
STATUTORY INSTRUMENTS

1965 No. 620

The Probation (Compensation) Regulations 1965

PART VI

ADJUSTMENT, REVIEW AND COMPOUNDING OF COMPENSATION

Adjustment of compensation where superannuation benefit is also payable

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

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

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

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

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

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

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

Reduction of compensation in certain cases

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

Notification of compensating authority as to entry into certain employments

34. Where—

- (a) a pensionable officer after suffering loss of employment or diminution of emoluments enters any employment referred to in Regulation 22 of these Regulations or becomes entitled to any superannuation benefit on ceasing to hold such employment, or
- (b) a person entitled to long-term compensation enters employment the remuneration whereof is payable out of public funds, or ceases to hold such employment, or receives any increase in his remuneration in such employment, or
- (c) a person entitled to retirement compensation enters employment in which the compensation is subject to reduction or suspension under Regulation 33 of these Regulations, or ceases to hold such employment, or receives any increase in his remuneration in such employment,

he shall forthwith inform the compensating authority in writing of that fact.

Review of award of long-term or retirement compensation

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

(2) The claimant may require the compensating authority to carry out the review mentioned in the last foregoing paragraph at any time within the period of two years 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 compensating authority shall carry out a review in accordance with paragraph (1) of this Regulation, notwithstanding the expiration of the period mentioned in that paragraph if—

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

- (b) such employment or work has been lost or the emoluments thereof reduced otherwise than by reason of misconduct or incapacity to perform such duties as the claimant might reasonably have been required to perform, and
- (c) the compensating authority is satisfied that such loss or reduction is causing hardship to the claimant,

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

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

Provided that—

- (i) no review shall take place after the date on which the claimant ceases to hold the employment in which his emoluments were diminished, except a review as at that date; and
- (ii) while the claimant continues to hold that employment there shall be no limit to the period within which a review may take place.

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

- (a) the claimant is engaged in employment (hereinafter referred to as his “current employment”) the remuneration whereof is payable out of public funds and which he has undertaken in place of the employment he has lost or, as the case may be, the employment in which his emoluments were diminished, and
- (b) the aggregate of the net emoluments of his current employment and the long-term compensation payable to him exceed the net emoluments of the employment he has lost or, as the case may be, the amount of his net emoluments prior to their diminution,

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

(6) The compensating authority shall give to a claimant not less than fourteen days' notice of any review to be carried out under this Regulation otherwise than at his request.

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

Compounding of awards

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

(2) In any other case the compensating authority may, if the person who has been awarded long-term or retirement compensation requests them to do so and they, in their discretion, after having regard to the state of health of that person and the other circumstances of the case, deem fit, compound up to one quarter of their liability to make payments under the award (other than

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payments to a widow, child or other dependant under Regulation 24 of these Regulations) by the payment of an equivalent amount as a lump sum or, where any compensation has been awarded as a lump sum, by increasing that compensation to such equivalent amount; and in calculating for this purpose the liability of the authority to make payments, account shall be taken of the annual value of lump sum payments of compensation.

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