

- (a) that the applicant was physically or mentally incapable of performing work available in the employer's service unless he proves that the applicant was so incapable at the time of the last application for reinstatement made within the said period of nine or ten months, as the case may be;
- (b) the facts described by paragraph (a) of section four of the Act; or
- (c) the facts described in paragraph (b) of section four of the Act, unless he proves that the applicant applied for reinstatement before he offered to reinstate him.

Proof that applicant employed as replacement.

**10.** Proof, for the purposes of paragraph (e) of section four of the Act, that an applicant was employed to take the place of an employee who had been previously accepted for service in His Majesty's forces may only be made by proving that the applicant was employed directly or indirectly to take the place of the other employee and would not have been employed if the other employee had not left the employment.

Rate of remuneration on reinstatement.

**11.** (1) Where there is a practice or policy of paying graduated scales of wages and where increases are given to employees principally on the basis of length of service, it shall be deemed, for the purposes of the Act, that increases are given on the basis of length of service only and in any such case the employer shall, upon reinstatement of an applicant in his previous classification, remunerate him at the rate at which he would, on that basis, have been remunerated if his service in His Majesty's forces had been service with the employer.

(2) Where there is a practice or policy of giving increases in wages to employees by reason of acquired skills, experience or training, the employer shall, as soon after an applicant has been reinstated as he has manifested the skills, experience or training, give to the applicant the increases which he might have been given if the relevant skills, experience or training acquired in His Majesty's forces had been acquired in the employment.

Promotions.

(3) The employer shall grant to a reinstated employee upon reinstatement or as soon thereafter as is reasonably practicable every promotion to which he would have become entitled by reason of length of service or seniority if the time spent by the reinstated employee in His Majesty's forces had been spent in the service of the employer.

Permanent status and seniority.

(4) Where, under the terms of employment, whether under a collective agreement or otherwise, employees obtain a permanent status in the employment or are entered on the seniority lists after having been in the employer's