STATUTORY INSTRUMENTS

1964 No. 1177

LOCAL GOVERNMENT, ENGLAND AND WALES

LONDON GOVERNMENT

The Local Government (Executive Councils) (Compensation) Regulations 1964

Made - - - -	23*rd July* 1964
Laid before Parliament	31*st July* 1964
Coming into Operation	10*th August* 1964

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, hereby makes the following regulations:—

PART I

PRELIMINARY

Citation and Commencement

1. These regulations may be cited as the Local Government (Executive Councils) (Compensation) Regulations 1964 and shall come into operation on 10th August 1964.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"accrued pension" in relation to a pensionable officer who has suffered loss of employment, means the pension to which he would have become entitled in respect of his pensionable service according to the method of calculation (modified where necessary in accordance with regulation 23(2) of these regulations) prescribed by the pension scheme to which he was subject immediately before suffering loss of employment if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service or contribution and completed any additional contributory payments or payments in respect of added years which he was in course of making;

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

"accrued retiring allowance" in relation to a pensionable officer who has suffered loss of employment, means any lump sum payment to which he would have become entitled in respect of his pensionable service according to the method of calculation (modified where necessary in accordance with regulation 23(2) of these regulations) prescribed by the pension scheme to which he was subject immediately before suffering loss of employment if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service or contribution and completed any additional contributory payments or payments in respect of added years which he was in course of making;

"accrued incapacity pension" and "accrued incapacity retiring allowance" have the same respective meanings as "accrued pension" and "accrued retiring allowance" except that the reference to a person's having attained normal retiring age shall be construed as a reference to his having become incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

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

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

"the Act of 1963" means the London Government Act 1963;

"additional contributory payment" has the same meaning as in the National Health Service (Superannuation) Regulations 1961(b);

"emoluments" means all salary, wages, fees and other payments paid or made to an officer as such for his own use, and includes the money value of any apartments, rations or other allowances in kind appertaining to his employment, but does not include payments for overtime, other than payments which are a usual incident of his employment, or any allowances payable to him to cover the cost of providing office accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment; and

"net emoluments" means—

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

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

Provided that where fees were paid to a person as part of his emoluments during any year prior to that immediately preceding the loss or diminution, the amount in respect of fees to be included in the annual rate of emoluments mentioned in sub-paragraph (*a*) hereof shall be the annual average of the fees paid to him during the period of 3 years immediately preceding the loss or diminution, or such shorter period as may be reasonable in the circumstances;

(a) 23 & 24 Geo. 5. c. 51. (b) S.I. 1961/1441 (1961 II, p. 2824).

" long-term compensation " means compensation payable in accordance with the provisions of part IV of these regulations for loss of employment or loss or diminution of emoluments ;

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

(*a*) where the loss or diminution is attributable to the provisions of any order made under part VI of the Act of 1933 or part II of the Act of 1958, or any instrument made under the Act of 1963—

(i) for the purposes of regulations 3 and 5 of these regulations, the date of the order or instrument to which the loss or diminution was attributable ; and

(ii) for any other purpose of these regulations, the date of operation of such order or instrument or such other date or dates as may be specified therein in relation to that person or to any class of persons including that person ; and

(*b*) where the loss or diminution is not attributable as aforesaid but is otherwise attributable to the provisions of the Act of 1963—

(i) for the purposes of regulations 3 and 5 of these regulations, 1st September 1964 ; and

(ii) for any other purpose of these regulations, 1st April 1965 ;

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

" Minister " means the Minister of Health ;

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

" normal retiring age " means, in the case of a pensionable officer to whom an age of compulsory retirement applied by virtue of any Act or regulations to which he was subject in the employment he has lost or the emoluments of which have been diminished or by virtue of the conditions of that employment, that age, and, in any other case, the age of 65 years if the officer is a male, or 60 years if the officer is a female ;

" office " means any place, situation or employment, and the expression " officer " shall be construed accordingly ;

