1959 No. 1320 (S. 76)

The South of Scotland Electricity Board (Staff Compensation) Regulations, 1959

Made - - - - 28*th July*, 1959
Coming into Operation 6*th August*, 1959

The Secretary of State and the Minister of Power, in exercise of the powers conferred on them by subsection (1) of section 12 of the Electricity Reorganisation (Scotland) Act, 1954(**a**), and of all other powers enabling them in that behalf, hereby make the following regulations, a draft of which has been laid before Parliament and has been approved by resolution of each House of Parliament, in accordance with subsection (3) of section 12 of the said Act:—

PART I—PRELIMINARY

Citation and commencement

1. These regulations may be cited as the South of Scotland Electricity Board (Staff Compensation) Regulations, 1959, and shall come into operation on the 6th day of August, 1959.

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:—

"the Act" means "the Electricity Reorganisation (Scotland) Act, 1954";

"the Board" means "the South of Scotland Electricity Board";

"the vesting date" means the 1st day of April, 1955;

"completed year of reckonable service" means reckonable service for a period of 365 days, or for a number of periods which when added together amount to 365 days:

Provided always that if in relation to any claimant the aggregate of the entire period, or of all the periods of his reckonable service, includes a fraction of a year, that fraction shall, if it exceeds 182 days, be treated as a completed year of reckonable service, and in every other case be disregarded;

"current net emoluments" in relation to a claimant means his annual rate of emoluments (being emoluments of his employment) immediately before the occurrence of the disturbance leading to the claim after deducting

(a) 2 & 3 Eliz. 2. c. 60.

therefrom the annual amount of any contribution then payable by the claimant for pension purposes:

Provided that—

(*a*) for all the purposes of this definition (including the ascertainment of the amount of any deduction to be made as aforesaid) any amount by which the said annual rate of emoluments exceeds £4,000 shall be disregarded;

(*b*) for all the purposes of this definition—

(i) the amount of any fees or other variable payments included shall be the average thereof as received by the claimant during the longest period in comparable circumstances for which evidence of the amounts received by him can be made available;

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

(iii) there shall be excluded any sum paid to the claimant in respect of

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

(B) overtime not being a sum paid as a regular increment to his wages or salary; and

(*c*) for the purpose of determining the annual rate of emoluments of his employment immediately before the occurrence of the disturbance leading to the claim to any person to whom Regulation 5 applies, an addition shall be made to the emoluments received by him before becoming engaged on war service equal to any increments thereto based on completed service which might reasonably have been anticipated if he had continued until the date of the disturbance to be employed in the capacity in which he was employed before becoming so engaged;

" disturbance leading to the claim " means—

(*a*) in relation to a claim for resettlement compensation the termination of employment as an officer of the Board being the employment which was subsisting on the vesting date and which was continued since that date without any interruption (breaks due to sickness, personal injury or war service being disregarded);

(*b*) in relation to a claim for long term compensation whichever of the following constitutes the disturbance which leads to the making of the claim,

(i) the termination of the employment referred to in (*a*) above, or

(ii) the loss or diminution before the termination of that employment of any of its emoluments, or

(iii) the loss or diminution on or before the termination of that employment of any pension rights connected with it, or

(iv) any worsening of position before the termination of that employment:

Provided that in relation to a claim for either resettlement or long term compensation by any person to whom Regulation 5 applies, the disturbance leading to the claim shall be deemed to have occurred on the date of service on the Board concerned of the notice referred to in that Regulation;

"long term compensation" means compensation payable under an award made in accordance with the provisions of Part IV of these regulations for loss of employment, or loss or diminution of emoluments or pension rights or worsening of position;

"minimum pensionable age" means in relation to a claimant—

(*a*) if, being a person to whom Regulation 3 applies, he has pension rights in connection with his employment as an officer of an Electricity Board, or having had such rights has lost them in circumstances entitling him to claim long term compensation for loss of pension rights, the minimum age at which he becomes or would have become entitled to receive a normal retirement pension by virtue of such pension rights, and

