(x) STAFF COMPENSATION

The Gas (Staff Compensation) Regulations, 1949

1949 No. 2289

Laid before Parliament in draft

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ARRANGEMENT OF REGULATIONS

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Whereas a draft of the following regulations was laid before Parliament on the twenty-seventh day of October, nineteen hundred and forty-nine, being a date less than six months after the vesting date appointed under the Gas Act, 1948(a):

And whereas each House of Parliament has by resolution approved the said draft:

Now, therefore, the Minister of Fuel and Power, in exercise of the powers conferred upon him by sections sixty and sixty-two of that Act and of all other powers him enabling, hereby makes the said regulations:—

PART I

COMPENSATION BY AREA BOARDS AND GAS COUNCIL

1.—(1) Each Area Board and the Gas Council shall, in the cases severally appropriate to them as prescribed in regulation four, pay compensation under this part of these regulations to each person, being a person to whom this part applies, who has suffered (or is deemed under regulation three to have suffered) loss of employment or loss or diminution of emoluments or pension rights in consequence of—

(*a*) either the vesting in them by virtue of the Act of any property, rights liabilities or obligations of an undertaker as defined in the next following paragraph or (in the case of a person employed immediately before the vesting date by any of the gas and coke associations as defined in the next following paragraph) the passing of the Act;

(a) 11 & 12 Geo. 6. c. 67.

(*b*) the subsequent transfer from one Area Board to another or from the Gas Council to an Area Board, or the subsequent disposal in any other manner, of any such property, rights, liabilities or obligations as aforesaid ; or

(*c*) anything done under section fifty-nine of the Act.

(2) In these regulations the expression " undertaker " means an undertaker to whom Part II of the Act applied ; and for the purposes of these regulations each of the following shall be deemed to have been an undertaker, that is to say, the British Gas Council, the Federation of Gas Employers, the National Federation of Gas Coke Associations and every constituent association of that federation and the Association of Gas Corporations (those bodies being in these regulations collectively referred to as the " gas and coke associations ").

(3) The ground of entitlement of any person to compensation is in these regulations referred to as that person's " loss " ; and the expression " date of loss " means in relation to any such person—

(*a*) if he was at the vesting date engaged on war service, the date of service on the appropriate authority of the notice referred to in paragraph (1) of regulation three ; or

(*b*) in any other case, the date on which he lost his employment or the date as from which his emoluments or pension rights were lost or diminished, as the case may be.

(4) Nothing in this regulation shall entitle any person to compensation in respect of any right created—

(*a*) by the making or (to the extent of the variation in question) the variation of a contract effectively disclaimed in pursuance of section twenty-two of the Act ;

(*b*) by any transaction in respect of which any order under section thirty-six of the Act has been made by the arbitration tribunal ; or

(*c*) by the operation or variation of a pension scheme otherwise than in the ordinary course, being a right in respect of which notice has been effectively given by way of disclaimer thereof in pursuance of regulations made under section fifty-eight of the Act.

2.—(1) This part of these regulations shall apply to any person who, after attaining the age of eighteen years, had continuously during a period of not less than eight years immediately preceding the vesting date been employed by one or more undertakers some or all of whose property, rights, liabilities and obligations vested by virtue of the Act in an Area Board or the Gas Council, or employed whole-time for the purpose of administering undertakers' undertakings or parts of such undertakings:

Provided that it shall not apply to any person who was not required to devote to his said employment an average weekly aggregate of thirty hours or more during which he was restricted from undertaking other work in consideration of emoluments ; so however that for the purpose of this proviso in relation to any person there may be included any time devoted by him to services as a director of any company to whom Part II of the Act applied.

(2) For the purpose of the foregoing paragraph, any of the following shall in relation to any person be deemed to have been employment by the employer

by whom, and for the purpose for which, that person was employed immediately before the vesting date:—

(*a*) any previous employment as mentioned in that paragraph by or in relation to one or more other such employers or undertakings;

(*b*) engagement on war service; or

(*c*) if preceded and followed by periods of employment as aforesaid, any period during which that person was—

(i) engaged whole-time (except during holidays or vacations) on a course of study at any university, college or school on subjects relevant to employment as aforesaid, so however that any question arising as to the application to any person of this sub-paragraph shall in default of agreement be referred to the Minister, whose determination thereon shall be final, or

(ii) not employed, so however that the periods included by virtue of this sub-paragraph shall not in the aggregate exceed eighteen months.

(3) Subject to the provisions of the next following regulation, this part of these regulations shall also apply to any person taken into the employment of an Area Board or Gas Council in the period beginning at the passing of the Act and ending on the vesting date, or engaged at the vesting date on war service, who, but for being taken into the said employment, or becoming so engaged, would have been a person to whom paragraph (1) applied; and any reference in this regulation or in regulation four to employment immediately before the vesting date shall in relation to any such person be construed as a reference to his employment last before the vesting date in a capacity mentioned in that paragraph.

3.—(1) Where any person engaged at the vesting date on war service, being a person to whom this part of these regulations applies, gives notice 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) to the Area Board or, as the case may be, the Gas Council specified in the following paragraph that he is available for employment, that person shall be entitled to compensation on the ground—

(*a*) if he is not employed, of loss of employment;

(*b*) if he is employed with reduced emoluments, as compared with the emoluments he would have enjoyed if he had continued to be employed in the capacity in which he was employed immediately before becoming so engaged, of diminution of emoluments.

(2) The Board or Council aforesaid shall be,—

(*a*) if that person was when last employed before becoming engaged on war service employed by any of the gas and coke associations, the Gas Council;

(*b*) in any other case, the Board or Council in whom has vested the gas undertaking or part of a gas undertaking in connection with which he was chiefly employed.