" payment in respect of added years " in relation to a pensionable officer means any payment made under regulation 32 of the National Health Service (Superannuation) Regulations 1961 ;

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

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

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

" reckonable service " in relation to a person means any period of whole-time or part-time employment in any relevant employment and includes any period of war service or national service undertaken on the person's ceasing to hold any such employment but does not include employment of which account has been taken, or is required to be taken, in calculating the amount of any superannuation benefit to which the person has become entitled;

" relevant employment " means employment—

(*a*) under the Crown or in the service of an employing authority within the meaning of the regulations for the time being in force under section 67(1) of the National Health Service Act 1946(**a**), or

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

(*c*) in such other service as the Minister may, in the case of any named officer, approve;

" resettlement compensation " means compensation payable in accordance with part III of these regulations for loss of employment suffered by a person to whom these regulations apply;

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

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

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

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

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

(**a**) 9 & 10 Geo. 6. c. 81. (**b**) 2 & 3 Geo. 6. c. 94. (**c**) 2 & 3 Geo. 6. c. 95.
(**d**) 2 & 3 Geo. 6. c. 103. (**e**) 3 & 4 Geo. 6. c. 26. (**f**) 52 & 53 Vict. c. 63.

PART II

ENTITLEMENT TO COMPENSATION

Persons to whom the regulations apply

3. These regulations shall apply to any person who—

(*a*) is employed immediately before the material date either for the whole or for a part only of his time as an officer of—

(i) an executive council or joint committee of executive councils constituted for the purposes of part IV of the National Health Service Act 1946,

(ii) an ophthalmic services committee constituted under section 41 of that Act, or

(iii) a local medical committee, local pharmaceutical committee, local dental committee or local optical committee recognised by the Minister under section 32 of that Act, or

(*b*) would be so employed at that time but for any national service on which he is then engaged.

Grounds of entitlement to compensation

4. Subject to the provisions of these regulations, every person to whom these regulations apply and who suffers loss of employment or loss or diminution of emoluments which is attributable to the provisions of any order under part II of the Act of 1958 or part VI of the Act of 1933 or to any provision of the Act of 1963 or of any instrument made under that Act shall be entitled to have his case considered for the payment of compensation under these regulations and such compensation shall be determined in accordance with the following provisions of these regulations.

National Service

5.—(1) Any person referred to in regulation 3(*b*) of these regulations who, before the expiry of 2 months after ceasing to be engaged on national service, or if prevented by sickness or other reasonable cause, as soon as practicable thereafter, gives notice to the Minister that he is available for employment, shall be entitled to have his case considered for the payment of compensation on the ground—

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

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

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

PART III

RESETTLEMENT COMPENSATION FOR LOSS OF EMPLOYMENT

Resettlement compensation for loss of employment

6.—(1) The Minister shall, subject to the provisions of these regulations—

(*a*) consider and determine the entitlement to resettlement compensation of every person to whom this part of these regulations applies who claims such compensation and in relation to whom the conditions set out in the next succeeding regulation are satisfied, and

(*b*) pay the amount of any compensation so determined.

(2) This part of these regulations applies to a person who at the date of the loss of employment had not attained normal retiring age and who had been for a period of not less than 3 years immediately preceding the material date continuously engaged (exclusive of breaks not exceeding in the aggregate 6 months) for the whole or part of his time in relevant employment, and for this purpose the expression "relevant employment" includes any period of national service immediately following upon such employment.

Conditions for payment of resettlement compensation

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

(*a*) he has suffered loss of employment attributable to any such provision as is mentioned in regulation 4 of these regulations not later than 10 years after the material date;

(*b*) he has made his claim for resettlement compensation in accordance with the provisions for making claims set out in part VII of these regulations not later than 13 weeks after the loss of employment which is the cause of his claim;

(*c*) the loss of employment which is the cause of his claim has occurred for some reason other than misconduct or incapacity to perform such duties as immediately before the loss he was performing or might reasonably have been required to perform; and

(*d*) he has not, subject to paragraph (3) of this regulation, been offered any reasonably comparable employment under the Crown or otherwise under any body constituted under the National Health Service Act 1946.

