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STATUTORY INSTRUMENTS

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**1970 No. 749**

**The Passenger Transport (Compensation  
to Officers) Regulations 1970**

**PART V**

**RETIREMENT COMPENSATION AND PAYMENTS ON DEATH**

**Entitlement to retirement compensation and other payments**

**18.**—(1) The compensating authority 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 26 to 30.

(2) Save as is provided in regulation 29, this Part of these regulations applies to a pensionable officer who satisfies the conditions set out in regulation 13 and for the purposes of such application paragraph (3) of that regulation shall have effect as if for the reference therein to claims for long-term compensation there were substituted a reference to claims for retirement compensation.

(3) Regulation 14 shall apply in relation to retirement compensation as it applies in relation to long-term compensation.

**Additional factors governing payment of retirement compensation**

**19.**—(1) Where retirement compensation is payable under any one of regulations 20, 21, 22 and 23, such compensation shall not be payable under any other of those regulations.

(2) If a person has attained the age of 40 years at the date on which he lost his employment or suffered a diminution of his emoluments, the compensating authority, in calculating the amount of the retirement compensation payable to him, shall credit him with additional years of service or an additional period of contribution on the following basis, namely—

- (a) 2 years, whether or not he has completed any years of service after attaining the age of 40 years, and
- (b) 2 years for each of the first 4 completed years of his reckonable service between the date when he attained the age of 40 years and the date of the loss or diminution, and
- (c) one year for each such year of service after the fourth, but the additional years of service or period of contribution so credited shall not exceed the shortest of the following periods, namely—
  - (i) such number of years as, when added to his pensionable service, would amount to the maximum period of such service which would have been reckonable by him had he continued in his employment until attaining normal retiring age, or
  - (ii) the number of years of his reckonable service, or
  - (iii) 15 years;

and in calculating the amount of any retirement compensation payable to him any period so added shall be aggregated with any years of service or period of contribution entailing reduction of the

relevant pension or retiring allowance because of a retirement pension payable under section 30 of the National Insurance Act 1965.

(3) When retirement compensation is awarded, or when an award is reviewed under regulation 35, the additional compensation payable in consequence of any years of service or period of contribution credited to a person under paragraph (2) may be reduced or withheld to such extent as the compensating authority may think reasonable having regard to the pension scheme (if any) associated with any further employment obtained by him.

(4) If under his last relevant pension scheme the amount of any benefit to which a person might have become entitled could have been increased at the discretion of the authority administering the pension scheme or of any other body, the compensating authority 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; and in this connection the compensating authority shall have regard to the terms of any relevant resolution of the authority or body with regard to the increase of benefits and to the provisions of any enactment protecting the interests of that person.

(5) 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 compensating authority 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 compensating authority as if the said annual sum were a pension to which he had become entitled under the said pension scheme.

(6) In calculating for the purposes of regulation 20, 21 or 22 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.

(7) In paragraph (2) the expression "reckonable service" includes any period of employment of which account has been taken or is required to be taken in calculating the amount of any superannuation benefit to which a person has become entitled under a pension scheme associated with the employment which he has lost or, as the case may be, the employment in which his emoluments were diminished.

### **Retirement compensation for loss of emoluments payable to pensionable officer on attainment of normal retiring age**

**20.**—(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) Where an annual sum is payable under this regulation in respect of any period and resettlement compensation is also payable in respect of that period, the said annual sum shall be limited to the amount (if any) by which it exceeds the resettlement compensation so payable as aforesaid.

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

**21.**—(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, in lieu of any compensation to which he would otherwise be entitled under these regulations—

- (i) in the case mentioned in sub-paragraph (a) of this paragraph, 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) of this paragraph, 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 compensating authority shall consider whether the claimant is a person to whom that paragraph applies, and within 13 weeks after the date of the receipt of the claim—

- (a) if they are satisfied that he is not such a person, they shall notify him in writing accordingly; or
- (b) if they are satisfied that he is such a person, they shall assess the amount of compensation payable to him and notify him in writing accordingly;

and any such notification shall, for the purposes of these regulations, be deemed to be a notification by the authority of a decision on a claim for compensation.

(3) A compensating authority 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 that authority and, if they do so, they shall also afford the person an opportunity of submitting a report from his own medical adviser as a result of an examination by him, and the authority shall take that report into consideration together with the report of the medical practitioner selected by them.

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

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

- (a) where the compensating authority, by virtue of regulation 19, have credited the person with additional years of service or an additional period of contribution, no account shall be taken of any additional years or period beyond the number of years which he could have served, had he not lost his employment, before the date on which the claim was received by the compensating authority; 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 years or period

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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 such proportion of such minimum benefit as the number of years of pensionable service bears to the minimum number of years of qualifying service.

