STATUTORY INSTRUMENTS

1966 No. 254

LOCAL GOVERNMENT, ENGLAND AND WALES

LONDON GOVERNMENT

The Local Government (Executive Councils) (Compensation) Amendment Regulations 1966

Made - - - -	8*th March* 1966
Laid before Parliament	9*th March* 1966
Coming into Operation	31*st March* 1966

The Minister of Health, as the Minister whom the Treasury have determined to be the appropriate Minister for the purposes of section 60(2) of the Local Government Act 1958(**a**) in relation to the persons to whom these regulations relate, and as the appropriate Minister for the purposes of section 85(4) of the London Government Act 1963(**b**) in relation to those persons, in exercise of his powers under those sections and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals hereby makes the following regulations:—

Citation and Commencement

1.—(1) These regulations may be cited as the Local Government (Executive Councils) (Compensation) Amendment Regulations 1966 and the Local Government (Executive Councils) (Compensation) Regulations 1964(**c**) and these regulations may be cited together as the Local Government (Executive Councils) (Compensation) Regulations 1964 and 1966.

(2) These regulations shall come into operation on 31st March 1966.

Interpretation

2.—(1) In these regulations—

"the principal regulations" means the Local Government (Executive Councils) (Compensation) Regulations 1964, and

"regulation" means regulation contained in the principal regulations.

(2) These regulations shall be construed as one with the principal regulations.

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

Redundancy Payments

3.—(1) Where a person is entitled to compensation under the principal regulations and the circumstances are such that he is also entitled to a redundancy payment under his contract of service, the amount of the compensation which would become due to the person under the principal regulations shall be reduced by the amount of the redundancy payment which has been or is to be paid to him and, in so far as the compensation consists

(a) 6 & 7 Eliz. 2. c. 55.
(b) 1963 c. 33.
(c) S.I. 1964/1177 (1964 II, p. 2696).
(d) 52 & 53 Vict. c. 63.

of more than one payment, the payments of compensation as they become due shall be subject to such abatement or reduction as is necessary to reduce the amount of the compensation by the amount of the redundancy payment.

(2) Except as provided in paragraph (1) of this regulation, no account shall be taken of any redundancy payment mentioned in that paragraph in calculating the amount of compensation payable to any person under the principal regulations.

Calculation of compensation where superannuation benefit is payable

4.—(1) In paragraph (*e*) of regulation 14(1) (which sets out the factors to be considered in determining payment of long-term and retirement compensation) for the words " is immediately entitled " there shall be substituted the words " has become entitled (whether immediately or prospectively on attaining some greater age) ".

(2) For paragraph (4) of regulation 15 (which relates to the amount of long-term compensation) there shall be substituted the following paragraph—

" (4) Where a person has become entitled (whether immediately or prospectively on attaining some greater age) to a superannuation benefit by way of annual amounts under a pension scheme associated with the employment which he has lost, the maximum annual sum referred to in paragraph (1) of this regulation shall be the maximum sum calculated under paragraph (2) of this regulation as if he had not become so entitled, but for any period during which the superannuation benefit is payable, the said sum shall be reduced by the amount of the benefit.".

(3) For regulation 28 (which provides for the calculation of compensation where superannuation benefit is payable) there shall be substituted the following regulation—

" 28. Where an officer to whom this part of these regulations applies, or his widow, child or other dependant or personal representative has become entitled (whether immediately or prospectively on attaining some greater age) to any superannuation benefit under a pension scheme associated with the employment which the officer has lost, the retirement compensation payable to the officer for any period during which the superannuation benefit is payable, or the compensation payable in respect of the officer under regulations 24, 25 and 26 of these regulations shall be calculated in the first place as if the said superannuation benefit had not been payable, but—

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

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

Exclusion of right to retirement compensation where superannuation contributions are continued without reduction

5.—(1) For the proviso to regulation 21 (which relates to retirement compensation for diminution of emoluments) there shall be substituted the following—

" Provided that no compensation shall be payable—

(i) if this ratio is less than 2½ per cent. ; or

(ii) if the claimant has continued to pay superannuation contributions as if his emoluments had not been diminished.".

(2) For the proviso to regulation 22 (which relates to retirement compensation of a claimant who obtains further pensionable employment) there shall be substituted the following—

" Provided that—

(i) this regulation shall not operate to increase the amount of any retirement compensation payable in respect of diminution of emoluments beyond the amount which would have been payable if the officer had attained normal retiring age immediately before he ceased to hold the employment in which he suffered the diminution of emoluments ; and

(ii) no compensation shall be payable if the claimant has continued to pay superannuation contributions as if his emoluments had not been diminished.".

(3) In regulation 24 (which relates to compensation payable on the death of a claimant) for the proviso to paragraph (5) there shall be substituted the following—

" Provided that no sum shall be payable under this paragraph—

(i) if this ratio is less than 2½ per cent. ; or

(ii) if the officer had continued to pay superannuation contributions as if his emoluments had not been diminished.".

