

1973. No. 361

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HEALTH AND PERSONAL SOCIAL SERVICES**Compensation**

REGULATIONS, DATED 27TH SEPTEMBER 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES WITH THE APPROVAL OF THE MINISTRY OF FINANCE UNDER ARTICLE 78 OF THE HEALTH AND PERSONAL SOCIAL SERVICES (NORTHERN IRELAND) ORDER 1972.

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The Ministry of Health and Social Services, on behalf of the Secretary of State and in exercise of the powers conferred on it by Article 78 of the Health and Personal Social Services (Northern Ireland) Order 1972(a) and of every other power enabling it in that behalf after consulting representatives of persons likely to be affected by these regulations, and with the approval of the Ministry of Finance hereby makes the following regulations:—

PART I

PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Health and Personal Social Services (Compensation) Regulations (Northern Ireland) 1973 and shall come into operation on 1st October 1973.

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 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972;

“accrued pension”, in relation to a pensionable officer who has suffered loss of employment, means, if his last relevant pension scheme provided benefits in which he had a right to participate, the pension to which he would have become entitled under that scheme according to the method of calculation (modified where necessary for the purpose of giving effect to these regulations) prescribed by that scheme if, at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that 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 the course of making;

“accrued retiring allowance”, in relation to a pensionable officer who has suffered loss of employment, means, if his last relevant pension scheme provided benefits in which he had a right to participate, any lump sum payment to which he would have become entitled under that scheme according to the method of calculation (modified where necessary for the purpose of giving effect to these regulations) prescribed by that scheme if, at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that 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 the 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 attaining normal retiring age shall be construed as a reference to his becoming incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

“additional contributory payments” has the same meaning as in the Health Services (Superannuation) Regulations (Northern Ireland) 1962(b);

(a) S.I. 1972, No. 1265 (N.I. 14).

(b) S.R. & O. (N.I.) 1962, No. 237.

“compensation question” means a question arising under 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;

“emoluments” means all salary, wages, fees and other payments paid or made to an officer as such for his own use, and also the money value of any apartments, rations or other allowances in kind appertaining to his employment, but does not include payments for overtime which are not 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.

Provided that—

- (a) where fees or other variable payments were paid to an officer as part of his emoluments during any period immediately preceding the loss or diminution, the amount in respect of fees or other variable payments to be included in the annual rate of emoluments shall be the annual average of the fees or other payments paid to him during the period of five years immediately preceding the loss or diminution, or such other period as the Ministry may think reasonable in the circumstances;
- (b) for the purposes of these regulations the annual rate of emoluments in relation to any employment which has been lost or the emoluments whereof have been lost or diminished shall be calculated as follows:
 - (i) in the case of emoluments payable monthly, the emoluments payable in respect of the last complete month immediately preceding the loss or diminution multiplied by twelve; and
 - (ii) in the case of emoluments payable weekly, the emoluments payable in respect of the last complete week immediately preceding the loss or diminution multiplied by fifty-two;

“employing authority” means the Ministry or an employing authority within the meaning of the regulations for the time being in force under Article 12 of the Superannuation (Northern Ireland) Order 1972(c), or a health or welfare authority;

“health authority” means a health authority as defined in Article 2 of the Order;

“last relevant pension scheme”, in relation to a pensionable officer, means a pension scheme to which he was subject immediately before suffering loss of employment or loss or diminution of emoluments;

“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” in relation to any person who has suffered loss of employment or loss or diminution of emoluments means the date on which the scheme or schemes made under Article 77 of the Order, to which such loss was attributable, was or were made or such other date or dates as may be specified in the scheme or schemes in relation to him for all or any of the purposes of these regulations;

“minimum pensionable age” means, in relation to a pensionable officer, the earliest age at which, under his last relevant pension scheme, he could have become entitled to receive payment of a pension, other than a pension payable in consequence of his redundancy or his incapacity to discharge efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

“Ministry” means the Ministry of Health and Social Services;

“Normal retiring age” means—

(a) in the case of a pensionable officer to whom an age of compulsory retirement applied by virtue of the conditions of the employment which he has lost or the employment in which the emoluments have been diminished, that age; and

(b) in any other case, the age of sixty-five years if the officer is a male, or sixty years if the officer is a female;

“officer” includes the holder of any place, situation or employment;

“payments in respect of added years” in relation to a pensionable officer means any payment made under regulation 27 of the Health Services (Superannuation) Regulations (Northern Ireland) 1962;

“pensionable officer”, in relation to a person who has suffered loss of employment or loss or diminution of emoluments, means a person who immediately before such loss or diminution was subject to a pension scheme;

“pension scheme”, in relation to a pensionable officer, means any form of arrangement associated with his employment for the payment of superannuation benefits, whether subsisting by virtue of Act of Parliament, trust, contract or otherwise, other than benefits payable under any Act relating to National Insurance;

“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 undertaken on his ceasing to hold such employment;

“relevant employment” means employment—

(a) under the Crown, or in the service of an employing authority;

(b) preceding either of the foregoing employments which was reckonable for the purposes of the last relevant pension scheme; or

(c) such other employment as the Ministry 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;

“retirement compensation” means compensation payable in accordance with the provisions of regulations 17, 18 or 19;

“tribunal” means a tribunal established under section 13 of the Industrial Training Act (Northern Ireland) 1964(d);

“war service” means war service within the meaning of the Local Government Staffs (War Service) Act (Northern Ireland) 1939(e) 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;

“welfare authority” means a welfare authority as defined in Article 2 of the Order.

(d) 1964. c. 18 (N.I.).

(e) 2 & 3 Geo. 6 c. 27 (N.I.).

(2)(a) Where under any provision of these regulations an annual value is to be assigned to a capital sum or a capital value to an annual amount, the annual or capital value shall be ascertained in accordance with the tables set out in Schedule 1 insofar as they provide for the particular case;

(b) Where the said tables do not provide for a case in which an annual value is to be assigned to a capital sum or a capital value to an annual amount, the annual or capital value shall be the value as may be agreed between the Ministry and the person to whom the capital sum or annual amount is payable; and

(c) for the purpose of determining the application of the said tables the headings and the note to each table shall be treated as part of the table.

PART II

ENTITLEMENT TO COMPENSATION

Persons to whom the regulations apply

3.—(1) These regulations shall apply to any person who was employed immediately before the material date for the whole or part only of his time in any office by—

- (a) the Northern Ireland Hospitals Authority;
- (b) the Northern Ireland General Health Services Board;
- (c) the Staffs. Council appointed under section 1 of the Health Services Act (Northern Ireland) 1971(f);
- (d) a health or welfare authority wholly or mainly for health or welfare purposes (as defined in Schedule 2).

(2) These regulations shall not apply to any person who has become entitled to the benefit of the Superannuation (Northern Ireland) Order 1973(g) and of any regulations made under that Order.

Grounds of entitlement to compensation

4. Subject to the provisions of these regulations, any person to whom these regulations apply and who suffers loss of employment or loss or diminution of emoluments which is attributable to the Order 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 these regulations.

PART III

RESETTLEMENT COMPENSATION

Resettlement compensation for loss of employment

5. The Ministry shall, subject to the provisions of these regulations, pay resettlement compensation to any person to whom these regulations apply and who satisfies the conditions set out in regulation 6.

Conditions for payment of resettlement compensation

6.—(1) Without prejudice to any other requirement of these regulations, the conditions for the payment of resettlement compensation to any person are that—

- (a) he has suffered loss of employment attributable to the Order not later than ten years after the material date;

(f) 1971. c. 1 (N.I.).

(g) S.I. 1973, No. 962 (N.I. 13).