(2) In ascertaining for the purposes of this regulation whether a claimant has been offered employment which is reasonably comparable with the employment which he has lost no account shall be taken of the fact that the duties of the employment offered are in relation to the administration of a different service from that in connection with which his employment was held or are duties which involve a transfer of his employment from one place to another within England or Wales.

(3) No account shall be taken for the purposes of this regulation of an offer of employment where the Minister is satisfied—

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

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

Amount of resettlement compensation

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

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

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

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

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

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

Period for payment of resettlement compensation

9. Subject as hereinafter provided, resettlement compensation to a person to whom this part of these regulations applies shall be payable in respect of the period of 13 weeks next succeeding the week in which he lost the employment in respect of which his claim has been made or, in the case of a claimant who has attained the age of 45 years, the said 13 weeks extended by one additional week for every year of his age after attaining the age of 45 years and before the date of the loss of employment subject to a maximum addition of 13 such weeks.

Claimant for resettlement compensation to furnish particulars of employment

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

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

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

Additional provisions relating to resettlement compensation

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

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

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

PART IV

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

Persons to whom parts IV and V of the regulations apply

12.—(1) The Minister shall, subject to the provisions of these regulations :—

(*a*) consider and determine the entitlement to long-term and retirement compensation of every person to whom this and the next succeeding part of these regulations apply who claims such compensation and in relation to whom the conditions set out in the next succeeding regulation are satisfied, and

(*b*) pay the amount of any compensation so determined.

(2) This part and part V of these regulations apply to a person who had been for a period of not less than 8 years immediately preceding the material date continuously engaged (without a break of more than 12 months at any one time) for the whole or part of his time in relevant employment (which expression for this purpose includes any period of national service immediately following such employment), and who at the date of the loss of employment or loss or diminution of emoluments had not, save as is provided in regulation 29 of these regulations, attained normal retiring age.

Conditions for payment of long-term and retirement compensation

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

(*a*) he has suffered loss of employment or loss or diminution of emoluments attributable to any such provision as is mentioned in regulation 4 of these regulations not later than 10 years after the material date ;

(*b*) he has made his claim for compensation in accordance with the provisions for making claims set out in part VII of these regulations not later than 2 years after the loss or diminution which is the cause of the claim ; and

(*c*) if the cause of the claim for compensation is loss of employment—

(i) his employment was terminated for some reason other than misconduct or incapacity to perform such duties as immediately before the loss he was performing or might reasonably have been required to perform ; and

(ii) he has not been offered any reasonably comparable employment under the Crown or otherwise under any body constituted under the National Health Service Act 1946.

(2) Regulation 7(2) and (3) of these regulations as to offers of employment shall apply for the purposes of this regulation.

(3) Claims for long-term and retirement compensation for loss of employment shall in all respects be treated as claims for such compensation for the loss of emoluments occasioned thereby and the provisions of these regulations shall apply to all such claims accordingly.

Factors to be considered in determining payment of long-term and retirement compensation

14.—(1) For the purpose of determining whether long-term or retirement compensation for loss or diminution of emoluments should be paid to a claimant, and if so the amount of the compensation (subject to the limits set out in these regulations) regard shall be had to such of the following factors as may be relevant, that is to say :—

(*a*) the conditions upon which the claimant held the employment which he has lost, including in particular its security of tenure, whether by law or by practice ;

(*b*) the emoluments and other conditions, including security of tenure, whether by law or practice, of any work or employment undertaken by the claimant in place of the employment he has lost ;

(*c*) the extent to which he has sought suitable employment and the emoluments which he might have acquired by accepting other suitable employment offered to him ;

