

shall be entitled to have his case considered for the payment of compensation under these Regulations and such compensation shall be determined in accordance with the following provisions of these Regulations.

National service

5.—(1) Where any person to whom these Regulations apply would have been, immediately before the material date, the holder of the office of clerk of the peace, deputy clerk of the peace or justices' clerk or employed in assisting the holder of any such office in the performance of the duties of that office but for any national service on which he was then engaged, then if before the expiry of two months after ceasing to be so engaged, or if prevented by sickness or other reasonable cause, as soon as practicable thereafter, he gives notice to the determining authority that he is available

for employment, that person shall be entitled to have his case considered for the payment of compensation on the ground—

(*a*) if he is not given or offered re-employment in his former office or any reasonably comparable office (whether in the administration of the same or a different service), of loss of office;

(*b*) if he is so re-employed with reduced emoluments as compared with the emoluments which he would have enjoyed had he continued in his former office, of diminution of emoluments.

(2) The loss of office which is the ground of a claim for compensation under sub-paragraph (*a*) of the last foregoing paragraph shall be treated as having occurred on the earlier of the two following dates, that is to say, the date of the refusal of re-employment or a date one month after the date on which the person gave notice that he was available for employment, and the claimant shall be deemed to have been entitled to the emoluments which he would have enjoyed at such earlier date had he continued in his former office.

PART III

RESETTLEMENT COMPENSATION FOR LOSS OF OFFICE

Resettlement compensation for loss of office

6.—(1) The determining authority shall, subject to the provisions of these Regulations, consider and determine the entitlement to resettlement 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.

(2) This Part of these Regulations applies to a person who at the date of the loss of office had not attained normal retiring age and who had been for a period of not less than three years immediately preceding the material date continuously engaged (exclusive of breaks not exceeding in the aggregate six months) for the whole or part of his time in relevant employment; and for this purpose the expression "relevant employment" includes any period of national service immediately following upon such employment.

Conditions for payment of resettlement compensation

7.—(1) Without prejudice to any other requirement of these Regulations, nothing in these Regulations shall entitle a person to resettlement compensation unless—

(*a*) he has suffered loss of office attributable to any provision or fact mentioned in Regulation 4 of these Regulations not later than ten years after the material date;

(*b*) he has made his claim for resettlement compensation in accordance with the provisions for making claims set out in Part VII of these Regulations not later than thirteen weeks after the loss of office which is the cause of his claim;

(*c*) the loss of office which is the cause of his claim has occurred 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

(*d*) he has not, subject to paragraph (3) of this Regulation, been offered, in the case of a person holding the office of clerk of the peace, deputy clerk of the peace or justices' clerk, any reasonably comparable employment in the office of clerk of the peace, deputy clerk of the peace or

justices' clerk or under the Crown or in the service of a local authority or, in the case of a person employed in assisting the holder of the office of clerk of the peace, deputy clerk of the peace or justices' clerk, any reasonably comparable employment as aforesaid or in assisting the holder of the office of clerk of the peace, deputy clerk of the peace or justices' clerk.

(2) In ascertaining for the purposes of this Regulation whether a claimant has been offered employment which is reasonably comparable with that which he has lost no account shall be taken of the fact that the duties of the employment offered are 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.

(3) No account shall be taken for the purposes of this Regulation, in the case of a claim in respect of loss of office or loss or diminution of emoluments which is attributable to any provision of the Act of 1964 or to any instrument made under that Act, of an offer of employment which a claimant has refused before the coming into operation of these Regulations or, in any case, of an offer of employment where the determining authority are satisfied—

(*a*) that acceptance would have involved undue hardship to the claimant, or

(*b*) that the claimant was prevented from accepting the offer by reason of ill-health or other circumstances beyond his control.

Amount of resettlement compensation

8.—(1) Subject to the provision of paragraph (2) of this Regulation, resettlement compensation payable to a person to whom this Part of these Regulations applies shall for each week for which such compensation is payable be a sum ascertained by taking two-thirds of the weekly rate of the net emoluments which the claimant has lost and deducting therefrom such of the following items as may be applicable:—

(*a*) unemployment, sickness or injury benefit under any Act relating to National Insurance at the current rate for a person having no dependants, in so far as any such benefit (whether at that or any other rate) is claimable by him in respect of such week;

(*b*) two-thirds of the net emoluments received by him in respect of such week from work or employment undertaken in place of the office which he has lost;

(*c*) any periodical payment to which he is entitled in respect of such week by virtue of any pension scheme to which he was subject in relation to the office which he has lost.

(2) In determining the amount of resettlement compensation the determining authority shall have regard to any payments to which the claimant becomes entitled in consequence of the loss of his office under any contract or arrangement with the authority by whom he was appointed or employed (other than payments by way of a return of contributions under a pension scheme).

(3) For the purposes of this Regulation the weekly rate of a claimant's net emoluments shall be deemed to be seven three hundred and sixty-fifths of those emoluments.

Period for payment of resettlement compensation

9. Subject as hereinafter provided, resettlement compensation to a person to whom this Part of these Regulations applies shall be payable in respect of the period of thirteen weeks next succeeding the week in which he lost

the office in respect of which his claim has been made or, in the case of a claimant who has attained the age of forty-five years, the said thirteen weeks extended by one additional week for every year of his age after attaining the age of forty-five years and before the date of the loss of office subject to a maximum addition of thirteen such weeks.

Claimant for resettlement compensation to furnish particulars of employment

10. Every claimant for resettlement compensation shall (after as well as before the compensation begins to be paid)—

(*a*) forthwith supply the determining authority in writing with particulars of any work or employment which he obtains or of any change in his earnings from any such work or employment, and

(*b*) if the determining authority so requires, so long as he is out of employment and is not receiving sickness or injury benefit, register with the Ministry of Labour.