(*b*) in any other case, 65 years of age for a man, and 60 years of age for a woman;

"the pension scheme" in relation to a claimant for long term compensation means any arrangement by which the claimant has pension rights under any scheme maintained by an Electricity Board or preserved by the Electricity (Pension Rights) Regulations, 1948(**a**) as amended(**b**);

"reckonable service" means whole-time employment—

(i) in the service of an Electricity Board;

(ii) in the service of the North of Scotland Hydro-Electric Board;

(iii) in the service of any body to whom Part II of the Electricity Act, 1947(**c**), applied;

(iv) in any employment in respect of which a transfer value under any arrangement made under the Superannuation (Miscellaneous Provisions) Act, 1948(**d**), or otherwise, has been paid to any superannuation scheme maintained by an Electricity Board;

(v) in such other service as the Secretary of State may in the case of any named officer approve;

(vi) on war service following immediately on any of the preceding employments;

"resettlement compensation" means compensation payable in accordance with Part III of these regulations, for loss of employment suffered by an officer of an Electricity Board;

"resettlement period" in relation to a claimant means the period beginning at the date on which occurs the termination of employment which constitutes the disturbance leading to the claim by him for resettlement compensation or which would constitute such disturbance if he claimed such compensation, and running therefrom for thirteen weeks supplemented by, in the case of a claimant aged over 45, one additional week for each completed year by which on the said date he exceeds the age of 45, but subject however to a maximum of thirteen such additional weeks;

"tribunal" means a referee or board of referees appointed by the Minister of Labour and National Service after consultation with the Secretary of State;

"war service" means—

(*a*) service in any of Her Majesty's Forces;

(*b*) any employment in the Merchant Navy or fishing fleets;

(*c*) any full time employment in the Civil Defence Services (including

(a) S.I. 1948/2172 (Rev. VI, p. 918: 1948 I, p. 873).
(b) S.I. 1950/359 (1950 I, p. 616).
(c) 10 & 11 Geo. 6. c. 54.
(d) 11 & 12 Geo. 6. c. 33.

the National Fire Service), the Royal Observer Corps, the Police War Reserve, the Nursing and First Air Services, and the Women's Land Army;

(*d*) any full-time employment entered by direction of the Minister of Labour and National Service;

(*e*) detention by the enemy as a prisoner, military or civil, in any enemy or enemy-occupied country, or internment in any enemy or enemy-occupied or neutral country in consequence of war;

(*f*) such other employment as the Secretary of State may in writing approve;

such service, employment, detention or internment being on or after the 26th day of May, 1939, or during the war of 1914 to 1918, but not including any voluntary enlistment after the cessation of hostilities or voluntary extension of war service otherwise than with the consent of the person in whose service the employee was or would, but for his war service, have been at the time of the consent;

"whole-time employment" means employment after attaining the age of 18 years, being employment to which the employee is required to devote on the average not less than 30 hours per week, and during which he is not at liberty to undertake other work in consideration of a fee or remuneration.

(2) In ascertaining for the purposes of these regulations whether employment offered to a claimant is comparable with the employment the termination of which constitutes the disturbance leading to the claim, no account shall be taken of the fact that the duties of the employment offered involve a transfer of the claimant's employment from one place to another place in Great Britain.

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

Part II—Entitlement to Compensation

Persons entitled to compensation

3. These regulations shall apply to persons who were

(*a*) employed immediately before the vesting date (unless absent on war service) by the South East Scotland Electricity Board or the South West Scotland Electricity Board;

(*b*) employed immediately before the vesting date (unless absent on war service) by the British Electricity Authority, for the purpose of the functions of the Authority transferred to the South of Scotland Electricity Board on the vesting date by the Act;

(*c*) on war service at the vesting date, and immediately before going on war service had been employed by the South East Scotland Electricity Board or by the South West Scotland Electricity Board or by the Authority for the purpose of their functions as aforesaid;

(*d*) taken into the employment of the South of Scotland Electricity Board in the period beginning at the passing of the Act and ending on the vesting date, who but for being taken into the said employment would have been a person to whom the foregoing sub-paragraphs apply.