The appropriate authority

4.—(1) Compensation shall be paid to any person entitled thereto under this part of these regulations by the Area Board, or, as the case may be, the Gas Council prescribed in this regulation.

(2) In relation to any person entitled or claiming to be entitled as aforesaid, the Area Board, or, as the case may be, the Gas Council, by whom in pursuance of this regulation compensation is or would be payable to him are in these regulations referred to as " the appropriate authority ".

(3) Subject to the provisions of the following paragraphs, the appropriate authority in relation to any person shall be—

(*a*) if he was employed immediately before the vesting date by any of the gas and coke associations, the Gas Council ; or

(*b*) in any other case, the Board or Council in whom has vested the gas undertaking or part of a gas undertaking in connection with which he was employed immediately before the vesting date.

(4) Where more than one body would in relation to any person be the appropriate authority under the last foregoing paragraph, the appropriate authority in relation to him shall be the Board or Council in whom has vested the undertaking or part of an undertaking in connection with which he was immediately before the vesting date chiefly employed ; and each other such body shall contribute to any compensation paid to him by the appropriate authority in proportion to the extent to which immediately before the vesting date he was employed in connection with an undertaking or part of an undertaking vested in them.

(5) Any question arising in relation to any person as to the identification of the appropriate authority, or as to whether or to what extent any Area Board or the Gas Council are to contribute to any compensation paid to him, shall in default of agreement be determined by the Minister.

Time limit for entitlement

5. No person to whom this part of these regulations applies shall be entitled to compensation on the ground of anything occurring after the expiry of ten years from the vesting date.

PART II

AMOUNT OF COMPENSATION UNDER PART I

Factors affecting compensation

6.—(1) In any assessment of compensation under Part I regard shall be had to such of the following as are applicable to the person by or in respect of whom the compensation is claimed, that is to say :—

(*a*) the terms of his employment at any time before the date of loss, including the likelihood, in the event of an amalgamation before the vesting date of the gas undertaking in connection with which he was employed last before the vesting date with another such undertaking, of the payment to him of any compensation for loss of employment or earnings, and any accrued or prospective pension rights ;

(*b*) the terms of any employment obtained by him since the date of loss including any accrued or prospective pension rights ;

(*c*) the extent to which he has sought alternative employment ; and whether he has been registered for employment at an employment exchange or with the Appointments Department of the Ministry of Labour and National Service ;

(*d*) any emoluments which he has or might have secured by accepting any suitable and reasonable employment or training offered to him since the date of loss, so however that employment by an Area Board or the Gas Council not being the Board or Council by whom he was employed immediately before that date, or employment in a place other than the place where he was then employed, shall not be held not to be suitable or reasonable by reason only of the difference of employer or place;

(*e*) any compensation to which he is entitled under the Reinstatement in Civil Employment Act, 1944(**a**);

(*f*) all other circumstances affecting his case.

(2) Where any sum is paid or awarded to any person by way of compensation or damages for the variation or termination of any agreement of his for services in any employment referred to in paragraph (1) of regulation two, or in the employment of any Area Board or the Gas Council, any compensation to which he would be entitled under these regulations in respect of the variation or termination shall to that extent be reduced.

(3) In the determination of the emoluments received by any person in respect of employment,—

(*a*) the amount of any fees or other variable payments included shall be determined by the average thereof as received by him during the period of three years ending at the date of loss, or, if less, the period so ending during which he received those fees or payments (so however that, in the case of variable payments ascertained as a percentage of the emoluments received by him in any period, the said amount shall be determined by applying to the emoluments received by him in the period last before the date of loss a percentage equal to the average of the percentages applied during the period aforesaid);

(*b*) the money value of any accommodation, board or other privilege shall be included;

(*c*) there shall be excluded any sum paid to that person in respect of—

(i) expenses incurred by him in the course of his employment;

(ii) overtime, not being a sum paid as a regular increment to his wages or salary.

(4) Any amount by which the emoluments received by any person before the date of loss exceeded the sum of four thousand pounds per annum shall be disregarded.

(5) In the case of any person entitled to compensation for loss of employment under regulation three, the emoluments received by him before the date of loss shall be determined by adding to the emoluments received by him before becoming engaged on war service such increments based on completed service as might reasonably have been anticipated if he had continued until the date of loss to be employed in the capacity in which he was employed before becoming so engaged; and, if, at the date of becoming so engaged, he was subject to a pension scheme, the pension rights which might reasonably have accrued to him at the date of loss shall be deemed to be his pension rights for the purpose of his claim.

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

(6) No person shall be entitled to compensation under Part I for loss or diminution of emoluments unless the amount of the said loss or diminution is, in terms of an annual sum, equal to or greater than two and one-half per centum of the emoluments annually received by him in respect of his employment immediately before the date of loss.

(7) No claim to compensation under Part I shall be valid unless made before the expiry of two years from the date of loss.

Immediate compensation

7.—(1) Immediate compensation shall be paid by the appropriate authority to each person claiming compensation under Part I for loss of employment, or (in the case of a person with no expectation as defined in the next following paragraph) for loss or diminution of emoluments, in respect of the period beginning at the date of his loss and ending as prescribed in paragraph (3) of this regulation:

Provided that if within one month of the receipt by the appropriate authority of notice of any claim they give notice to the claimant of the rejection thereof, no immediate compensation shall be payable unless, on representation made by the claimant, they withdraw the last mentioned notice or unless, on appeal in pursuance of regulation fourteen, an award thereof is made by the tribunal specified in that regulation.

(2) In these regulations the expression " person with an expectation " means a person who had a reasonable expectation, in the event of an amalgamation before the vesting date of the gas undertaking in connection with which he was employed last before that date with another such undertaking, of the payment to him of compensation for loss of employment or earnings; and the expression " person with no expectation " shall be construed accordingly.