- (b) he had not at the date of the loss attained normal retiring age;
- (c) he had been for a period of two years immediately before the material date continuously engaged (disregarding breaks not exceeding in the aggregate six months) for the whole or part of his time in relevant employment;
- (d) he has made a claim for such compensation in accordance with the provisions of Part VII of these regulations not later than thirteen weeks after the loss of employment which is the cause of his claim, or thirteen weeks after the coming into operation of these regulations, whichever is the later, or within such longer period as the Ministry may allow in any particular case where it is satisfied that the delay in making the claim was due to ill health or other circumstances beyond the claimant's control;
- (e) 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;
- (f) he has not, subject to paragraphs (2) and (3), been offered any reasonably comparable employment under the Crown or in the service of an employing authority; and
- (g) he has not, subject to paragraph (3), been offered any suitable employment in the service of an employing authority at the same place or in the same locality as that where he was employed immediately before the loss.

(2) In ascertaining for the purposes of this regulation whether a person 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 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 Northern Ireland.

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

- (a) that acceptance would have involved undue hardship to the person, or
- (b) that he was prevented from accepting the offer by reason of ill health or other circumstances beyond his control.

Amount of resettlement compensation

7.—(1) The amount of resettlement compensation which may be paid to a person shall be the amount described in (a) or (b) of this paragraph, whichever is the greater—

- (a) subject to the provisions of paragraph (2), an amount equal to thirteen weeks' emoluments and, in the case of a person who has attained the age of forty-five years, one additional week's emoluments for every year after attaining the age of forty-five years and before the loss of employment, subject to a maximum addition of thirteen such weeks, or
- (b) subject to the provisions of paragraph (3) and regulation 36(2), an amount equal to—
 - (i) one and one half week's emoluments for each completed year of reckonable service in which the person was not below the age of forty-one years,

- (ii) one week's emoluments for each completed year of reckonable service (not falling within (i) of this sub-paragraph) in which the person was not below the age of twenty-two years, and
- (iii) one half week's emoluments for each completed year of reckonable service not falling within either (i) or (ii) of this sub-paragraph.

(2) For the purposes of paragraph (1)(a), if the loss of employment takes place within three years of the date on which he would have attained minimum pensionable age, the amount shall be reduced by the fraction of which—

- (i) the denominator is six, and
- (ii) the numerator is the number of complete periods of six months in the period commencing with the date three years before that on which he would have attained minimum pensionable age and ending on the date of loss of employment;

but the amount payable to a person who, on the material date, has not been continuously engaged in relevant employment as described in regulation 10(1)(c) shall not by this paragraph be reduced to less than the equivalent of thirteen weeks' emoluments.

(3) For the purposes of paragraph (1)(b)—

- (i) in the case of a person who has completed more than twenty years' reckonable service, only the period of twenty years immediately prior to the loss of employment shall be taken into account, and
- (ii) if the loss of employment takes place after attaining the age of sixty-four years in the case of a man and after attaining the age of fifty-nine years in the case of a woman, the amount shall be reduced by the fraction of which the denominator is twelve and of which the numerator is the number of whole months in the period commencing with the date on which the person attained the age of sixty-four years or fifty-nine years, as the case may be, and ending with the date of loss of employment.

(4) For the purposes of this regulation the weekly rate of a person's emoluments shall be deemed to be seven three hundred and sixty-fifths of the annual rate of emoluments.

Adjustment of resettlement compensation

8. A person who is entitled to—

- (a) a redundancy payment under the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(h); or
- (b) any similar payment 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); or
- (c) any payment under or by virtue of the provisions of any enactment relating to the reinstatement in civil employment of persons who have been in service of the Crown, shall—
 - (i) if the amount of any resettlement compensation that would, apart from this regulation, be payable exceeds the payment or payments specified in (a), (b) and (c) of this regulation, be entitled to resettlement compensation equal to that excess, or
 - (ii) if the amount of any resettlement compensation that would apart from this regulation be payable is equal to or less than the payment or payments specified in (a), (b) or (c) of this regulation, not be entitled to resettlement compensation.

PART IV

LONG-TERM COMPENSATION

Long-term compensation for loss of employment or loss or diminution of emoluments

9. The Ministry shall, subject to the provisions of these regulations pay long-term compensation to any person to whom these regulations apply and who satisfies the conditions set out in regulation 10.

Conditions for payments of long-term compensation

10.—(1) Without prejudice to any other requirement of these regulations, the conditions for the payment of long-term compensation to any person are that—

- (a) he has suffered loss of employment or loss or diminution of emoluments attributable to the Order not later than ten years after the material date;
- (b) he had not, save as is provided in regulation 25, at the date of the loss or diminution attained normal retiring age;
- (c) he had been, for a period of not less than five years immediately before the material date, continuously engaged (without a break of more than twelve months at any one time) for the whole or part of his time in relevant employment;
- (d) he has made a claim for such compensation in accordance with the provisions of Part VII of these regulations not later than two years after the loss or diminution which is the cause of the claim or two years after the coming into operation of these regulations whichever is the later; and
- (e) if the cause of the claim for compensation is loss of employment—
 - (i) the loss 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
 - (ii) he has not been offered any reasonably comparable employment under the Crown or in the service of an employing authority.

(2) Regulation 6(2) and (3) (which relate to offers of employment) shall apply for the purposes of this regulation in ascertaining whether a person has been offered reasonably comparable employment.

(3) 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.

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

11.—(1) For the purpose of determining whether long-term compensation for loss or diminution of emoluments should be paid to any person and, if so, the amount of the compensation (subject, to the limits set out in these regulations), the Ministry shall, subject to the provisions of paragraphs (2) and (3), have regard to such of the following factors as may be relevant, that is to say—

- (a) the conditions upon which the person held the employment which he has lost, including in particular its security of tenure, whether by law or practice;
- (b) the emoluments and other conditions, including security of tenure, whether by law or practice, of any work or employment undertaken by the person as a result of the loss of employment;
- (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; and
- (d) all the other circumstances of his case.

Provided that, subject to the provisions of regulation 38, no account shall be taken of the fact that he entered the employment which he has lost or the emoluments of which have been diminished after 17th November 1971, where the loss or diminution was attributable to any provision of the Order.

(2) In ascertaining for the purposes of paragraphs (1)(b) and (1)(c) the emoluments in respect of any work or employment that gives the employee or his widow, child or other dependant the right to benefit under a pension scheme under which the employee is not under an obligation to pay contributions, the amount of emoluments shall be increased by the amount of contributions which the employee would have to pay to secure equivalent benefits under a pension scheme in respect of which both the employer and the employee are under an obligation to pay equal contributions.

(3) In ascertaining for the purposes of paragraph (1)(c) whether a person has been offered suitable employment, regulation 6(2) and (3) shall apply.

Amount of long-term compensation payable for loss of emoluments

12.—(1) Long-term compensation for loss of emoluments shall, subject to the provisions of these regulations, be payable until the normal retiring age or death of a person to whom it is payable, whichever first occurs, and shall not exceed a maximum annual sum calculated in accordance with the provisions of paragraphs (2) to (4).

(2) The said maximum annual sum shall, subject to the provisions of paragraphs (3) and (4) and regulation 36(2), be the aggregate of the following sums, namely—

- (a) for every year of the person's reckonable service, one-sixtieth of the emoluments which he has lost; and
- (b) in the case of a person who has attained the age of forty years at the date of the loss, a sum calculated in accordance with the provisions of paragraph (3) appropriate to his age at that date

but the said maximum annual sum shall in no case exceed two-thirds of the emoluments which the person has lost.