Grounds of entitlement to compensation

4.—(1) Subject to the provisions of these regulations, it shall be a ground of entitlement to compensation if consequent on the vesting of the property,

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

rights, liabilities or obligations of an Electricity Board in the South of Scotland Electricity Board in accordance with the provisions of the Act, any of the following occurs to a person to whom Regulation 3 applies, that is to say—

(*a*) loss of employment with or without any loss or diminution of pension rights;

(*b*) loss, or, in the case of a person for the time being employed by the Board, diminution of emoluments;

(*c*) the worsening of a person's position with respect to his conditions of service as a whole, as compared with his conditions before the disturbance leading to the claim:

(*d*) diminution of pension rights without loss of employment.

War service

5. Where any person engaged at the vesting date on war service, being a person to whom Regulation 3 applies, gives notice before the expiry of two months after ceasing to be so engaged, or if prevented by sickness or other reasonable cause, as soon as practicable thereafter, to the Board that he is available for employment, that person shall be entitled to compensation on the ground—

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

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

PART III—RESETTLEMENT COMPENSATION FOR LOSS OF EMPLOYMENT

Resettlement compensation for loss of employment

6. The Board shall, subject to the provisions of these regulations, pay resettlement compensation to every person to whom Regulation 3 applies and who claims such compensation and in relation to whom the following conditions are satisfied, that is to say:—

(*a*) immediately before the date on which occurred the disturbance leading to the claim he had been continuously engaged (exclusive however of any breaks due to sickness or personal injury not exceeding in the aggregate six months) for at least three years in whole-time employment by an Electricity Board, including any period of war service following immediately upon such employment;

(*b*) the disturbance leading to the claim has occurred not later than ten years after the vesting date;

(*c*) he has in consequence of the transfers effected by the Act, suffered loss of employment; and

(*d*) he has made his claim for resettlement compensation in accordance with the provisions for making claims set out in Part V of these regulations before the end of his resettlement period or of thirteen weeks from the date of coming into operation of these regulations, whichever is the later.

Conditions for payment of resettlement compensation

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

(*a*) the appropriate conditions set out in Regulations 3 and 6 are satisfied in relation to him;

(*b*) the termination of his employment which constitutes the disturbance leading to the claim has occurred for some reason other than reaching minimum pensionable age, misconduct or incapacity to perform such duties as immediately before the termination he was performing or might reasonably have been required to perform; and

(*c*) he has not been offered by any Electricity Board any comparable employment.

Period for payment of resettlement compensation

8.—(1) Subject as hereinafter provided, resettlement compensation shall be payable to a claimant in respect of his resettlement period only.

(2) Resettlement compensation shall not be payable to a claimant in respect of any week after he has reached minimum pensionable age unless he is able to satisfy the Board or the tribunal that he would have continued to work as an officer of the Board beyond that age if the disturbance leading to the claim had not occurred.

Assessment of resettlement compensation

9.—(1) Resettlement compensation shall consist of a weekly sum which shall, in respect of each of the weeks for which such compensation is payable to a claimant as aforesaid, be calculated so as not to exceed the sum ascertained by taking two-thirds of the weekly rate of the claimant's current net emoluments and deducting therefrom such of the following items as may be applicable:—

(*a*) unemployment, sickness or injury benefit 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 any earnings received by him in respect of such week from other employment;

(*c*) any sums payable to him in respect of such week in connection with his former employment with an Electricity Board;

(*d*) any sums payable to him in respect of such week by virtue of any pension scheme to which he was subject as an officer of an Electricity Board.

(2) Resettlement compensation, where payable, shall begin to be paid by the Board not later than two weeks from the receipt by the Board of the claim therefor in accordance with Part V of these regulations, and the first payment of such compensation shall, subject to the provisions of these regulations, include any sums already accrued due.

