
STATUTORY INSTRUMENTS

1974 No. 540

The Fire Services (Compensation) Regulations 1974

PART VII

PROCEDURE AND MISCELLANEOUS

Procedure on making claims

32.—(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 compensating authority in writing and shall state whether any other claim for compensation has been made by the claimant under these Regulations.

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

(4) The compensating authority shall consider any such claim or request in accordance with the relevant provisions of these Regulations and shall notify the claimant in writing of their decision—

- (a) in the case of a claim for resettlement compensation, not later than 1 month after the receipt of the claim,
- (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 1 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 compensating authority 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 compensating authority (whether granting or refusing compensation or reviewing an award, or otherwise affecting any compensation under these Regulations) shall contain a statement—

- (a) giving reasons for the decision;
- (b) showing how any compensation has been calculated and, in particular, if the amount is less than the maximum which could 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 39, if he is aggrieved by the decision, to institute proceedings before a tribunal and giving him the address to which any application instituting those proceedings should be sent.

Claimants to furnish information

33.—(1) Any person claiming or receiving compensation or whose award of compensation is being reviewed shall furnish all such information that the compensating authority may at any time

reasonably require; and he shall verify that information in such manner, including the production of documents in his possession or control, as may be reasonably so required.

(2) Such a person shall, on receipt of reasonable notice, present himself for interview at any place that the compensating authority 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

34.—(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 that person, and the relevant provisions of these Regulations shall be construed accordingly.

(3) The compensating authority may in any case where a person who, if he had survived could have been a claimant, has died, extend the period within which a claim under Regulation 7 or 12 is to be made by his personal representatives.

Calculation of service

35. For the purpose of making any calculation under these Regulations in respect of a person's reckonable service, all periods of that service shall be aggregated, and 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 equals or exceeds 6 months, be treated as a year, and shall, in any other case be disregarded.

Emoluments

36.—(1) In these Regulations, subject to the provisions of paragraph (2) and Regulation 37 (temporary variation of emoluments) the expression “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 accommodation 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.

(2) 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 5 years immediately preceding the loss or diminution, or such other period as the compensating authority may think reasonable in the circumstances.

(3) 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 the amount described in (a), (b) or (c) of this paragraph, whichever is the greater—

- (a) the emoluments received by him in the period of 12 months immediately preceding the loss or diminution;
- (b) 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 12; or

- (c) 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 52.

Temporary variation of emoluments

37. 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—

- (a) no account shall be taken of any temporary increase or decrease in the amount of the person's emoluments which is attributable to the passing or making of any provision mentioned in Regulation 4 and otherwise than in the ordinary course of his employment, and
- (b) in any case where an office becomes vacant by reason of the last holder thereof either becoming a person duly entitled, in respect of the same employment, to benefits payable under regulations made under section 260(3) of the Local Government Act 1972 (early retirement of Chief Officers) or entering an employment to which Article 10 of the Local Government (New Councils etc.) Order 1973(1) applies, any increase in the amount of a person's emoluments which is, after the date of commencement of the regulations or the order relating to that person, attributable to—
- (i) his filling that office in an acting or temporary capacity, or
- (ii) his performance of, or responsibility for, the duties of that office, shall be disregarded.

Compensation not assignable

38.—(1) Subject to any statutory provision in that behalf, any compensation under these Regulations shall be paid by the compensating authority and (except in the case of compensation payable in accordance with Regulation 24(4)) shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable.

(2) Without prejudice to any other right of recovery, any compensation paid in error may be recovered by the compensating authority by deduction from any compensation payable under these Regulations.

Right of appeal from decision of compensating authority

39.—(1) Every person who is aggrieved by any decision of the compensating authority with respect to a compensation question or by any failure on the part of the compensating authority to notify him of any such decision within the appropriate time prescribed by these Regulations, may within 13 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 Industrial Tribunals (Industrial Relations, etc.) Regulations 1972(2) and these Regulations; and the tribunal shall determine the question accordingly.

(2) Every interested authority aggrieved by any decision of the compensating authority with respect to a compensation question may, within 13 weeks of the notification to them of the decision, institute proceedings for the determination of the question by a tribunal in accordance with the Industrial Tribunals (Industrial Relations etc.) Regulations 1972 and these Regulations; and the tribunal shall determine the question accordingly.

(1) (1973 I, p. 1535).

(2) (1972 I, p. 91).

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(3) For the purpose of any proceedings described in paragraph (1) a person or persons may be appointed to sit with the tribunal as assessor or assessors.

(4) The compensating authority 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.