3. COMPENSATION

(1) *England.* | (2) *Scotland*, p. 1048.

(1) ENGLAND

The Fire Services (Compensation) Regulations, 1948

1948 No. 555

Made - - - - -	*19th March*, 1948
Laid before Parliament	*19th March*, 1948
Coming into Operation	*1st April*, 1948

In pursuance of the powers conferred on me by paragraphs 3 and 14 of the Fifth Schedule to the Fire Services Act, 1947(a), I hereby, with the approval of the Treasury, make the following Regulations:—

1.—(1) This Regulation applies to any person who—

(*a*) on the appointed day is a member of a police force or a person employed by a local authority, not being in either case a person transferred by virtue of the National Fire Service (General) Regulations, 1941(b), to the National Fire Service,

(*b*) being a person who by reason of the said Regulations suffered a loss of emoluments, is, in respect of the period ending immediately before the appointed day, receiving periodical payments under Regulation 16 of the National Fire Service (General) Regulations, 1944(c) (which makes provision for compensation in respect of the said loss), and

(*c*) had before the eighteenth day of August, 1941, performed not less than eight years' service in the aggregate.

(2) (*a*) A person to whom this Regulation applies shall be deemed to have suffered a reduction of emoluments in respect of which he is entitled to an award of compensation under these Regulations if on the appointed day the rate of emoluments, determined subject to the provisions of sub-paragraph (*b*) of this paragraph, which he is entitled as a member of a police force, or, as the case may be, in respect of his employment by a local authority, to receive is lower by not less than five per cent. than the rate of emoluments, determined subject to the provisions of sub-paragraph (*c*) of this paragraph, which he was entitled to receive immediately before the relevant date, and in such a case the difference between the two said rates determined as aforesaid is hereafter in these Regulations referred to as the " loss for award purposes ".

(*b*) In determining for the purposes of this Regulation the rate of emoluments which a person is entitled to receive on the appointed day there shall be left out of account so much of that rate as is equal to the amount by which the rate of emoluments which he was entitled to receive immediately before the relevant date has or would have increased by the appointed day by reason of any periodical increments under the scale of pay applicable to him at the said relevant date, and if after the said relevant date and before the appointed day there was any reduction in the rate of his emoluments not attributable to the National Fire Service (General) Regulations, 1941, the amount of that reduction shall be disregarded.

(*c*) In determining for the purposes of this Regulation the rate of emoluments which a person was entitled to receive immediately before the relevant date, if the rate of any part of those emoluments fluctuated from time to time

(a) 10 & 11 Geo. 6. c. 41. (b) S.R. & O. 1941 (No. 1134) I, p. 290.
(c) S.R. & O. 1944 (No. 1077) I, p. 107.

the rate of that part immediately before the said date shall be deemed to be the average rate of that part during the three years immediately preceding the said date.

2.—(1) This Regulation applies to any person who—

(*a*) having been a member of a police force or a person employed by a local authority, not being in either case a person transferred by virtue of the National Fire Service (General) Regulations, 1941(**a**), to the National Fire Service, has before the appointed day retired from the police force, or, as the case may be, from employment under the local authority, in such circumstances that he became entitled to a pension under the provisions applicable in his case,

(*b*) being a person who by reason of the said Regulations suffered a loss of emoluments, is, in respect of the period ending immediately before the appointed day, receiving periodical payments under Regulation 16 of the National Fire Service (General) Regulations, 1944(**b**) (which makes provision for compensation in respect of the said loss), and

(*c*) had before the eighteenth day of August, 1941, performed not less than eight years' service in the aggregate.

(2) In determining whether a person to whom this Regulation applies shall be deemed to have suffered a reduction of pensionable emoluments in respect of which he is entitled to an award of compensation under these Regulations, paragraph (2) of the last foregoing Regulation shall apply, so, however, that any reference to emoluments shall be construed as a reference to pensionable emoluments, any reference to the appointed day shall be construed as a reference to the day immediately preceding the day on which he retired from the police force, or, as the case may be, from employment under a local authority, and any reference to the rate of emoluments to which he is entitled on the appointed day shall be construed as a reference to the rate of pensionable emoluments to which he was entitled on the day immediately preceding his said day of retirement, and for the words " loss for award purposes " there shall be substituted the words " reduction of pensionable emoluments ".