(*d*) the amount of any compensation recovered by him under or by virtue of the provisions of any enactment relating to the reinstatement in civil employment of persons who have been in the service of the Crown, or payable to him otherwise than under these regulations in respect of the loss or diminution, whether by reason of any service agreement or contract or otherwise howsoever ;

(*e*) the amount of any benefit to which he is immediately entitled by virtue of any pension scheme associated with the employment which he has lost ; and

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

(2) In ascertaining for the purposes of sub-paragraph (*c*) of the last foregoing paragraph whether a person has been offered suitable employment, regulation 7(3) of these regulations shall apply as it applies for the purposes of that regulation.

Amount of long-term compensation payable to an officer for loss of emoluments

15.—(1) In the case of a person to whom this part of these regulations applies, long-term compensation for loss of emoluments shall, subject to the provisions of these regulations, be payable until normal retiring age or death, whichever first occurs, and shall not exceed a maximum annual sum calculated in accordance with the provisions of paragraphs (2), (3) and (4) of this regulation.

(2) The said maximum annual sum shall, subject as hereinafter provided, be the aggregate of the following sums, namely—

(*a*) for every year of the claimant's reckonable service, one sixtieth of the net emoluments he has lost ; and

(*b*) in the case of a claimant who has attained the age of 40 years at the date of the loss, a sum calculated in accordance with the provisions of paragraph (3) of this regulation appropriate to his age at that date :

Provided that the said maximum annual sum shall in no case exceed two thirds of the net emoluments which the claimant has lost.

(3) The sum referred to in sub-paragraph (*b*) of the last foregoing paragraph shall be—

(*a*) in the case of a claimant who has attained the age of 40 years but has not attained the age of 50 years at the date of the loss, the following fraction of the net emoluments he has lost—

(i) where the claimant's reckonable service is less than 10 years, one sixtieth for each year of such service after attaining the age of 40 years, or

(ii) where the claimant's reckonable service amounts to 10 years but is less than 15 years, one sixtieth for each year of such service after attaining the age of 40 years and one additional sixtieth ; or

(iii) where the claimant's reckonable service amounts to 15 years but is less than 20 years, one sixtieth for each year of such service after attaining the age of 40 years and 2 additional sixtieths ; or

(iv) where the claimant's reckonable service amounts to 20 years or more, one sixtieth for each year of such service after attaining the age of 40 years and 3 additional sixtieths ;

but the sum so calculated shall not in any case exceed one sixth of the said net emoluments ;

(*b*) in the case of a claimant who has attained the age of 50 years but has not attained the age of 60 years at the date of the loss, one sixtieth of the said net emoluments for each year of the claimant's reckonable service after attaining the age of 40 years, up to a maximum of 15 such years ; and

(*c*) in the case of a claimant who has attained the age of 60 years at the date of the loss, one sixtieth of the said net emoluments for each year of the claimant's reckonable service after attaining the age of 45 years.

(4) Where a person has become entitled 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 the superannuation benefit had not been payable, less the amount of the benefit itself.

(5) Where a sum is payable under this regulation in respect of any period and resettlement compensation has also been paid in respect of that period, the said sum shall be limited to the amount (if any) by which it exceeds the resettlement compensation paid as aforesaid.

(6) Compensation awarded under this regulation shall be payable at intervals equivalent to those at which the emoluments of his employment were previously paid or at such intervals as may be agreed between the claimant and the Minister.

Long-term compensation for diminution of emoluments

16. In the case of a person to whom this part of these regulations applies long-term compensation for diminution of emoluments in respect of any employment shall be awarded and paid in accordance with the following provisions—

(*a*) the compensation shall consist of an annual sum which shall be payable at intervals equivalent to those at which the emoluments of the claimant's employment are or were previously paid or at such other intervals as may be agreed between the claimant and the Minister, and shall, subject to the provisions of these regulations, be payable until normal retiring age or death, whichever first occurs ; and

(*b*) the said annual sum shall not exceed the figure which bears to the maximum annual sum which could have been awarded under regulation 15 of these regulations had the claim been made under that regulation, the same ratio as the amount by which his net emoluments have been diminished (calculated as an annual amount) bears to the amount of his net emoluments:

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

Date from which long-term compensation is to be payable

17.—(1) Long-term compensation shall commence to be payable with effect from the date of the claim or from such earlier date as is mentioned in the succeeding provisions of this regulation.