(3) The period for immediate compensation shall be—

(*a*) in the case of a person with an expectation claiming compensation for loss of employment, until expiry of three months from the date of loss or until assessment of substantive (or, in the case of a person who has attained retiring age, residual) compensation, whichever last occurs, or

(*b*) in any other case, thirteen weeks with one additional week for each completed year of his service after attaining the age of forty-five years, subject to a maximum of thirteen such additional weeks,

so however that if, in a case of compensation for loss of employment, that person obtains other employment, or unreasonably refuses suitable employment, or if the appropriate authority are satisfied that he is not actively seeking other employment, no immediate compensation shall be payable to him in respect of any subsequent part of the period unless having obtained other employment he loses that employment on a ground other than his own misconduct.

(4) Any person in receipt of immediate compensation for loss of employment who obtains other employment shall forthwith give notice thereof to the appropriate authority.

(5) The amount of the immediate compensation payable to any person in respect of any period shall be—

(*a*) for loss of employment, a sum which, when added to a sum equal to two-thirds of any unemployment or sickness benefit to which the claimant is entitled, is equal to two-thirds of the emoluments which would have

been received by him in that period in respect of his lost employment, after deduction of any contribution payable by him for the purpose of a pension scheme;

(*b*) for loss or diminution of emoluments, a sum equal to two-thirds of the amount by which the emoluments which he would have received in that period but for his loss (after deduction of any contribution payable by him for the purpose of a pension scheme) exceed the amount (after deduction as aforesaid) of the emoluments which he actually then receives.

Substantive compensation

8.—(1) In this regulation the expression "emoluments lost" means, in relation to a person entitled to compensation—

(*a*) for loss of employment, the amount in terms of an annual sum of the emoluments received by him in respect of that employment immediately before the date of loss, after deduction of any contribution payable by him for the purpose of a pension scheme; or

(*b*) for loss or diminution of emoluments, the difference between the amounts, in terms of an annual sum and after deduction as aforesaid, of the emoluments received by him in respect of his employment before and after the date of loss.

(2) Every person with an expectation entitled to compensation under Part I who has not attained retiring age, shall, subject to the provisions of paragraph (6) of this regulation, be paid substantive compensation during and in respect of such period (if any), beginning at the date of loss (or, if the compensation is for loss of employment, at the expiry of three months from that date) and ending not later than the date when he dies or attains retiring age whichever first occurs, as may be determined at the assessment of the said compensation:

Provided that any immediate compensation paid to him in respect of any part of the period aforesaid shall be deemed to have been a payment on account of the substantive compensation to which he is entitled.

(3) The amount of the substantive compensation to which any person is entitled shall not in any event exceed an amount equal to two-thirds of the emoluments lost, and, except in the case of compensation for loss of employment where a shorter period has been determined than until death or attaining retiring age whichever first occurs, shall not exceed the aggregate of—

(*a*) for each completed year of that person's service, whether before or after the vesting date, one-sixtieth of the emoluments lost; and, in addition

(*b*) for each such year after attaining the age of forty-five years, one-sixtieth of the emoluments lost.

(4) Where any person is receiving substantive compensation, the amount thereof shall on review be subject to adjustment if, being compensation for—

(*a*) loss of employment, he—

(i) obtains other employment; or

(ii) loses other employment obtained by him since the date of loss to which regard has been had in the assessment of the said compensation; or

(*b*) loss or diminution of emoluments, he—

(i) becomes entitled to additional or increased emoluments; or

(ii) loses any such additional or increased emoluments otherwise than by reason of an independent loss within the meaning of regulation one.

(5) Each person receiving substantive compensation shall forthwith give notice to the appropriate authority of any relevant event occurring with respect to him as specified in sub-paragraph (*a*) (i) or (*b*) (i), as the case may be, of the last foregoing paragraph:

Provided that no such notice shall be required of any event occurring when a review of the amount of the said compensation is prohibited by the proviso to paragraph (1) of regulation thirteen.

(6) Where by reason of ill health or otherwise any person in receipt of substantive compensation becomes under any pension scheme to which he is subject entitled to a pension or benefits payable in respect of his service before the date of loss, and the value of the residual compensation applicable to him is greater than the value of his substantive compensation, he shall, if he gives notice to the appropriate authority that he so desires, cease to be entitled to substantive compensation and in lieu thereof become entitled to residual compensation accordingly.

(7) The last foregoing paragraph shall apply in relation to any person who ceased to be subject to a pension scheme by reason of his loss; and a reference to a pension or benefits to which any such person becomes entitled shall be construed as a reference to the pension or benefits to which he would have become entitled but for so ceasing.

Residual compensation

9.—(1) Residual compensation in so far as provided in this regulation shall be payable where any person entitled to compensation under Part I for loss of employment—

(*a*) had attained, or attains, retiring age;

(*b*) dies;

(*c*) becomes entitled thereto in pursuance of paragraph (6) of the last foregoing regulation; or

(*d*) being a person with no expectation or a person who has been awarded substantive compensation during and in respect of a period which has expired, becomes by reason of ill-health or otherwise under a pension scheme to which he is subject entitled to a pension or benefits before attaining retiring age, so however that this sub-paragraph shall also apply to a person (being such a person as aforesaid) who ceased to be subject to a pension scheme by reason of his loss, and a reference to the pension or benefits to which any such person becomes entitled shall be construed as a reference to the pension or benefits to which he would have become entitled but for so ceasing.

(2) Where any such person has in respect of service before the date of loss the expectation of a pension, the appropriate authority shall (unless that service has been effectively reckoned for the purpose of benefits under a pension scheme to which he has become subject since the date of loss) ensure that sums equal to the amounts of any pension and lump sum benefit of which he has expectation in respect of that service are paid to him in satisfaction thereof; and if, in pursuance of his pension scheme or the arrangement for his pension, he was party to an agreement that some or all of the said pension or benefit should be paid to another person, they shall ensure that sums equal to the amount thereof are paid to that person accordingly.

