
STATUTORY INSTRUMENTS

1965 No. 283

The Justices of the Peace Act 1949 (Compensation) Regulations 1965

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Justices of the Peace Act 1949 (Compensation) Regulations 1965, and shall come into operation on 15th March 1965.

Interpretation

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

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

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

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

“the Act” means the Justices of the Peace Act 1949;

“added years” in relation to a contributory employee or local Act contributor who suffers loss of office, means any additional years of service reckonable by him in his office immediately

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prior to the loss in question under Regulation 12 of the Local Government Superannuation (Benefits) Regulations 1954(1) or any corresponding provision of a local Act scheme, or that Regulation or any such provision as aforesaid, as applied by regulations made under Schedule 3 or Schedule 4 to the Local Government Superannuation Act 1953, and includes any additional years of service which, having been granted under any such provision or under any similar provision contained in any other enactment or scheme, have subsequently become and are reckonable under or by virtue of rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948, or any other enactment;

“additional contributory payments” means—

- (a) additional contributory payments of the kind referred to in section 2(3) and (4) of the Local Government Superannuation Act 1953; or
- (b) any similar payments made under a local Act scheme as a condition of reckoning any period of office as service or as a period of contribution for the purposes of the scheme, or, where the scheme provides for the reckoning of non-contributing service, as contributing service for the purposes of the scheme; or
- (c) any payments made for the purpose of increasing the length at which any period of service or of contribution would be reckonable for the purpose of calculating a benefit under a local Act scheme; or
- (d) any payments similar to any of those mentioned in the foregoing sub-paragraphs made in pursuance of rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948;

“contributory employee” and “local Act contributor” have the same meanings as in the Local Government Superannuation Act 1937;

“determining authority” means—

- (a) in the case of a claimant who was employed by a justices' clerk, the magistrates' courts committee by whom the justices' clerk was appointed; or
- (b) in any other case, the magistrates' courts committee by whom the claimant was appointed or employed in the office which has been lost or in respect of which he has suffered loss or diminution of emoluments;

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

“net emoluments” means—

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

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

“justices' clerk” includes a clerk to a stipendiary magistrate, a clerk to a metropolitan stipendiary court and a clerk to the justices of a liberty;

“local authority” means the council of a county, county borough, metropolitan borough, London borough, county district, rural parish or borough included in a rural district and includes the Greater London Council, the Common Council of the City of London, the council of the Isles of Scilly, any two or more of those authorities acting jointly, and any joint committee, combined authority or joint board and a police authority for a county, a borough or a combined police area;

“long-term compensation” means compensation payable in accordance with the provisions of Part IV of these Regulations for loss of office or loss or diminution of emoluments ;

“material date” means—

- (a) in relation to any person who has suffered loss of office or loss or diminution of emoluments which is attributable to the making of an order under section 18 of the Act, the date on which the order was made or such other date or dates as may be specified in the order in relation to him for all or any of the purposes of these Regulations; and
- (b) in relation to any person who has suffered such loss or diminution which is attributable to one of the events specified in paragraph (b) or (c) of Regulation 4 of these Regulations, the date on which the event occurred;

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

“national service” means service which is relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, and includes service immediately following such service as aforesaid, being service in any of Her Majesty's naval, military or air forces pursuant to a voluntary engagement entered into with the consent—

- (a) in the case of a person whose last relevant employment was as a justices' clerk, of the authority by whom he was appointed, or
- (b) in the case of any other person, of the authority or person under whom he held his last relevant employment;

“normal retiring age” means, in the case of a pensionable officer to whom an age of compulsory retirement applied by virtue of any pension scheme to which he was subject in the office he has lost or the emoluments of which have been diminished or by virtue of the conditions of that office, that age, and in any other case—

- (a) in relation to a person claiming compensation in respect of the office of justices' clerk, the age of seventy years, and
- (b) in relation to any other person, the age of sixty-five years if the officer is a male, or sixty years if the officer is a female;

“office” includes employment, and the expression “officer” shall be construed accordingly;

“paying authority” means—

- (a) where the office in respect of which a claim arises was that of justices' clerk—

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- (i) in the case of a clerk to the justices for a borough having a separate commission of the peace, the council of that borough,
 - (ii) in the case of a clerk to the justices for a petty sessional division of one of the outer London areas, the Greater London Council, and
 - (iii) in any other case, the council of the county in which is comprised the petty sessions area or place in and for which the justices to whom the claimant was clerk acted; and
- (b) where the employment in respect of which a claim arises consisted of assisting the holder of such an office as aforesaid, the authority which would be the paying authority if the claim were in respect of the said office;

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

“outer London areas” has the same meaning as in the Administration of Justice Act 1964;

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

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

“relevant employment” means employment in any of the following offices or employments, that is to say:—

- (a) clerk of the peace,
- (b) deputy clerk of the peace,
- (c) justices' clerk,
- (d) employment in assisting the holder of an office mentioned in any of the foregoing paragraphs of this definition in the performance of the duties of that office,
- (e) service as collecting officer or in the employment of a collecting officer,
- (f) employment under the Crown or in the service of a local authority in Great Britain,
- (g) employment by any authority or body for the purposes of the Crown or of local government in Great Britain,
- (h) employment under any officer employed as mentioned in paragraph (f) or (g) of this definition for the purposes of the functions of the employing authority or body,
- (i) employment preceding any of the foregoing offices or employments which was reckonable for the purposes of any pension scheme associated with the office which has been lost, or
- (j) such other employment as the Secretary of State 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 office suffered by a person to whom these Regulations apply;

“retirement compensation” means compensation payable in accordance with the provisions of Regulation 18, 19, 20 or 21 of these Regulations;

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

“war service” means war service within the meaning of the Local Government Staffs (War Service) Act 1939, the Teachers Superannuation (War Service) Act 1939, the Police and Firemen (War Service) Act 1939 or employment for war purposes within the meaning of the Superannuation Schemes (War Service) Act 1940 and includes any period of service in the First World War in the armed forces of the Crown or in the forces of the Allied or Associated Powers if such service immediately followed a period of relevant employment and was undertaken either compulsorily or with the permission of the authority or person by whom the holder of that employment was appointed or employed.

(2) In relation to a justices' clerk who before the coming into operation of section 19 of the Act was a collecting officer of any court, any emoluments in respect of his services as collecting officer shall, for the purposes of these Regulations, be treated as emoluments in respect of the duties of the clerkship and his duties as clerk shall, for the said purposes, be treated as including his services as collecting officer.

(3) 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 tables for the time being approved by the Secretary of State for the purposes of these Regulations.

(4) The holder of the office of justices' clerk, clerk of the peace or deputy clerk of the peace shall, for the purposes of these Regulations, be regarded as employed in that office, and the expression “employment” shall be construed accordingly.

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

(6) The Interpretation Act 1889 shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.