(2) Where a claim for long-term compensation is duly made within 13 weeks of the occurrence of the loss or diminution which is the subject of the claim, the award shall be made retrospective to the date on which the loss or diminution occurred.

(3) Where a claim for long-term compensation is made after the expiry of the period mentioned in the last foregoing paragraph, the award may at the discretion of the Minister be made retrospective to a date not earlier than 13 weeks prior to the date on which the claim was made:

Provided that if the Minister is satisfied that the failure to make the claim within the period mentioned in the last foregoing paragraph was due to ill-health or other circumstances beyond the claimant's control, the award may be made retrospective to a date not earlier than that on which the loss or diminution occurred.

PART V

RETIREMENT COMPENSATION AND PAYMENTS ON DEATH

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

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

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

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

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

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

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

Provided that—

(i) if in calculating the amount of compensation payable to a person who has made such claim as aforesaid, the Minister, by virtue of

regulation 23(2) of these regulations, has credited him with additional years of service or an additional period of contribution no account shall be taken for the purpose of the foregoing provision of any additional years or period beyond the number of years which he could have served, had he not lost his employment, before the date on which the claim was received by the Minister ; and

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

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

(2) On receipt of a claim under the last preceding paragraph, the Minister shall consider forthwith whether the claimant is a person to whom that paragraph applies, and within 3 months after the date of the receipt of the claim the Minister—

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

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

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

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

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

Option to take retirement compensation prematurely in certain cases

19.—(1) If a pensionable officer to whom this part of these regulations applies has suffered loss of employment after attaining the age of 50 years and so requests the Minister by notice in writing, he shall be entitled as from the date on which the Minister receives such notice, in lieu of any compensation, other than resettlement compensation, to which he would

otherwise be entitled under these regulations, to an annual sum equal to the amount of his accrued pension and a lump sum equal to the amount of his accrued retiring allowance (if any):

Provided that—

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

(ii) where the officer has claimed long-term compensation, the said notice shall be given not later than 2 years after the determination of the claim.

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

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

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

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

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

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

(2) Compensation shall not be payable under this regulation to a claimant to whom regulation 18 or 19 of these regulations has been applied.

Retirement compensation for diminution of emoluments

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

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

Retirement compensation of claimant who obtains further pensionable employment

22. Where a pensionable officer, after suffering loss of employment or diminution of emoluments, enters employment in which he is subject to a pension scheme and thereafter becomes entitled to reckon for the purposes of that scheme any service or period of contribution which fall to be taken into account for the purpose of assessing the amount of any retirement compensation payable to him, no retirement compensation shall be payable unless the annual rate of the emoluments to which he was entitled immediately before such loss or diminution exceeds the annual rate on entry of the emoluments of the new employment by more than 2½ per cent. of such

first mentioned emoluments, and any retirement compensation payable to him shall, in so far as it is calculated by reference to remuneration, be calculated by reference to the difference between the said annual rates:

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

Factors governing the payment of retirement compensation

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

(2) If the claimant had attained the age of 40 years at the date on which he lost his employment or suffered a diminution of his emoluments, the Minister in calculating the amount of the retirement compensation payable to him shall credit him with additional years of service or an additional period of contribution on the following basis, namely—

(*a*) 2 years, whether or not the claimant has completed any years of service after attaining the age of 40 years, and

(*b*) 2 years for each of the first 4 completed years of the claimant's reckonable service between the date when he attained the age of 40 years and the date of the loss or diminution, and

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

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

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

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

(iii) 15 years;

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

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

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

(4) If under the pension scheme to which the claimant was last subject before suffering loss of employment or diminution of emoluments the amount of any benefit to which he might have become entitled might have been increased at the discretion of the authority administering the pension scheme or of any other body, the Minister may increase, to an extent not exceeding that to which his accrued pension, accrued retiring allowance, accrued incapacity pension or accrued incapacity retiring allowance might have been increased or supplemented, the corresponding component of any retirement compensation payable to him.