3.—(1) This Regulation applies to any person—

(*a*) who is immediately before the appointed day a member of the National Fire Service,

(*b*) in whose case any Regulations made for the purposes set out in paragraph 7 of the Schedule to the Fire Services (Emergency Provisions) Act, 1941(**c**) (which Regulations provide for the preservation of the rights of former members of fire brigades maintained under the Fire Brigades Act, 1938(**d**), and of the London Fire Brigade as respects pensions and gratuities), have effect immediately before the appointed day,

(*c*) who had before the appointed day performed not less than eight years' service in the aggregate, and

(*d*) who is on the appointed day by virtue of Regulations made under the Fifth Schedule to the Fire Services Act, 1947(**e**), transferred to a fire brigade maintained in pursuance of that Act.

(2) (*a*) A person to whom this Regulation applies shall be deemed to have suffered a reduction of emoluments in respect of which he is entitled to an

(**a**) S.R. & O. 1941 (No. 1134) I, p. 290. (**b**) S.R. & O. 1944 (No. 1077) I, p. 107.
(**c**) 4 & 5 Geo. 6. c. 22. (**d**) 1 & 2 Geo. 6. c. 72.
(**e**) 10 & 11 Geo. 6. c. 41.

award of compensation under these Regulations if the rate of emoluments which he is entitled to receive in the rank which, by virtue of Regulations made under the Fifth Schedule to the Fire Services Act, 1947, he holds on the appointed day in a fire brigade maintained in pursuance of the said Act is lower by not less than five per cent. than the rate of emoluments which he was entitled to receive immediately before the appointed day as a member of the National Fire Service calculated in accordance with sub-paragraph (*b*) of this paragraph, and in such a case the difference between the two said rates determined as aforesaid is hereafter in these Regulations referred to as the " loss for award purposes ".

(*b*) For the purposes of this Regulation the rate of emoluments which a person is entitled to receive as a member of the National Fire Service immediately before the appointed day shall be deemed to be the rate of emoluments which he is then entitled to receive under the provisions of the Third Schedule to the National Fire Service (General) Regulations, 1944(**a**), as subsequently amended, so, however, that the amount of any excess in the rate of pay which he is entitled to receive as aforesaid over twice the rate of his former local brigade pay shall be disregarded.

In this sub-paragraph " rate of former local brigade pay ", in relation to any person, means the rate of pay computed as for the purposes of the said Schedule to which he would have been entitled immediately before the appointed day if he had remained a member of the fire brigade or police force of which he was last a member before he became a member of the National Fire Service.

4.—(1) This Regulation applies to any person who—

(*a*) immediately before the eighteenth day of August, 1941, was employed by a fire authority for the purposes of the Fire Brigades Act, 1938(**b**), or by the London County Council, upon duties connected with the fire brigade maintained by them, or

(*b*) having been employed as aforesaid upon such said duties, had left such employment in order to undertake war service within the meaning of the Local Government Staffs (War Service) Act, 1939(**c**), and was immediately before the said day engaged on such war service,

and who in either case—

(i) is immediately before the appointed day employed for the purposes of the Fire Services (Emergency Provisions) Act, 1941(**d**), otherwise than as a member of the National Fire Service,

(ii) is a person who had before the appointed day performed not less than eight years' service in the aggregate, and

(iii) becomes employed on the appointed day by a local authority.

(2) A person to whom this Regulation applies shall be deemed to have suffered a reduction of emoluments in respect of which he is entitled to an award of compensation under these Regulations if the rate of emoluments which he is entitled to receive in the post in which he becomes employed under a local authority on the appointed day is lower by not less than five per cent. than the rate of emoluments which he was entitled to receive imme-

(**a**) S.R. & O. 1944 (No. 1077) I, p. 107; and *see* S.R. & O. 1946 (No. 571) I, p. 525 and S.R. & O. 1947 (Nos. 5, 615, 823 and 846) I, pp. 736–742.
(**b**) 1 & 2 Geo. 6. c. 72.
(**c**) 2 & 3 Geo. 6. c. 94.
(**d**) 4 & 5 Geo. 6. c. 22.

diately before the said day in respect of his employment for the purposes of the Fire Services (Emergency Provisions) Act, 1941, and in such a case the difference between the two said rates is hereafter in these Regulations referred to as the " loss for award purposes ".