(3) The sum referred to in paragraph (2)(b) shall be—

- (a) in the case of a person who has attained the age of forty years but has not attained the age of fifty years at the loss, the following fraction of the emoluments which he has lost—
 - (i) where his reckonable service is less than ten years, one-sixtieth for each year of such service after attaining the age of forty years; or
 - (ii) where his reckonable service amounts to ten years but is less than fifteen years, one-sixtieth for each year of such service after attaining the age of forty years and one additional sixtieth; or

- (iii) where his reckonable service amounts to fifteen years but is less than twenty years, one-sixtieth for each year of such service after attaining the age of forty years and two additional sixtieths; or
 - (iv) where his reckonable service amounts to twenty years or more, one-sixtieth for each year of such service after attaining the age of forty years and three additional sixtieths;
- but the sum so calculated shall not in any case exceed one-sixth of the said emoluments;
- (b) in the case of a person who has attained the age of fifty years but has not attained the age of sixty years at the date of the loss, one-sixtieth of the said emoluments for each year of his reckonable service after attaining the age of forty years, up to a maximum of fifteen years; and
 - (c) in the case of a person who has attained the age of sixty years at the date of the loss, one-sixtieth of the said emoluments for each year of his reckonable service after attaining the age of forty-five years.
- (4) Where a person has become entitled (whether immediately or prospectively on attaining some greater age) to a superannuation benefit by way of annual amounts under a pension scheme associated with the employment which he has lost, the maximum annual sum referred to in paragraph (1) shall be the maximum sum calculated under paragraphs (2) and (3) as if he had not become so entitled.

(5) The amount of long-term compensation, which apart from this paragraph would become payable to a person, shall be reduced by the amount by which the aggregate of—

- (a) the emoluments of any work or employment undertaken by him as a result of the loss of employment;
 - (b) any superannuation benefits being received by him; and
 - (c) the long-term compensation that would but for this paragraph be paid,
- exceeds the emoluments of the employment which has been lost.

(6) Long-term compensation shall be payable to a person 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 person and the Ministry.

Long-term compensation for diminution of emoluments

13.—(1) Long-term compensation for diminution of emoluments in respect of any employments shall, subject to the provisions of these regulations, consist of an annual sum calculated in accordance with the provisions of paragraph (2).

(2) The said annual sum shall not exceed the sum that would be the annual sum under the provisions of regulations 12(1) to (5) calculated on the assumptions—

- (a) that there was a loss of employment; and
- (b) that emoluments after diminution were emoluments of any work or employment undertaken as a result of a loss of employment within the meaning of regulation 11(1)(b).

(3) Long-term compensation for diminution of emoluments shall be payable to a person at intervals equivalent to those at which the emoluments of his employment are or were previously paid or at such other intervals as may be agreed between the person and the Ministry.

Period during which long-term compensation is to be payable

14.—(1) Long-term compensation shall be payable with effect from the date of the claim or from any earlier date permitted by the succeeding provisions of this regulation.

(2) Where a claim for long-term compensation is duly made within thirteen weeks of the occurrence of the loss or diminution which is the cause 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 paragraph (2), the award may, at the discretion of the Ministry, be made retrospective to a date not earlier than thirteen weeks prior to the date on which the claim was made:

Provided that if the Ministry is satisfied that the failure to make the claim within the period mentioned in paragraph (2) 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.

(4) Long-term compensation shall not be payable to a person for any period in respect of which compensation under Part V of these regulations is payable to him.

PART V

RETIREMENT COMPENSATION AND PAYMENTS ON DEATH

Entitlement to retirement compensation and other payments

15.—(1) The Ministry shall, subject to the provisions of these regulations, pay retirement compensation to any person to whom this part of these regulations applies and shall make the other payments for which provision is made in regulations 22 to 26.

(2) Save as is provided in regulation 25 this part of these regulations applies to a pensionable officer who satisfies the conditions set out in regulation 10.

(3) Regulation 11 shall apply in relation to compensation under this part of these regulations as it applies in relation to compensation under Part IV.

Additional factors governing payment of retirement compensation

16.—(1) Where retirement compensation is payable under any one of regulations 17, 18 and 19, compensation shall not be payable under any other of those regulations.

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

- (a) two years, whether or not he has completed any years of service after attaining the age of forty years, and
- (b) two years for each of the first four completed years of his reckonable service between the date when he attained the age of forty years and the date of the loss or diminution, and

(c) one year for each year of his reckonable service after the fourth, but the additional period so credited shall not exceed the shortest of the following periods, namely—

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

and in calculating the amount of any retirement compensation payable to the person any period so added shall be aggregated with any period entailing reduction of the relevant pension or retiring allowance because of a retirement pension payable under section 29 of the National Insurance Act (Northern Ireland) 1966(i).

(3) The benefit in respect of the additional period described in paragraph (2) shall be calculated at the same rate as is applicable for the day immediately preceding the loss or diminution.

(4) When retirement compensation is awarded, or when an award is reviewed under regulation 31, the additional compensation payable in consequence of any period credited to a person under paragraph (2) may be reduced or withheld to such extent as the Ministry may think reasonable having regard to the pension scheme (if any) associated with any further employment obtained by him.

(5) If under his last relevant pension scheme the amount of any benefit to which a person might have become entitled could have been increased or supplemented at the discretion of the authority administering the pension scheme or of any other body, the Ministry 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.

(6) If under his last relevant pension scheme a person would have been entitled to surrender a proportion 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 Ministry by notice in writing accordingly within one month after becoming entitled to retirement compensation under these regulations, he may surrender a proportion 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 Ministry as if the said annual sum were a pension to which he had become entitled under the said pension scheme.

(7) In calculating for the purpose of regulation 17 or 18 the amount of the annual sum which is equal to a person's accrued pension, no account shall be taken of any reduction falling to be made in that pension by reason of the provisions of any Act relating to National Insurance until the person reaches the age at which under his last relevant pension scheme the pension would have been so reduced.

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

17.—(1) Subject to the provisions of these regulations, when a person 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) No compensation shall be payable under this regulation if the person has continued to pay superannuation contributions as if he had suffered no loss of emoluments.

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

18.—(1) Where a person to whom this part of these regulations applies and who has suffered loss of employment before attaining what would have been his normal retiring age—

- (a) becomes incapacitated in circumstances in which, if he had continued in the employment which he has lost, he would have become entitled to a pension under his last relevant pension scheme; or
- (b) attains the age which, had he continued to serve in the employment which he has lost, would have been his minimum pensionable age,

he shall be entitled on the happening of either event to claim—

- (i) in the case mentioned in sub-paragraph (a), 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), 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),

subject however to the conditions specified in paragraph (5).

(2) On receipt of a claim under paragraph (1) the Ministry shall consider whether the claimant is a person to whom that paragraph applies, and within thirteen weeks after the date of the receipt of the claim—

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

(b) if satisfied that he is such a person, shall assess the amount of compensation payable to him and notify him in writing accordingly, and notification as described in (a) or (b) above shall, for the purposes of these regulations, be deemed to be a notification by the Ministry of a decision on a claim for compensation.

(3) The Ministry may require any person who makes a claim under paragraph (1)(a) to submit himself to a medical examination by a registered medical practitioner selected by the Ministry, and in that event, the Ministry 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 that report shall be taken into consideration together with the report of the medical practitioner selected by the Ministry.

(4) If a person wishes to receive compensation under this regulation, he shall so inform the Ministry in writing within one month from the date of receipt of a notification under paragraph (2) or, where the claim has been the subject of an appeal, from the date of the decision of the tribunal thereon; and the compensation shall be payable as from the date on which the Ministry received the claim.

(5) The calculation of compensation under this regulation shall be subject to the following conditions—

- (a) where the Ministry, by virtue of regulation 16, has credited the person with an additional period of service, no account shall be taken of any additional period beyond the period which he could have served, had he not lost his employment, before the date on which the claim was received by the Ministry; and
- (b) 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 person's actual service, no account shall be taken of any such additional service except to the extent (if any) by which they exceed the number of years represented by the difference between his actual service and the period by reference to which the minimum benefit has been calculated; and
- (c) if the number of years by reference to which an accrued incapacity pension or accrued incapacity retiring allowance 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 or retiring allowance shall, notwithstanding any minimum benefit prescribed by the pension scheme, not exceed the proportion of such minimum benefit which the number of years of pensionable service bears to the minimum number of years of qualifying service.