Claimant for resettlement compensation to furnish particulars of employment

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

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

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

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 and shall forthwith be terminated by the Board—

(*a*) if he fails to comply with any of the provisions of Regulation 10, or

(*b*) if he fails to satisfy the Board that he is actively seeking suitable employment, or

(*c*) if, for any reason other than obtaining employment or becoming entitled to sickness or injury benefit, he ceases to receive unemployment benefit.

PART IV—LONG TERM COMPENSATION FOR LOSS OF EMPLOYMENT OR LOSS OR DIMINUTION OF EMOLUMENTS OR PENSION RIGHTS OR WORSENING OF POSITION

Conditions for payment of long term compensation

12. The Board shall, subject to the provisions of these regulations, award and pay long term compensation to every person to whom Regulation 3 applies and who claims such compensation and in relation to whom the following conditions are satisfied, that is to say:—

(*a*) immediately preceding the vesting date he had been continuously engaged (exclusive however of any breaks due to sickness or personal injury not exceeding in the aggregate eighteen months) for at least eight years in whole-time employment in one or more of the following:—

(i) in the service of an Electricity Board;

(ii) in the service of the North of Scotland Hydro-Electric Board;

(iii) in the service of any body to whom Part II of the Electricity Act, 1947, applied;

(iv) in any employment in respect of which a transfer value under any arrangement made under the Superannuation (Miscellaneous Provisions) Act, 1948, or otherwise, has been paid to any superannuation scheme maintained by an Electricity Board;

(v) in such other service as the Secretary of State may in the case of any named employee approve;

(vi) on war service following immediately on any of the preceding employment:

Provided that any periods during which that person was not employed, if preceded and followed by periods of employment in any such capacity as aforesaid, shall be deemed to have been employment for the purposes of this paragraph, so however that the periods included by virtue of this proviso shall not in the aggregate exceed eighteen months;

(*b*) he has, in consequence of the transfers effected by the Act, suffered loss of employment or loss or diminution of emoluments or pension rights, or worsening of position;

(*c*) the loss or diminution or worsening of position aforesaid, being the loss or diminution or worsening of position for which long term compensation is claimed, has occurred not later than ten years after the vesting date and not later than two years after the disturbance leading to the claim;

(*d*) he has made his claim for long term compensation in accordance with the provisions for making claims set out in Part V of these regulations not later than two years after the date of the occurrence of the loss

or diminution or worsening of position referred to in sub-paragraph (*c*) of this Regulation or where he could not reasonably have known of the occurrence of the loss or diminution or worsening of position aforesaid at the date when in fact it did occur, not later than two years after the first date upon which he could reasonably have known of its occurrence, or within six months of the coming into operation of these regulations, whichever is the latest; and

(*e*) if the disturbance leading to the claim for long term compensation is the termination of his employment as an officer of the Electricity Board by whom he was employed—

(i) his said employment has been terminated for some reason other than reaching minimum pensionable age, misconduct, or incapacity to perform such duties as immediately before the termination he was performing or might reasonably have been required to perform, and

(ii) he has not been offered by the Board, or by any other Electricity Board, comparable employment.

Claims for different types of compensation to be made separately

13.—(1) Long term compensation and resettlement compensation if claimable by the same person shall be the subject of separate claims.

(2) Claims for long term 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.

(3) Long term compensation for loss or diminution of emoluments for loss or diminution of pension rights and for worsening of position, if claimable by the same person shall be the subject of separate claims by the claimant, but where the loss of both emoluments and pension rights occurs at the same time, or diminution of emoluments occurs at the same time as worsening of position, the claims shall be made together.