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

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

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

Compensation payable on the death of a claimant

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

(2) If the widow, child or other dependant of the officer might have become entitled to a pension under the pension scheme to which the officer was last subject before losing his employment if such loss of employment had not occurred, the widow, child or other dependant, as the case may be, shall be entitled to receive an annual sum equal to the prescribed proportion of any retirement compensation by way of annual amounts payable to the officer under regulation 18, 19 or 20 of these regulations immediately prior to his death or, if he dies before becoming entitled to receive compensation under any of those regulations, the prescribed proportion of the compensation by way of annual amounts which he would have received under regulation 18 of these regulations had he become entitled thereto immediately prior to his death in the circumstances mentioned in paragraph (1)(*a*) of that regulation:

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

Provided that—

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

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

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

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

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

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

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

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

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

(2) The amount of such sum shall be ascertained in accordance with the method of calculation prescribed by the pension scheme for the ascertain-

ment of death gratuity as if the officer had died immediately before losing his employment, subject to the following modifications—

(*a*) except where the officer had been in receipt of retirement compensation under regulation 19 of these regulations, account shall be taken of any additional years of service or period of contribution credited to the officer under regulation 23(2) of these regulations—

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

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

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

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

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

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

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

26.—(1) If no annual sum is payable to the widow, child or other dependant under regulation 24 of these regulations and no sum is payable under the last preceding regulation and the officer dies before he has received in the aggregate by way of retirement compensation a sum equivalent to the amount of any contributions repaid by him under regulation 23(1) of these regulations, together with compound interest thereon up to the date of his death calculated in accordance with the method prescribed by the pension scheme for the calculation of interest, there shall be paid to his personal representatives the difference between the aggregate amount received by way of retirement compensation as aforesaid and the said equivalent sum.

(2) If an annual sum becomes payable to a widow under regulation 24 of these regulations and on her re-marriage or death the sum ceases to be payable, and the aggregate amount of the payments which were made to her as aforesaid, to her husband by way of retirement compensation and to his personal representatives under regulation 25 of these regulations is less than a sum equivalent to the amount which would have been payable to the personal representatives under that regulation if no annual sum had been payable to the widow under the said regulation 24, there shall be paid to her or her personal representatives the difference between such aggregate amount and the said equivalent sum.

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

Deduction of outstanding additional contributory payments

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

Calculation of compensation where superannuation benefit is payable

28. Where an officer to whom this part of these regulations applies, or his widow, child or other dependant has become entitled to any superannuation benefit under a pension scheme associated with the employment which the officer has lost, the retirement compensation payable to the officer, 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.

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

29.—(1) In the case of an officer receiving long-term compensation for loss of employment who is not a pensionable officer, when the officer attains normal retiring age, the Minister may, if he is satisfied that the officer would but for the loss have continued in the employment he has lost for a substantial period beyond that age, continue to pay compensation to him for the remainder of his life at half its former rate.

(2) In the case of an officer who is not a pensionable officer and who suffers loss of employment on or after attaining normal retiring age, the Minister may, if satisfied that the officer would in the normal course have continued in the employment he has lost for a further substantial period, pay compensation to him for the remainder of his life at half the rate to which he would have been entitled under regulation 15 of these regulations had he not attained normal retiring age at the date on which he lost his employment.