(4) In regulation 25 (which relates to compensation payable to the personal representatives of a deceased claimant) for the proviso to paragraph (4) there shall be substituted the following—

" Provided that no sum shall be payable to personal representatives under this paragraph—

(i) if this ratio is less than 2½ per cent. ; or

(ii) if the officer had continued to pay superannuation contributions as if his emoluments had not been diminished.".

Amendments relating to re-employment where remuneration is payable out of public funds

6.—(1) At the end of regulation 33 (which provides for the reduction of retirement compensation in certain circumstances) there shall be added the following proviso—

" Provided that in calculating the amount of the reduction there shall be aggregated with the emoluments of the employment taken up the amount of any superannuation benefit by way of annual amounts payable to the person in respect of the employment he has lost, or as the case may be, the employment in which his emoluments were diminished.".

(2) In regulation 35 (which provides for the review of awards of long-term or retirement compensation) in paragraph (5)—

(i) for sub-paragraph (*b*) there shall be substituted the following sub-paragraph—

" (*b*) the aggregate of the net emoluments of his current employment, any superannuation benefit by way of annual amounts payable to him in respect of the employment he has lost or the employment

in which his emoluments were diminished and the long-term compensation payable to him exceeds the net emoluments of the employment he has lost, or as the case may be, the amount of his net emoluments prior to their diminution,"; and

(ii) for the words from "but if on any such review" to the end of the paragraph there shall be substituted the following—

"but if on any such review the compensation is reduced, it shall not be reduced below the amount by which the net emoluments of the claimant's current employment together with any superannuation benefit by way of annual amounts payable to him in respect of the employment he has lost or the employment in which his emoluments were diminished, falls short of the net emoluments of the employment he has lost or, as the case may be, the amount of his net emoluments prior to their diminution.".

Miscellaneous amendments relating to retirement compensation and information to be given on re-employment

7.—(1) In proviso (iii) to regulation 18(1) 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".

(2) In regulation 18(2) for "3 months" there shall be substituted "13 weeks".

(3) In regulation 19(1) at the end of proviso (ii) there shall be added the words "or where the determination is reviewed under regulation 35(3) of these regulations, not later than 2 years after any such review.".

(4) In regulation 20(1) for the words "Subject as hereinafter provided" there shall be substituted the words "Subject to the provisions of these regulations".

(5) At the end of regulation 23(7) there shall be added the words "under a pension scheme associated with the employment which he has lost or in which his emoluments have been diminished.".

(6) For regulation 34 there shall be substituted the following regulation—

"34. Where—

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

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

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

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

Amendments relating to the Appeal Tribunal

8.—(1) in regulation 2(1) for the definition of " tribunal " there shall be substituted the following definition:

" " tribunal " means a tribunal established under section 12 of the Industrial Training Act 1964(**a**) ; ".

(2) In regulation 38 (which requires claimants to furnish certain information) the words " or the tribunal " in paragraph (1) and paragraph (2) shall be deleted.

(3) In regulation 43 (which provides a right of appeal from a decision of the Minister) at the end of paragraph (2) there shall be inserted the words " in accordance with rule 1 of the rules of procedure contained in the Schedule to the Industrial Tribunals (Employment and Compensation) (England and Wales) Regulations 1965(**b**).".

Given under the official seal of the Minister of Health on 8th March 1966.

(L.S.)

Kenneth Robinson,
Minister of Health.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Local Government (Executive Councils) (Compensation) Regulations 1964. The amendments are:—

1. The compensation payable to any person is to be reduced by the amount of any redundancy payment which has been or is to be made to him under his contract of service. (Regulation 3).

2. Under the Regulations of 1964 long-term and retirement compensation are reduced by the amount of any superannuation benefits payable immediately to an officer in respect of his lost employment. A similar reduction is now to be made as and when benefits become payable in respect of a lost employment at a future date. (Regulation 4).

3. A person who continues in or enters further pensionable employment is not to be entitled to retirement compensation if he elects to continue paying superannuation contributions as if his emoluments had not been diminished. (Regulation 5).

4. In determining whether, and if so the extent to which, compensation may be reduced while a claimant holds other employment remunerated from public funds, account is to be taken of any pension he is receiving in respect of the employment which he has lost or in which his emoluments were diminished. (Regulation 6).

(**a**) 1964 c. 16. (**b**) 1965/2018 (1965 III, p. 5948).

5. Minor and miscellaneous amendments are made to the Regulations of 1964, mainly to bring them in line with the Local Government (Compensation) Regulations 1963 and 1965 (S.I.1963/999 and S.I.1965/571), and as a consequence of the provisions of section 44 of the Redundancy Payments Act 1965(c.62) which provided that appeals under the Regulations should go to a tribunal established under section 12 of the Industrial Training Act 1964. (Regulations 7 and 8).