Factors to be considered in determining payment of long term compensation

14. For the purpose of determining whether long term compensation for loss or diminution of emoluments or worsening of position should be awarded to a claimant, and if so the amount of the compensation, 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 his employment as an officer of the Electricity Board by whom he was employed including in particular its security of tenure, whether by law or by practice;

(*b*) the conditions, including security of tenure, whether by law or by practice, of any other employment which he may have obtained;

(*c*) the extent to which he has sought suitable employment and the emoluments which he has or might have acquired by accepting other suitable employment, including retraining 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;

(*e*) the amount of any compensation payable to him in connection with or in consequence of his employment as an officer of the Electricity Board by whom he was employed, whether by reason of any service agreement or contract or otherwise howsoever;

(*f*) the amount of any other compensation payable to him under these regulations or any other regulations made by the Ministers under section 55 of the Electricity Act, 1947, or section 12 of the Electricity Reorganisation (Scotland) Act, 1954;

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

Amount of long term compensation for loss of emoluments

15. Award and payment of long term compensation for loss of emoluments shall be made 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 were previously paid and shall, subject to Regulations 24 and 25, continue to be payable until minimum pensionable age or death, whichever first occurs; and

(*b*) the said annual sum shall not exceed the aggregate of the following:—

(i) for every completed year of reckonable service, one sixtieth of the claimant's current net emoluments; and

(ii) in the case of a claimant aged over 45, one sixtieth of his current net emoluments for every completed year of reckonable service since he attained the age of 45.

Provided that such annual sum shall in no circumstances exceed two thirds of the claimant's current net emoluments.

Provisions relating to award of long term compensation for diminution of emoluments

16. Award and payment of long term compensation for diminution of emoluments shall be made 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 and shall, subject to Regulations 24 and 25, continue to be payable until minimum pensionable 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, had the claim been for compensation for loss of emoluments, the same ratio as the amount of the diminution (calculated as an annual rate) bears to the amount of his current net emoluments, so however that no compensation shall be payable if this ratio is less than two and a half per cent.

Provisions relating to award of long term compensation for worsening of position

17. Award and payment of long term compensation for worsening of position shall be made 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 paid and shall, subject to Regulations 24 and 25 continue to be payable until minimum pensionable age or death, whichever first occurs;

(*b*) an assessment shall be made by reference to value in money, in terms of an annual amount, of the loss resulting from the difference in the position of the claimant with respect to his conditions of service as a whole before and after the disturbance leading to the claim; and

(*c*) the annual sum to be paid to the claimant shall not exceed the figure which bears to the maximum annual sum which could have been awarded under Regulation 15, had the claim been for compensation for loss of emoluments, the same ratio as the amount of the loss assessed under paragraph (*b*) of this Regulation (calculated as an annual rate) bears to the amount of his current net emoluments, so however that no compensation shall be payable if this ratio is less than two and a half per cent.

Extension of period for which compensation is payable

18.—(1) Where a claimant for long term compensation for loss or diminution of emoluments or worsening of position satisfies the Board or the tribunal that he would have continued to work as an officer of the Electricity Board by whom he was employed beyond minimum pensionable age if the disturbance leading to the claim had not occurred, the Board or tribunal may, in their discretion, extend beyond that age the period for which such compensation is payable, but in the case of an extension for a period expressed to be that of the claimant's lifetime the rate of compensation payable after minimum pensionable age shall not exceed one half of that payable before minimum pensionable age.

(2) Where a claimant suffers loss or diminution of emoluments or worsening of position after minimum pensionable age, the Board or tribunal may, in their discretion, award him long term compensation for such loss or diminution or worsening of position at the rate which would have been awarded to him had the loss or diminution or worsening of position occurred immediately before minimum pensionable age but upon the basis of his current net emoluments and length of reckonable service at the time when the disturbance leading to the claim occurred, save that, in the case of an award for a period expressed to be that of the claimant's life-time, the rate of compensation shall not exceed one half of that which would have been so awarded as aforesaid.