5.—(1) A claim for compensation under these Regulations shall be made in writing signed by the person making the claim and shall state full particulars of the grounds on which the claim is made, and shall be delivered to the administering authority not later than three months after the appointed day.

(2) Where a claim for compensation under these Regulations is delivered to the administering authority within the period required by the last foregoing paragraph, it shall not be regarded as out of time for the purposes of these Regulations, notwithstanding that it does not contain sufficient particulars, if within such time, not less than fourteen days after the expiry of the said period, as the administering authority may allow, the claimant furnishes such further particulars as are reasonably required by that authority.

6.—(1) On receipt of a claim for compensation from a person who claims that, being a person to whom Regulation 1, 3 or 4 of these Regulations applies, he has suffered a reduction of emoluments or that, being a person to whom Regulation 2 of these Regulations applies, he has suffered a reduction of pensionable emoluments, in respect of which in either case he is entitled to an award of compensation under these Regulations, the administering authority shall, within a period of three months after the receipt of the claim, decide whether the claimant is a person to whom one of the said Regulations applies and whether he has suffered a reduction of emoluments or, as the case may be, of pensionable emoluments, in respect of which he is entitled to an award of compensation under these Regulations, and if they are satisfied that the claimant is not such a person or has not suffered such a reduction as aforesaid they shall reject the claim and forthwith notify the claimant in writing accordingly.

(2) Where the administering authority decide that any such claimant as aforesaid is a person entitled to an award of compensation under these Regulations, they shall forthwith make an award of compensation to him, and, in the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, shall also decide, in accordance with paragraph (3) of this Regulation, whether he suffered a reduction of pensionable emoluments of which account is to be taken for the purposes of the Regulations, and, if so, the amount of such reduction.

(3) For the purposes of deciding whether a person to whom Regulation 1, 3 or 4 of these Regulations applies has suffered a reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations and, if so, the amount of that reduction, the following provisions of this paragraph shall have effect, that is to say:—

(*a*) in the case of a person to whom the said Regulation 1 applies, paragraph (2) of the said Regulation 1 shall apply as if—

(i) for the words " a reduction of emoluments in respect of which he is entitled to an award of compensation under these Regulations " there were substituted the words " a reduction of pensionable emoluments ",

(ii) for the word " emoluments ", wherever it occurs, there were substituted the words " pensionable emoluments ",

(iii) the words " by not less than five per cent." were omitted, and

(iv) for the words " is hereafter in these Regulations " to the end of sub-paragraph (*a*), there were substituted the words " shall be taken as the reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations ";

(*b*) in the case of a person to whom the said Regulation 3 applies, the said person shall be deemed to have suffered such a reduction as aforesaid if the rate of emoluments (excluding therefrom any emoluments of which account would not be taken in reckoning any pension or gratuity under the provisions applicable in his case on the appointed day) which he is entitled to receive in the rank which, by virtue of Regulations made under the Fifth Schedule to the Fire Services Act, 1947(**a**), he holds on the appointed day in a fire brigade maintained in pursuance of the said Act, is lower than the rate of his pensionable emoluments immediately before the appointed day as a member of the National Fire Service, and in such a case the difference between the two said rates shall be taken as the reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations;

(*c*) in the case of a person to whom the said Regulation 4 applies, the said person shall be deemed to have suffered such a reduction as aforesaid if the rate of emoluments which he is entitled to receive in the post in which he becomes employed under a local authority on the appointed day is lower than the rate of emoluments which he was entitled to receive immediately before the said day in respect of his employment for the purposes of the Fire Services (Emergency Provisions) Act, 1941(**b**), and in such a case the difference between the two said rates shall be taken as the reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations.

For the purposes of sub-paragraph (*c*) of this paragraph the expression " emoluments ", in relation to any person, does not include any emoluments of which account would not be taken in reckoning any pension or gratuity under the provisions applicable in the case of that person on, or, as the case may be, immediately before, the appointed day.