Additional provisions relating to resettlement compensation

11. Resettlement compensation shall be payable to a claimant at intervals equivalent to those at which the emoluments of his office were previously paid or at such other intervals as may be agreed between the claimant and the paying authority and shall forthwith be terminated by the determining authority—

(*a*) if without reasonable cause the claimant fails to comply with any of the provisions of Regulation 10 of these Regulations, or

(*b*) if, on being requested to do so, he fails to satisfy the determining authority that, so far as he is able, he is seeking suitable employment.

PART IV

LONG-TERM COMPENSATION FOR LOSS OF OFFICE OR LOSS OR DIMINUTION OF EMOLUMENTS

Persons to whom Parts IV and V of the Regulations apply

12.—(1) The determining authority shall, subject to the provisions of these Regulations, consider and determine the entitlement to long-term and retirement compensation of every person to whom this and the next succeeding Part of these Regulations apply who claims such compensation and in relation to whom the conditions set out in the next succeeding Regulation are satisfied.

(2) This Part and Part V of these Regulations apply to a person who had been for a period of not less than eight years immediately preceding the material date continuously engaged (without a break of more than twelve 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 office or loss or diminution of emoluments had not, save as is provided in Regulation 29 of these Regulations, attained normal retiring age.

Conditions for payment of long-term and retirement compensation

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

(*a*) he has suffered loss of office or loss or diminution of emoluments attributable to any provision or fact mentioned in Regulation 4 of these Regulations not later than ten 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 two 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 office—

(i) his office 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, in the case of a person holding the office of clerk of the peace, deputy clerk of the peace or justices' clerk, any reasonably comparable employment in the office of clerk of the peace, deputy clerk of the peace or justices' clerk or under the Crown, or in the service of a local authority or, in the case of a person employed in assisting the holder of the office of clerk of the peace, deputy clerk of the peace or justices' clerk, any reasonably comparable employment as aforesaid or in assisting the holder of the office of clerk of the peace, deputy clerk of the peace or justices' clerk.

(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 and retirement compensation for loss of office 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 and retirement compensation.

14.—(1) For the purpose of determining whether long-term or retirement 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 office which he has lost, including in particular its security of tenure, whether by law or by 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 office 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 office which he has lost ; and

(*f*) all the other circumstances of his case :

Provided that no account shall be taken of the fact that a claimant undertook the office which he has lost or the emoluments of which have been diminished—

(i) after 10th June 1964, where the loss or diminution is attributable to any provision of the Act of 1964, or

(ii) after the making of any order or scheme made under Part VI of the Act of 1933 or of any order made under Part II of the Act of 1958 or of any instrument made under the Act of 1964, where the loss or diminution was attributable to the provisions of that Order, scheme or instrument, or

(iii) after proposals had been made leading to the clerk of a county council's becoming, or as the case may be, ceasing to be clerk of the peace for the county, where the loss or diminution was attributable thereto.

(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 Regulations shall apply as it applies for the purposes of that Regulation.

Amount of long-term compensation payable to an officer 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 forty 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 forty years but has not attained the age of fifty 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 ten years, one sixtieth for each year of such service after attaining the age of forty years; or

(ii) where the claimant's reckonable service amounts to ten years but is less than fifteen years, one sixtieth for each year of such service after attaining the age of forty years and one additional sixtieth; or

(iii) where the claimant's reckonable service amounts to fifteen years, but is less than twenty years, one sixtieth for each year of such service after attaining the age of forty years and two additional sixtieths; or

(iv) where the claimant's reckonable service amounts to twenty years or more, one sixtieth for each year of such service after attaining the age of forty years and three 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 fifty years but has not attained the age of sixty 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 forty years, up to a maximum of fifteen such years; and

(*c*) in the case of a claimant who has attained the age of sixty 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 forty-five years.

(4) Where a person has become entitled to a superannuation benefit by way of annual amounts under a pension scheme associated with the office 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 his office were previously paid or at such intervals as may be agreed between the claimant and the paying 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 office 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 office are or were previously paid or at such other intervals as may be agreed between the claimant and the paying 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 have been diminished (calculated as an annual amount) bears to the amount of his net emoluments, so however, 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 thirteen weeks of the occurrence of the loss or diminution which is the

subject of the claim, the award shall be made with effect from 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 determining authority be made with effect from a date not earlier than thirteen weeks prior to the date on which the claim was made:

Provided that, if the determining 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 with effect from a date not earlier than that on which the loss or diminution occurred.

PART V

RETIREMENT COMPENSATION AND PAYMENTS ON DEATH

Retirement compensation payable to pensionable officer on his becoming incapacitated or reaching minimum pensionable age

18.—(1) Where a pensionable officer to whom this Part of these Regulations applies, before attaining what would have been his normal retiring age—

(*a*) becomes incapacitated in circumstances in which if he had continued in the office he has lost he would have become entitled to a pension under the pension scheme to which he was subject in that office; or

(*b*) attains the age which, had he continued to serve in the office he has lost, would have been his minimum pensionable age,

he shall be entitled on the happening of either event to claim in lieu of any compensation to which he would otherwise be entitled under these Regulations—

(i) in the case mentioned in head (*a*) of this paragraph, an annual sum equal to the amount of his accrued incapacity pension or accrued incapacity retiring allowance and a lump sum equal to the amount of his accrued incapacity retiring allowance (if any); and

(ii) in the case mentioned in head (*b*) of this paragraph, an annual sum equal to the amount of his accrued pension and a lump sum equal to the amount of his accrued retiring allowance (if any):