Long term compensation for loss or diminution of pension rights

19. Award and payment of long term compensation for loss or diminution of pension rights shall be made in accordance with the following provisions:—

(*a*) compensation for loss or diminution of pension rights shall, subject to Regulation 18, be payable where a claimant entitled to compensation for loss of employment has attained or attains minimum pensionable age or dies, or becomes entitled thereto under Regulation 20;

(*b*) where any such claimant had in respect of service before the disturbance leading to the claim the expectation of a pension, the Board shall (unless that service has been effectively reckoned for the purpose of benefits under a pension scheme to which that claimant has become subject since the disturbance) ensure that sums equal to the amounts of any pension and lump sum benefit to which in respect of that service the claimant

(i) is entitled under any pension scheme to which he is subject; or

(ii) having ceased to be subject to a pension scheme by reason of his loss of employment, would have been entitled under that scheme but for so ceasing;

are paid to the claimant (or if the claimant was, in pursuance of the said scheme, party to an agreement that any part of the said pension or benefit should be paid to another person, to that other person) in satisfaction of the said pension and benefit; and

(*c*) for the purpose of the payments aforesaid—

(i) the claimant shall pay to the Board a sum equal to the amount of any return of contributions made to him under the said scheme, or the compensation shall be reduced by an amount the capital value whereof is equal to the said sum;

(ii) the amount of the pension or benefit to be satisfied shall be determined in relation to the claimant as if every condition had been fulfilled qualifying him to receive such a pension or such benefit but (where relevant and subject to any customary addition and to sub-paragraph (iii) of this paragraph) by reference to the actual length of service completed by him before the disturbance leading to the claim;

(iii) the pension or benefits shall be calculated as if (subject to sub-paragraphs (iv) and (v) and (vi) of this paragraph) the claimant had had one additional completed year of reckonable service without increase in emoluments for each completed year of reckonable service since he attained the age of 40;

(iv) the number of additional years for the purposes of sub-paragraph (iii) hereof shall not exceed the number of years to be served by the claimant before reaching minimum pensionable age (or where the Board or the tribunal are satisfied that the claimant would have continued to work, as an officer of the Electricity Board by whom he was employed, beyond that age, the age to which they are satisfied that he would have continued to work) or ten, whichever is the less;

(v) the total amount of the compensation payable to a claimant under paragraph (*b*) hereof shall in no circumstances exceed the amount which would have been payable to or in respect of him by virtue of any pension scheme had he suffered no loss or diminution of pension rights;

(vi) in determining the number of additional years for the purposes of the said sub-paragraph (iii), regard shall be had to such of the factors set out in Regulation 14 as may be relevant, and also to any pension arrangements attaching to any employment which the claimant may have obtained.

Substitution of compensation for loss or diminution of pension rights for compensation for loss of employment in certain circumstances

20. Any person in receipt of long term compensation for loss of employment, who by reason of ill-health or otherwise—

(*a*) becomes entitled under any pension scheme to which he is subject; or

(*b*) having ceased to be subject to a pension scheme by reason of such loss,

would have become entitled under that scheme but for so ceasing, to a pension, or to benefits, payable in respect of his service before the loss

of employment shall cease to be entitled to the compensation he is receiving and in lieu thereof shall become entitled to such compensation for loss or diminution of pension rights as is applicable to him, if—

(i) the value of such compensation is greater than the value of the compensation he is receiving ; and

(ii) he gives the Board notice of his desire to be paid compensation for loss or diminution of pension rights accordingly.

Compensation for diminution of pension rights to persons who have ceased to be entitled to long term compensation for loss or diminution of emoluments or worsening of position

21. Where any person in receipt of long term compensation for loss or diminution of emoluments without loss of employment or for worsening of position ceases to be entitled to such compensation by reason of reaching minimum pensionable age or otherwise the Board shall, if the amount of such compensation has not been taken into account in computing any pension to which the person is entitled, make a payment to such person in addition to any pension payable to him, so however that the ratio which such a payment bears to the compensation which he was receiving before minimum pensionable age shall not exceed the ratio which the amount of his pension bears to the salary he was receiving apart from the compensation payment before the date of his retirement.

Time for determination of award of long term compensation

22.—(1) The Board shall determine every award of long term compensation and notify the claimant accordingly not later than thirteen weeks after the receipt of the claim.