7.—(1) Any compensation awarded to any person under these Regulations shall, subject to the provisions of Regulation 13 thereof, be given by way of periodical payments, and the administering authority shall at the same time that they make the award assess, in accordance with paragraph (3), or, as the case may be, paragraph (4) of this Regulation, the annual rate at which any such payments shall, in respect of the periods or period specified in paragraph (2) thereof, be made to that person, and shall forthwith notify him in writing accordingly.

(2) (*a*) In the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, payment by way of compensation for the loss for award purposes shall be made in respect of his remaining service period, and, subject to the provisions of Regulation 12 of these Regulations, payment by way of compensation for any reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations shall be made in respect of the period commencing with the termination of his remaining service period and ending with his death.

(*b*) In the case of a person to whom Regulation 2 of these Regulations applies, payment by way of compensation for the reduction of pensionable emoluments shall be made in respect of the period commencing with the appointed day and ending with his death.

(**a**) 10 & 11 Geo. 6. c. 41. (**b**) 4 & 5 Geo. 6. c. 22.

(3) (*a*) In the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, the annual rate at which the periodical payments by way of compensation for the loss for award purposes shall be made shall be assessed by the administering authority in accordance with the provisions of Part I of the Schedule to these Regulations.

(*b*) In the case of any such person as aforesaid, the annual rate at which the periodical payments by way of compensation for any reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations shall be made shall be assessed by the said authority in accordance with the provisions of Part II of the said Schedule.

(4) In the case of a person to whom Regulation 2 of these Regulations applies, the annual rate at which the periodical payments by way of compensation for the reduction of pensionable emoluments shall be made shall be assessed by the administering authority in accordance with the provisions of Part II of the Schedule to these Regulations.

8. If a person who has claimed to be entitled to an award of compensation under these Regulations is aggrieved—

(*a*) by the decision of the administering authority not to make an award of compensation to him or by their failure to come to a decision on his claim within three months after the date on which it was received by them,

(*b*) in the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, by the decision of the said authority that he has not suffered a reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations, or

(*c*) by the annual rate at which any periodical payments to be made to him have been assessed by the said authority,

he may within three months after the said failure or after the date on which he is notified of any such decision or assessment, as the case may be, appeal to the appropriate tribunal, and that tribunal shall consider the matter in accordance with the provisions of these Regulations and shall—

(i) in a case referred to in paragraph (*a*) of this Regulation, either, if they determine that an award of compensation should be made to that person, allow the appeal, and, in the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, determine whether he suffered a reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations, and, if so, the amount of that reduction, and in the case of any person determine at what annual rate any periodical payments to be made to him should be assessed, or dismiss the appeal,

(ii) in a case referred to in paragraph (*b*) of this Regulation, either, if they determine that that person has suffered a reduction of pensionable emoluments as aforesaid, allow the appeal and determine at what annual rate any periodical payments to be made to him by way of compensation for the said reduction should be assessed, or dismiss the appeal,

(iii) in a case referred to in paragraph (*c*) of this Regulation, determine at what rate the periodical payments, if any, to be made to that person should be assessed,

and the administering authority shall, in any case where the said tribunal have allowed the appeal or varied any assessment, give effect to the determination of the tribunal as if their original decision and assessment had been in accordance with the said determination.

9.—(1) Subject to the provisions of paragraph (4) of this Regulation, where an award of compensation has been made under these Regulations to a person to whom Regulation 1, 3 or 4 of these Regulations applies, the administering authority may, at any time before the retirement of that person, from time to time review the assessment of the annual rate of periodical payments to be made to him by way of compensation for the loss for award purposes and the assessment of the annual rate of periodical payments to be made to him by way of compensation for any reduction of pensionable emoluments.

(2) On any such review as aforesaid in the case of periodical payments to any person by way of compensation for the loss for award purposes, the administering authority shall have regard to any material change in the circumstances of the case, and, in particular, to any increase of emoluments received by that person in his employment since the time of the last assessment, and may, subject to the limits specified in Part I of the Schedule to these Regulations, increase the assessment of the rate of the said payments, or may decrease that assessment to any extent, or decide that no further periodical payment shall be made to him by way of compensation for the aforesaid loss.