### **Option to take retirement compensation prematurely**

**22.**—(1) If a person to whom this Part of these regulations applies has suffered loss of employment after attaining the age of 50 years and so requests the compensating authority by notice in writing, he shall be entitled, as from the date on which the compensating authority receive such notice, to 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), and in that event he shall not be entitled to receive any further payment of long-term compensation after that date:

Provided that—

- (i) in calculating the amount of the compensation payable to a person who has given such notice as aforesaid no account shall be taken of any additional years of service or period of contribution credited to him under regulation 19; and
- (ii) where the person has claimed long-term compensation the said notice shall be given not later than 2 years after a decision on the claim has been notified or, where the decision has been reviewed under regulation 35(3), not later than 2 years after the review, or if there has been more than one such review, after the latest.

(2) Regulation 21(2) shall apply in relation to a notice given under the last foregoing paragraph as it applies to a claim made under paragraph (1) of that regulation.

(3) Where an annual sum is payable under this regulation in respect of any period and resettlement compensation is also payable in respect of that period, the said annual sum shall be limited to the amount (if any) by which it exceeds the resettlement compensation so payable as aforesaid.

### **Retirement compensation for diminution of emoluments**

**23.** Regulations 20 and 21 shall apply to a person to whom this Part of these regulations applies and who has suffered a diminution of his emoluments, 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:

Provided that no compensation shall be payable—

- (i) if the emoluments have been diminished by less than 2½ per cent; or
- (ii) if the person has continued to pay superannuation contributions as if his emoluments had not been diminished.

### **Superannuation contributions**

**24.**—(1) A person entitled to retirement compensation under regulation 20, 21 or 22 shall pay to the compensating authority 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 compensating authority 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 compensating authority, or is repaid by them

to the person, the 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.

(3) Any sums paid to a compensating authority under this regulation in respect of returned contributions shall, except in so far as they are repaid to the officers concerned, be applied for the payment of compensation which the authority is liable to pay under this Part of these regulations.

### **Retirement compensation of a person who obtains further pensionable employment**

**25.**—(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 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 such loss or diminution exceeds the annual rate on entry of the emoluments of the new employment by more than 2½ per cent. of such first mentioned emoluments, and any retirement compensation so payable to him shall, in so far as it is calculated by reference to remuneration, be calculated by reference to the difference between the said annual rates:

Provided that—

- (i) if on entering the new employment a person—
  - (a) becomes a contributory employee or local Act contributor and
  - (b) becomes entitled to reckon as non-contributing service, or as service at half length for purposes of a local Act scheme, any service or period of contribution which immediately before the loss of employment or the diminution of emoluments was reckonable as contributing service or a period of contribution,  
one-half of that service or period shall not be subject to the provisions of this paragraph;
- (ii) this paragraph 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.

(2) No retirement compensation shall be payable in the circumstances mentioned in paragraph (1) if the person has continued to pay superannuation contributions as if his emoluments had not been diminished.

### **Compensation payable to widow or dependants of a claimant**

**26.**—(1) Payments in accordance with this regulation and regulations 27 and 28 shall be made to or for the benefit of the widow, child or other dependant or to the personal representatives of a person to whom this Part of these regulations applies or, as the case may be, to trustees empowered by such a person to stand possessed of any benefit under his last relevant pension scheme.

(2) If the widow, child or other dependant of that person might have become entitled but for the loss of his employment 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) where the pension scheme provides for a prescribed proportion, an annual sum equal to the prescribed proportion of any retirement compensation by way of annual amounts payable

to the person under regulation 20, 21 or 22 immediately before his death or, if he dies before becoming entitled to receive compensation under any of those regulations, the prescribed proportion of the compensation by way of annual amounts which he would have received under regulation 21 had he become entitled thereto immediately before his death, and

- (b) where the pension scheme does not provide for a prescribed proportion, such an annual sum as is provided by paragraph (3):

Provided that—

- (i) where any retirement compensation has been surrendered under regulation 19(5) or compounded under regulation 36, any sum payable under sub-paragraph (a) shall be calculated as if such surrender or compounding had not taken place, and
- (ii) in calculating the sum payable under sub-paragraph (a) it shall be assumed that the retirement compensation payable, or which would have been payable, to a person under regulation 20, 21 or 22 had been such sum as would have been payable if the accrued pension or accrued incapacity pension had not been reduced by reason of the provisions of any Act relating to National Insurance.

(3) The sum mentioned in paragraph (2)(b) shall be an annual sum equal to the annual amount of the pension (calculated in the manner specified in paragraph (4)) to which the widow, child or other dependant of the person in question would have become entitled if he had died immediately before the date on which he suffered the loss of employment, having then complied with any requirements of the last relevant pension 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 then in the course of making.

(4) The calculation referred to in paragraph (3) shall be made on the basis of the method prescribed by the last relevant pension scheme of the person in question for the calculation of benefits for a widow, child or other dependant and in so far as the age at which he died is relevant for the purposes of the said calculation, the date on which he died shall be taken to be the actual date of his death, the provisions of paragraph (3) to the contrary notwithstanding.