Retirement compensation for diminution of emoluments

19.—(1) A person to whom this part of these regulations applies and who has suffered a diminution of his emoluments shall be entitled to receive retirement compensation in accordance with the provisions of this regulation.

(2) The provisions of regulations 17 and 18 shall apply to any such person as if he had suffered loss of employment immediately before the diminution occurred; but the amount of the retirement compensation payable shall be the amount which would have been payable in respect of loss of employment multiplied by a fraction of which—

- (a) the numerator is the amount by which his emoluments have been diminished; and
- (b) the denominator is the amount of his emoluments immediately before they were diminished.

For the purposes of this calculation no account shall be taken of any reduction which might otherwise fall to be made in the accrued pension or accrued incapacity pension because of a retirement pension payable under section 29 of the National Insurance Act (Northern Ireland) 1966.

(3) No compensation shall be payable under this regulation if the person has continued to pay superannuation contributions as if his emoluments had not been diminished.

Superannuation contributions

20.—(1) A person entitled to retirement compensation under regulation 17 or 18 shall pay an amount equal to any sum which was paid to him by way of return of superannuation contributions, including any interest, after ceasing to be employed, and the Ministry may at his request repay that amount to him at any time before he becomes entitled as aforesaid, but if that amount is not paid to the Ministry, or is repaid to the person, the retirement compensation shall be reduced by an annual amount the capital value of which is equal to the amount of the said superannuation contributions.

(2) For the purposes of this regulation the expression "superannuation contributions" shall include payments made by the person in respect of added years and any additional contributory payments made by him.

Retirement compensation of a person who obtains further pensionable employment

21.—(1) Where a person to whom this part of these regulations applies, 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 falls to be taken into account for the purpose of assessing the amount of any retirement compensation payable to him, his entitlement to retirement compensation shall be reviewed and, subject to the provisions of this regulation, no retirement compensation shall be payable in respect of such service or period unless the annual rate of the emoluments to which he was entitled immediately before the loss or diminution exceeds the annual rate on entry of the emoluments of the new employment, and any retirement compensation so payable to him shall, insofar as it is calculated by reference to remuneration, be calculated by reference to the difference between the said annual rates.

(2) The provisions of 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 person had attained normal retiring age immediately before he ceased to hold the employment in which he suffered the diminution of emoluments.

(3) No retirement compensation shall be payable in the circumstances mentioned in this regulation if the person had continued to pay superannuation contributions as if his emoluments had not been diminished.

Compensation payable to widow or dependant of a claimant

22.—(1) Where a person to whom this part of these regulations applies dies, payments in accordance with this regulation and regulations 23 and 24 shall be made to or for the benefit of his widow, child or other dependant or to his personal representatives as the case may be.

(2) Where the last relevant pension scheme of that person provides for a prescribed proportion, if his widow, child or other dependant has become or, but for the loss of his employment, would have become entitled to a pension under his last relevant pension scheme, the widow, child or other dependant, as the case may be, shall be entitled to receive—

(a) in a case where retirement compensation was payable to the person under regulation 17 or 18 immediately before his death, compensation equal to the prescribed proportion of that retirement compensation, or

(b) in a case where the person dies before becoming entitled to receive retirement compensation under regulation 17 or 18—

- (i) for the period during which the pension would have been a proportion of the person's pensionable remuneration, the prescribed proportion of the long-term compensation which was payable to him under regulation 12 or if that compensation was by these regulations subject to reduction, the compensation that would have been payable but for that reduction, and
- (ii) for the period during which the pension would have been a proportion of the person's pension, the prescribed proportion of the compensation which he would have received under regulation 18 had he become entitled thereto immediately before his death.

(3) Any sums 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 last relevant pension scheme would have ceased to be payable; and where that scheme provides for payment of the pension to any person on behalf of a child or other dependant, any sum payable under this regulation 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.

(4) Except where the compensation has been reduced under regulation 20, compensation payable under this regulation and regulation 23 shall in the aggregate be reduced by an amount the capital value whereof is equal to the amount of any superannuation contributions as defined in regulation 20(2) returned to the person in respect of whom the compensation is payable and not paid to the Ministry or repaid to him by the Ministry, the compensation under each of those regulations being reduced in proportion to the capital value of each amount.

(5) If the person in question suffered a diminution of emoluments, then, where his last relevant pension scheme provides for a prescribed proportion, the provisions of paragraph (2) shall apply with the substitution of references to diminution of emoluments for references to loss of employment, and the sums payable to his widow, child or other dependant shall be calculated as if he had suffered loss of employment and as if the loss of emoluments occasioned thereby had been equivalent to the amount of the diminution; but no sum shall be payable under this sub-paragraph if the person has continued to pay superannuation contributions as if his emoluments had not been diminished.

(6) For the purpose of paragraph (2)(b)(i), "prescribed proportion" means the proportion which, by the provisions contained in the last relevant pension scheme of a person to whom Part IV of these regulations applies, the pension payable to his widow, child or other dependant is to bear to that person's pensionable remuneration immediately before his death; and for all other purposes of this regulation, "prescribed proportion" means the proportion which, by the provisions contained in the last relevant pension scheme of a person to whom this part of these regulations applies, the pension payable to his widow, child or other dependant is to bear to that person's pension.

Compensation where death gratuity would have been payable

23.—(1) If the widow or the personal representatives of a person to whom this part of these regulations applies might have become entitled to a death gratuity under his last relevant pension scheme, she or they, as the case may be, shall be entitled to receive a sum calculated in accordance with the provisions of regulation 22(5) and paragraph (2) of this regulation.

(2) The amount of the sum referred to in paragraph (1) shall be ascertained in accordance with the method of calculation prescribed by the last relevant pension scheme for the ascertainment of death gratuity as if the person had died immediately before losing his employment, subject to the following modifications—

- (a) account shall be taken of any additional period of service credited to him under regulation 16(2)—
 - (i) in the case of a person who had been in receipt of retirement compensation under regulation 18, 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 person's death;
- (b) if the aggregate of the person's pensionable service and the additional period under regulation 16(2) is less than the minimum period of qualifying service prescribed by the pension scheme for the receipt of a death gratuity, the said sum shall not exceed the proportion of the death gratuity calculated as aforesaid as the aggregate service bears to the minimum period of qualifying service prescribed by the pension scheme; and
- (c) there shall be deducted from the sum described above the amount of the retirement compensation paid to the person under regulation 17 or 18, or where any part of the compensation has been surrendered under regulation 16(6), the amount which would have been so paid but for such a surrender.

(3) In calculating a death gratuity under this regulation, any sum payable under either paragraph (2) or paragraph (5) of regulation 22 to or for the benefit of the widow, child or other dependant 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 a person who has suffered a diminution of emoluments with the substitution of references to diminution of emoluments for references to loss of employment, and the sum payable to the widow or personal representatives of such a person shall be calculated as if he had lost emoluments equivalent to the amount of the diminution; but no sum shall be payable under this paragraph if the person has continued to pay superannuation contributions as if his emoluments had not been diminished.

