
STATUTORY INSTRUMENTS

1978 No. 1682

**The Justices of the Peace Act 1949
(Compensation) Regulations 1978**

PART III

RESETTLEMENT COMPENSATION

Resettlement compensation for loss of office

6. The determining authority shall, subject to the provisions of these Regulations, consider and determine the entitlement to resettlement compensation of every person to whom these Regulations apply and who satisfies the conditions set out in Regulation 7.

Conditions for payment of resettlement compensation

7.—(1) Without prejudice to any other requirement of these Regulations, the conditions for the payment of resettlement compensation to any person are that—

- (a) he has suffered loss of office attributable to one of the events specified in Regulation 4 on, or not later than 10 years after, the material date,
- (b) he had not at the date of the loss attained normal retiring age;
- (c) he had been for a period of 2 years immediately before the material date continuously engaged (disregarding breaks not exceeding in the aggregate 6 months) for the whole or part of his time in relevant employment;
- (d) he has made a claim for such compensation in accordance with the provisions of Part VII of these Regulations not later than 13 weeks after the loss of office which is the cause of his claim, or 13 weeks after the coming into operation of these Regulations, whichever is the later, or within any longer period which the determining authority allow in any particular case where they are satisfied that the delay in making the claim was due to ill health or other circumstances beyond the claimant's control;
- (e) the loss of office which is the cause of his claim has occurred for some reason other than misconduct or incapacity to perform the duties that, immediately before the loss, he was performing or might reasonably have been required to perform; and
- (f) he has not, subject to paragraphs (3) and (4), after he has received from the magistrates' courts committee either written notice that his office was to be terminated or written notice of termination of his office, been offered in writing—
 - (i) any relevant employment which is reasonably comparable with the office he has lost, or
 - (ii) any employment specified in paragraph (2) which is suitable for him.

(2) For the purposes of paragraph (1)(f)(ii), the following employment shall be deemed to be suitable—

- (a) in the case of a person holding the office of justices' clerk, the holding of another such office; and
- (b) in the case of a person assisting the holder of the office of justices' clerk, the holding of the office of justices' clerk, or employment assisting the holder of such an office:

Provided that the said employment shall be at the same place or in the same locality as that where the person who has lost office was employed immediately before his loss.

(3) In ascertaining for the purposes of this Regulation whether a person has been offered employment which is reasonably comparable with that which he has lost, no account shall be taken of the fact that the duties of the employment offered are in relation to the administration of a different service from that in connection with which his office was held or are duties which involve a transfer of his employment from one place to another within England and Wales.

(4) For the purposes of this Regulation, where the determining authority are satisfied—

- (a) that acceptance of an offer would have involved undue hardship to the person;
- (b) that he was prevented from accepting an offer by reason of ill-health or other circumstances beyond his control; or
- (c) that, either before the coming into operation of these Regulations or before the employer gave him written notice that his employment was, or was to be, terminated, an offer—
 - (i) has not been accepted by him, and
 - (ii) has lapsed or otherwise terminated,

no account shall be taken of that offer.

Amount of resettlement compensation

8.—(1) The amount of resettlement compensation which may be paid to a person shall, subject to the provisions of paragraphs (2) to (6), be the amount described in sub-paragraph (a) or (b) whichever is the greater, namely—

- (a) an amount equal to 13 weeks' emoluments and, in the case of a person who has attained the age of 45, one additional week's emoluments for every year of his age after attaining the age of 45 and before the loss of office subject to a maximum addition of 13 such weeks; or
- (b) an amount equal to—
 - (i) one and one half week's emoluments for each completed year of reckonable service in which the person was not below the age of 41,
 - (ii) one week's emoluments for each completed year of reckonable service (not falling within sub-paragraph (i) above) in which the person was not below the age of 22, and
 - (iii) one half week's emoluments for each completed year of reckonable service not falling within sub-paragraph (i) or (ii) above.

(2) For the purposes of paragraph (1)(a), if the loss of office takes place within three years of the date on which the person would have attained normal retiring age, the amount shall be reduced by the fraction of which—

- (a) the numerator is the number of complete periods of 6 months in the period beginning on the date 3 years before that on which he would have attained normal retiring age and ending on the date of loss of office, and
- (b) the denominator is 6;

but the amount payable to a person who, on the material date, has not been continuously engaged in relevant employment as described in Regulation 11(1)(c), shall not by this paragraph be reduced to less than the equivalent of 13 weeks' emoluments.

(3) For the purpose of paragraph (1)(b), in the case of a person who has completed more than 20 years' reckonable service, only the period of 20 years immediately prior to the loss of office shall be taken into account.

(4) For the purpose of paragraph (1)(b), if the loss of a person's office takes place after he has attained the age described in paragraph (5), the amount shall be reduced by the fraction of which the numerator is the number of whole months in the period beginning on the date on which he attained that age and ending on the date of loss of office and of which the denominator is 12.

(5) The age mentioned in paragraph (4) is—

- (a) the age of compulsory retirement applied to the person by virtue of any enactment to which he was subject in the office which he has lost or by virtue of the conditions of that office, less 12 months, or
- (b) if no age of compulsory retirement is applied to the person as described in subparagraph (a) above, the age of 64.

(6) For the purposes of this Regulation, the weekly rate of emoluments shall be deemed to be seven 365ths of the annual rate of emoluments.

Adjustment of resettlement compensation

9. A person who is entitled to—

- (a) a redundancy payment under the Redundancy Payments Act 1965, or
- (b) any similar payment in consequence of the loss of his office under any other enactment or under any contract or arrangement with the magistrates' courts committee by whom he was employed (other than payments by way of a return of contributions under a pension scheme), or
- (c) any payment under or by virtue of the provisions of any enactment relating to the reinstatement in civil employment of persons who have been in the service of the Crown,

shall—

- (i) if the amount of any resettlement compensation that would, apart from this Regulation, be payable exceeds the payment or payments specified in (a), (b) and (c) above, be entitled to resettlement compensation equal to that excess, or
- (ii) if the amount of any resettlement compensation that would apart from this Regulation be payable is equal to or less than the payment or payments specified in (a), (b) and (c) above, not be entitled to resettlement compensation.