(3) On any such review as aforesaid, in the case of periodical payments to any person by way of compensation for any reduction of pensionable emoluments, the administering authority shall have regard to any increase of pensionable emoluments received by that person in his employment since the time of the last assessment, and, notwithstanding the provisions of Part II of the Schedule to these Regulations, may decrease the assessment of the rate of the said payments to any extent, or decide that no periodical payments shall be made to him by way of compensation for the aforesaid reduction.

(4) The administering authority shall not review any assessment of the annual rate of periodical payments in the case of any person until at least six months after their notification to him, in accordance with the provisions of paragraph (1) of Regulation 7 of these Regulations, of the said rate, or, in a case where the annual rate at which the said payments are to be assessed has been considered by a tribunal under the last foregoing Regulation, until at least six months after the date of the determination of the tribunal, and, in any case where they have reviewed any assessment, shall not hold any subsequent review of the said assessment in the case of that person until at least six months after they have, in accordance with paragraph (7) of this Regulation, notified that person of their decision on such review, or, in a case where the annual rate at which the said payment is to be assessed has been considered by a tribunal under the said paragraph (7), after the date of the determination of the tribunal.

(5) A person to whom an award of compensation has been made under these Regulations may at any time when, in accordance with this Regulation, the administering authority could review the assessment of the annual rate of any periodical payments to be made to him, if he considers that there has been any material change in the circumstances of the case, request the said authority to review the said assessment, or, in any case where they have on a review decided that no further, or no, periodical payments should be made, to make a new assessment, and the administering authority shall accordingly review the assessment, or, as the case may be, consider whether a new assessment should be made.

(6) Where an award of compensation has been made under these Regulations to a person to whom Regulation 3 of these Regulations applies, if the retirement on pension of that person occurs within the period of three years commencing with the appointed day, the administering authority may, not later than two months after the said retirement, review the assessment of the annual rate of the periodical payments to be made to him by way of compensation for any reduction of pensionable emoluments, and on any such review may have regard to the fact that, by reason of the provisions of these Regulations, the reduction of pensionable emoluments of which the assessment of the said annual rate made at the time of the award took account was computed with reference to his actual pensionable emoluments on the appointed day, whereas the pension to which he became entitled on retirement was computed with reference to an average during the three years preceding his retirement, and, notwithstanding the provisions of Part II of the Schedule to these Regulations, may decrease the aforesaid assessment to any extent, or decide that no periodical payments should be made by way of compensation for the aforesaid reduction.

(7) Where the administering authority under this Regulation review any assessment of the annual rate of periodical payments in the case of any person, they shall forthwith notify that person of their decision on such review, and if that person is aggrieved by the decision he may, within three months after the date on which he received the notification, appeal to the appropriate tribunal, and that tribunal shall consider the matter in accordance with the provisions of these Regulations and shall determine at what annual rate the periodical payments, if any, to be made to that person should be assessed, and, if they vary the assessment, the administering authority shall give effect to the determination of the tribunal as if their decision on the review had been in accordance therewith.

10.—(1) A person claiming compensation under these Regulations and a person receiving periodical payments by way of compensation thereunder, at any time during which the annual rate of such payments is subject to review by the administering authority under the last foregoing Regulation shall, if the administering authority so require, attend at a meeting of the authority, or of any committee appointed by the authority for the purpose, and answer all questions asked by any member of the authority or committee touching the matters set forth in his claim or to which the administering authority are, under these Regulations, required to have regard, and shall produce all books, papers and documents in his possession or under his control relating to the said matters.

(2) A person required in pursuance of this Regulation to attend at a meeting may be required to make a statutory declaration as to the truth of any of the answers given by him to questions asked on the occasion of such attendance touching the aforesaid matters.

11.—(1) Any notification given by an administering authority under paragraph (1) of Regulation 6, paragraph (1) of Regulation 7 or paragraph (7) of Regulation 9 of these Regulations to any person shall contain a statement directing the attention of that person to his right under Regulation 8 of these Regulations, or, as the case may be, under the said paragraph (7), to appeal to the appropriate tribunal, and to the time within which such appeal must be made, and giving him the address of the tribunal.

