

Government Circular No. 26/61.
G.O. Reference No. S. 2803/27/2.

**ISLE OF MAN
TO WIT**

By His Excellency Sir Ronald Herbert Garvey, K.C.M.G., K.C.V.O.,
M.B.E., Lieutenant Governor of the said Isle, Etc., Etc., Etc.

**The National Insurance (Modification of
Isle of Man National Health Service
Superannuation Scheme) Regulations,
1961.**

I, the said Lieutenant Governor, in exercise of the powers conferred on me by sub-section (4) of section sixty of the National Insurance (Isle of Man) Act, 1948, as extended by Section fourteen of the National Insurance (Isle of Man) Act, 1961, and of all other powers enabling me in that behalf, do hereby make the following Regulations:—

PART I. — GENERAL

CITATION AND COMMENCEMENT

1.—These Regulations may be cited as the National Insurance (Modification of Isle of Man National Health Service Superannuation Scheme) Regulations, 1961, and shall come into operation on the 3rd day of April, 1961.

INTERPRETATION

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act of 1948” means the National Insurance (Isle of Man) Act, 1948;

“the Act of 1961” means the National Insurance (Isle of Man) Act, 1961;

“the Northern Ireland Act” means the National Insurance Act (Northern Ireland), 1959;

“the Act of 1959” means the National Insurance Act, 1959, of the Imperial Parliament;

“the principal regulations” means the National Health Service (Isle of Man) (Superannuation) Regulations, 1955;

“the appointed day” means the 3rd day of April, 1961;

“officer” has the meaning assigned to it by the principal regulations and includes a practitioner within the meaning of those regulations;

“modification provision” means, in relation to any pension scheme, any provision the effect of which is that pensions under that scheme are to be reduced in connection with the operation of the provisions of the Act of 1961 the Act of 1959 or the Northern Ireland Act, relating to the payment of graduated retirement benefit;

“non-participating employment” has the meaning assigned to it by subsection (2) of section 6 of the Act of 1961, or the corresponding provision of the Act of 1959 or the Northern Ireland Act as the case may be;

“participating employment” in relation to any period which is reckonable as service for the purposes of the principal regulations, means any employment in which a person is required to pay graduated contributions under the Act of 1961, the Act of 1959 or

the Northern Ireland Act, or would be required to pay such contributions if the amount paid in any week on account of his remuneration exceeded the amount first mentioned in paragraph (b) of subsection (1) of section 1 of that Act the Act of 1959 or the Northern Ireland Act as the case may be, but the expression does not include any period of employment on National Service in respect of which contributions are paid under the provisions of the principal regulations if, immediately prior to entering National Service, the person was in non-participating employment;

“pension” means a pension payable under regulation 5 of the principal regulations;

“retiring remuneration” means in relation to an officer other than a practitioner the average remuneration of that officer for the purposes of the principal regulations, in the case of a practitioner the annual average of the remuneration on which his pension is calculated and in the case of an officer whose pension is not calculated by reference to remuneration, the annual average of his remuneration during a period of three years ending with the last day of his service;

and other words and expressions have the same meanings as in the principal regulations, or the Act of 1961 as the case may be.

(2) Reference in these Regulations to the provisions of any enactment, scheme or regulations shall, unless the context otherwise requires, be construed as references to those provisions as amended, modified, extended, applied or re-enacted by any subsequent enactment, scheme or regulations, including these Regulations.

(3) The Interpretation Act, 1949, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Tynwald.

MODIFICATION OF PRINCIPAL REGULATIONS

3.—The principal regulations shall, as from the appointed day, have effect subject to the modifications contained in these Regulations.

PART II — MODIFICATION OF CONTRIBUTIONS AND CERTAIN OTHER PAYMENTS

REDUCTION OF CONTRIBUTIONS

4.—Subject to the provisions of these Regulations, the amount of the contributions payable by an officer under the principal regulations in respect of any period of participating employment shall be reduced by an amount calculated at whichever of the rates specified in paragraphs (a) or (b) hereunder is the greater; that is to say—

- (a) a rate equal to one per cent. per annum of his remuneration, as ascertained in accordance with the principal regulations, or, if his remuneration is at a rate exceeding seven hundred and eighty pounds per annum, the rate of seven pounds sixteen shillings per annum; or
- (b) (i) in the case of a man and of a woman who is a nurse, mental health officer, physiotherapist, midwife or health visitor, the rate of three pounds and eightpence per annum, or
- (ii) in the case of a woman serving in another capacity the rate of three pounds five shillings per annum.

OFFICER WHOSE CONTRIBUTIONS ARE NOT SUBJECT TO REDUCTION IN CONNECTION WITH THE ACT OF 1948.

