
STATUTORY INSTRUMENTS

1970 No. 187

**The British Transport (Compensation
to Employees) Regulations 1970**

PART IV

**LONG-TERM COMPENSATION FOR LOSS OF EMPLOYMENT OR LOSS
OR DIMINUTION OF EMOLUMENTS OR WORSENING OF POSITION**

Long-term compensation

12. The compensating authority 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 13 and this Part of these regulations shall apply to that person.

Conditions for payment of long-term compensation

13.—(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, before, on, or not later than 10 years after the date of the relevant event, suffered loss of employment or loss or diminution of emoluments or worsening of his position, being loss, diminution or worsening (as the case may be) which is properly attributable to the happening of the relevant event;
- (b) he has not, save as is provided in regulation 17, at the date of such loss, diminution or worsening attained normal retiring age;
- (c) he has, for a period beginning 8 years immediately before the second material date and ending on the date of the attributable loss, been continuously engaged (without a break of more than 12 months at any one time) on a full-time basis in relevant employment; and for this purpose the expression “relevant employment” includes any period of national service immediately following such employment;
- (d) he has made a claim for such compensation in accordance with the provisions of Part VII of these regulations not later than—
 - (i) 2 years after the date on which the loss, diminution or worsening which is the cause of his claim was suffered, or
 - (ii) 2 years after the coming into operation of these regulations, or
 - (iii) in a case where the claimant could not reasonably have known of the existence of the cause of his claim for compensation at the time when it in fact occurred, 2 years after the first date on which he could reasonably have known of its existence,whichever is the latest; and
- (e) if the cause of the claim for compensation is loss of employment—

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- (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 a nationalised transport body, an Executive or a subsidiary of either of those bodies.

(2) If the cause of the claim for compensation is loss of employment paragraphs (2) and (3) of regulation 7 (which relate to offers of employment) shall apply for the purposes of this regulation as they apply for the purposes of regulation 7.

(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.

(4) Any person to whom this Part of these regulations applies and who, by reason of his position as an officer being worsened, has suffered any loss or injury attributable to the happening of the relevant event, not being a pecuniary loss in respect of which he is entitled to any other compensation or payments under Part IV or V of these regulations, shall, subject to the provisions of these regulations, be entitled to receive in respect of that loss or injury, long-term compensation for the worsening of his position calculated in the following manner, that is to say—

- (a) the pecuniary value of the loss or injury shall be expressed in terms of his net emoluments immediately before his position was worsened,
- (b) such person shall be treated for the purposes of these regulations as a person who has suffered a diminution of emoluments the amount of which is equal to the pecuniary value so expressed, and
- (c) where that person has been awarded any other long-term compensation, as well as compensation for the worsening of his position, the sums payable in respect of that other compensation shall, for the purposes of adjusting, suspending or withholding any long-term compensation under regulation 31 or 32 or both, be aggregated with any sums payable in respect of the compensation for worsening of his position and the payments of the sums so aggregated shall be regarded for those purposes as combined payments under the award of that other long-term compensation and not as separate payments under each of the awards of long-term compensation.

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

14.—(1) For the purpose of determining the amount (subject to the limits set out in these regulations) of long-term compensation (if any) payable under these regulations to any person for loss or diminution of emoluments, the compensating authority shall 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, or the emoluments of which have been lost or diminished, 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;
- (d) all the other circumstances of his case:

Provided that if the claimant entered the employment which he has lost or in which he has suffered the diminution of emoluments, after the first material date, no account shall be taken of that fact for the purpose of this regulation.

(2) In ascertaining for the purposes of paragraph (1)(c) whether a person has been offered suitable employment in a case where the cause of the claim for compensation is loss of employment, regulation 7(3) shall apply as it applies for the purpose of ascertaining whether employment is reasonably comparable with employment which has been lost.

Amount of long-term compensation payable for loss of emoluments

15.—(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 as hereinafter provided, be the aggregate of the following sums, namely—

- (a) for every year of the person's reckonable service, one sixtieth of the net emoluments which he has lost; and
- (b) in the case of a person who has attained the age of 40 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 net 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 40 years but has not attained the age of 50 years at the date of the loss, the following fraction of the net emoluments which he has lost—
 - (i) where his reckonable service is less than 10 years, one sixtieth for each year of such service after attaining the age of 40 years; or
 - (ii) where his reckonable service amounts to 10 years but is less than 15 years, one sixtieth for each year of such service after attaining the age of 40 years and one additional sixtieth; or
 - (iii) where his reckonable service amounts to 15 years but is less than 20 years, one sixtieth for each year of such service after attaining the age of 40 years and two additional sixtieths; or
 - (iv) where his reckonable service amounts to 20 years or more, one sixtieth for each year of such service after attaining the age of 40 years and three additional sixtieths;

but the sum so calculated shall not in any case exceed one sixth of the said net emoluments;

- (b) in the case of a person who has attained the age of 50 years but has not attained the age of 60 years at the date of the loss, one sixtieth of the said net emoluments for each year of his reckonable service after attaining the age of 40 years, up to a maximum of 15 years; and
- (c) in the case of a person who has attained the age of 60 years at the date of the loss, one sixtieth of the said net emoluments for each year of his reckonable service after attaining the age of 45 years.

(4) Where a person has become entitled (whether immediately or prospectively on attaining some greater age) to a pension by way of annual amounts under his last relevant pension scheme, 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) Where long-term compensation is payable in respect of any period and resettlement compensation has also been paid in respect of that period, the long-term compensation for that period shall be limited to the amount (if any) by which it exceeds the resettlement compensation paid as aforesaid.

(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 compensating authority.

Long-term compensation for diminution of emoluments

16. Long-term compensation for diminution of emoluments in respect of any employment shall, subject to the provisions of these regulations, be awarded and paid in accordance with the following provisions:—

- (a) the compensation shall consist of an annual sum which 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 compensating authority, and shall, subject to the provisions of these regulations, be payable until normal retiring age or death, whichever first occurs; and
- (b) the said annual sum shall not exceed the maximum annual sum which could have been awarded under regulation 15 if the person had suffered loss of employment and the loss of emoluments occasioned thereby had been equivalent to the amount of the diminution:
Provided that no compensation shall be payable if the emoluments have been diminished by less than 2½ per cent.

Compensation payable to non-pensionable officer on reaching normal retiring age

17.—(1) Where a person to whom this Part of these regulations applies and who is not a pensionable officer is receiving long-term compensation for loss or diminution of emoluments or worsening of his position and attains normal retiring age, the compensating authority may, if satisfied that the person would have continued to work as an officer for a substantial period beyond normal retiring age, continue to pay compensation to him for the remainder of his life at half its former rate.

(2) Where a person to whom this Part of these regulations applies and who is not a pensionable officer suffers loss or diminution of emoluments, or worsening of his position, on or after attaining normal retiring age, the compensating authority may, if satisfied that the person had he not so suffered would have continued in the normal course of events to work for a substantial period as an officer, pay compensation to him for the remainder of his life at a rate not exceeding one half of that to which he would have been entitled under regulation 15 had he not attained normal retiring age at the date on which he suffered the loss, diminution or worsening, as the case may be.

Date from which long-term compensation is to be payable

18.—(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 13 weeks of the occurrence of the loss or diminution which is the cause of the claim, or within 13 weeks of the coming into operation of these regulations whichever is the later, 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 compensating authority, be made retrospective to a date not earlier than 13 weeks prior to the date on which the claim was made:

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Provided that if the compensating authority are 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.