
STATUTORY INSTRUMENTS

1978 No. 1682

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

PART VI

ADJUSTMENT, REVIEW AND COMPOUNDING OF COMPENSATION

Adjustment of compensation where superannuation benefit is also payable

29.—(1) Where any period of service of which account was taken in calculating the amount of any compensation payable under Part IV or V of these Regulations is subsequently taken into account for the purpose of calculating the amount of any superannuation benefit payable to or in respect of any person in accordance with a pension scheme associated with any employment undertaken subsequent to the loss of office or diminution of emoluments which was the subject of the claim for compensation, the determining authority may in accordance with this Regulation adjust the compensation by determining that the compensation payable shall be withheld or reduced.

(2) If the part of any superannuation benefit which is attributable to a period of service mentioned in paragraph (1) equals or exceeds the part of any compensation which is attributable to the same period, that part of the compensation may be withheld, or if the part of the superannuation benefit is less than the part of the compensation, the compensation may be reduced by an amount not exceeding that part of the superannuation benefit.

(3) In the case of a death benefit payable in respect of any person, the sum payable under Regulation 24 may be reduced by an amount not greater than the proportion of the death benefit which the period of service mentioned in paragraph (1) bears to the total period of service of which account was taken in the calculation of the death benefit.

(4) In addition to any reduction authorised by paragraph (2) or (3), if, in the circumstances mentioned in paragraph (1), compensation is attributable in part to any provision of the last relevant pension scheme for a minimum benefit, the compensation may be reduced by an amount not exceeding that part.

(5) Where any additional period of service has been credited to a person under Regulation 17(2) or under Regulation 13(3) is deemed to be so credited and that period is equal to or less than the period spent in the subsequent employment mentioned in paragraph (1) and taken into account in calculating the amount of any superannuation benefit payable in accordance with the pension scheme associated with that employment the compensation may be reduced (in addition to any other reduction authorised by this Regulation) by an amount not exceeding that part of the superannuation benefit which is attributable to a period of service equal to the additional period of service credited or deemed to be credited under Regulation 17(2), or, if the period so credited is greater, by an amount not exceeding the part of the superannuation benefit which is attributable to the period spent in the subsequent employment and for the purpose of this paragraph the period spent in the subsequent employment shall be deemed to be increased by any additional period of service with which the person was credited under the pension scheme associated with that employment.

(6) Where compensation has been calculated in accordance with Regulation 22, any reduction that may be made under paragraphs (2) to (5) shall not exceed the amount of the pension or lump sum comprising the part (if any) of the superannuation benefit relating to the subsequent employment which is attributable to annual emoluments in excess of those to which the person was entitled on entering the new employment referred to in Regulation 22.

(7) Where compensation is payable in respect of diminution of emoluments, any reduction that may be made under paragraphs (2) to (5) shall not exceed the amount of the pension or lump sum comprising the part (if any) of the superannuation benefit relating to the subsequent employment which is attributable to annual emoluments in excess of those to which the person was entitled immediately after the diminution and taken into account in calculating the compensation.

(8) In making any reduction under paragraphs (2) to (5), or in applying paragraphs (6) or (7), the amount of pension or, as the case may be, lump sum to be taken into account relating to the subsequent employment shall be the amount of such pension or lump sum reduced by a fraction of that pension or lump sum, where—

- (a) the numerator is equivalent to the aggregate of the amount of increases which would have been awarded under the provisions of the Pensions (Increase) Act 1971, during the period beginning with the day following loss of the office or diminution of the emoluments, as the case may be, for which compensation is payable and ending on the day the subsequent employment terminated, on an official pension (within the meaning of that Act) of £100 a year which commenced from the first mentioned day, and
- (b) the denominator is equivalent to the aggregate of an official pension of £100 a year and the amount of the increase so determined.

Reduction of compensation in certain cases

30.—(1) If under a person's last relevant pension scheme any benefit for which the scheme provided would have been subject to reduction or suspension on his taking up other specified employment, any retirement compensation to which he is entitled for loss of office or diminution of emoluments shall, where such an employment is taken up, be reduced or suspended in the like manner and to the like extent; but in calculating the amount of the reduction there shall be aggregated with the emoluments of the employment taken up the amount of any superannuation benefit by way of annual amounts payable to the person under a pension scheme associated with the office which he has lost or, as the case may be, the office in which the emoluments were diminished.

(2) There shall be deducted from the retirement compensation payable to any person any additional contributory payments remaining unpaid at the date when he suffered loss of office that are not recovered in accordance with the provisions of the last relevant pension scheme; and any additional contributory payments not recovered at the date of his death shall be deducted from any compensation payable in respect of that person under Regulation 23, 24 or 25(2).