Balances payable to claimant's widow or personal representatives

24.—(1) If no sum is payable to the widow, child or other dependant of any person under regulation 22(2) or (5) and no sum is payable under regulation 23 and the person dies before he has received in the aggregate by way of retirement compensation a sum equivalent to the amount of any contributions paid by him under regulation 20 and not repaid to him, together with compound interest thereon up to the date of his death calculated with the method prescribed by his last relevant 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 any sums become payable to a widow under either paragraph (2) or (5) of regulation 22 and on her remarriage or death those sums cease to be payable, and any sums payable to a child or other dependant under either of those paragraphs has ceased to be payable, and if the aggregate amount of the payments which were made as aforesaid to her husband by way of retirement compensation and to the widow or personal representatives under regulation 23 is less than a sum equivalent to the amount which would have been payable to the personal representatives under that regulation if no sum had been payable under either of the said paragraphs (2) or (5), there shall be paid to or among such persons as the Ministry may determine the difference between such aggregate amount and the said equivalent sum.

(3) For the purposes of this regulation a person who has surrendered any part of his retirement compensation under regulation 16(6) shall be deemed to have received during any period the amount of compensation for that period which he would have received but for such a surrender.

Compensation payable to non-pensionable officer on reaching retiring age

25.—(1) Where a person who is not a pensionable officer is receiving long-term compensation for loss of employment and attains normal retiring age, the Ministry may, if satisfied that the person 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) Where a person who is not a pensionable officer suffers loss of employment on or after attaining normal retiring age, the Ministry may, if satisfied that the person 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 12 had he not attained normal retiring age at the date on which he lost his employment.

Persons subject to policy schemes

26.—(1) Regulations 17, 18, 19 and 23 shall not apply to a person (in this regulation referred to as a "policy scheme participant") 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 a policy scheme participant has lost his employment, the Ministry 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 16(2) or (5) had he been a person to whom regulation 17 or 18 applied.

(3) If a policy scheme participant has suffered a diminution of his emoluments, the Ministry may, if the relevant scheme permits, make such payments to or in respect of him, whether by way of the payment of premiums or otherwise, as will secure to him the like benefits as if his emoluments had not been diminished.

(4) If a policy scheme participant becomes entitled to a benefit under such a scheme as is mentioned in paragraph (1) before reaching normal retiring age, the Ministry may reduce any long-term compensation payable to him by the amount of such benefit.

Intervals for payment of compensation under Part V

27. Any compensation awarded under this part of these regulations to or in respect of any person, shall be payable at intervals equivalent to those at which the corresponding benefit would have been payable under the person's last relevant pension scheme or at such other intervals as may be agreed between the person entitled to receive the compensation and the Ministry.

PART VI

ADJUSTMENT, REVIEW AND COMPOUNDING OF COMPENSATION

Adjustment of compensation where superannuation benefit is also payable

28.—(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 subsequently taken into account for the purpose of calculating the amount of any superannuation benefit payable to or in respect of any person in accordance with a pension scheme associated with any employment undertaken subsequent to the loss of employment or diminution of emoluments which was the subject of the claim for compensation, the Ministry may in accordance with this regulation withhold or reduce the compensation payable.

(2) If the part of any superannuation benefit which is attributable to a period of service mentioned in paragraph (1) equals or exceeds the part of any compensation which is attributable to the same period, that part of the compensation may be withheld, or if the part of the superannuation benefit is less than the part of the compensation, the compensation may be reduced by an amount not exceeding that part of the superannuation benefit.

(3) Where a death gratuity is payable in respect of any person, the sum payable under regulation 23 may be reduced by an amount not greater than the proportion of the death gratuity which the period of service mentioned in paragraph (1) 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), if, in the circumstances mentioned in paragraph (1), compensation is attributable in part to any provision of the last relevant pension scheme for a minimum benefit, the compensation may be reduced by an amount not exceeding that part.

(5) Where any additional period of service has been credited to a person under regulation 16(2), if that period is equal to or less than the period spent in the subsequent employment mentioned in paragraph (1), the compensation may be reduced (in addition to any other reduction authorised by this regulation) by an amount not exceeding that attributable to the additional period of service credited or, if the period is greater than the period spent in the subsequent employment, by the proportion of that amount which the period spent in the subsequent employment, bears to the additional period so credited.

(6) In making any reduction under paragraphs (2) to (5), the amount of pension or, as the case may be, lump sum to be taken into account relating to the subsequent employment shall be the amount of such pension or lump sum reduced by a fraction of that pension or lump sum, where—

- (i) the numerator of the fraction is equivalent to the aggregate of the amount of increases which would have been awarded under the provisions of the Pensions (Increase) Act (Northern Ireland) 1971(j), during the period beginning with the day following loss of the employment for which compensation is payable and ending on the day the subsequent employment terminated, on an official pension (within the meaning of that Act) of £100 a year which commenced from the first mentioned day, and
- (ii) the denominator of the fraction is equivalent to the aggregate of an official pension of £100 a year and the amount of the increases so determined.

(7) Where compensation has been calculated in accordance with regulation 21 the provisions of this regulation shall only apply in relation to the part (if any) of the superannuation benefit which is attributable to annual emoluments in excess of those to which the person was entitled on entering the new employment referred to in regulation 21.

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

Reduction of compensation in certain cases

29.—(1) If under a person's last relevant pension scheme 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 he is entitled for loss of employment or diminution of emoluments shall, where such an employment is taken up, be reduced or suspended in the like manner and to the like extent; but 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.

(2) 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 that are not recovered in accordance with the provisions of the last relevant pension scheme; and any additional contributory payments not recovered at the date of his death shall be deducted from any compensation payable in respect of that person under regulations 22, 23 or 24(2).

(3) Where compensation under these regulations is payable to or in respect of any person, and that person or his widow, child or other dependant or his personal representatives or any other person is or are also entitled (whether immediately or on the person's attaining some greater age) to a superannuation benefit under a pension scheme associated with the employment which he has lost—

- (a) any instalment of that compensation which is payable in respect of any period shall be reduced by the amount of the instalment of such superannuation benefit which is payable in respect of the same period; and

(b) any of that compensation which is payable under Part IV or Part V of these regulations and which is payable as a lump sum, shall be reduced by the amount of any lump sum superannuation benefit.

(4) For the purposes of paragraph (3) no account shall be taken of any sum payable in consequence of the surrender by any person of part of his superannuation benefit by way of annual amounts under any provision in that behalf in the relevant pension scheme with a view to obtaining or increasing allowances for his widow, child or other dependant; and the person shall be deemed to have received during any period the amount of superannuation benefit which he would have received but for such a surrender.

(5) Where in any week a person is entitled to long-term compensation for loss or diminution of emoluments and is also entitled to a National Insurance benefit, there shall be deducted from the long-term compensation payable in respect of that week a sum equal to the amount by which the aggregate of—

- (i) the National Insurance benefit that would be payable in respect of that week if calculated at the rate applicable at the date of loss or diminution, and
- (ii) the weekly rate at which the long-term compensation would be payable but for this regulation,

exceeds two-thirds of the weekly rate of the emoluments of the employment which he has lost or in which the emoluments have been diminished.

(6) No deduction shall be made under paragraph (5) insofar as—

- (a) 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.

(7) In paragraph (5) the expression “weekly rate” means seven three hundred and sixty-fifths of the relevant annual rate, and the expression “National Insurance benefit” means any unemployment, sickness, invalidity or injury benefit payable under any Act relating to National Insurance, other than a benefit claimable by him in respect of a dependant.

Notification of change of circumstances

30. Where—

- (a) a pensionable officer after suffering loss of employment or diminution of emoluments enters any employment referred to in regulation 21 or becomes entitled to any superannuation benefit on ceasing to hold such employment, or
- (b) a person entitled to long-term compensation, whilst that compensation is liable to review in accordance with the provisions of regulation 31, enters any employment, or ceases to hold an employment, or receives any increase in his emoluments in an employment, or
- (c) a person entitled to retirement compensation enters employment in which the compensation is subject to reduction or suspension under regulation 29 or ceases to hold such an employment, or
- (d) a person entitled to long-term compensation starts to receive any benefit, any increase in benefit or any further benefit, under any Act relating to National Insurance,

he shall forthwith in writing inform the Ministry of that fact.