(3) The last foregoing paragraph shall apply in relation to any person who ceased to be subject to a pension scheme, or lost the expectation of a pension, by reason of his loss; and a reference therein to any pension or lump sum benefit of which any such person has expectation shall be construed as a reference to the pension or benefit of which he would have had expectation but for so ceasing.

(4) For the purposes of the payments aforesaid—

(*a*) the amount of the pension or benefit to be satisfied shall be determined as if every condition had been fulfilled qualifying the said person to receive such a pension or such benefit, but (where relevant, and subject to any customary addition) by reference to the actual length of the service completed by him before the date of loss;

(*b*) if any return of contributions has been made to him under any pension scheme to which he was subject, the compensation shall, unless he pays to the appropriate authority a sum equal to the amount of that return with interest thereon at the rate of four per centum per annum from the date of the return to the date of the said payment, be reduced by an amount the capital value whereof is equal to that sum.

(5) If a person to whom paragraph (2) applies had at the date of loss attained the age of forty years, an assessment of compensation may require the appropriate authority to ensure that a sum is paid by way of addition to his pension and benefit, as if for an added year of service, in respect of each completed year of service, whether before or after the vesting date, after attaining that age:

Provided that the number of such additions shall not in the case of any person be greater than ten, or the difference in years between his age at the date of loss and retiring age, whichever is the less: and

Provided also that if any person for whom any such addition has been assessed becomes entitled to residual compensation by virtue of sub-paragraph (*c*) or (*d*) of paragraph (1) of this regulation, or dies, the said addition shall have effect with respect to any sum paid as pension or benefit, with such added years only as he might have completed between the date of loss and the date when he became entitled to residual compensation, or died, as the case may be.

(6) Where any person to whom paragraph (1) refers, being a person who has been awarded substantive compensation until retiring age, has not in respect of service before the date of loss the expectation of a pension, but the appropriate authority, or on appeal the tribunal, are satisfied that that person had a reasonable prospect of being retained in his employment for any substantial period after attaining retiring age, residual compensation shall be payable to him for the remainder of his life equal to half the substantive compensation to which he was entitled.

(7) The last foregoing paragraph shall apply in relation to persons who had attained retiring age before the date of loss; and in the case of any such person a reference to the substantive compensation to which he was entitled shall be construed as a reference to the substantive compensation to which he would have been entitled but for having attained that age.

PART III

ASSESSMENT, ETC., OF COMPENSATION UNDER PART I

Assessment and procedure

10.—(1) Each person claiming to be entitled to compensation under Part I shall give notice thereof to the appropriate authority as soon as may be after the date of his loss, and shall furnish therewith full information verified by a statutory declaration made by him as to the matters specified in the schedule to these regulations.

(2) For the purpose of any such person furnishing any such information as aforesaid, the appropriate authority shall make available to him all such

information within their knowledge relating to his previous employment as he may reasonably require, including (on reasonable notice to them) copies of any records in their possession or control relating thereto.

(3) Subject to the provisions of these regulations, all compensation under Part I shall be assessed by the appropriate authority.

(4) The substantive and residual compensation (if any) to which any person is entitled shall be assessed, or the claim of that person be rejected, by the appropriate authority as soon as practicable after service upon them of notice thereof, and in any event before the expiry of three months from the date of the said service; so however that, where any such assessment has been made before complete investigation of every matter to which under paragraph (1) of regulation six regard is to be had, they may within three months review the amount thereof as if in pursuance of regulation thirteen, and assess a different amount, notwithstanding that no variation in any such matter has occurred:

Provided that if any such different amount is less than the amount first assessed, the said difference shall not be deemed to have had effect before the date of the said review.

(5) The assessment of substantive and residual compensation may be made in any such manner, whether with regard to the claimant or any other person making representations on his behalf or otherwise, as the appropriate authority may at their discretion determine, so however that an opportunity shall be afforded to every claimant so desiring for oral presentation of his claim.

(6) The appropriate authority shall forthwith after the rejection by them of any claim, or the assessment of any compensation whether initially or on review, give notice thereof to the claimant, with notice of the amount of any compensation assessed.

(7) The appropriate authority shall, when giving to any person notice of any decision of theirs, draw the attention of that person to the provisions of these regulations regarding all such rights as he may have—

(*a*) in the case of rejection of a claim, or the exercise of discretion with respect to the payment of a lump sum in satisfaction of compensation, to appeal against the decision;

(*b*) in the case of an assessment of compensation, to appeal against the decision on the amount assessed, and to require a review of the said amount.

(8) Save in so far as concerns any lump sum benefit, compensation shall be assessed in terms of an annual, monthly or weekly sum.

11.—(1) Where any person to whom paragraph (1) of regulation two applies alleges that he has lost his employment in consequence—

(*a*) of the vesting, transfer or disposal of any property, rights, liabilities or obligations, or

(*b*) of the passing of the Act,

he shall (unless the contrary be proved) be deemed to have lost his employment accordingly, if (being, if sub-paragraph (*a*) of this paragraph applies to him, a person who at the material time was employed in connection with the property, rights, liabilities or obligations vested, transferred or disposed of) he lost his employment on any ground other than his own request (including acceptance of membership of an Area Board or the Gas Council),

or the attainment by him of retiring age, or his own misconduct or incapacity to perform any duty which he was, or reasonably might have been, required to perform under the terms of the said employment.

(2) Where any person engaged at the vesting date on war service is deemed to have suffered loss of employment by virtue of regulation three, no employment offered to him by the appropriate authority shall be deemed to be suitable and reasonable within the meaning of sub-paragraph (*d*) of paragraph (1) of regulation six unless it is the same as, or similar to, his employment immediately before becoming engaged on war service, or unless the offer of employment included an offer of training on such terms that at the conclusion thereof he would not have been prejudiced by reason that the said employment was not the same as, or similar to, his employment aforesaid.

