1968 No. 848 (S.95)

WATER SUPPLY, SCOTLAND

The Water Officers (Compensation) (Scotland) Amendment Regulations 1968

Made - - - - -	23*rd May* 1968
Laid before Parliament	31*st May* 1968
Coming into Operation	1*st June* 1968

In exercise of the powers conferred on me by section 1 of the Water Officers Compensation Act 1960(a), as read with section 25 of the Water (Scotland) Act 1967(b), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Water Officers (Compensation) (Scotland) Amendment Regulations 1968, and shall come into operation on 1st June 1968.

Interpretation

2.—(1) In these regulations "the principal regulations" means the Water Officers (Compensation) (Scotland) Regulations 1965(c).

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

Amendment of the principal regulations

3. The principal regulations shall be amended as follows:—

(1) In regulation 2(1)—

(a) after the definition of "the Act" there shall be added the following definition:—
" 'the Act of 1967' means the Water (Scotland) Act 1967;";

(b) after the definition of "additional contributory payments" there shall be added the following definition:—
" 'board' means a regional water board or a water development board, as the case may be, in respect of whom there has been a transfer of functions;";

(c) at the end of the definition of "compensating authority" there shall be added the following paragraph:—

"and (c) in relation to any person or class of persons who suffers loss of employment or loss or diminution of emoluments attributable to any transfer of functions, or to anything done in pursuance of any such transfer of functions, the board to whom the functions, in connection with which that person or class of persons was employed immediately prior to the loss or diminution in question, have been

(a) 1960 c. 15. (b) 1967 c. 78.
(c) S.I. 1965/1887 (1965 III, p. 5689). (d) 1889 c. 63.

transferred and where there is more than one such board, the board to whom the greater part of such last mentioned functions has been transferred and in any other case, or in the event of doubt, the board determined by the Secretary of State;";

(d) after the definition of "compensating authority" there shall be added the following definition:—

" 'compensation question' means a question arising in relation to these regulations—

(a) as to a person's entitlement to compensation for loss of employment, or for loss or diminution of emoluments, or

(b) as to the manner of a person's employment or the comparability of his duties;";

(e) for the definition of "local water authority" there shall be substituted the following definition:—

" 'local water authority' has the same meaning as in section 5 of the Water (Scotland) Act 1946(a) as originally enacted;";

(f) in the definition of "material date"—

(i) for the words "in relation to him" there shall be inserted the words "in relation to that person or class of persons"; and

(ii) at the end of the definition there shall be added the words "and in relation to any person or class of persons who suffers loss of employment or loss or diminution of emoluments attributable to a transfer of functions, or to anything done in pursuance of any such transfer of functions, the date on and from which such functions have to be performed;";

(g) after the definition of "reckonable service" there shall be added the following definition:—

" 'regional water board' and 'water development board' have the same meanings as in the Act of 1967;";

(h) in the definition of "relevant employment"—

(i) in paragraphs (a) and (b) after the words "local water authority" there shall be inserted the words "or a board"; and

(ii) at the end of the definition there shall be added the words "but, except as provided in regulations 6(2) and 12(2) of these regulations, shall not include service in the armed forces of the Crown;";

(j) after the definition of "statutory water undertakers" there shall be added the following definition:—

" 'transfer of functions' means a transfer of functions under section 2 or 4 of the Act of 1967 or under an order made by the Secretary of State under section 5 of the Act of 1967;"; and

(k) for the definition of "tribunal" there shall be substituted the following definition:—

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

(2) In paragraph (a) of regulation 3 after the words "local water authority" there shall be inserted the words "or board".

(a) 1946 c. 42. (b) 1964 c. 16.

(3) In regulation 4—

(a) after the word "Act" there shall be inserted the words "or to a transfer of functions"; and

(b) for the words "combination or order" there shall be substituted the words "combination, order or transfer of functions".

(4) In regulation 5(1) after the words "local water authority" there shall be inserted the words "or a board".

(5) In regulation 7—

(a) in paragraph (a) after the words "or of any such order" there shall be inserted the words "or of any such transfer of functions" and after the words "or such order" there shall be inserted the words "or such transfer of functions";

(b) in paragraph (d) after the words "local water authority" there shall be inserted the words "or board"; and

(c) after the proviso there shall be added the following:—
"In this regulation the reference to the coming into operation of these regulations shall, in relation to a claim arising out of a transfer of functions, be construed as a reference to the coming into operation of the Water Officers (Compensation) (Scotland) Amendment Regulations 1968.".

(6) In regulation 8—

(a) for sub-paragraph (a) of paragraph (1) there shall be substituted the following sub-paragraph:—

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

(b) in paragraph (2) after the words "local water authority" there shall be inserted the words "or the board".

(7) In regulation 13—

(a) in paragraph (1)(a) after the words "or of any such order" there shall be inserted the words "or of any such transfer of functions" and after the words "or such order" there shall be inserted the words "or such transfer of functions";

(b) in paragraph (1)(c)(ii) after the words "local water authority" there shall be inserted the words "or a board"; and

(c) there shall be added the following paragraph:—

"(4) In this regulation the reference to the coming into operation of these regulations shall, in relation to a claim arising out of a transfer of functions, be construed as a reference to the coming into operation of the Water Officers (Compensation) (Scotland) Amendment Regulations 1968.".