Persons subject to policy schemes

30.—(1) The provisions of regulations 18, 19, 20, 21 and 25 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 Minister may, if the relevant scheme so permits, make such payments to or in respect of him, whether by way of the payment of premiums or otherwise, as are actuarially equivalent to the amounts by which his retirement compensation might have been increased under regulation 23(2) or (4) of these regulations had he been a person to whom regulation 18, 19 or 20 of these regulations applied.

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

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

Intervals for payment of compensation under part V

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

PART VI

ADJUSTMENT, REVIEW AND COMPOUNDING OF COMPENSATION

Adjustment of compensation where superannuation benefit is also payable

32.—(1) Where any period of service of which account was taken in calculating the amount of any compensation payable under part IV or V of these regulations is also taken into account for the purpose of calculating the amount of any superannuation benefit payable to or in respect of the officer in accordance with a pension scheme associated with an employment undertaken subsequent to the loss of employment or diminution of emoluments which was the subject of the claim for compensation, the Minister may adjust the compensation in accordance with this regulation by withholding or reducing the amount of compensation payable in respect of any period for which such superannuation benefit is being received.

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

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

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

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

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

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

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

Reduction of compensation in certain cases

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

34. Where—

(*a*) a pensionable officer enters any employment referred to in regulation 22 of these regulations, or

(*b*) a person entitled to long-term compensation enters employment the remuneration whereof is payable out of public funds, 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,

he shall forthwith give notice in writing to the Minister that he is so employed and, in the case of any employment mentioned in paragraph (*b*) or (*c*) of this regulation, he shall give the like notice of any increase in his remuneration in that employment and of his ceasing to hold that employment.

Review of award of long-term or retirement compensation

35.—(1) The Minister shall, within a period of 2 years after the date on which any decision on a claim for long-term or retirement compensation for loss of employment (other than compensation payable under regulation 19 of these regulations) is notified to a claimant under regulation 37 of these regulations, review his decision or, where the claim has been the subject of an appeal, the decision of the tribunal at intervals of not more than 6 months, and these regulations shall apply in relation to any such review as they apply in relation to the initial determination of the claim; and on such review, in the light of any material change in the circumstances of the case, compensation may be awarded, or compensation previously awarded may be increased, reduced or discontinued, subject to the limits set out in these regulations.

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

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

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

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

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

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

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

Provided that—

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

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

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

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

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

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

(6) The Minister shall give to a claimant not less than 14 days notice of any review to be carried out under this regulation otherwise than at the claimant's request.

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

Compounding of awards

36.—(1) In a case where an annual sum which has been or might be awarded under these regulations does not exceed £26, the Minister may, at his discretion, compound his liability in respect thereof by paying a lump sum equivalent to the capital value of the annual sum, and if any lump sum payment has been or might be awarded in addition to such annual sum under regulation 18, 19, 20 or 21 of these regulations, the Minister may likewise discharge his liability in respect thereof by an immediate payment.

(2) In any other case the Minister may, if the person who has been awarded long-term or retirement compensation requests him to do so and he, in his discretion, after having regard to the state of health of that person and the other circumstances of the case, deems fit, compound up to one quarter of his liability to make payments under the award (other than payments to a widow, child or other dependant under regulation 24 of these regulations) by the payment of an equivalent amount as a lump sum or, where any compensation has been awarded as a lump sum, by increasing that compensation to such equivalent amount; and in calculating for this purpose the liability of the Minister to make payments, account shall be taken of the annual value of lump sum payments of compensation.

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

PART VII

PROCEDURE AND MISCELLANEOUS

Procedure on making claims

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

(2) Every such claim and request shall be made to the Minister in a form approved by him.

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

(4) The Minister shall consider any such claim or request in accordance with the relevant provisions of these regulations and shall notify the claimant in writing of his decision—

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

(*b*) in the case of a claim for, or request for the review of an award of, compensation under part IV or V of these regulations, not later than 13 weeks after the receipt of the claim or request, and

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

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

(*a*) giving reasons for the decision ;

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

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

Claimants to furnish information

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

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

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

Procedure on death of claimant

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

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

Provided that the Minister may in any such case extend the period within which a claim is required to be made by regulation 7 or 13 of these regulations.