Provided that—

(i) if in calculating the amount of compensation payable to a person who has made such claim as aforesaid, the determining authority, by virtue of Regulation 23(2) of these Regulations, have credited him with additional years of service or an additional period of contribution, no account shall be taken for the purpose of the foregoing provision of any additional years or period beyond the number of years which he could have served, had he not lost his office, before the date on which the claim was received by the determining authority; and

(ii) if by reason of any provision of the relevant pension scheme for a minimum benefit the amount of any such pension or retiring allowance is in excess of that attributable to the claimant's actual service, no account shall be taken for the purpose of the foregoing provision of any such additional years or period except to the extent (if any) by which they exceed the number of years represented

by the difference between the claimant's actual service and the period by reference to which the minimum benefit has been calculated; and

(iii) if the number of years by reference to which an accrued incapacity pension or accrued incapacity retiring allowance is to be calculated is less than any minimum number of years of qualifying service prescribed by the relevant pension scheme, the amount of such pension or retiring allowance shall, notwithstanding any minimum benefit prescribed by the pension scheme, not exceed such proportion of such minimum benefit as the number of years of pensionable service bears to the minimum number of years of qualifying service.

(2) On receipt of a claim under the last preceding paragraph, the determining authority shall consider forthwith whether the claimant is a person to whom that paragraph applies, and within thirteen weeks after the date of the receipt of the claim—

(*a*) if they are satisfied that he is not such a person, they shall notify him in writing accordingly; and

(*b*) if they are satisfied that he is such a person, they shall assess the amount of compensation payable to the person, and notify him in writing accordingly,

and any such notification shall, for the purposes of these Regulations, be deemed to be a notification by the authority of a decision on a claim to compensation.

(3) If a claimant wishes to receive compensation under this Regulation, he shall so inform the determining authority in writing within one month from the receipt of a notification under the last preceding paragraph or, where the claim has been the subject of an appeal, from the decision of the tribunal thereon; and the compensation shall be payable as from the date on which the determining authority received the claim.

(4) A determining authority may require any such person as is mentioned in paragraph (1)(*a*) of this Regulation, who makes a claim under that paragraph, to submit himself to a medical examination by a registered medical practitioner selected by that authority, and, if they do so, they shall also offer the person an opportunity of submitting a report from his own medical adviser as a result of an examination by him, and the authority shall take that report into consideration, together with the report of the medical practitioner selected by them.

Option to take retirement compensation prematurely in certain cases

19.—(1) If a pensionable officer to whom this Part of these Regulations applies has suffered loss of office after attaining the age of fifty years and so requests the determining authority by notice in writing, he shall be entitled as from the date on which the determining authority receive such notice, in lieu of any compensation, other than resettlement compensation, to which he would otherwise be entitled under these Regulations, to an annual sum equal to the amount of his accrued pension and a lump sum equal to the amount of his accrued retiring allowance (if any):

Provided that—

(i) in calculating the amount of the compensation payable to a person who has given such notice as aforesaid no account shall be taken of any additional years of service or period of contribution credited to the person under Regulation 23(2) of these Regulations, and

(ii) where the officer has claimed long-term compensation, the said notice shall be given not later than two years after the determination of the claim, or where the determination is reviewed under Regulation 35(3) of these Regulations, not later than two years after any such review.

(2) Regulation 18(2) of these Regulations shall apply in relation to a notice given under the last foregoing paragraph as it applies to a claim made under paragraph (1) of that Regulation.

(3) Where an annual sum is payable under this Regulation in respect of any period and resettlement compensation is also payable in respect of that period, the said annual sum shall be limited to the amount (if any) by which it exceeds the resettlement compensation payable as aforesaid.

Retirement compensation for loss of emoluments payable to pensionable officer on attainment of normal retiring age

20.—(1) Subject to the provisions of these Regulations, when a pensionable officer to whom this Part of these Regulations applies reaches normal retiring age, the retirement compensation payable to him for loss of emoluments shall be—

(*a*) an annual sum equal to the amount of his accrued pension ; and

(*b*) a lump sum equal to the amount of his accrued retiring allowance (if any).

(2) Compensation shall not be payable under this Regulation to a claimant who is entitled to compensation under Regulation 18 or 19 of these Regulations.

Retirement compensation for diminution of emoluments

21. The provisions of Regulations 18 and 20 of these Regulations shall apply to a pensionable officer to whom this Part of these Regulations applies and who has suffered a diminution of his emoluments, but the sums payable to such an officer in the circumstances mentioned in those Regulations shall be sums which bear to the sums which would have been payable thereunder had the claim been in respect of loss of office the same ratio as the amount by which the claimant's net emoluments have been diminished (calculated as an annual rate) bears to the amount of his net emoluments:

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

Compensation of claimant who obtains further pensionable employment

22. Where a pensionable officer after suffering loss of office or diminution of emoluments, enters employment in which he is subject to a pension scheme and thereafter becomes entitled to reckon for the purposes of that scheme any service or period of contribution which falls to be taken into account for the purpose of assessing the amount of any retirement compensation payable to him, no retirement compensation shall be payable unless the annual rate of the emoluments to which he was entitled immediately before such loss or diminution exceeds the annual rate on entry of the emoluments of the new employment by more than 2½ per cent. of such first mentioned emoluments, and any retirement compensation payable to him shall, in so far as it is calculated by reference to remuneration, be calculated by reference to the difference between the said annual rates :

Provided that this Regulation shall not operate to increase the amount of any retirement compensation payable in respect of diminution of emoluments

beyond the amount which would have been payable if the officer had attained normal retiring age immediately before he ceased to hold the office in which he suffered the diminution of emoluments.