(2) Where claims are made by the same person and at the same time for long term compensation for loss of both emoluments and pension rights or for both diminution of emoluments and worsening of position, the Board shall determine the awards and notify the claimant accordingly at the same time.

Date from which long term compensation is to be payable

23.—(1) Subject to the provisions of this Regulation, long term compensation shall commence to be payable with effect from the date fixed by the Board or the tribunal as the case may be.

(2) An award of such compensation may be made retrospective but, except as provided in paragraph (3) of this Regulation, it shall not be made retrospective to a date more than thirteen weeks earlier than the date on which the claim is received by the Board :

Provided that where a claim is received within six months of the coming into operation of these regulations in respect of loss or diminution occurring on or after the First day of April, 1955, the award may be made retrospective to the date upon which such loss or diminution occurred.

(3) Where, within thirteen weeks of the occurrence of a loss or diminution for which a claim for long term compensation can be made, the claimant makes his claim in respect thereof in accordance with Part V of these regulations, the award shall be made retrospective to the date upon which such loss or diminution occurred or the claimant's resettlement period (if any) ended, whichever is later.

(4) Notwithstanding any other provisions of these regulations, long term compensation for loss or diminution of emoluments or worsening of position

shall not be payable to a claimant during or in respect of his resettlement period, except in so far as such compensation is compensation for loss or diminution of emoluments or worsening of position occurring before the termination of the claimant's employment as an officer of the Electricity Board by whom he was employed.

Review of award of long term compensation

24.—(1) Every award of long term compensation may be reviewed by the Board at the instance either of the claimant or of the Board, and may in consequence of such review be increased or decreased.

(2) Subect as hereinafter provided, review under this Regulation shall not take place at intervals of less than six months, or, save in exceptional circumstances, later than two years from the making of the award.

(3) Notwithstanding the provisions of paragraph (2) of this Regulation, any such award as aforesaid shall be subject to review at any time if the claimant is in the service of the Board.

(4) Where a request for a review is made by the claimant, the Board shall carry out such review and notify the claimant accordingly not later than thirteen weeks after receipt of the request.

Compounding of award of long term compensation

25.—(1) In a case where at any time the present actuarial value of the payments under an award of long term compensation does not exceed £250, the Board may, at their sole option, compound their liability under the award by paying to the person in receipt of or entitled to receive those payments a lump sum equivalent to such actuarial value.

(2) In any other case the Board may, if the person in receipt of or entitled to receive long term compensation requests them to do so and they, in their discretion, after having regard to the state of health of that person and the other circumstances of the case, deem fit, compound—

(*a*) up to one quarter of their liability to make payments under an award of long term compensation for loss or diminution of emoluments or for worsening of position; and

(*b*) up to one quarter, or such larger fraction as the pension scheme permits for composition of pension rights under it, of their liability to make payments under an award of long term compensation for loss or diminution of pension rights.

(3) The making of a composition under paragraph (2) of this Regulation in relation to an award of long term 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 V—PROCEDURE AND MISCELLANEOUS

Procedure on making claims

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

(2) Every such claim and request shall be made to the Board in such form and in such manner as the Board may determine.

(3) On receipt of any such claim or request the Board shall consider the same in accordance with the relevant provisions of these regulations, and shall within the time prescribed therein notify the claimant in writing of their decision in respect thereto.

(4) Every notification of a decision by the Board (whether granting or refusing compensation or an award of compensation or a review of an award, or otherwise affecting any compensation under these regulations) shall contain a statement directing the attention of the claimant to his right, if he is aggrieved by the decision, to refer the matter to the tribunal.

Claimants to furnish information

27.—(1) Any person claiming or receiving compensation shall furnish all such information, and supplementary information, as the Board 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 so required.