Calculation of service

12.—(1) The provisions of paragraph (2) of regulation two, other than sub-paragraph (*c*) (ii), shall apply in relation to the service of any person calculated for the assessment of substantive or residual compensation as they apply in relation to service calculated for the purpose of paragraph (1) of that regulation:

Provided that no period during which any person was engaged on war service shall on any such assessment be included unless that period was preceded by employment as mentioned in the said paragraph (1).

(2) Service of any person in the employment of an Area Board or the Gas Council not being the appropriate authority in relation to him shall be deemed to have been service in the employment of the appropriate authority.

(3) While any person is in receipt of a pension which he began to receive before the date of loss, no part of the service reckoned for the purposes of that pension shall be reckoned in the assessment of any residual compensation to which he is entitled; and if he was while in receipt of the said pension retained in, or taken into, any employment as mentioned in paragraph (1) of regulation two, or the employment of an Area Board or the Gas Council, service in that employment shall not, unless he has the expectation of a pension expressly related to it, be deemed to be service in respect of which he had the expectation of a pension.

(4) Where any periods of service required to be aggregated include fractions of a year, those fractions shall be included; but where an aggregate as so determined includes such a fraction, the fraction shall, if it equals or exceeds six months, be treated as one year, or, in any other case, be disregarded.

Reviews and appeals

13.—(1) Where substantive compensation has been assessed for any person, the amount thereof may at intervals of not less than six months be reviewed by the appropriate authority, and, in the event of a variation in any matter to which under paragraph (1) or (2) of regulation six or paragraph (4) of regulation eight regard is to be had, a different amount assessed:

Provided that, if the compensation is for loss of employment, there shall be no such review after the expiry of two years from the date of the first assessment of the compensation (or, if there was an appeal from that assessment, from the date of the award thereon) unless that person obtains employment from an Area Board or the Gas Council.

(2) The appropriate authority shall review the amount of any substantive compensation as if in pursuance of the foregoing paragraph at any time if so required by the person receiving that compensation, so however that the proviso to the foregoing paragraph shall also apply in relation to this paragraph.

14. Any person aggrieved by any decision of the appropriate authority in their rejection of any claim, or in their assessment of any compensation, whether initially or on review, or in the exercise of their discretion with regard to the payment of any lump sum, may appeal to a referee or board of referees (in these regulations referred to as "the tribunal") appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor (or, where the proceedings are to be held in Scotland, with the Secretary of State), who shall rehear that person's claim with respect to the matter determined and may make an award of compensation, or, within the limits specified in the next following regulation, give a direction with regard to the payment of a lump sum in satisfaction of any such compensation, which shall be final and binding on the appropriate authority and on that person.

Further provisions concerning compensation

15.—(1) Except in the case of lump sum benefit, compensation shall be satisfied by payment of the periodical sums assessed in pursuance of regulation ten:

Provided that the appropriate authority may at their discretion pay a lump sum, not being less than the capital value by actuarial valuation of the amount to be satisfied, in satisfaction of any compensation—

(*a*) if the aggregate annual sum assessed does not exceed twenty-six pounds, as to the whole amount,

(*b*) at the request of the person entitled, if the said annual sum exceeds twenty-six pounds, and there is no lump sum benefit assessed therewith, as to one quarter thereof, so however that if the difference between that quarter, in terms of an annual sum, and the total annual sum assessed does not exceed twenty-six pounds, the whole amount of the compensation may be so satisfied,

and, where any compensation is so satisfied, the provisions of these regulations relating to review shall in so far as concerns that compensation cease to have effect.

(2) Compensation shall be paid—

(*a*) if for loss or diminution of pension rights, to any person entitled under the provisions of paragraph (2) of regulation nine to payment thereof, and as an addition to any pension which is or becomes payable in respect of the service of the person concerned before the date of loss;

(*b*) in any other case, to the person entitled thereto, and at such weekly or longer intervals as may be fixed when the compensation is assessed, being intervals corresponding so far as may be, unless otherwise agreed, to the intervals at which he received his emoluments before the date of loss;

so however that, where under regulation nine the appropriate authority are required to ensure that any sum is paid to any person, they may in lieu of direct payments make payments as requisite to any person concerned with providing any pension or benefit due to that person, and, if the payment which they are required to ensure is received when due by the person entitled to the same, the compensation due to him shall to that extent be satisfied.

(3) Compensation shall not be assignable.

PART IV

COMPENSATION BY MINISTER OF FUEL AND POWER

16.—(1) Subject to the provisions of this part of these regulations, the Minister will pay compensation out of moneys provided by Parliament to any person who suffers loss of employment or loss or diminution of emoluments or pension rights in consequence of the passing of the Act, and who was immediately before the vesting date—

(*a*) employed whole-time as an inspector of meters under section four of the Sale of Gas Act, 1859(a),

(*b*) a person whose whole-time employment was made up of employment as an inspector of meters under the said section four and of other employment by a local authority,

(*c*) assisting such an inspector as aforesaid and employed whole-time by a local authority,

(*d*) employed whole-time as a gas examiner under section thirteen of the Gas Undertakings Act, 1934(b), or

(*e*) a person whose whole-time employment was made up of employment as a gas examiner as aforesaid and of other employment by a local authority:

Provided that no such person shall be entitled to compensation unless after attaining the age of eighteen years he had been employed as aforesaid continuously during a period of not less than eight years immediately preceding the vesting date: and

Provided also that no such person shall be so entitled in respect of anything occurring after the expiry of ten years from the vesting date.

