STATUTORY INSTRUMENTS

1971 No. 1303

LAND DRAINAGE

The Land Drainage (Compensation) (Amendment) Regulations 1971

Made - - - -	*5th August* 1971
Laid before Parliament	*16th August* 1971
Coming into Operation	*17th August* 1971

The Minister of Agriculture, Fisheries and Food, in exercise of the power conferred on him by section 18(6) of the Land Drainage Act 1961(**a**), and of all other powers enabling him in that behalf, hereby makes the following regulations :—

Citation and commencement

1. These regulations may be cited as the Land Drainage (Compensation) (Amendment) Regulations 1971, and shall come into operation on 17th August 1971.

Interpretation

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

" the principal regulations " means the Land Drainage (Compensation) Regulations 1964(**b**) ; and

" regulation " means regulation contained in the principal regulations.

(2) Unless the context otherwise requires, any reference in these regulations, or in the principal regulations as amended by these regulations, to the provisions of any enactment shall be construed as a reference to those provisions as amended or re-enacted by any subsequent enactment.

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

Amendment of the principal regulations

3.—(1) In regulation 2(1) (which defines expressions used in the principal regulations)—

(*a*) in the definition of " accrued pension " and " accrued retiring allowance ", for the words " regulation 22(2) of these regulations " there shall be substituted the words " regulations 22(2) and 42 of these regulations " ;

(*b*) in paragraph (*a*) of the definition of " net emoluments ", after the words " the annual rate " there shall be inserted the words " (subject to regulation 42 of these regulations) " ;

(*c*) for the definition of " local authority " there shall be substituted the following definition—

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

(**a**) 1961 c. 48. (**b**) S.I. 1964/1892 (1964 III, p. 4194). (**c**) 1889 c. 63.

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

(*d*) in the definition of " relevant employment ", after the word " means " there shall be inserted the words " subject to paragraph (1A) of this regulation ".

(2) In regulation 2, after paragraph (1) there shall be added the following paragraph—

" (1A) Except as provided in regulations 5(2) and 11(2) of these regulations, the expression " relevant employment " shall not include service in the armed forces of the Crown.".

4. For paragraph (*a*) of regulation 7(1) (which provides for calculation of the amount of resettlement compensation) there shall be substituted the following paragraph—

" (*a*) unemployment, sickness or injury benefit under any Act relating to National Insurance claimable by him in respect of such week (excluding any amount claimable by him in respect of any dependant) ; ".

5. In regulation 17(1), in proviso (iii), after the words " accrued incapacity pension " there shall be inserted the words " or accrued incapacity retiring allowance " and after the words " such pension " there shall be inserted the words " or retiring allowance ".

6. In regulation 18(1), in proviso (ii), for the words " determination of the claim " there shall be substituted the words " decision on the claim has been notified or, where the decision has been reviewed under regulation 32(3) of these regulations, not later than two years after the review or, if there has been more than one such review, after the latest ".

7. In regulation 19, for the words " Subject as hereinafter provided " there shall be substituted the words " Subject to the provisions of these regulations ".

8. In regulation 27—

(*a*) for paragraphs (1) and (2) there shall be substituted the following paragraphs—

" (1) Except in relation to any accrued pension, accrued retiring allowance, accrued incapacity pension or accrued incapacity retiring allowance attributable to service as a contributory employee or local Act contributor, the provisions of regulations 17, 18, 19 and 20 of these regulations shall not apply to a person who had been participating in a scheme associated with his employment for providing superannuation benefits by means of contracts or policies of insurance, and who, after the loss of his employment or the diminution of his emoluments, continued to participate in that scheme, or became entitled to a benefit or prospective benefit thereunder other than a return of contributions.

(2) If the claimant is such a person as is mentioned in paragraph (1) of this regulation who has lost his employment, the compensating authority may, if the relevant scheme so permits, make such payments to him, whether by way of the payment of premiums or otherwise, as will secure that his benefits under the scheme are increased to an extent actuarially equivalent to that by which similar amounts of retirement compensation could be increased under regulation 22(2) or (4) of these regulations." ; and

(*b*) in paragraph (3), after the word " benefits " there shall be inserted the words " under the scheme ".