Review of awards of long-term or retirement compensation

31.—(1) The Ministry shall

(a) on the expiry of six months from the decision date, or

(b) on the occurrence of any material change in the circumstances of the case,

whichever shall first occur, and thereafter within a period of two years after the decision date, or within any longer period specified in the subsequent provisions of this regulation, and at intervals of not more than six months, review its decision or, where the claim has been the subject of an appeal, the decision of the tribunal, and these regulations shall apply in relation to such a review as they apply in relation to the initial determination of the claim; and on such a 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 person to whom the decision relates may require the Ministry to carry out the review mentioned in paragraph (1) at any time mentioned in that paragraph if he considers that there has been a change in the circumstances of his case which is material for the purposes of these regulations.

(3) The Ministry shall carry out a review in accordance with paragraph (1), notwithstanding the expiration of the period of two years mentioned in the paragraph, if—

(a) the emoluments of employment or work undertaken as a result of the loss of employment had been taken into account in determining the amount of any compensation awarded, and

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

(c) the Ministry is satisfied that the loss or reduction is causing him hardship,

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

(4) Paragraphs (1) and (2) 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 paragraph (1) and as if in paragraph (1) "decision date" means the date on which any decision on a claim for long-term compensation for diminution of emoluments is notified to the claimant, but—

(a) where the person to whom the decision relates ceases to hold the employment in which his emoluments were diminished, a review shall be held within three months after that date, but no further review shall be held after the expiry of that period, and

(b) while that person 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 Ministry shall review a decision, whether given by the Ministry 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 person to whom the decision relates becomes engaged in any employment (hereinafter referred to as "his current employment") the emoluments of which are payable out of public funds and which he has undertaken subsequent to the loss of employment or diminution of emoluments, and
- (b) the aggregate of the emoluments of his current employment, any superannuation benefit by way of annual amounts payable to him in respect of the employment which he has lost or the employment in which his emoluments have been diminished and the long-term compensation payable to him exceeds the emoluments of the employment which he has lost or, as the case may be, in which the emoluments have been diminished.

(6) The Ministry shall further review any decision reviewed under paragraph (5) whenever the emoluments of the person's current employment are increased.

(7) If on any review under this regulation the compensation is reduced, it shall not be reduced below the amount by which the emoluments of his current employment, together with any superannuation benefit by way of annual amounts payable to him in respect of the employment which he has lost or the employment in which his emoluments have been diminished, falls short of the emoluments of the employment which he has lost, or, as the case may be, in which the emoluments have been diminished.

(8) The Ministry shall give to a person to whom a decision relates not less than fourteen days' notice of any review of that decision to be carried out under this regulation unless the review is carried out at his request.

(9) In this regulation the expression "decision date" means the date on which any decision on a claim for long-term or retirement compensation for loss of employment is notified to a claimant under regulation 33.

(10) On any review under this regulation, no reduction in long-term compensation shall be made on account of any increase in the emoluments of any work or employment undertaken as a result of the loss of employment or diminution of emoluments which—

- (a) is made after the loss or diminution, and
- (b) is attributable to a rise in the cost of living.

(11) Nothing in this regulation shall preclude the making of any adjustment of compensation required by regulation 28 or 29.

Compounding of awards

32.—(1) In the case where an annual sum which has been or might be awarded under these regulations does not exceed £26, the Ministry may, at its discretion, compound its 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 awarded or might be awarded in addition to such sum under regulation 17, 18 or 19, the Ministry may likewise discharge its liability in respect thereof by an immediate payment.

(2) In any other case, if the person who has been awarded long-term or retirement compensation requests it to do so, the Ministry may, after having

regard to the state of health of that person and the other circumstances of the case, compound up to one quarter of its liability to make payments under the award (other than payments to a widow, child or other dependant under regulation 22) 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 Ministry to make such payments, account shall be taken of the annual value of lump sum payments of compensation other than payments of compensation under Part III of these regulations.

(3) The making of a composition under paragraph (2) in relation to an award of long-term or retirement compensation shall not prevent the subsequent making of a composition under paragraph (1) 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

33.—(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 this regulation.

(2) Every such claim or request shall be made to the Ministry in a form approved by it.

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

(4) The Ministry shall consider any such claim or request in accordance with the relevant provisions of these regulations and shall notify the person making the claim or request in writing of its 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 one month after the receipt of the claim or request, and

(c) in any other case, as soon as possible after the decision;

but the decision of the Ministry shall not be invalidated by reason of the fact that notice of the decision is given after the expiry of the period mentioned in this paragraph.

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

(a) giving reason for the decision;

(b) showing how any compensation has been calculated and, in particular, if the amount is less than the maximum which would 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 under regulation 40, if he is aggrieved by the decision, to institute proceedings before a tribunal and giving him the address to which the application instituting such proceedings should be sent.

Claimants to furnish information

34.—(1) Any person claiming or receiving compensation or whose award of compensation is being reviewed shall furnish all such information as the Ministry may at any time reasonably require; and he shall verify the same in 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 shall, on receipt of reasonable notice, present himself for interview at such place as the Ministry may reasonably require; and any person who attends for interview may, if he so desires, be represented by his adviser.

Procedure on death of claimant

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

(2) Where any such claim is continued or made as aforesaid by personal representatives, the personal representatives shall, as respects any steps to be taken or thing to be done by them in order to continue or make the claim, be deemed for the purposes of these regulations to be the person entitled to claim, but, save as aforesaid, the person in whose right they continue or make the claim shall be deemed for the purposes of these regulations to be such person, and the relevant provisions of these regulations shall be construed accordingly.

Provided that the Ministry may in any such case extend the period within which a claim is required to be made by regulation 6 or 10.

Calculation of service

36.—(1) For the purpose of determining the amount of any compensation payable in respect of the loss of an employment to which, or of any two or more employments to which in the aggregate, a person 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

(a) regulation 7(1)(b) or

(b) regulation 12(2)

in respect of a person's reckonable service, all periods of such service shall be aggregated, except where reference is made to completed years of service, if the aggregated service includes a fraction of a year, that fraction shall, if it amounts to or exceeds six months, be treated as a year, and shall, in any other case be disregarded.

Emoluments of part-time employments

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

Temporary variation of emoluments

38. In calculating for the purposes of these regulations the amount of any emoluments lost, or the amount by which any emoluments have been diminished, and in determining the resettlement and long-term compensation of any person who has suffered such a loss or diminution, no account shall be taken of any increase or decrease in the amount of the person's emoluments which is attributable to any temporary allowance made in consequence of the Order and which is made otherwise than in the ordinary course of his employment.

Compensation not assignable

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

Provided that, without prejudice to any other right of recovery, any compensation paid in error may be recovered by the Ministry by deduction from any compensation payable under these regulations,

Right of appeal from decision of the Ministry

40.—(1) Every person who is aggrieved by any decision of the Ministry with respect to a compensation question or by any failure on the part of the Ministry 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 the question by a tribunal in accordance with the rules of procedure laid down in the Industrial Tribunals (Employment and Compensation) Regulations (Northern Ireland) 1967(k) 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 Ministry 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.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 27th day of September 1973.

(L.S.)

F. A. Elliott,
Assistant Secretary.

The Ministry of Finance on behalf of the Secretary of State hereby approves the foregoing Regulations.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 27th day of September 1973.

(L.S.)

C. F. Darling,
Assistant Secretary.

SCHEDULE 1

Regulation 2(2)

TABLES

TABLE I(a)

The capital value of an annual amount of £1 per annum, payable for life which attracts pensions increase when the officer attains age 55, or retirement age if greater.