(2) The proceedings on any appeal under these Regulations to a tribunal shall not be deemed to be an arbitration to which anything in the Arbitration Acts, 1889 to 1934, has application.

12. Notwithstanding that a person to whom Regulation 1, 3 or 4 of these Regulations applies has suffered a reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations, no payment by way of compensation therefor shall be made in respect of any period after the termination of that person's remaining service period unless the reason for the said termination is his retirement on pension.

13.—(1) Notwithstanding anything in these Regulations, and subject to the provisions of paragraph (3) of this Regulation, where an award of compensation under these Regulations has been made to any person for a reduction of pensionable emoluments—

(*a*) if the annual rate at which any periodical payments in respect of the said compensation has been assessed does not exceed twenty-six pounds, the administering authority may, at their discretion, discharge the future liability of the appropriate authority to that person in respect of the said periodical payments by the payment to him of a lump sum representing the capital value thereof,

(*b*) if the said annual rate exceeds twenty-six pounds, the administering authority may, if so requested by that person, discharge the future liability of the appropriate authority to him in respect of one-quarter of the amount of the said periodical payments by the payment to him of a lump sum representing the capital value of one-quarter thereof, and in such a case, if the remaining three-quarters thereof does not exceed twenty-six pounds, the administering authority may, at their discretion, discharge the future liability of the appropriate authority to him in respect of the whole of the said amount by the payment to him of a lump sum representing the capital value thereof.

(2) Any lump sum payable under this Regulation shall be of such amount as shall be certified by a Fellow of the Institute of Actuaries to be appropriate.

(3) Nothing in this Regulation shall be construed as authorising the discharge of the liability of the appropriate authority to any person to whom Regulation 1, 3 or 4 of these Regulations applies except after the retirement on pension of that person and at a time when no review of the annual rate at which any periodical payments in respect of the compensation aforesaid can be held under Regulation 9 of these Regulations.

14. Where under any award of compensation under these Regulations any person is entitled to receive any payment, the whole of that payment shall be made to, or in trust for, that person by the administering authority, and shall be so made, in so far as the said authority in relation to that payment are the appropriate authority, on their own behalf, and in so far as the administering authority in relation to that payment are not the appropriate authority, on behalf of the appropriate authority.

15.—(1) In these Regulations—

the expression " appointed day " means the first day of April, 1948;

the expression " administering authority ", in relation to—

(*a*) a person to whom Regulation 1 or 2 applies and who is on the appointed day a member of a police force, or has before that day retired from a police force, means the fire authority under the Fire Services Act, 1947(**a**), for the area comprising the area of the police force

(**a**) 10 & 11 Geo. 6. c. 41.

of which he was last a member before the eighteenth day of August, 1941;

(*b*) a person to whom Regulation 1, 2, or 4 applies and who is on the appointed day, or has been before that day, employed by a local authority, means the fire authority under the Fire Services Act, 1947, for the area comprising the area of the local authority by which he was last employed as aforesaid before the said appointed day;

(*c*) a person to whom Regulation 3 applies, means the fire authority under the Fire Services Act, 1947, for the area comprising the area served by the fire brigade of which he was last a member before the appointed day;

the expression " appropriate authority ", in relation to any payment to any person, means, in relation to three-quarters of the amount of that payment, the Secretary of State, and in relation to one-quarter thereof, the administering authority;

the expression " appropriate tribunal ", in the case of any person, means such referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, as has jurisdiction in respect of the district in which that person is, or was last, employed;

the expression " emoluments " means pay and allowances, including the value of free quarters and of light and fuel supplied without charge, and allowances towards rent and towards the cost of fuel and light, but does not include allowances to meet occasional expenses on subsistence, nor to meet travelling expenses or expenses on the provision of uniform or boots, nor expenses incurred in lodging away from home;

the expression " pensionable emoluments ", in relation to any person at any time, means emoluments of which account would be taken in reckoning any pension or gratuity payable to him under the provisions applicable in his case at that time;

the expression " the relevant date ", in relation to—

(*a*) a person to whom Regulation 1 or 2 applies, means the date on which he suffered a loss of emoluments by reason of the National Fire Service (General) Regulations, 1941(**a**),