9. The following regulation shall be inserted after regulation 30—

" Deduction in respect of National Insurance benefits

30A.—(1) Where in any week a person is entitled to long-term compensation for loss or diminution of emoluments and is also entitled to unemployment, sickness or injury benefit under any Act relating to National Insurance, other than a benefit claimable by him in respect of a dependant, there shall be deducted from the long-term compensation payable for that week a sum equal to the amount by which the aggregate of such National Insurance benefits claimable in respect of that week, the weekly rate at which the long-term compensation would be payable but for this regulation, and the weekly rate of any superannuation benefit taken into account for the purpose of regulation 14(4) of these regulations, exceeds two-thirds of the weekly rate of the net emoluments of the employment which he has lost or in which the emoluments have been diminished:

Provided that this paragraph shall not apply in relation to any such sickness or injury benefit in so far as an equivalent sum is deducted from the emoluments of his current employment and such deduction from those emoluments has not occasioned an increase in his long-term compensation.

(2) For the purposes of paragraph (1) of this regulation the expression " weekly rate " means seven three hundred and sixty-fifths of the relevant annual rate.".

10. For regulation 31 there shall be substituted the following regulation—

" 31. Where—

(*a*) a pensionable officer after suffering loss of employment or diminution of emoluments enters any employment referred to in regulation 21 of these regulations or becomes entitled to any superannuation benefit on ceasing to hold such employment, or

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

(*c*) a person entitled to retirement compensation enters employment in which the compensation is subject to reduction or suspension under regulation 30 of these regulations, or ceases to hold such employment, or receives any increase in his remuneration in such employment, or

(*d*) a person entitled to long-term compensation is receiving or starts to receive any benefit, any increase in benefit or any further benefit under any Act relating to National Insurance,

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

11. In regulation 32 (which relates to the review of awards of compensation), in paragraph (7), for the words " regulation 29 or 30 " there shall be substituted the words " regulation 29, 30 or 30A ".

12. After regulation 41 there shall be added the following regulation—

" Temporary variation of emoluments

42. In calculating for the purposes of these regulations the amount of any emoluments lost or the amount by which any emoluments have been diminished, and in determining the net emoluments, the accrued pension or the accrued retiring allowance of any person who has suffered such a loss or diminution, no account shall be taken of any increase in the amount

of the person's emoluments which is attributable to any temporary allowance made in consequence of the making of any such order as is mentioned in regulation 4 of these regulations and which is made otherwise than in the ordinary course of his employment.".

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 5th August 1971.

(L.S.) *J. M. L. Prior,*
Minister of Agriculture, Fisheries and Food.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Land Drainage (Compensation) Regulations 1964 (" the principal regulations ") made under section 18(6) of the Land Drainage Act 1961.

The main amendments to the principal regulations are as follows—

(1)—(i) The expression " relevant employment " (which is defined in regulation 2(1) of the principal regulations and which affects qualification for compensation and calculation of the amount) is not to include service in the armed forces of the Crown other than certain national service which is expressly made relevant employment for determining whether a person is qualified to claim compensation (Regulation 3(1)(*d*));

(ii) All National Insurance benefits (other than benefits payable in respect of dependants) are to be taken into account in assessing resettlement compensation and not only, as at present, benefits at the flat rate applicable to a single person (Regulation 4);

(iii) National Insurance benefits (other than benefits payable in respect of dependants) are to be deducted from long-term compensation to such extent as is necessary to ensure that the total of benefits and compensation received in any week does not exceed two-thirds of the emoluments for the loss or reduction of which compensation is payable. This was formerly secured by regulations under the National Insurance Acts (Regulation 9);

(2) Provision is made for the payment of retirement compensation to persons entitled under the regulations whose pension rights derive in part from statutory schemes and in part from schemes based on policies of insurance (Regulation 8);

(3) Persons claiming compensation are required to inform the compensating authority if they become entitled to pension benefits (Regulation 10);

(4) In assessing compensation no account is to be taken of any temporary increase of remuneration granted in connection with the reorganisation or other event which has led to the claim (Regulation 12).

A number of other minor amendments are made to bring the principal regulations generally in line with the Local Government (Compensation) Regulations 1963 as amended (S.I. 1963/999 as amended by S.I. 1965/571 and S.I. 1968/913).

The Regulations apply to England and Wales.