Factors governing the payment of retirement compensation

23.—(1) An officer entitled to retirement compensation under Regulation 18, 19 or 20 of these Regulations shall pay to the paying authority an amount equal to any sum which was paid to him by way of return of superannuation contributions, whether with or without interest, after ceasing to be in office and the paying authority may at the request of the officer repay that amount to him at any time before he becomes entitled as aforesaid, but if that amount is not paid to the paying authority, or is repaid by them to the officer, the compensation shall be reduced by an annual amount the capital value of which is equal to the amount of the said superannuation contributions.

(2) If the claimant had attained the age of forty years at the date on which he lost his office or suffered a diminution of his emoluments, the determining authority in calculating the amount of the retirement compensation payable to him shall credit him with additional years of service or an additional period of contribution on the following basis, namely—

(*a*) two years, whether or not the claimant has completed any years of service after attaining the age of forty years, and

(*b*) two years for each of the first four completed years of the claimant's reckonable service between the date when he attained the age of forty years and the date of the loss or diminution, and

(*c*) one year for each such year of service after the fourth,

but the additional years of service or period of contribution so credited shall not exceed the shortest of the following periods, namely—

(i) such number of years as, when added to his pensionable service, would amount to the maximum period of such service which would have been reckonable by him had he continued in his office until attaining normal retiring age, or

(ii) the number of years of the claimant's reckonable service, or

(iii) fifteen years;

and in calculating the amount of any retirement compensation payable to the claimant any period so added shall be aggregated with any years of service or period of contribution entailing reduction of the relevant pension or retiring allowance in connection with the passing of the National Insurance Act 1946(a).

(3) When retirement compensation is awarded or when an award is reviewed under Regulation 35 of these Regulations the additional compensation payable in consequence of any years of service or period of contribution credited to a claimant under the last foregoing paragraph may be reduced or withheld as the determining authority may think reasonable having regard to the pension scheme (if any) attaching to any further employment obtained by the claimant.

(4) If under the pension scheme to which the claimant was last subject before suffering loss of office or diminution of emoluments the amount of any benefit to which he might have become entitled might have been increased at the discretion of the authority administering the pension scheme or of any other body, the determining authority may increase, to an extent not

(a) 9 & 10 Geo. 6. c. 67.

exceeding that to which his accrued pension, accrued retiring allowance, accrued incapacity pension or accrued incapacity retiring allowance might have been increased or supplemented, the corresponding component of any retirement compensation payable to him; and in this connection the determining authority shall have regard to the provisions of any enactment or instrument protecting the interests of the claimant.

(5) If under the pension scheme to which he was last subject before suffering loss of office or diminution of emoluments, the claimant would have been entitled to surrender a proportion of any pension which might have become payable to him in favour of his spouse or any dependant, then, if he so desires and informs the determining authority by notice in writing accordingly within one month after becoming entitled to retirement compensation under these Regulations, he may surrender a proportion of so much of the said compensation as is payable by way of an annual sum on the like terms and conditions and in consideration of the like payments by the paying authority as if the said annual sum were a pension to which he had become entitled under the said pension scheme.

(6) In calculating for the purposes of Regulation 18, 19 or 20 of these Regulations the amount of the annual sum which is equal to a claimant's accrued pension no account shall be taken of any reduction falling to be made in that pension in connection with the passing of the National Insurance Act 1946 or the National Insurance Act 1959(a) until the claimant reaches the age at which under the pension scheme to which he was subject before losing his office the pension would have been so reduced.

(7) In paragraph (2) of this Regulation the expression "reckonable service" includes any period of office of which account has been taken or is required to be taken in calculating the amount of any superannuation benefit to which a claimant has become entitled.

Compensation payable to dependants, etc., on the death of a claimant

24.—(1) Payments in accordance with this and the next two succeeding Regulations shall be made to or for the benefit of the widow, child or other dependant or to the personal representative of an officer to whom this Part of these Regulations applies.

(2) If the widow, child or other dependant of the officer might have become entitled to a pension under the pension scheme to which the officer was last subject before losing his office if such loss of office had not occurred, the widow, child or other dependant, as the case may be, shall be entitled to receive an annual sum equal to the prescribed proportion of any retirement compensation by way of annual amounts payable to the officer under Regulation 18, 19 or 20 of these Regulations immediately prior to his death or, if he dies before becoming entitled to receive compensation under any of those Regulations, the prescribed proportion of the compensation by way of annual amounts which he would have received under Regulation 18 of these Regulations had he become entitled thereto immediately prior to his death:

Provided that—

(i) where any retirement compensation has been surrendered or compounded under Regulation 23(5) or Regulation 36 of these Regulations, any sum payable under this Regulation shall be calculated as if such surrender or compounding had not taken place;

(a) 7 & 8 Eliz. 2. c. 47.

(ii) where the pension scheme provides for payment of the pension to any person on behalf of the child or other dependant, any annual sum payable as aforesaid to a child or other dependant shall be paid to that person on behalf of the child or dependant in the like manner and for the like period as is provided in the pension scheme;

(iii) in calculating the sum payable as aforesaid, it shall be assumed that the retirement compensation payable, or which would have been payable, to an officer under Regulation 18, 19 or 20 of these Regulations had been such sum as would have been payable if the accrued pension or accrued incapacity pension had not been reduced in connection with the passing of the National Insurance Act 1946 or the National Insurance Act 1959.

(3) Any annual sum payable to or for the benefit of a widow, child or other dependant under this Regulation shall cease to be payable in any circumstances in which a corresponding pension under the said pension scheme would have ceased to be payable.

(4) Except where any compensation payable to the officer concerned has been reduced under Regulation 23(1) of these Regulations, compensation payable under this and the next following Regulation shall in the aggregate be reduced by an amount the capital value whereof is equal to the amount of any superannuation contributions returned to the officer and either not paid to the paying authority or repaid by the paying authority to the officer, the compensation under each such Regulation being reduced in proportion to the capital value of each amount.