Age last birthday	Capital value of £1 per annum, with pension increase attaching from age 55	
	Female	Male
	£ p	£ p
30	14 82	14 34
31	14 86	14 37
32	14 91	14 39
33	14 95	14 41
34	14 99	14 42
35	15 03	14 43
36	15 06	14 44
37	15 09	14 44
38	15 12	14 43
39	15 14	14 42
40	15 15	14 40
41	15 16	14 37
42	15 15	14 33
43	15 14	14 29
44	15 12	14 23
45	15 09	14 16
46	15 05	14 08
47	14 99	13 99
48	14 92	13 88
49	14 83	13 75
50	14 72	13 61
51	14 59	13 45
52	14 43	13 26
53	14 25	13 04
54	14 04	12 79
55	13 79	12 52
56	13 54	12 24
57	13 28	11 95
58	13 01	11 66
59	12 74	11 36
60	12 46	11 06
61	12 17	10 76
62	11 87	10 45
63	11 57	10 14
64	11 27	9 82

TABLE I(a) (Continued)

Age last birthday	Capital value of £1 per annum, with pension increase attaching from age 55	
	Female	Male
	£ p	£ p
65	10 96	9 51
66	10 64	9 19
67	10 32	8 87
68	10 00	8 56
69	9 68	8 25
70	9 36	7 94
71	9 03	7 63
72	8 70	7 32
73	8 38	7 02
74	8 05	6 72
75	7 73	6 43
76	7 41	6 14
77	7 09	5 86
78	6 78	5 59
79	6 47	5 32

TABLE I(b)

The capital value of an annual payment of £1, payable for life,
and attracting pensions increase from the outset

Age last birthday	Capital value of £1 per annum, attracting pensions increase throughout life	
	Female	Male
	£ p	£ p
23	18 59	18 24
24	18 52	18 15
25	18 44	18 05
26	18 36	17 95
27	18 28	17 85
28	18 19	17 74
29	18 10	17 63
30	18 00	17 51
31	17 90	17 38
32	17 79	17 25
33	17 68	17 12
34	17 57	16 98
35	17 45	16 83
36	17 32	16 68
37	17 19	16 52
38	17 05	16 35
39	16 91	16 18
40	16 76	16 00
41	16 61	15 81
42	16 45	15 62
43	16 29	15 42
44	16 12	15 21
45	15 94	15 00
46	15 76	14 78
47	15 57	14 56
48	15 37	14 33
49	15 17	14 09
50	14 96	13 84
51	14 74	13 59
52	14 51	13 33
53	14 28	13 07
54	14 04	12 80
55	13 79	12 52
56	13 54	12 24
57	13 28	11 95
58	13 01	11 66
59	12 74	11 36

TABLE I(b) (Continued)

Age last birthday	Capital value of £1 per annum, attracting pensions increase throughout life	
	Female	Male
	£ p	£ p
60	12 46	11 06
61	12 17	10 76
62	11 87	10 45
63	11 57	10 14
64	11 27	9 82
65	10 96	9 51
66	10 64	9 19
67	10 32	8 87
68	10 00	8 56
69	9 68	8 25
70	9 36	7 94
71	9 03	7 63
72	8 70	7 32
73	8 38	7 02
74	8 05	6 72
75	7 73	6 43
76	7 41	6 14
77	7 09	5 86
78	6 78	5 59
79	6 47	5 32

TABLE II(a)

Capital value of £1 per annum, ceasing at age 60 (females), 65 (males), which attracts pensions increase from age 55 or retirement age if greater

Age last birthday	Capital value	
	Female	Male
	£ p	£ p
30	12 11	12 92
31	12 01	12 87
32	11 91	12 81
33	11 80	12 75
34	11 68	12 68
35	11 55	12 60
36	11 40	12 51
37	11 24	12 41
38	11 07	12 30
39	10 88	12 18
40	10 67	12 04
41	10 44	11 89
42	10 19	11 72
43	9 92	11 53
44	9 63	11 33
45	9 31	11 11
46	8 96	10 86
47	8 58	10 59
48	8 16	10 30
49	7 71	9 98
50	7 22	9 62
51	6 68	9 23
52	6 09	8 80
53	5 45	8 33
54	4 75	7 81
55	3 99	7 24
56	3 18	6 64
57	2 33	6 01
58	1 43	5 35
59	49	4 65
60	—	3 91
61	—	3 13
62	—	2 30
63	—	1 42
64	—	48

TABLE II(b)

Capital value of £1 per annum, ceasing at age 60 (females), 65 (males), which attracts pensions increase from the outset of the pension

Age last birthday	Capital value	
	Female	Male
	£ p	£ p
23	16 68	17 24
24	16 51	17 10
25	16 33	16 95
26	16 14	16 79
27	15 94	16 63
28	15 74	16 46
29	15 52	16 28
30	15 29	16 09
31	15 05	15 89
32	14 80	15 68
33	14 54	15 46
34	14 26	15 23
35	13 97	15 00
36	13 66	14 75
37	13 34	14 49
38	13 01	14 22
39	12 66	13 94
40	12 29	13 64
41	11 90	13 33
42	11 49	13 01
43	11 07	12 67
44	10 63	12 31
45	10 16	11 94
46	9 67	11 56
47	9 15	11 16
48	8 61	10 74
49	8 04	10 30
50	7 45	9 85
51	6 83	9 38
52	6 17	8 88
53	5 48	8 36
54	4 75	7 81
55	3 99	7 24
56	3 18	6 64
57	2 33	6 01
58	1 43	5 35
59	49	4 65
60	—	3 91
61	—	3 13
62	—	2 30
63	—	1 42
64	—	48

TABLE III

Capital value of an annual amount of £1, which attracts pensions increase from the outset, payable to a widow until death or remarriage

<i>Age of widow at date of widowhood</i>	<i>Capital value</i>	<i>Age of widow at date of widowhood</i>	<i>Capital value</i>
	£ p		£ p
20	6 00	45	13 14
21	6 00	46	13 25
22	6 00	47	13 34
23	6 00	48	13 40
24	6 13	49	13 44
25	6 58	50	13 46
26	7 01	51	13 46
27	7 41	52	13 43
28	7 78	53	13 38
29	8 11	54	13 31
30	8 41	55	13 22
31	8 72	56	13 10
32	9 06	57	12 96
33	9 42	58	12 80
34	9 82	59	12 61
35	10 24	60	12 39
36	10 65	61	12 14
37	11 04	62	11 87
38	11 40	63	11 57
39	11 73	64	11 27
40	12 04	65	10 96
41	12 33	66	10 64
42	12 59	67	10 32
43	12 81	68	10 00
44	12 99	69	9 68
		70	9 35

TABLE IV(a)

The annual amount, payable for life, on which pensions increase attaches from age 55, or retirement age if greater, equivalent in value to a lump sum of £100

Age	<i>Annual amount, attaching pension increase from age 55, and payable for life, equal in value to a lump sum of £100</i>	
	<i>Female</i>	<i>Male</i>
	£ p	£ p
30	6 75	6 97
31	6 73	6 96
32	6 71	6 95
33	6 69	6 94
34	6 67	6 93
35	6 65	6 93
36	6 64	6 93
37	6 63	6 93
38	6 61	6 93
39	6 61	6 93
40	6 60	6 94
41	6 60	6 96
42	6 60	6 98
43	6 61	7 00
44	6 61	7 03
45	6 63	7 06
46	6 64	7 10
47	6 67	7 15
48	6 70	7 20
49	6 74	7 27
50	6 79	7 35
51	6 85	7 43
52	6 93	7 54
53	7 02	7 67
54	7 12	7 82
55	7 25	7 99
56	7 39	8 17
57	7 53	8 37
58	7 69	8 58
59	7 85	8 80
60	8 03	9 04
61	8 22	9 29
62	8 42	9 57
63	8 64	9 86
64	8 87	10 18
65	9 12	10 52
66	9 40	10 88
67	9 69	11 27
68	10 00	11 68
69	10 33	12 12