(2) For the purposes of the first proviso to the foregoing paragraph, whole-time employment by a local authority in any capacity, engagement on war service and, if preceded and followed by periods of employment as aforesaid, periods not exceeding in the aggregate eighteen months when the person concerned was not employed shall be deemed to have been employment in the capacity in which that person was employed immediately before the vesting date.

(3) Any person engaged at the vesting date on war service who, but for becoming so engaged, would at the vesting date have been a person continuously employed as prescribed in the first proviso to paragraph (1) shall—

(*a*) if he is appointed by the Minister as a meter examiner, assistant meter examiner or gas examiner, or is employed by the local authority by whom he was employed before becoming engaged on war service, and thereafter suffers a loss as mentioned in the said paragraph, be entitled to compensation thereunder; or

(*b*) if he gives notice to the Minister before the expiry of two months after ceasing to be employed on war service (or, if prevented by sickness or other reasonable cause, as soon as possible thereafter) that he is available for employment, be deemed for the purposes of the said paragraph to have suffered,—

(i) if he is not appointed by the Minister as a meter examiner, assistant meter examiner or gas examiner, loss of employment and pension rights, or

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(a) 22 & 23 Vict. c. 66. (b) 24 & 25 Geo. 5. c. 28.

(ii) if he is so appointed with reduced emoluments or pension rights as compared with the emoluments or pension rights he would have enjoyed if he had continued to be employed in the capacity in which he was employed immediately before becoming so engaged, diminution of emoluments or pension rights, as the case may be.

17. The provisions of regulations six, seven and eight shall with the requisite modifications apply in relation to compensation under this part of these regulations as they apply in relation to compensation under Part I, so however that the Minister will do such things as are required in pursuance thereof to be done by the appropriate authority, and for any reference to anything being done to or in relation to the appropriate authority there shall be substituted a reference to that thing being done to or in relation to the Minister.

18.—(1) Residual compensation in so far as provided in this regulation shall be payable where any person had before this regulation became applicable to him attained, or attains, retiring age, or dies, or becomes entitled thereto in pursuance of paragraph (6) of regulation eight, if that person is entitled to compensation under this part of these regulations—

(*a*) for loss of employment and pension rights ; or

(*b*) for loss or diminution of pension rights, not being a person to whom sub-paragraph (*a*) applies.

(2) In the case of every person to whom sub-paragraph (*a*) aforesaid applies, the provisions of paragraphs (2) to (5) inclusive of regulation nine shall apply, so however that the Minister will do such things as are required in pursuance thereof to be done by the appropriate authority.

(3) In the case of each person to whom sub-paragraph (*b*) of paragraph (1) applies, the Minister will when that person attains retiring age, dies or becomes entitled to a pension or benefits as mentioned in paragraph (6) of regulation eight, as the case may be, pay, in respect of the service which he was entitled to reckon under the relevant Act or scheme and of his service since the vesting date, compensation equal in value to the amount (if any) by actuarial valuation by which the aggregate pension and benefits to which he and any other person would have been entitled in respect of his service if—

(*a*) the relevant Act or scheme had applied to him in respect of all the said service, and

(*b*) his emoluments in respect thereof had been ascertained under the scale of salary applicable to him immediately before the vesting date,

exceed the aggregate pension and benefit to which he and all other persons are entitled under the pension scheme which in fact applies to him in respect thereof.

(4) A claim to compensation as provided in the last foregoing paragraph may, notwithstanding anything in this or the next following part of these regulations, be made when the person claiming to be so entitled attains retiring age, or within twelve months thereafter.

PART V

ASSESSMENT ETC., OF COMPENSATION UNDER PART IV

19. The provisions of regulations ten, thirteen, fourteen and fifteen shall with the requisite modifications apply in relation to compensation under Part IV as they apply in relation to compensation under Part I, so however that—

(*a*) the Minister will do such things as are required to be done in pursuance thereof by the appropriate authority, and for any reference to anything

being done to or in relation to the appropriate authority there shall be substituted a reference to that thing being done to or in relation to the Minister; and

(*b*) the words in the proviso to regulation thirteen "unless that person obtains employment from an Area Board or the Gas Council" shall be deleted.

20.—(1) Where any person alleges that he has lost his employment in consequence of the passing of the Act, he shall (unless the contrary be proved) be deemed to have lost his employment accordingly if, being a person who was immediately before the vesting date (or, in the case of a person then engaged on war service, immediately before becoming so engaged) employed as mentioned in paragraph (1) of regulation sixteen, and who was—

(*a*) appointed by the Minister as a meter examiner, assistant meter examiner or gas examiner, or

(*b*) retained after the vesting date in the employment of the local authority by whom he was employed last before the vesting date,

he lost that last mentioned employment on any ground other than his own request, or the attainment by him of retiring age, or his own misconduct or incapacity to perform any duty which he was, or reasonably might have been, required to perform under the terms of the said employment.

(2) In the calculation of any person's service for the assessment of substantive or residual compensation under Part IV, there shall be included all periods during which he was—

(*a*) employed as a meter examiner or a gas examiner appointed by the Minister, or as a whole-time assistant to any such examiner;

(*b*) in the whole-time employment of a local authority, whether or not in any capacity mentioned in paragraph (1) of regulation sixteen; or

(*c*) if preceded by any period during which he was employed as aforesaid, engaged on war service.

(3) Where any periods required to be so aggregated include fractions of a year, those fractions shall be included; but, where an aggregate as so determined includes such a fraction, the fraction shall, if it equals or exceeds six months, be treated as one year, or, in any other case, be disregarded.

Part VI

General

21. Except with respect to the periods specified for making a valid claim for compensation and for the review of substantive compensation for loss of employment, any period or date specified in these regulations as the period within which, or the date by which, anything is to be done, may, notwithstanding that the period has expired or the date has passed, being a period be extended, or being a date be postponed, by the Minister in any case where the Minister is satisfied that there has been reasonable ground for not doing, or for not having done, that thing within that period, or by that date, as the case may be.