(5) This Regulation shall apply in the case of an officer who has suffered a diminution of emoluments with the substitution of references to diminution of emoluments for references to loss of office, but the annual sum payable to a widow, child or other dependant of such an officer shall be a sum which bears to the sum which would have been payable under paragraph (2) of this Regulation had the claim been in respect of loss of office, the same ratio as the amount by which the officer's net emoluments have been diminished (calculated as an annual rate) bears to the amount of his net emoluments:

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

(6) In this Regulation "prescribed proportion" means the proportion which, under the pension scheme to which the officer was subject immediately prior to the loss of office or diminution of emoluments, the pension payable to a widow, child or other dependant, as the case may be, bears to an officer's pension.

Compensation payable to personal representative on the death of a claimant

25.—(1) If the personal representative of the officer might have become entitled to a death grant under the pension scheme to which the officer was last subject before losing his office had such loss not occurred, he shall be entitled to receive a sum calculated in accordance with the provisions of the next succeeding paragraph, and paragraph (4) of the last preceding Regulation.

(2) The amount of such sum shall be ascertained in accordance with the method of calculation prescribed by the pension scheme for the ascertainment of death grant as if the officer had died immediately before losing his office, subject to the following modifications—

(*a*) except where the officer had been in receipt of retirement compensation under Regulation 19 of these Regulations, account shall be taken of

any additional years of service or period of contribution credited to the officer under Regulation 23(2) of these Regulations—

(i) in the case of an officer who had been in receipt of retirement compensation under Regulation 18 of these Regulations, to the extent of the period between the loss of office and the date of the claim made under that Regulation, and

(ii) in any other case, to the extent of the period between the loss of office and the officer's death;

(*b*) if the number of years of the officer's service or period of contribution is less than the minimum number of years of qualifying service or period prescribed by the pension scheme for the receipt of a death grant, the said sum shall not exceed such proportion of the death grant calculated as aforesaid as the number of years of the claimant's qualifying service or period of contribution bears to the minimum number of years of qualifying service or period required by the pension scheme; and

(*c*) there shall be deducted from such sum the amount of any retirement compensation paid to the officer under Regulation 18, 19 or 20 of these Regulations or where any part of the compensation has been surrendered under Regulation 23(5) of these Regulations, the amount which would have been so paid but for any such surrender.

(3) For the purpose of calculating such death grant an annual sum payable to or for the benefit of a widow, child or other dependant under the last preceding Regulation shall be deemed to be a pension payable to or for the benefit of the widow, child or dependant, as the case may be.

(4) This Regulation shall apply in the case of an officer who has suffered a diminution of emoluments with the substitution of references to diminution of emoluments for references to loss of office, but the sum payable to the personal representative of such an officer shall be a sum which bears to the sum which would have been payable under paragraph (1) of this Regulation had the claim been in respect of loss of office the same ratio as the amount by which the officer's net emoluments have been diminished (calculated as an annual rate) bears to the amount of his net emoluments:

Provided that no sum shall be payable to a personal representative under this paragraph if this ratio is less than 2½ per cent.

Balances payable to a deceased claimant's widow and personal representative

26.—(1) If no annual sum is payable to the widow, child or other dependant under Regulation 24 of these Regulations and no sum is payable under the last preceding Regulation and the officer dies before he has received in the aggregate by way of retirement compensation a sum equivalent to the amount of any contributions repaid by him under Regulation 23(1) of these Regulations, together with compound interest thereon calculated at the rate of 3 per cent. per annum with half-yearly rests up to the date of his death as from the 1st April or the 1st October following the half year in which the amount was paid, there shall be paid to his personal representative the difference between the aggregate amount received by way of retirement compensation as aforesaid and the said equivalent sum.

(2) If an annual sum becomes payable to a widow under Regulation 24 of these Regulations and on her re-marriage or death the sum ceases to be payable, and the aggregate amount of the payments which were made to her as aforesaid, to her husband by way of retirement compensation and to his personal representative under Regulation 25 of these Regulations is less than a sum equivalent to the amount which would have been payable

to the personal representative under that Regulation if no annual sum had been payable to the widow under the said Regulation 24, there shall be paid to her or her personal representative the difference between such aggregate amount and the said equivalent sum.

(3) For the purposes of this Regulation an officer who has surrendered any part of his retirement compensation under Regulation 23(5) of these Regulations shall be deemed to have received during any period the amount of compensation for that period which he would have received but for any such surrender.

Deduction of outstanding additional contributory payments

27. There shall be deducted from the retirement compensation payable to any person any additional contributory payments remaining unpaid at the date when he suffered loss of office ; and any such payments not recovered at the date of his death shall be deducted from any compensation payable in respect of the person under Regulation 24, 25 or 26 of these Regulations.

Calculation of compensation where superannuation benefit is payable

28. Where an officer to whom this Part of these Regulations applies, or his widow, child or other dependant or personal representative has become entitled to any superannuation benefit under a pension scheme associated with the office which the officer has lost, the retirement compensation payable to the officer, or the compensation payable in respect of the officer under Regulation 24, 25 or 26 of these Regulations shall be calculated in the first place as if the said superannuation benefit had not been payable but—

(*a*) compensation by way of annual amounts shall be reduced by the annual amount of any such superannuation benefit as is payable periodically, and

(*b*) compensation payable as a lump sum, shall be reduced by the amount of any such superannuation benefit payable as a lump sum.

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

29.—(1) In the case of an officer receiving long-term compensation for loss of office who is not a pensionable officer, the determining authority may, on his attaining normal retiring age, if they are satisfied that he would in the normal course have continued in the office he has lost for a substantial period beyond that age, determine that compensation shall continue to be paid to him for the remainder of his life at half its former rate.