(8) In the proviso to regulation 14(1) after the words "Water Acts" there shall be inserted the words "or to a transfer of functions" and after the words "local water authority" there shall be inserted the words "or the board".

(9) In regulation 17—

(a) in paragraph (3) for the words "compensation authority" there shall be substituted the words "compensating authority"; and

(b) there shall be added the following paragraph:—

"(4) In this regulation the reference to the coming into operation of these regulations shall, in relation to a claim arising out of a transfer of functions, be construed as a reference to the coming into operation of the Water Officers (Compensation) (Scotland) Amendment Regulations 1968.".

(10) In regulation 23—

(a) in paragraph (4) for the words "Water Acts" there shall be substituted the words "Water (Scotland) Acts 1946 to 1967(a)"; and

(b) in paragraph (5) for the words "his spouse of any dependant" there shall be substituted the words "his spouse or any dependant".

(11) At the end of regulation 33 there shall be added the following proviso:—

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

(12) After regulation 33 there shall be added the following regulation:—

"33A.—(1) Where in any week a person is entitled to long-term compensation for loss or diminution of emoluments and is also entitled to unemployment, sickness or injury benefit under any Act relating to National Insurance, other than a benefit claimable by him in respect of a dependant, there shall be deducted from the long-term compensation payable for that week a sum equal to the amount by which the aggregate of such National Insurance benefits claimable in respect of that week and the weekly rate at which the long-term compensation would be payable but for this regulation, and the weekly rate of any superannuation benefit taken into account for the purposes of regulation 15(4) of these regulations, exceeds two-thirds of the weekly rate of the net emoluments of the employment which he has lost or in which the emoluments have been diminished:

Provided that this paragraph shall not apply in relation to any such sickness or injury benefit—

(a) in so far as an equivalent sum is deducted from the emoluments of his current employment; and

(b) such deduction from those emoluments has not occasioned an increase in his long-term compensation.

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

(13) In regulation 34 after paragraph (c) there shall be added the following paragraph:—

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

(14) In regulation 35(7) for the words "32 or 33" there shall be substituted the words "32, 33 or 33A".

(15) In regulation 37 for sub-paragraph (c) of paragraph (5) there shall be substituted the following sub-paragraph:—

"(c) directing the attention of the claimant to his right under regulation 44, if he is aggrieved by the decision, to institute proceedings before a

(a) 1946 c. 42; 1949 c. 31; 1967 c. 78.

tribunal and giving him the address to which the application instituting such proceedings should be sent.".

(16) In regulation 38(1) and (2) the words "or the tribunal" shall be deleted.

(17) In regulation 41 after the words "made in consequence of" there shall be inserted the words "any transfer of functions or".

(18) For regulation 44 there shall be substituted the following regulation:—

"44.—(1) Every person who is aggrieved by any decision of the compensating authority with respect to a compensation question or by any failure on the part of the compensating authority to notify him of any such decision within the appropriate time prescribed by these regulations may within thirteen weeks of the notification to him of the decision or the expiry of the prescribed time, as the case may be, institute proceedings for the determination of any such compensation question by a tribunal in accordance with the Industrial Tribunals (Employment and Compensation) (Scotland) Regulations 1967(a) and these regulations; and the tribunal shall determine the question accordingly.

(2) For the purpose of any such proceedings a person or persons may be appointed to sit with the tribunal as assessor or assessors.

(3) The compensating authority shall give effect to the decision of a tribunal subject to any modifications that may be required in consequence of any appeal from that decision on a point of law.".

Transitional provisions

4.—(1) Nothing in regulation 3(1)(h)(ii) of these regulations shall affect the entitlement of any person to compensation under the principal regulations where that entitlement has been determined before the date of operation of these regulations.

(2) Notwithstanding anything contained in the principal regulations, regulation 3(6)(a), (12), (13) and (14) of these regulations shall apply with effect from the date of operation of these regulations in relation to any compensation under the principal regulations awarded before that date.

William Ross,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
23rd May 1968.

(a) S.I. 1967/362 (1967 I, p. 1220).

EXPLANATORY NOTE

(This Note is not part of the regulations.)

These regulations amend the Water Officers (Compensation) (Scotland) Regulations 1965 to enable compensation to be paid to or in respect of any person who suffers loss of employment or loss or diminution of emoluments which is attributable to any transfer of functions arising under sections 2, 4 or 5 of the Water (Scotland) Act 1967.

Other changes are as follows:—

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

(ii) National Insurance unemployment, sickness and injury benefits (other than benefits payable in respect of dependants) are to be taken wholly into account in assessing resettlement compensation and not only, as at present, the current rate applicable to a single man (regulation 3(6) (a)).

(iii) National Insurance unemployment, sickness and injury benefits (other than benefits payable in respect of dependants) are to be deducted from long-term compensation to such extent as is necessary to ensure that the total of benefits and compensation received in any week does not exceed two-thirds of the emoluments for the loss or reduction of which compensation is payable (regulation 3(12)).

(iv) Following the establishment of tribunals under section 12 of the Industrial Training Act 1964 appeals on compensation questions arising under these regulations will be determined by them and procedure before the tribunals will be in accordance with the Industrial Tribunals (Employment and Compensation) (Scotland) Regulations 1967 (regulation 3(1)(k), (15), (16) and (18)).