22.—(1) Any person claiming or receiving compensation shall furnish all such information and supplementary information as the appropriate authority, the Minister or the tribunal, as the case may be, may at any time reasonably require; and shall verify the same in any such manner, including the production of books or 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 and at any such time as the appropriate authority or the Minister, as the case may be, may reasonably require, so however that any such interview shall if he so desire take place in the presence of his advisers.

(3) Where compensation is being paid to any person, and the appropriate authority or the Minister, as the case may be, are or is satisfied, after giving to that person an opportunity of being heard, that a material statement made by that person at the assessment or award of the said compensation was false, or that that person has failed to give notice of any matter required under paragraph (4) of regulation seven or paragraph (5) of regulation eight to be notified, they or he, as the case may be, may discontinue payment of any amount by which the said compensation exceeds what would have been payable if the material facts had been truly stated or if notice had been duly given, and may recover from that person as money had and received to their or his use the amount of any such excess previously paid to that person.

(4) Any person aggrieved by any discontinuance in pursuance of the last foregoing paragraph may appeal to the tribunal; and the tribunal may make an order confirming or avoiding the said discontinuance which shall be final and binding on the appropriate authority or the Minister, as the case may be, and on that person.

(5) In relation to Scotland, paragraph (3) of this regulation shall have effect as if the words " as money had and received to their or his use " were omitted.

Interpretation

23.—(1) Without prejudice to the application of section thirty-one of the Interpretation Act, 1889(a), the following expressions shall in these regulations, unless the context otherwise require, have the meanings hereby assigned to them respectively, that is to say—

" the Act " means the Gas Act, 1948;

" the appropriate authority " has the meaning assigned by paragraph (2) of regulation four;

" emoluments " includes any allowances, privileges or benefits, whether obtaining legally or by customary practice;

" emoluments lost " has in regulation eight the meaning assigned by paragraph (1) of that regulation;

" employed " means employed as an officer, and " employment " shall be construed accordingly;

" gas and coke associations " has the meaning assigned by paragraph (2) of regulation one;

" loss " and " date of loss " have the meanings respectively assigned by paragraph (3) of regulation one;

" the Minister " means the Minister of Fuel and Power;

" officer " includes a managing director and a director whose functions are substantially those of an employee but not any other director, and also includes a servant;

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

" pension ", in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or any other addition thereto ;

" pension rights " includes, in relation to any person, all forms of right to or eligibility for the present or future payment of a pension to or in respect of that person, and any expectation of the accruer of a pension to or in respect of that person under any customary practice and includes a right of allocation in respect of the present or future payment of a pension ;

" pension scheme " includes any form of arrangements for the payment of pensions, whether subsisting by virtue of an Act, trust, contract or otherwise ;

" person with an expectation " and " person with no expectation " have the meanings respectively assigned by paragraph (2) of regulation seven ;

" relevant Act or scheme ", in relation to any person, means the Local Government Superannuation Act, 1937(a), the Local Government Superannuation (Scotland) Act, 1937(b), or the local Act scheme, as the case may be, under which was maintained the superannuation fund in which he was a contributory employee or local Act contributor immediately before the vesting date ;

" retiring age ", in relation to any person, means—

(*a*) if he is in respect of his employment subject to a pension scheme, the age at which he becomes entitled to or receives a pension under that scheme, whichever last occurs,

(*b*) if, not being a person to whom sub-paragraph (*a*) applies, he ceased to be subject to a pension scheme by reason of his loss, the age at which under that scheme he would have become subject to compulsory superannuation,

(*c*) in any other case, being a male person, sixty-five years, or, being a female person, sixty years ;

" sickness benefit " means sickness benefit received under the provisions of the National Insurance Act, 1946(c) ;

" the tribunal " has the meaning assigned by regulation fourteen ;

" undertaker " has the meaning assigned by paragraph (2) of regulation one ;

" unemployment benefit " means unemployment benefit received under the provisions of the National Insurance Act, 1946 ;

" war service " means—

(*a*) service in any of His Majesty's forces,

(*b*) internment or detention otherwise than as a member of His Majesty's forces by any foreign power (whether or not at war with His Majesty and whether or not recognized by His Majesty) in consequence of any war in which His Majesty was engaged, and

(*c*) whole-time service performed since the third day of September, nineteen hundred and thirty-nine,—

(i) in the Merchant Navy,

(a) 1 Edw. 8. & 1 Geo. 6. c. 68. (b) 1 Edw. 8. & 1 Geo. 6. c. 69. (c) 9 & 10 Geo. 6. c. 67.

(ii) as a constable, not being service so performed by a person employed by any railway, inland navigation, dock or harbour undertaking,

(iii) as a member of the Royal Observer Corps, the National Fire Service, the Auxiliary Fire Service, or the Women's Land Army,

(iv) as a member of the Civil Defence Reserve,

(v) in the employment of any local authority, or port or harbour authority, in any civil defence service, or

(vi) in any employment of national importance into which that person entered by direction of the Minister of Labour and National Service, or with the expressed consent of the person by whom he was employed at the date of such entry.

(2) Expressions to which meanings are assigned by the Act or by these regulations shall, unless the context otherwise require, bear the same meanings in any instrument issued or made under the provisions of these regulations.

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

Commencement and citation

24. These regulations shall come into operation on the nineteenth day of December, nineteen hundred and forty-nine, and may be cited as the Gas (Staff Compensation) Regulations, 1949.

Dated this eighth day of December, nineteen hundred and forty-nine.

Hugh Gaitskell,
Minister of Fuel and Power.