(2) In the case of an officer who is not a pensionable officer and who suffers loss of office on or after attaining normal retiring age, the determining authority may, if they are satisfied that he would in the normal course have continued in the office he has lost for a further substantial period, determine that compensation shall be paid 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 office.

Persons subject to policy schemes

30.—(1) Except in relation to any accrued pension, accrued retiring allowance, accrued incapacity pension or accrued incapacity retiring allowance attributable to service as a contributory employee or local Act contributor, the provisions of Regulations 18, 19, 20 and 21 of these Regulations shall not apply to a person who had been participating in a scheme associated with his employment for providing superannuation benefits by

means of contracts or policies of insurance, and who, after the loss of his employment or the diminution of his emoluments, continued to participate in that scheme, or became entitled to a benefit or prospective benefit thereunder other than a return of contributions.

(2) If the claimant is such a person as is mentioned in paragraph (1) of this Regulation who has lost his employment, the determining authority may, if the relevant scheme so permits, determine that such payments shall be made to or in respect of him, whether by way of the payment of premiums or otherwise, as will secure that his benefits under the scheme are increased to an extent actuarially equivalent to that by which similar amounts of retirement compensation could be increased under Regulation 23(2) or (4) of these Regulations.

(3) If the claimant is such a person as is mentioned in paragraph (1) of this Regulation who has suffered a diminution of his emoluments, the determining authority may, if the relevant scheme so permits, determine that such payments shall be made to or in respect of him, whether by way of the payment of premiums or otherwise, as will secure to the claimant the like benefits under the scheme as if his emoluments had not been diminished.

(4) If the claimant is such a person as aforesaid and he becomes entitled to a benefit under such a scheme as is mentioned in paragraph (1) of this Regulation before reaching normal retiring age, the determining authority may reduce any long-term compensation payable to him under Part IV of these Regulations by the amount of such benefit.

Intervals for payment of compensation under Part V

31. Retirement compensation and other compensation awarded as annual sums under this Part of these Regulations shall be payable at intervals equivalent to those at which the corresponding benefit would have been payable under the pension scheme to which the claimant was subject prior to the loss of office or diminution of emoluments or at such other intervals as may be agreed between the recipient and the paying authority.

PART VI

ADJUSTMENT, REVIEW AND COMPOUNDING OF COMPENSATION

Adjustment of compensation where superannuation benefit is also payable

32.—(1) Where any period of service of which account was taken in calculating the amount of any compensation payable under Part IV or V of these Regulations is also taken into account for the purpose of calculating the amount of any superannuation benefit payable to or in respect of the officer in accordance with a pension scheme associated with an employment undertaken subsequent to the loss of office or diminution of emoluments which was the subject of the claim for compensation, the determining authority may adjust the compensation in accordance with this Regulation by determining that the amount of compensation payable in respect of any period for which such superannuation benefit is being received shall be withheld or reduced.

(2) If the part of any superannuation benefit by way of annual amounts which is attributable to a period of service mentioned in paragraph (1) of this Regulation equals or exceeds the part of any compensation by way of annual amounts which is attributable to the same period, that part of the compensation may be withheld, but if such part of the superannuation

benefit is less than such part of the compensation, the compensation may be reduced by an amount not exceeding such part of the superannuation benefit.

(3) In the case of a death benefit payable to the personal representative of the officer, the sum payable to the personal representative under Regulation 25 of these Regulations may be reduced by an amount not greater than the proportion of the death benefit which the period of service mentioned in paragraph (1) of this Regulation bears to the total period of service of which account was taken in the calculation of the death benefit.

(4) In addition to any reduction authorised by paragraph (2) or (3) of this Regulation, if, in the circumstances mentioned in paragraph (1) of this Regulation, compensation by way of annual amounts is attributable in part to any provision of the relevant pension scheme for a minimum benefit, the compensation may be reduced by an amount not exceeding that part.

(5) Where any additional years of service or period of contribution have been credited to a claimant under Regulation 23(2) of these Regulations, if the number of such years or such period is equal to or less than the period spent in the subsequent employment mentioned in paragraph (1) of this Regulation, the compensation by way of annual amounts may be reduced (in addition to any other reduction authorised by this Regulation) by an amount not exceeding that attributable to the additional years or period so credited, or if the number of such years or such period is greater than the period spent in the subsequent employment, by such proportion of that amount as the period spent in the subsequent employment bears to the number of additional years or the period so credited.

(6) Where compensation has been calculated in accordance with Regulation 22 of these Regulations, the provisions of this Regulation shall apply only in relation to such part (if any) of the superannuation benefit as is attributable to annual emoluments in excess of those to which the officer was entitled on entering the new employment referred to in the said Regulation 22.

(7) Where compensation is payable in respect of diminution of emoluments, the provisions of this Regulation shall apply only in relation to such part (if any) of the superannuation benefit as is attributable to annual emoluments in excess of those to which the officer was entitled immediately prior to the diminution.

Reduction of compensation in certain cases

33. If under the pension scheme to which a person was subject before losing his office or suffering a diminution of emoluments any benefit for which the scheme provided would have been subject to reduction or suspension on his taking up other specified employment, any retirement compensation to which the person is entitled for loss of office or diminution of emoluments shall, where such employment is taken up, be reduced or suspended in the like manner and to the like extent.

Notification of determining authority as to entry into certain employments

34. Where—

(*a*) a pensionable officer after suffering loss of employment or diminution of emoluments enters any employment referred to in Regulation 22 of these Regulations or becomes entitled to any superannuation benefit on ceasing to hold such employment, or

(*b*) a person entitled to long-term compensation enters employment the remuneration whereof is payable out of public funds, or ceases to hold such employment or receives any increase in his remuneration in such employment, or

(*c*) a person entitled to retirement compensation enters employment in which the compensation is subject to reduction or suspension under Regulation 33 of these Regulations, or ceases to hold such employment, or receives any increase in his remuneration in such employment,

he shall forthwith inform the determining authority in writing of that fact.

