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STATUTORY INSTRUMENTS

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**1978 No. 1682**

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

**PART V**

**RETIREMENT COMPENSATION AND PAYMENTS ON DEATH**

**Retirement compensation payable to pensionable officer on his becoming in-capacitated or reaching minimum pensionable age**

**19.**—(1) Where a person to whom this Part of these Regulations applies and who has suffered loss of office before attaining what would have been his normal retiring age—

- (a) becomes incapacitated in circumstances in which, if he had continued in the office which he has lost, he would have become entitled to a pension under his last relevant pension scheme, or
- (b) attains the age which, had he continued to serve in the office which he has lost, would have been his minimum pensionable age,

he shall be entitled on the happening of either event to claim—

- (i) in the case mentioned in sub-paragraph (a) above, an annual sum equal to the amount of his accrued incapacity pension and a lump sum equal to the amount of his accrued incapacity retiring allowance (if any), and
- (ii) in the case mentioned in sub-paragraph (b) above, an annual sum equal to the amount of his accrued pension and a lump sum equal to the amount of his accrued retiring allowance (if any),

subject however to the conditions specified in paragraph (5).

(2) On receipt of a claim under paragraph (1), the determining authority shall consider whether the claimant is a person to whom that paragraph applies, and—

- (a) if they are satisfied that he is not such a person, they shall notify him in writing accordingly, or
- (b) if they are satisfied that he is such a person, they shall assess the amount of compensation payable to him and notify him in writing accordingly;

and notification as described in sub-paragraph (a) or (b) above shall, for the purposes of these Regulations, be deemed to be a notification by the authority of a decision on a claim for compensation.

(3) A determining authority may require any person who makes a claim under paragraph (1) (a) to submit himself to a medical examination by a registered medical practitioner selected by that authority, and if they do so, they shall also offer the person an opportunity of submitting a report from his own medical adviser as a result of an examination by him, and the authority shall take that report into consideration together with the report of the medical practitioner selected by them.

(4) If a person wishes to receive compensation under this Regulation, he shall so inform the determining authority in writing within one month from the receipt of a notification under

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paragraph (2) or, where the claim has been the subject of an appeal, from the decision of the tribunal thereon; and the compensation shall be payable as from the date on which the determining authority received the claim.

(5) The calculation of compensation under this Regulation shall be subject to the following conditions—

- (a) where the determining authority, by virtue of Regulation 17, have credited the person with an additional period of service, no account shall be taken of any additional period beyond the period which he could have served, had he not lost his office, before the date on which the claim was received by the determining authority;
- (b) if, by reason of any provision of the relevant pension scheme for a minimum benefit, the amount of any such pension or retiring allowance is in excess of that attributable to the person's actual service, no account shall be taken of any such additional period of service except to the extent (if any) by which it exceeds the number of years represented by the difference between his actual service and the period by reference to which the minimum benefit has been calculated; and
- (c) if the number of years by reference to which an accrued incapacity pension or accrued incapacity retiring allowance is to be calculated is less than any minimum number of years of qualifying service prescribed by the last relevant pension scheme, the amount of the pension or retiring allowance shall, notwithstanding any minimum benefit prescribed by the pension scheme, not exceed the proportion of the minimum benefit which the number of years of pensionable service bears to the minimum number of years of qualifying service.