SCHEDULE Regulation 10 (1)

Matters in respect of which information must be furnished by a person claiming compensation

1. His full names and address.

2. The date of his birth.

3. The basis of his claim (whether loss of employment with or without loss or diminution of pension rights, or loss or diminution of emoluments).

4. The original date upon which his employment with undertakers or other bodies to whom Part II of the Gas Act, or section 62 of that Act, applied, or upon service in administering undertakings, began.

5. (*a*) The service in respect of which he claims compensation, showing the names of all employers, the dates upon which service with each began and ended, and particulars of any war service ;

(*b*) the name of his employers at 30th April, 1949.

6. (*a*) The nature of his employment at the date of loss ;

(*b*) his contract of service ; whether or not it was in writing (a copy of any written contract, or of any letter or minute setting out terms of service should be attached) ;

(*c*) his remuneration at the date of loss (with particulars of any increments) ; any special privilege, capable of assessment in money, such as free accommodation or board to which he claims to be entitled ; the annual receipts for the last three years of any fees, co-partnership or other variable payments (expenses, and overtime not paid as a regular increment, should not be included) ;

(*d*) particulars of any compensation or damages:—

(i) paid to him under the Reinstatement in Civil Employment Act, 1944;

(ii) awarded to him, or claimed by him, in respect of the variation or termination of employment which forms the basis of his claim.

7. (*a*) Any expectation which he has or had of a pension or other similar payment on retirement;

(*b*) particulars of any relevant pension scheme or fund to which he is or was subject, showing the name, the contributions payable by him, any repayment of contributions made to him and any further relevant particulars.

8. (*a*) The name of his present employers (if any), the remuneration received and the date of appointment;

(*b*) if unemployed, particulars of the efforts he has made to obtain suitable employment since the date of loss; whether any offer of employment has been made, the terms of any such offer and the grounds upon which it was rejected.

EXPLANATORY NOTE

(This note is not part of these regulations, but is intended to indicate their general purport.)

1. These regulations require under Part I the payment by the Gas Council and Gas Boards of compensation for loss of employment or loss or diminution of emoluments or pension rights, where circumstances such as are specified in section 60 of the Gas Act, 1948, occur before the expiry of 10 years from the vesting date (1st May, 1949). In pursuance of section 62 of that Act, the gas and coke associations are included as undertakers for the purposes of the regulations.

Persons entitled to compensation under this part are those who, after attaining the age of 18, had been continuously employed, for at least 8 years immediately preceding the vesting date, by one or more undertakers to whom Part II of the Act applied, or employed whole-time for the purpose of administering undertakings or parts of undertakings of such undertakers.

Periods of war service and (if preceded and followed by employment as aforesaid) of whole-time study at any university, college or school on subjects relevant to such employment, and of unemployment not exceeding in the aggregate 18 months, may be reckoned towards the qualifying period of 8 years.

There is a proviso to the effect that entitlement is only for persons who were required to devote to their employment an average of 30 hours or more per week; but to bring himself within the proviso, though not for other purposes, a claimant may count all time devoted to services as a director of a company to whom Part II of the Act applied.

2. The regulations also provide in Part IV for compensation to be paid by the Minister of Fuel and Power in similar circumstances to persons who after attaining the age of 18 had been continuously employed for at least 8 years immediately before the vesting date as meter examiners or assistants to meter examiners, or gas examiners.

Under this part periods of whole-time employment by a local authority in any capacity, and of war service and unemployment as in Part I, may be reckoned towards the qualifying period.

3. The factors affecting compensation are set out in reg. 6 and include the question whether the claimant had a reasonable expectation of compensation in the event of amalgamation before the vesting date. The persons entitled are divided into those with expectation of compensation and those without (reg. 7 (2)).

4. There are three stages of compensation, immediate (reg. 7), substantive (reg. 8) and residual (reg. 9), but these are not all applicable to every case.

5. Persons with expectation of compensation who have lost their employment will receive immediate compensation for 3 months at least based on two thirds of the emoluments lost and, thereafter, substantive compensation until death or retiring age (except in circumstances mentioned in reg. 8 (6)). The substantive compensation is not in any event to exceed two thirds of the emoluments lost, and, except where it has been awarded for a shorter period than until death or retiring age, is not to exceed an amount calculated on the basis of one sixtieth of the emoluments lost for each completed year of service plus an additional sixtieth for each such year after age 45. The amount of residual compensation will be equivalent to the amount of any pension and lump sum benefit of which the person entitled had expectation in respect of his service before the date of loss plus in certain cases an additional sum in respect of years of service (not being more than ten) after age 40. Where the employment was not pensionable, but the appropriate authority are satisfied that the person concerned had a reasonable prospect of being retained in employment for any substantial period after he attained retiring age, residual compensation equal to half his substantive compensation is in certain cases to be paid to him for the remainder of his life (reg. 9 (6)). Persons with expectation of compensation who have suffered loss or diminution of emoluments are not entitled to immediate or residual compensation, but will receive substantive compensation as from the date of loss assessed on the same basis as substantive compensation for loss of employment.

6. Persons without expectation of compensation will receive immediate compensation for 13 weeks, plus one additional week (up to maximum 13) for each year of service after age 45, based on two thirds of the emoluments lost, but no substantive compensation. Persons who have lost their employment and who had the expectation of a pension will also be eligible for residual compensation.

7. Compensation is to be assessed by the appropriate authority (see reg. 4) in cases under Part I and by the Minister of Fuel and Power in cases under Part IV ; but a right of appeal to a referee or board of referees is given to any claimant aggrieved by their decisions. The amount of the compensation may be reviewed, if circumstances change, at any time within two years of assessment, or, in the case of persons who have lost their employment but are later re-employed by a Gas Board, the Gas Council or the Minister, or who while still so employed are receiving compensation for diminution of emoluments, at any time.