Review of award of long-term or retirement compensation

35.—(1) The determining authority shall, within a period of two years after the date on which any decision on a claim for long-term or retirement compensation for loss of office (other than compensation payable under Regulation 19 of these Regulations) is notified to a claimant under Regulation 37 of these Regulations, review their decision or, where the claim has been the subject of an appeal, the decision of the tribunal at intervals of not more than six months, and these Regulations shall apply in relation to any such review as they apply in relation to the initial determination of the claim ; and on such review, in the light of any material change in the circumstances of the case, compensation may be awarded, or compensation previously awarded may be increased, reduced or discontinued, subject to the limits set out in these Regulations.

(2) The claimant may require the determining authority to carry out the review mentioned in the last foregoing paragraph at any time within the period of two years mentioned in that paragraph if he considers that there has been a change in the circumstances of his case which is material for the purposes of these Regulations.

(3) The determining authority shall carry out a review in accordance with paragraph (1) of this Regulation, notwithstanding the expiration of the period mentioned in that paragraph if—

(*a*) the emoluments of employment or work undertaken in place of the office which has been lost had been taken into account in determining the amount of any compensation awarded, and

(*b*) such employment or work has been lost or the emoluments thereof reduced, otherwise than by reason of misconduct or incapacity to perform such duties as the claimant might reasonably have been required to perform, and

(*c*) the determining authority is satisfied that such loss or reduction is causing hardship to the claimant,

and where any decision is so reviewed, the decision shall be subject to further review in accordance with paragraph (1) of this Regulation as if the review carried out under this paragraph had been the initial determination of the claim.

(4) Paragraphs (1) and (2) of this Regulation shall apply in relation to any decision on a claim for long-term or retirement compensation in respect of diminution of emoluments as they apply in respect of any decision mentioned in the said paragraph (1):

Provided that—

(i) no review shall take place after the date on which the claimant ceases to hold the office in which his emoluments were diminished, except a review as at that date ; and

(ii) while the claimant continues to hold that office there shall be no limit to the period within which a review may take place.

(5) Notwithstanding anything contained in the foregoing provisions of this Regulation, the determining authority shall review a decision (whether of the authority or the tribunal) on a claim for long-term compensation for loss of office or diminution of emoluments after the expiration of any period within which a review is required to be made if at any time—

(*a*) the claimant is engaged in employment (hereinafter referred to as his "current employment") the remuneration whereof is payable out of public funds and which he has undertaken in place of the office he has lost or, as the case may be, the office in which his emoluments were diminished, and

(*b*) the aggregate of the net emoluments of his current employment and the long-term compensation payable to him exceed the net emoluments of the office he has lost or, as the case may be, the amount of his net emoluments prior to their diminution,

and the authority shall thereafter further review such decision whenever the net emoluments of the claimant's current employment are increased; but if on any such review the compensation is reduced, it shall not be reduced below the amount by which the net emoluments of the claimant's current employment fall short of the net emoluments of the office he has lost or, as the case may be, the amount of his net emoluments prior to their diminution.

(6) The determining authority shall give to a claimant not less than fourteen days' notice of any review to be carried out under this Regulation otherwise than at his request.

(7) Nothing in this Regulation shall preclude the making of any adjustment of compensation required by Regulation 32 or 33 of these Regulations.

Compounding of awards

36.—(1) In a case where an annual sum which has been or might be awarded under these Regulations does not exceed £26, the determining authority may, at their discretion, determine that the liability of the paying authority in respect thereof shall be compounded by payment of a lump sum equivalent to the capital value of the annual sum, and if any lump sum payment has been or might be awarded in addition to such annual sum under Regulation 18, 19, 20 or 21 of these Regulations, the determining authority may likewise determine that the liability of the paying authority in respect thereof shall be discharged by an immediate payment.

(2) In any other case the determining authority may, if the person who has been awarded long-term or retirement compensation request them to do so and they, in their discretion, after having regard to the state of health of that person and the other circumstances of the case, deem fit, determine that up to one quarter of the liability of the paying authority to make payment under the award (other than payments to a widow, child or other dependant under Regulation 24 of these Regulations) shall be compounded by the payment of an equivalent amount as a lump sum or, where any compensation has been awarded as a lump sum, by increasing that compensation to such equivalent amount; and in calculating for this purpose the liability of the paying authority to make payments, account shall be taken of the annual value of lump sum payments of compensation.

(3) The making of a composition under paragraph (2) of this Regulation in relation to an award of long-term or retirement compensation shall not prevent the subsequent making of a composition under paragraph (1) of this Regulation in relation to that award, but, subject as aforesaid, not more than one composition may be made in relation to any award.

PART VII

PROCEDURE AND MISCELLANEOUS

Procedure on making claims

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

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

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

(4) The determining authority shall consider any such claim or request in accordance with the relevant provisions of these Regulations and shall notify the claimant and, if it is not the paying authority, the paying authority in writing of any decision made under these Regulations—

(*a*) in the case of a claim for resettlement compensations, not later than one month after the receipt of the claim, and

(*b*) in the case of a claim for, or request for the review of an award of, compensation under Part IV or Part V of these Regulations, not later than thirteen weeks after the receipt of the claim or request, and

(*c*) in any other case, as soon as may be after the decision.

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

(*a*) giving reasons for the decision ;

(*b*) showing how any compensation has been calculated and, in particular, if the amount is less than the maximum which could have been awarded under these Regulations, showing the factors taken into account in awarding that amount ; and

(*c*) directing the attention of the claimant to his right, if he is aggrieved by the decision, to refer the matter to the tribunal, and giving him the address of the office to which the reference should be sent.