(3) Where compensation for loss of office is payable under these Regulations to or in respect of any person and that person or his widow, child or other dependant or his personal representatives or trustees as are mentioned in Regulation 24(1) is or are also entitled (whether immediately or on the person's attaining some greater age) to a superannuation benefit under his last relevant pension scheme in respect of any service of which account was taken in calculating the compensation—

- (a) any instalment of that compensation which is payable in respect of any period shall be reduced by the amount of the instalment of such superannuation benefit which is payable in respect of the same period, and
- (b) any of that compensation which is payable under Part IV or Part V of these Regulations and which is payable as a lump sum shall be reduced by the amount of any lump sum superannuation benefit,

and where part of the superannuation benefit is attributable to any additional period of service with which the person was credited under his last relevant pension scheme and—

- (i) that period is equal to or less than any additional period credited to that person under Regulation 17(2) or under Regulation 13(3) deemed to be so credited, the amount of the compensation shall be reduced by that part of the superannuation benefit;
- (ii) that period is greater than any additional period so credited, the amount of the compensation shall be reduced by an amount equal to the amount of the superannuation benefit attributable to a period equal in length to the additional period credited or deemed to be credited under Regulation 17(2).

(4) Where compensation is payable under Part IV of these Regulations to any person and that person is, or becomes entitled to receive a superannuation benefit under a previous pension scheme other than his last relevant pension scheme in respect of service of which account was taken in calculating the compensation any instalment of that compensation which is payable in respect of any period shall be reduced by the amount of the instalment of such superannuation benefit which is payable in respect of the same period.

(5) For the purposes of paragraphs (3) and (4) no account shall be taken of any sum payable in consequence of the surrender by any person of part of his superannuation benefit under any provision in that behalf in the last relevant pension scheme or the previous pension scheme with a view to obtaining or increasing allowances for his widow, child or other dependant and the person shall be deemed to have received during any period the amount of superannuation benefit which he would have received but for such a surrender.

(6) Where in any week a person entitled to long-term compensation for loss or diminution of emoluments is also entitled to a national insurance benefit, there shall be deducted from the long-term compensation payable in respect of that week a sum equal to the amount by which the aggregate of—

- (a) the national insurance benefit that would be payable in respect of that week if calculated at the rate applicable at the date of loss or diminution, and
- (b) the weekly rate at which the long-term compensation would be payable but for this Regulation,

exceeds two-thirds of the weekly rate of the emoluments of the office which he has lost or in which the emoluments have been diminished.

(7) No deduction shall be made under paragraph (6) insofar as—

- (a) an equivalent sum is deducted from the emoluments of his current employment, and
- (b) that deduction from those emoluments has not occasioned an increase in his long-term compensation.

(8) In paragraph (6) the expression “weekly rate” means seven 365ths of the relevant annual rate, and the expression “national insurance benefit” means any unemployment, sickness, invalidity or injury benefit or retirement pension payable under any enactment relating to national insurance or social security, other than a benefit claimable by him in respect of a dependant.

Notification of change of circumstances

31. Where—

- (a) a pensionable officer after suffering loss of office or diminution of emoluments enters any employment referred to in Regulation 22 or becomes entitled to any superannuation benefit on ceasing to hold such an employment,
- (b) a person entitled to long-term compensation, whilst that compensation is liable to review in accordance with the provisions of Regulation 32, enters any employment, or ceases to hold an employment, or receives any increase in his emoluments in an employment,

- (c) a person entitled to retirement compensation enters employment in which the compensation is subject to reduction or suspension under Regulation 30 or ceases to hold such an employment, or receives any increase in his emoluments in an employment, or
- (d) a person entitled to long-term compensation starts to receive any benefit, any increase in benefit or any further benefit, under any enactment relating to national insurance or social security,

he shall forthwith in writing inform the determining authority of that fact.

Review of awards of long-term or retirement compensation

32.—(1) The determining authority shall—

- (a) on the expiry of 6 months from the decision date, or
- (b) on the occurrence of any material change in the circumstances of the case,

whichever shall first occur, and thereafter within a period of 2 years after the decision date, or for any longer period specified in the subsequent provisions of this Regulation, and at intervals of not more than 6 months, review its decision or, where the claim has been the subject of an appeal, the decision of the tribunal, and (subject to paragraph (7)) these Regulations shall apply in relation to such a review as they apply in relation to the initial determination of the claim; and on such a review, in the light of any material change in the circumstances of the case, compensation may be awarded, or compensation previously awarded may be increased, reduced or discontinued, subject to the limits set out in these Regulations.

(2) The person to whom the decision relates may require the determining authority to carry out the review mentioned in paragraph (1) at any time within 2 years after the decision date if he considers that there has been a change in the circumstances of his case which is material for the purposes of these Regulations.