(*b*) a person to whom Regulation 3 or 4 applies, means the appointed day;

the expression " remaining service period ", in relation to any person, means the period commencing with the appointed day and ending with the day on which that person ceases to be a member of a police force, or, as the case may be, to be employed by a local authority (whether as a member of a fire brigade or otherwise);

the expression " retirement ", in relation to any person, means retirement from a police force, or, as the case may be, from employment under a local authority (whether as a member of a fire brigade or otherwise), and the expression " retirement on pension " means retirement in such circumstances that that person thereupon becomes entitled to receive a pension or gratuity in respect of his service as such a member or in such employment as aforesaid under the provisions applicable in his case;

the expression " service ", in relation to

(*a*) a person to whom Regulation 1 or 2 applies, means service performed after attaining the age of eighteen years as a member of a

(**a**) S.R. & O. 1941 (No. 1134) I, p. 290.

police force, or, as the case may be, in employment under a local authority, and includes any service which that person would, under any provisions applicable in his case immediately before the revelant date, have been entitled to reckon in computing any pension or gratuity,

(*b*) a person to whom Regulation 3 applies, means service performed after attaining the age of eighteen years which that person would, under the provisions applicable in his case immediately before the appointed day, have been entitled to reckon in computing any pension or gratuity,

(*c*) a person to whom Regulation 4 applies, means service performed after attaining the age of eighteen years in employment under a local authority, and service in employment for the purposes of the Fire Services (Emergency Provisions) Act, 1941(**a**), and includes any service which that person would, under any provisions as to pensions applicable in his case, immediately before the appointed day, have been entitled to reckon in computing any pension or gratuity,

and in reckoning the period of service performed by any person before any particular date, if that date occurred at any time other than at the expiration of a complete year of service performed by that person, the portion then expired of that year shall be treated as a complete year if it amounts to six months or more, and if it does not shall be ignored.

(2) In these Regulations any reference in the case of any person to a rate of emoluments (not being a specific reference to a rate of pensionable emoluments or to a rate of emoluments which does not include emoluments of which account would not be taken in reckoning any pension or gratuity) or to a rate of any part of any emoluments at any time shall be construed as a reference to the rate thereof at that time after the deduction therefrom of a percentage the same as that percentage of, as the case may be, those emoluments or that part of those emoluments which he was at that time liable to contribute to any person or fund under the provisions and arrangements relating to pensions applicable in his case.

(3) Where in these Regulations the expression " rate of pensionable emoluments " is used in relation to any person at a particular time, then, if under the provisions applicable in his case at that time any pension or gratuity payable to him would have been computed by reference to an average rate of emoluments (however the said emoluments would have been computed) received by him over a period preceding that time, the said expression shall mean the said average rate.

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

16.—(1) These Regulations may be cited as the Fire Services (Compensation) Regulations, 1948, and shall come into operation on the first day of April, 1948.

(2) These Regulations shall not extend to Scotland.

J. Chuter Ede,
One of His Majesty's Principal Secretaries of State.

We approve,

R. J. Taylor,
Joseph Henderson,
Two of the Lords Commissioners of His Majesty's Treasury.

19th March, 1948.

(**a**) 4 & 5 Geo. 6. c. 22.

(**b**) 52 & 53 Vict. c. 63.

Regulation 7.

SCHEDULE

PART I

Assessment of the annual rate of periodical payments in respect of the period before retirement

1. In assessing in accordance with this Part of this Schedule the annual rate of periodical payments to be made to any person the administering authority shall have regard to all the circumstances of his case, and, in particular, in the case of a person to whom Regulation 3 or 4 of these Regulations applies, to any increase of emoluments received by that person within one year before the appointed day, and to the extent to which he sought to obtain employment on the appointed day which would not involve a reduction of emoluments.