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

Failure to comply with requirements

28. If at any time the Board, after giving him (if then living) an opportunity of being heard, are satisfied that a claimant, in whose favour resettlement compensation is being or has been paid or an award of long term compensation has been made, has failed to comply with the requirements of Regulation 10 (*a*), or that a material statement, made by or on behalf of such a claimant in connection with his claim to compensation under these regulations or with any review of an award of long term compensation in his favour, or in any particulars supplied under Regulation 10 (*a*), was false, the Board may reduce or discontinue the compensation to the extent to which it exceeds the amount which would have been paid or awarded had the said requirements been complied with or the material facts been truly stated, as the case may be, and the amount of any excess found to have been previously paid shall be recoverable from the claimant or his estate, or from any other person who has received it, as a debt due to the Board and may be deducted from future payments (if any) of compensation remaining to be made.

Procedure on death of claimant

29.—(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 legal 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.

(3) In applying the provisions of Regulation 28 to a case where a claim has been continued or made as aforesaid by a personal representative, account

may be taken as well of statements made by or on behalf of the personal representative himself as of statements made by or on behalf of the person in right of whom he has continued or made the claim.

Further provisions regarding compensation

30.—(1) Except as otherwise provided in this Regulation, all compensation under these regulations shall be paid to or in trust for the claimant only.

(2) Any compensation under these regulations which has accrued due to a claimant at the date of his death but has not been paid to or in trust for him as aforesaid and the apportioned amount of any such compensation accruing due to him at that date shall be payable to his legal personal representative.

(3) Any long term compensation for loss or diminution of pension rights shall, if the claimant or his legal personal representative so requests, be paid to or in trust for such other person who is or would be entitled to receive the corresponding payment under the pension scheme.

(4) No compensation under these regulations (other than compensation payable under paragraph (3) of this Regulation to some person other than the claimant or his legal personal representative) shall accrue in respect of any period after the death of the claimant.

(5) Except as provided in paragraph (3) of this Regulation, no compensation under these regulations shall be assignable.

Right of appeal from decision of the Board

31.—(1) Every claimant who is aggrieved by any decision of the Board with respect to compensation under these regulations or by any failure on the part of the Board to notify him of any such decision within the appropriate time prescribed by these regulations may within three 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 Board 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.

Dated this 28th day of July, 1959.

John S. Maclay,
One of Her Majesty's Principal
Secretaries of State.

Mills,
Minister of Power.

EXPLANATORY NOTE

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

1. The regulations provide for the payment by the South of Scotland Electricity Board of compensation to former employees of the South West Scotland Electricity Board, the South East Scotland Electricity Board or the British Electricity Authority who suffer loss by reason of the transfer of all or part of the property, rights, liabilities and obligations of these Boards to the South of Scotland Board effected by the Electricity Reorganisation (Scotland) Act, 1954.

2. The compensation payable is:—

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

(*b*) long term compensation for loss of employment or loss or diminution of emoluments or pension rights or for worsening of position (Part IV of the regulations); and

(*c*) compensation for diminution of pension rights to persons who cease to be entitled to long term compensation for loss or diminution of emoluments or worsening of position (Regulation 21).

3. Resettlement compensation is payable for a period of not more than twenty-six weeks. The qualifying conditions for this compensation are set out in Regulation 6, and the method of calculating the maximum amount of such compensation in Regulation 9.

4. Long term compensation is payable to officers who had a total of eight years' service before the vesting date under the Reorganisation Act with an Electricity Board or in certain other employment. The qualifying conditions for such compensation are set out in Regulation 12 and the method of calculating the maximum amount of such compensation in Regulations 15 (loss of emoluments), 16 (diminution of emoluments), 17 (worsening of position) and 19 (loss or diminution of pension rights). Long term compensation for loss of emoluments (including any loss of emoluments resulting from loss of employment), for diminution of emoluments or for worsening of position can be payable up to (and in certain cases beyond) the claimant's pensionable age. Regulation 24 enables the Board to review awards.

5. The provisions relating to the procedure for claiming compensation are contained in Part V of the Regulations and include provisions for appeals to a compensation appeals tribunal from decisions of the Board. By virtue of the Tribunals and Inquiries Act, 1958(a), there is a further right of appeal to the Court of Session on points of law arising on the decision of the tribunal.

(a) 6 & 7 Eliz. 2. c. 66.