
STATUTORY INSTRUMENTS

1978 No. 1682

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

PART VII

PROCEDURE AND MISCELLANEOUS

Procedure on making claims

34.—(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 determining 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 determining authority shall consider any such claim or request in accordance with the relevant provisions of these Regulations and shall notify the claimant and the paying authority in writing of their decision—

- (a) in the case of a claim for resettlement compensation, not later than one 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 one 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 determining 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 determining 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 41, 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

35.—(1) Any person claiming or receiving compensation or whose award of compensation is being reviewed shall furnish all such information that the determining 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 determining 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

36.—(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 to 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 the Regulations shall be construed accordingly.

(3) The determining 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 11 is to be made by his personal representatives.

Calculation of service

37.—(1) For the purpose of determining the amount of any compensation payable in respect of the loss of an office to which, or of any two or more offices to which in the aggregate, a person devoted substantially the whole of his time, any previous period of part-time employment shall be treated as though it were whole-time employment for a proportionately reduced period.

(2) 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 by reference to completed years and completed days; and any provision in these Regulations requiring compensation to be calculated by reference to a year of reckonable service shall (unless the provision specifically states that compensation is payable in respect of completed years) be construed as including completed days, each completed day over and above a completed year being expressed as one 365th of a year.

General provisions as to emoluments

38.—(1) In these Regulations, subject to the provisions of paragraph (2) and Regulation 39 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 office, but does not include payments for overtime which are not a usual incident of his office, 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 office.

(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 determining authority may think reasonable in the circumstances.

(3) For the purposes of these Regulations the annual rate of emoluments in relation to any office 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.

Emoluments of part-time office

39. In ascertaining for the purposes of these Regulations whether, and how far, the emoluments of alternative employment fall short of emoluments which have been lost where those emoluments were payable in respect of two or more part-time offices, the emoluments of the alternative employment or of the aggregate of two or more alternative employments shall be apportioned in the proportion which the emoluments of the part-time offices bore to each other.

Payment of compensation

40.—(1) Subject to the provisions of these Regulations, any compensation to which a person becomes entitled under these Regulations shall be paid by the paying authority.

(2) Subject to the provisions of any enactment in that behalf, any such compensation shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable.

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

Right of appeal from decision of determining authority

41.—(1) Every person who is aggrieved by any decision of the determining authority with respect to a compensation question or by any failure on the part of the determining 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 Tribunal (Labour Relations) Regulations 1974 and these Regulations; and the tribunal shall determine the question accordingly.

(2) Every paying authority aggrieved by any decision of the determining authority with respect to the 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 Tribunal (Labour Relations) Regulations 1974 and these Regulations; and the tribunal shall determine the question accordingly.

(3) For the purpose of any proceedings instituted in pursuance of this Regulation, a person or persons may be appointed to sit with the tribunal as assessor or assessors.

(4) The paying 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.

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Application of Regulations of 1965

42. The Justices of the Peace Act 1949 (Compensation) Regulations 1965, as amended, shall not apply to any person who suffers loss of office or employment or loss or diminution of emoluments after the coming into operation of these Regulations; and accordingly in Regulation 4 of the said Regulations of 1965 after the words “after the coming into operation of these Regulations” there shall be inserted the words “and before 20th December 1978”.