Calculation of service

40.—(1) For the purpose of determining the amount of any compensation payable in respect of the loss of an office to which, or of any 2 or more offices to which in the aggregate, an officer devoted substantially the whole of his time, any previous period of part-time employment shall be treated as though it were whole-time employment for a proportionately reduced period.

(2) For the purpose of making any calculation under these regulations in respect of the reckonable service of an officer all periods of such service shall be aggregated, and if the aggregated service includes a fraction of a year, that fraction shall, if it equals or exceeds 6 months, be treated as a year, and in any other case be disregarded.

Emoluments of part-time employments

41. In ascertaining for the purposes of these regulations whether, and how far, the remuneration of alternative employment falls short of emoluments which have been lost where those emoluments were payable in respect of 2 or more part-time employments, the remuneration of the alternative employment or of the aggregate of 2 or more such employments shall be apportioned in the proportion which the emoluments of the part-time employments bore to each other.

Compensation not assignable

42. Subject to any statutory provision in that behalf, any compensation to which an officer becomes entitled under these regulations shall be paid by the Minister and shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable.

Right of appeal from decision of the Minister

43.—(1) Every claimant who is aggrieved by any decision of the Minister with respect to compensation under these regulations or by any failure on the part of the Minister to notify him of any such decision within the appropriate time prescribed by these regulations may within 3 months of the notification to him of the decision or the expiry of the prescribed time, as the case may be, refer the matter to the tribunal.

(2) Reference of a matter to the tribunal as aforesaid by a claimant shall be made in writing.

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

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

Given under the official seal of the Minister of Health on 23rd July 1964.

(L.S.) *Anthony Barber,*
Minister of Health.

EXPLANATORY NOTE

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

1. These regulations, made under section 60(2) of the Local Government Act 1958 and section 85(4) of the London Government Act 1963, provide for the payment of compensation to or in respect of employees of executive councils and certain other bodies constituted under the National Health Service Act 1946 who suffer loss of employment or loss or diminution of emoluments which is attributable to the reorganisation of local government in England and Wales brought about by either—

(*a*) an order under part II of the Local Government Act 1958 ;

(*b*) the London Government Act 1963 or any instrument made under that Act ; or

(*c*) an order under part VI of the Local Government Act 1933.

2. Part I of the regulations contains definitions. Part II specifies the persons to whom the regulations apply and the grounds of entitlement to compensation. The regulations apply to persons employed whole-time or part-time by executive councils or joint committees of such councils, by ophthalmic services committees, or by local medical committees, local dental committees, local pharmaceutical committees or local optical committees.

3. The compensation is payable by the Minister of Health and is—

(*a*) resettlement compensation for loss of employment (part III of the regulations) ;

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

(*c*) retirement compensation for loss of employment or loss or diminution of emoluments (part V) ;

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

4. Resettlement compensation is payable for a period not exceeding 26 weeks to officers with at least 3 years' service in the National Health Service and other relevant employments. The qualifying conditions and factors to be considered are set out in regulations 7, 9, 10 and 11. The method of calculating the amount of compensation is contained in regulation 8.

5. Long-term and retirement compensation are payable to officers with at least 8 years' service in the National Health Service and other relevant employments. The qualifying and other conditions are set out in regulations 12 to 14.

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

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

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

9. Part VI of the regulations provides for long-term and retirement compensation to be reviewed and for awards to be varied in the light of changes in circumstances (regulation 35). It also contains provisions for the adjustment, suspension and compounding of compensation in certain circumstances.

10. Part VII contains provisions relating to the procedure for making claims and notifying decisions and to appeals by claimants who are aggrieved by a decision or the failure of the Minister of Health to notify them of his decision. Appeals lie to a tribunal appointed by the Minister of Labour.