TABLE IV(a) (Continued)

Age	Annual amount, attaching pension increase from age 55, and payable for life, equal in value to a lump sum of £100	
	Female	Male
	£ p	£ p
70	10 68	12 59
71	11 07	13 11
72	11 49	13 66
73	11 93	14 25
74	12 42	14 88
75	12 94	15 55
76	13 50	16 29
77	14 10	17 06
78	14 75	17 89
79	15 46	18 80

TABLE IV(b)

The annual amount, attracting pensions increase throughout life,
equivalent in value to a lump sum of £100

Age last birthday	Annual sum, attracting pensions increase throughout life, equal in value to a lump sum of £100	
	Female	Male
	£ p	£ p
23	5 38	5 48
24	5 40	5 51
25	5 42	5 54
26	5 45	5 57
27	5 47	5 60
28	5 50	5 64
29	5 52	5 67
30	5 56	5 71
31	5 59	5 75
32	5 62	5 80
33	5 66	5 84
34	5 69	5 89
35	5 73	5 94
36	5 77	6 00
37	5 82	6 05
38	5 87	6 12
39	5 91	6 18
40	5 97	6 25
41	6 02	6 33
42	6 08	6 40
43	6 14	6 49
44	6 20	6 57
45	6 27	6 67
46	6 35	6 77
47	6 42	6 87
48	6 51	6 98
49	6 59	7 10
50	6 68	7 23
51	6 78	7 36
52	6 89	7 50
53	7 00	7 65
54	7 12	7 81
55	7 25	7 99
56	7 39	8 17
57	7 53	8 37
58	7 69	8 58
59	7 85	8 80

TABLE IV(b) (Continued)

Age last birthday	<i>Annual sum, attracting pensions increase throughout life, equal in value to a lump sum of £100</i>	
	<i>Female</i>	<i>Male</i>
	£ p	£ p
60	8 03	9 04
61	8 22	9 29
62	8 42	9 57
63	8 64	9 86
64	8 87	10 18
65	9 12	10 52
66	9 40	10 88
67	9 69	11 27
68	10 00	11 68
69	10 33	12 12
70	10 68	12 59
71	11 07	13 11
72	11 49	13 66
73	11 93	14 25
74	12 42	14 88
75	12 94	15 55
76	13 50	16 29
77	14 10	17 06
78	14 75	17 89
79	15 46	18 80

TABLE V

The annual amount, which attracts pensions increase from the outset, payable to a widow until death or remarriage, equivalent to a lump sum of £100

<i>Age of widow at date of widowhood</i>	<i>Annual amount</i>	<i>Age of widow at date of widowhood</i>	<i>Annual amount</i>
	£ p		£ p
20	16 67	45	7 61
21	16 67	46	7 55
22	16 67	47	7 50
23	16 67	48	7 46
24	16 31	49	7 44
25	15 20	50	7 43
26	14 27	51	7 43
27	13 50	52	7 45
28	12 85	53	7 47
29	12 33	54	7 51
30	11 89	55	7 56
31	11 47	56	7 63
32	11 04	57	7 72
33	10 62	58	7 81
34	10 18	59	7 93
35	9 77	60	8 07
36	9 39	61	8 24
37	9 06	62	8 42
38	8 77	63	8 64
39	8 53	64	8 87
40	8 31	65	9 12
41	8 11	66	9 40
42	7 94	67	9 69
43	7 81	68	10 00
44	7 70	69	10 33
		70	10 70

TABLE VI

The capital value of each £100 of the total amount of long-term compensation, in which the annual payments attract pensions increase from age 55, according to the outstanding period of long-term compensation

Outstanding number of complete years of long-term compensation	Capital value	
	Female	Male
	£ p	£ p
0	98 65	98 50
1	95 95	95 50
2	93 25	92 60
3	90 65	89 80
4	88 20	87 15
5	85 90	84 70
6	83 70	82 40
7	81 60	80 25
8	79 60	78 20
9	77 70	76 30
10	75 80	74 40
11	73 85	72 45
12	71 80	70 45
13	69 75	68 40
14	67 70	66 40
15	65 65	64 40
16	63 65	62 45
17	61 70	60 55
18	59 80	58 75
19	58 00	57 00
20	56 25	55 30
21	54 55	53 65
22	52 95	52 10
23	51 40	50 60
24	49 90	49 15
25	48 45	47 75
26	47 05	46 40
27	45 75	45 10
28	44 45	43 90
29	43 20	42 75
30	42 05	41 60

SCHEDULE 2

Regulation 3(1)

For the purposes of these regulations "health or welfare purposes" means the purposes of the following Acts—

- (i) the Health Services Act (Northern Ireland) 1971;
- (ii) the Welfare Services Act (Northern Ireland) 1971^(l);
- (iii) the Children and Young Persons Act (Northern Ireland) 1968^(m);
- (iv) the Adoption Act (Northern Ireland) 1967⁽ⁿ⁾;
- (v) the Public Health Act (Northern Ireland) 1967^(o);
- (vi) the Education Act (Northern Ireland) 1947^(p).

^(l) 1971. c. 2 (N.I.).
^(m) 1968. c. 34 (N.I.).
⁽ⁿ⁾ 1967. c. 35 (N.I.).

^(o) 1967. c. 36 (N.I.).
^(p) 1947. c. 3.

EXPLANATORY NOTE

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

1. These regulations made under Article 78 of the Health and Personal Social Services (Northern Ireland) Order 1972 provide for the payment of compensation to or in respect of persons who suffer loss of employment or loss or diminution of emoluments which is attributable to a reorganisation of health and welfare services brought about by a scheme or schemes made under Article 77 of the Health and Personal Social Services (Northern Ireland) Order 1972.

2. Part I of the regulations (with Schedule 1) contains definitions. Part II (with Schedule 2) specifies the persons to whom the regulations apply and the grounds of entitlement to compensation.

3. The compensation payable is—

- (a) resettlement compensation for loss of employment (Part III);
- (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, other dependant or personal representatives of a claimant who was a pensionable officer (Part V).

4. Resettlement compensation is payable in the form of a lump sum to officers with at least two years' service in relevant employment. The qualifying conditions and factors to be considered are set out in regulation 6. The method of calculating the amount of compensation is contained in regulation 7. Adjustment of resettlement compensation is covered by regulation 8. This type of compensation is payable in respect of a period of not less than thirteen weeks nor more than twenty-six weeks.

5. Long-term and retirement compensation are payable to officers with at least five years' service in relevant employment. The qualifying conditions and factors to be considered are set out in regulations 10 and 11.

6. The method of calculating the amount of long-term compensation is laid down in regulation 12 (loss of emoluments) and 13 (diminution of emoluments). This compensation is payable from a date determined under regulation 14 but is not payable for any period in respect of which retirement compensation is payable. In the case of a non-pensionable officer, compensation not exceeding one half of the rate of long-term compensation may be paid beyond normal retiring age (regulation 25).

7. Retirement compensation payable to a pensionable officer is based upon his accrued pension rights (regulations 17 and 19), supplemented in the case of persons aged forty years or over at the date of loss or diminution by the addition of notional years of service, (regulation 16). Special provision is made for any persons whose pension arrangements are by way of policies of insurance (regulation 26). Retirement compensation is ordinarily payable from normal retiring age but in certain circumstances may be put into payment earlier (regulation 18).

8. Compensation is payable to the widow, child, other dependant or the personal representatives of a claimant who dies where such persons would have benefited under the relevant pension scheme (regulations 22 to 24).

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 change in circumstances (regulation 31). 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 on a compensation question or the failure of the Ministry to notify its decision. Appeals will be determined by a tribunal in accordance with the Industrial Tribunals (Employment and Compensation) Regulations (Northern Ireland) 1967.