Claimants to furnish information

38.—(1) Any person claiming or receiving compensation or whose award of compensation is being reviewed shall furnish all such information and supplementary information as the determining authority or the tribunal may at any time reasonably require ; and shall verify the same in any such manner, including the production of books or of original documents in his possession or control, as may be reasonably so required.

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

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

Procedure on death of claimant

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

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

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

Calculation of service

40.—(1) For the purpose of determining the amount of any compensation payable in respect of the loss of an office to which, or of any two or more offices to which in the aggregate, an officer devoted substantially the whole of his time, any previous period of part-time office shall be treated as though it were whole-time office for a proportionately reduced period.

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

Emoluments of part-time office

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

Compensation not assignable

42.—(1) Subject to any statutory provision in that behalf, any compensation to which an officer becomes entitled under these Regulations shall be paid by the paying 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 paying authority shall be recoverable as a debt due from the authority.

(3) Any sum payable as compensation to a person by the Receiver for the metropolitan police district as paying authority shall be paid out of the metropolitan police fund.

Right of appeal from decision of the determining authority

43.—(1) Every claimant who is aggrieved by any decision of the determining authority with respect to compensation under these Regulations or by any failure on the part of the determining authority to notify him or, if it is

not the paying authority, the paying authority of any such decision within the appropriate time prescribed by these Regulations may within three months of the notification to him of the decision or the expiry of the prescribed time, as the case may be, refer the matter to the tribunal.

(2) Every paying authority which is not the determining authority and which is aggrieved by any decision of the determining authority with respect to compensation under these Regulations may, within three months of the notification to it of the decision, refer the matter to the tribunal.

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

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

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

Application of payments

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

Frank Soskice,
One of Her Majesty's
Principal Secretaries of State.

Home Office,
Whitehall.
18th March 1965.

EXPLANATORY NOTE

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

1. These Regulations made under section 60(2) of the Local Government Act 1958 (both as originally enacted and as applied by section 29(6) of the Administration of Justice Act 1964) and section 85(4) of the London Government Act 1963 (as applied by section 35 of the Act of 1964) provide for the payment of compensation to or in respect of clerks of the peace, deputy clerks of the peace and justices' clerks and their assistants and other persons employed by the standing joint committee for a county who suffer loss of office or loss or diminution of emoluments which is attributable to—

(*a*) the reorganisation of local government in England and Wales brought about by an order or scheme made under Part VI of the Local Government Act 1933 or an order made under Part II of the Act of 1958, or

(*b*) the Act of 1964 or any instrument made under that Act, or

(*c*) the fact of the clerk of a county council's becoming or ceasing to be clerk of the peace for the county.

2. The responsibility for deciding questions concerning the eligibility for or the amount of compensation rests with the authority concerned with the

claimant's appointment. The responsibility for paying any compensation awarded rests with the authority from which the claimant's emoluments derived. In the Regulations the bodies carrying out these functions are respectively referred to as the "determining authority" and the "paying authority".

3. Part I of the Regulations contains definitions. Part II specifies the persons to whom the Regulations apply and the grounds of entitlement to compensation. The Regulations apply to persons appointed or employed whole-time or part-time.

4. The compensation payable is—

(*a*) resettlement compensation for loss of office (Part III of the Regulations);

(*b*) long-term compensation for loss of office or loss or diminution of emoluments (Part IV);

(*c*) retirement compensation for loss of office or loss or diminution of emoluments (Part V);

(*d*) compensation to the widow, child or other dependant and personal representative of a claimant who was a pensionable officer (Part V).

5. Resettlement compensation is payable for a period not exceeding 26 weeks to officers with at least 3 years' service in relevant employment. The qualifying conditions and factors to be considered are set out in Regulations 7, 9, 10 and 11. The method of calculating the amount of compensation is contained in Regulation 8.

6. Long-term and retirement compensation are payable to officers with at least 8 years' service in relevant employment. The qualifying and other conditions are set out in Regulations 12 to 14.

7. The method of calculating the maximum amount of long-term compensation is laid down in Regulation 15 (loss of office) and 16 (diminution of emoluments). It is a proportion, not exceeding two thirds, of the net emoluments lost or of the amount by which emoluments have been diminished, as the case may be. This compensation is payable from a date determined under Regulation 17 and can be payable up to normal retiring age.

8. Retirement compensation for loss of office payable to a pensionable officer is based upon his accrued pension rights (Regulation 20) supplemented in the case of persons aged 40 or over at the date of loss by the addition of notional years of service (Regulation 23). Retirement compensation for diminution of emoluments is an appropriate proportion of that for loss of office (Regulation 21). In the case of a non-pensionable officer compensation not exceeding one half of the rate of long-term compensation may be paid (Regulation 29) and special provision is made for any persons whose pension arrangements are by way of policies of insurance (Regulation 30). Retirement compensation is ordinarily payable from normal retiring age but in certain circumstances may be put into payment earlier (Regulations 18 and 19).

9. Compensation is payable to the widow, child or other dependant and the personal representative of a claimant who dies where such persons would have benefited under the relevant pension scheme (Regulations 24 to 26).

10. Part VI of the Regulations provides for long-term and retirement compensation to be reviewed and for awards to be varied in the light of changes

in circumstances (Regulation 35). It also contains provisions for the adjustment, suspension and compounding of compensation in certain circumstances.

11. Part VII contains provisions relating to the procedure for making claims and notifying decisions and to appeals by claimants who are aggrieved by a decision of a determining authority or the failure of a determining authority to notify their decision, and by paying authorities who are aggrieved by a decision of the determining authority. Appeals lie to a tribunal appointed by the Minister of Labour.