2. The annual rate of the periodical payments to be made to any person in accordance with this Part of this Schedule shall be such rate as the administering authority may, subject to the provisions of these Regulations, in their discretion assess, not exceeding the aggregate of the following, that is to say:—

(*a*) for every year of that person's service before the relevant date, one-sixtieth of the amount of the loss for award purposes in his case, and

(*b*) in the case of a person who had attained the age of forty-five years before the relevant date, for each year of his service since he attained the said age and before the relevant date, a further one-sixtieth of the amount of the said loss for award purposes,

and not in any case exceeding two-thirds of the amount of the said loss for award purposes.

PART II

Assessment of the annual rate of periodical payments in respect of the period after retirement on pension or with a gratuity

1. The annual rate of the periodical payments to be made to any person in accordance with this Part of this Schedule shall be a rate assessed as follows, that is to say, the aggregate of—

(*a*) the sum which bears the same proportion to the appropriate pension as the reduction of pensionable emoluments bears to the appropriate rate of pensionable emoluments, and

(*b*) in the case of a person who had attained the age of forty years before the relevant date, a sum equal to the amount of the additional part of the appropriate pension which would have been payable to that person if there were credited to him such additional number of years of service to be reckoned in computing the said pension as the administering authority may, in their discretion, decide, not exceeding one for each complete year by which his age at the said date exceeded the said age, and not in any case exceeding ten years,

so, however, that the said annual rate shall not in any case exceed two-thirds of the said reduction of pensionable emoluments.

2. In exercising their discretion under sub-paragraph (*b*) of the last foregoing paragraph, the administering authority shall have regard to all the circumstances of the case, and, in particular, in the case of a person to whom Regulation 3 or 4 of these Regulations applies, to any increase of pensionable emoluments received by that person within one year before the appointed day, and to the extent to which he sought to obtain employment on the appointed day which would not involve a reduction of pensionable emoluments.

3. In this Part of this Schedule—

the expression " the appropriate pension ", in relation to any person, means the pension to which he would have been entitled under the provisions as

to pensions applicable in his case immediately before the relevant date if he had then retired on the ground of ill-health, or, if immediately before the relevant date he had not completed any minimum period of service qualifying him under the said provisions for the grant of a pension, means a sum bearing the same proportion to the pension to which he would have been entitled as aforesaid if immediately before the said relevant date he had completed such said minimum period as the period which he had actually then served bears to the said minimum period;

the expression " appropriate rate of pensionable emoluments ", in relation to any person, means the annual rate of his pensionable emoluments immediately before the relevant date, so, however, that in the case of a person to whom Regulation 1 or 2 of these Regulations applies, if the rate of any part of his pensionable emoluments fluctuated from time to time, the rate of that part immediately before the said date shall for this purpose be deemed to be the average rate of that part during the three years preceding the said date;

the expression " reduction of pensionable emoluments ", in the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, means any reduction of pensionable emoluments suffered by him of which account is to be taken for the purposes of these Regulations, determined in accordance with the provisions of paragraph (3) of Regulation 6 of these Regulations, and, in the case of a person to whom Regulation 2 of these Regulations applies, means the reduction of pensionable emoluments suffered by him, determined in accordance with paragraph (2) of the said Regulation 2.

EXPLANATORY NOTE

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

These Regulations provide for the payment under certain conditions of compensation (a) to persons who by reason of the formation of the National Fire Service in 1941 suffered a loss of emoluments, (b) to former professional firemen who have been in the National Fire Service and, by reason of the transfer of the fire service to the new fire authorities, suffer a reduction of emoluments and (c) to certain other persons formerly employed by local authorities who have been employed for the purposes of the National Fire Service otherwise than as members thereof, and who on again becoming employed under a local authority suffer a reduction of emoluments. Compensation will be by way of periodical payments, subject to commutation in certain cases. The annual rate of the payments to be made to a person before retirement will be assessed with regard to the total emoluments lost, and the annual rate of the payments to be made to a person after retirement on pension will be assessed with regard to any loss of pensionable emoluments. Provision is made for appeal to a tribunal and for review of the rate at which periodical payments have been assessed. The appropriate new fire authority receives and considers claims, makes the assessments and pays any person entitled, and the authorities responsible for bearing the cost of payments are, as to three-quarters, the Secretary of State, and as to one-quarter, the appropriate new fire authority.