(5) Any annual sum 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 annual 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.

(6) Except where the compensation has been reduced under regulation 24, compensation payable under this regulation and regulation 27 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 24(2) returned to the person in respect of whom the compensation is payable and either not paid to the compensating authority or repaid to him by the compensating authority, the compensation under each such regulation being reduced in proportion to the capital value of each amount.

(7) If the person in question suffered a diminution of emoluments, then

- (a) where his last relevant pension scheme provides for a prescribed proportion, the provisions of paragraph (2)(a) shall apply with the substitution of references to diminution of emoluments for references to loss of employment, and the annual sum payable to a widow, child or other dependant of such a person 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:

Provided that no sum shall be payable under this sub-paragraph—

- (i) if the emoluments have been diminished by less than 2½ per cent; or

- (ii) if the person has continued to pay superannuation contributions as if his emoluments had not been diminished; and
- (b) where the said scheme does not provide for a prescribed proportion, the provisions of paragraph (2)(b) and of regulation 33(4)(a) shall apply with the substitution of references to diminution of emoluments for the references to loss of employment and of a reference to employment in which he has suffered such a diminution for the reference to employment which he has lost:

Provided that no sum shall be payable under this sub-paragraph if the sum calculated thereunder amounts to less than 2½ per cent of such sum as would have been payable had the person in question suffered a loss of employment instead of a diminution of emoluments.

(8) In 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 grant would have been payable**

27.—(1) If the widow, the personal representatives of a person to whom this Part of these regulations applies or trustees empowered by such a person to stand possessed of any benefit under his last relevant pension scheme, might have become entitled to a death grant 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 26(6) 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 grant as if the person had died immediately before losing his employment, subject to the following modifications—

- (a) except where the person had been in receipt of retirement compensation under regulation 22, account shall be taken of any additional years of service or period of contribution credited to him under regulation 19(2)—
  - (i) in the case of a person who had been in receipt of retirement compensation under regulation 21, 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 number of years of the person's service or period of contribution is less than the minimum number of years of qualifying service or period prescribed by the pension scheme for the receipt of a death grant, the said sum shall not exceed such proportion of the death grant calculated as aforesaid as the number of years of the person's pensionable service or period of contribution bears to the minimum number of years of qualifying service or period prescribed by the pension schemes; and
- (c) there shall be deducted from such sum the amount of any retirement compensation paid to the person under regulation 20, 21 or 22, or where any part of the compensation has been surrendered under regulation 19(5), the amount which would have been so paid but for any such surrender.

(3) For the purpose of calculating such death grant, an annual sum payable under either paragraph (2)(a) or paragraph (7)(a) of regulation 26 to or for the benefit of a 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 said widow, personal representatives or trustees of such a person 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:

Provided that no sum shall be payable under this paragraph—

- (i) if the emoluments have been diminished by less than 2½ per cent; or
- (ii) if the person has continued to pay superannuation contributions as if his emoluments had not been diminished.

### **Balance payable to claimant's widow or personal representatives**

**28.**—(1) If no annual sum is payable to the widow, child or other dependant of any person under regulation 26(2)(a) or (7)(a) and no sum is payable under regulation 27 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 repaid by him under regulation 24, together with compound interest thereon calculated at the rate of 3 per cent per annum with half-yearly rests up to the date of his death as from the 1st April or 1st October following the half year in which the amount was paid, 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 an annual sum becomes payable to a widow under either paragraph (2)(a) or paragraph (7)(a) of regulation 26 and on her re-marriage or death the sum ceases to be payable, and any sum 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, personal representatives or trustees under regulation 27 is less than a sum equivalent to the amount which would have been payable to the personal representatives under that regulation if no annual sum had been payable under either of the said paragraphs (2)(a) or (7)(a), there shall be paid to her or her personal representatives 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 19(5) shall be deemed to have received during any period the amount of compensation for that period which he would have received but for any such surrender.

### **Compensation payable to non-pensionable officer on reaching retiring age**

**29.**—(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 compensating authority 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 compensating authority 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 15 had he not attained normal retiring age at the date on which he lost his employment.

### **Persons subject to policy schemes**

**30.**—(1) Regulations 20, 21, 22, 23 and 27 shall not apply to a person (in this regulation referred to as a “policy scheme participant”) who has 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 compensating authority 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 19(2) or (4) had he been a person to whom regulation 20, 21 or 22 applied.

(3) If a policy scheme participant has suffered a diminution of his emoluments, the compensating authority 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 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 compensating authority may reduce any long-term compensation payable to him by the amount of such benefit.

#### **Intervals for payment of compensation under Part V**

**31.** Any compensation awarded as an annual sum 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 compensating authority.