
EXPLANATORY NOTE

1. These Regulations provide for the payment of compensation to or in respect of justices' clerks and their assistants who suffer loss of office or loss or diminution of emoluments which is attributable to—

- (a) the making of an order under section 18 of the Justices of the Peace Act 1949 about the division of an area into petty sessional divisions,
- (b) the grouping of clerkships under Part III of that Act, or
- (c) the conversion of part-time clerkships into a whole-time clerkship under the said Part III.

2. These Regulations supersede the Justices of the Peace Act 1949 (Compensation) Regulations 1965. They provide a similar basis of compensation for justices' clerks and their assistants who suffer loss of office or loss or diminution of emoluments as a result of the circumstances set out above as was provided in the Local Government (Compensation) Regulations 1974 for persons who suffered such loss as a result of local government re-organisation.

3. Regulation 4(2) has retrospective effect; (this is authorised by section 24 of the Superannuation Act 1972). It allows compensation to be paid under these Regulations to a justices' clerk or his assistant who on or after 1st April 1974 suffered loss of office or loss or diminution of emoluments, attributable to the circumstances set out in paragraph 1 above. This is subject to the provisos that he must not be placed in a worse position under these Regulations than under the said Regulations of 1965 and that in assessing compensation under these Regulations account must be taken of any compensation paid to him under the Regulations of 1965.

4. The responsibility for deciding questions concerning the eligibility for, and the amount of, compensation rests with the appropriate magistrates' courts committee. The appropriate local authority is responsible for paying any compensation awarded. In the Regulations the bodies carrying these functions are respectively referred to as the “determining authority” and the “paying authority”.

5. Part I of the Regulations (with the Schedule) contains definitions. Part II specifies the persons to whom the Regulations apply and the grounds of entitlement to compensation.

6. The compensation payable is:

- (a) resettlement compensation for loss of office (Part III);
- (b) long-term compensation for loss of office or loss or diminution of emoluments (Part IV);
- (c) retirement compensation for loss of office or loss or diminution of emoluments (Part V);
- (d) compensation to the widow, child or other dependant or to the personal representatives of a claimant who was a pensionable officer (Part V).

7. Resettlement compensation is payable in a lump sum to officers with at least 2 years' service in relevant employment. The qualifying conditions and factors to be considered are set out in Regulation 7, and the methods of calculation are set out in Regulations 8 and 9.

8. Long-term and retirement compensation is payable to officers with at least 5 years' service in relevant employment. The qualifying conditions and factors to be considered are set out in Regulations 11 and 12.

9. The method of calculating the amount of long-term compensation is laid down in Regulations 13 (loss of emoluments) and 14 (diminution of emoluments). The compensation is payable from the date determined under Regulation 15, but is not payable for any period in respect of which retirement compensation is payable. In the case of a non-pensionable officer, compensation not exceeding one half of the rate of long-term compensation may be paid beyond normal retiring age (Regulation 26).

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10. Retirement compensation payable to a pensionable officer is based upon his accrued pension rights (Regulations 18 and 20) supplemented in the case of persons aged 40 or over at the date of the loss or diminution by the addition of notional years of service (Regulation 17). Special provision is made for any persons whose pension arrangements are by way of policies of insurance (Regulation 27). Retirement compensation is ordinarily payable from normal retiring age, but in certain circumstances is payable earlier (Regulation 19).

11. Compensation is payable to the widow, child or other dependant or to the personal representatives or trustees of a claimant who dies where such persons would have benefited under the relevant pension scheme (Regulations 23 to 25).

12. Part VI provides for long-term and retirement compensation to be reviewed and for awards to be varied in the light of changing circumstances (Regulation 32). It also contains provisions for the adjustment, suspension and compounding of compensation in certain circumstances.

13. Part VII contains provisions relating to the procedure for making claims and notifying decisions. A right is given to a claimant who is aggrieved by a decision on the compensation question or the failure of the determining authority to notify its decision to refer the question for determination by a tribunal in accordance with the Industrial Tribunals (Labour Relations) Regulations 1974.