(3) The determining authority shall carry out a review in accordance with paragraph (1), notwithstanding the expiration of the period of 2 years mentioned in that paragraph, if—

- (a) the emoluments of employment or work undertaken as a result of the loss of office have been taken into account in determining the amount of any compensation awarded,
- (b) that employment or work has been lost or the emoluments thereof reduced, otherwise than by reason of misconduct or incapacity to perform the duties which the person might reasonably have been required to perform, and

(c) the determining authority are satisfied that the loss or reduction is causing him hardship, and where any decision is so reviewed, the decision shall be subject to further review in accordance with paragraph (1) as if the review carried out under this paragraph had been the initial determination of the claim.

(4) Paragraphs (1) and (2) shall apply in relation to any decision on a claim for long-term or retirement compensation in respect of diminution of emoluments as they apply in relation to any decision mentioned in paragraph (1) and as if in paragraph (1) “decision date” means the date on which any decision on a claim for long-term compensation for diminution of emoluments is notified to the claimant, but—

- (a) where the person to whom the decision relates ceases to hold the office in which his emoluments were diminished, a review shall be held within 3 months after that date, but no further review shall be held after the expiry of that period, and
- (b) while that person continues to hold that office, there shall be no limit to the period within which a review may take place.

(5) Notwithstanding anything contained in the foregoing provisions of this Regulation, the determining authority shall review a decision, whether of the authority or the tribunal, on a claim for long-term compensation for loss of office or diminution of emoluments after the expiration of any period within which a review is required to be made if at any time—

- (a) the person to whom the decision relates becomes engaged in any employment (hereinafter referred to as “his current employment”) the emoluments of which are payable out of public funds and which he has undertaken subsequent to the loss or diminution, and
- (b) the aggregate of the emoluments of his current employment, any superannuation benefit by way of annual amounts payable to him in respect of the office which he has lost or the office in which his emoluments have been diminished and the long-term compensation payable to him exceeds the emoluments of the office which he has lost or, as the case may be, in which the emoluments have been diminished.

(6) The determining authority shall further review any decision reviewed under paragraph (5) whenever the emoluments of the person's current employment are increased.

(7) On any review under this Regulation, the amount of long-term compensation which, apart from this paragraph and any reduction under Regulation 30(3) and (4), would be payable to the person may be reduced by an amount not exceeding the amount by which the aggregate of the compensation and the annual rate of emoluments of his current employment exceeds the annual rate of emoluments of the office which he has lost or, as the case may be, in which the emoluments have been diminished.

(8) The determining authority shall give to a person to whom a decision relates not less than 14 days' notice of any review of that decision to be carried out under this Regulation unless the review is carried out at his request.

(9) In this Regulation the expression “decision date” means the date on which any decision on a claim for long-term or retirement compensation for loss of office is notified to a claimant under Regulation 34.

(10) For the purposes of Regulations 13(4), 22(1) and 29(6) and (7) and on any review under this Regulation, no account shall be taken of any increase in the emoluments of any work or employment undertaken as a result of the loss of office or diminution of emoluments, or of any superannuation benefit attributable to such an increase, if any such increase is effective from any date after the date of the loss or diminution and is attributable to a rise in the cost of living.

(11) Nothing in this Regulation shall preclude the making of any adjustment of compensation required by Regulation 29 or 30.

Compounding of awards

33.—(1) In the case where an annual sum which has been or might be awarded under these Regulations does not exceed £35, the determining authority may, at their discretion, determine that the liability of the paying authority in respect thereof shall be compounded by payment of a lump sum equivalent to the capital value of the annual sum and, if any lump sum payment has been awarded or might be awarded in addition to such sum under Regulation 18, 19 or 20, the determining authority may likewise determine that the liability of the paying authority in respect thereof shall be discharged by an immediate payment.

(2) In any other case, if the person who has been awarded long-term or retirement compensation requests them to do so, the determining authority may, in their discretion, after having regard to the state of health of that person and the other circumstances of the case, determine that up to one quarter of the liability of the paying authority to make payments under the award (other than payments to a widow, child or other dependant under Regulation 23) shall be compounded by the payment of an equivalent amount as a lump sum or, where any compensation has been awarded as a lump sum, by increasing that compensation to such equivalent amount; and in calculating for this purpose the

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liability of the paying authority to make such payments, account shall be taken of the annual value of lump sum payments of compensation other than payments of compensation under Part III of these Regulations.

(3) The making of a composition under paragraph (2) in relation to an award of long-term or retirement compensation shall not prevent the subsequent making of a composition under paragraph (1) in relation to that award but, subject as aforesaid, not more than one composition may be made in relation to any award.