5.—In the case of an officer to whom by virtue of paragraphs (5), (6), (7) or (9) of regulation 33 of the principal regulations, paragraph (1) of that regulation does not for the time being apply, there shall be deducted from the amount by which the contributions payable by that officer are to be reduced under the last foregoing regulation, an amount

calculated at the rate of three pounds and eightpence per annum if the officer belongs to any class mentioned in sub-paragraph (i) of paragraph (b) of that regulation or three pounds five shillings per annum if she belongs to the class mentioned in sub-paragraph (ii) of that paragraph.

PERSONS IN PART-TIME EMPLOYMENT

6.—(1) Where a person whose contributions are subject to reduction under this part of these Regulations is an officer in the part-time employment of two or more employing authorities, the rate at which his contributions are to be reduced under Regulation 4 of these Regulations shall, in the case of contributions payable to an employing authority which is not, for the time being, treated as his employer for the purposes of the Act of 1948 be reduced as provided in Regulation 5 of these Regulations.

(2) Where a person whose contributions are subject to reduction under this part of these Regulations is an officer in the part-time employment of one or more employing authorities and is also employed in other employment in which he is not an officer and his employer in that other employment is treated as his employer for the purposes of the Act of 1948, the rate at which his contributions are to be reduced under regulation 4 of these Regulations shall be reduced as provided in regulation 5 of these Regulations.

MENTAL HEALTH OFFICERS

7.—Where a mental health officer whose contributions are subject to reduction under regulation 4 of these Regulations is entitled by virtue of regulation 32 of the principal regulations to reckon any year of contributing service as such officer as if it were two years, the contributions payable by him in respect of any year so reckonable shall be further reduced by the sum of three pounds and eightpence.

EMPLOYERS' CONTRIBUTIONS

8.—The contributions to be paid by an employing authority in respect of any period of participating employment of an officer shall be reduced in the like manner as provided in regulation 4 of these regulations and, in the case of an officer to whom that regulation applies, in regulation 7 of these regulations.

Provided that in relation to an officer whose contributions, if any, are not subject to reduction in connection with the Act of 1946, the rate of reduction shall be varied as provided in regulation 5 of these regulations.

EXCLUSION OF EXISTING PROVISIONS FOR REDUCTION

9.—So long as the contributions payable by any officer or employing authority are subject to reduction in accordance with this part of these Regulations, those contributions shall not be subject to reduction under regulation 33 of the principal regulations.

ADDITIONAL CONTRIBUTORY PAYMENTS

10.—(1) An additional contributory payment made by an officer in respect of any period of participating employment or period of non-participating employment in respect of which a payment in lieu of contributions is required to be made under the Act of 1961, shall not be subject to reduction under the appropriate Tables as specified in the second schedule to the principal regulations, but shall be reduced in accordance with paragraph (2) of this regulation.

(2) An additional contributory payment required to be reduced in accordance with this regulation shall be calculated by reference to three quarters of the relevant percentage specified in the appropriate Tables referred to in the second schedule to the principal regulations for so much of the officer's remuneration as does not exceed £780 per annum and by reference to the relevant percentage so specified for so much of the remuneration (if any) as exceeds that amount.

PART III — MODIFICATION OF BENEFITS, Etc.

REDUCTION OF PENSIONS

11.—(1) Subject to the provisions of paragraph (3) of this regulation, where any period of service reckonable in calculating the amount of any pension to which an officer is entitled under the principal regulations has been in participating employment, as from the date on which the officer becomes entitled to that pension, or if on becoming entitled to the pension he has not yet reached pensionable age within the meaning of the Act of 1948, as from the date on which he reaches that age, the part of the pension which is attributable to any such period of service shall be reduced in accordance with this part of these Regulations and any provision of the principal regulations for the reduction of the pension in connection with the passing of the Act of 1948, shall cease to apply in relation to that part of the pension.

Provided that the reduction required to be made in accordance with this part of these regulations shall not be less than that required to be made under any provision of the principal regulations for the reduction of the pension in connection with the passing of the Act of 1948.

(2) For the purposes of this part of these regulations no account shall be taken of any period of participating employment occurring in any year if no graduated contributions have been paid under the Act of 1961, in respect of any such period during that year.

(3) Notwithstanding anything in the last foregoing paragraph, a period of employment as an officer in respect of which a payment in lieu of contributions is required to be made under the Act of 1961, shall be treated for the purposes of this part of these regulations as a period of participating employment in respect of which contributions have been paid subject to the reduction provided for by Part II of these regulations.

(4) No account shall be taken of the reduction of any pension under this part of these Regulations:—

- (a) in calculating the amount of any widow's pension payable under the principal regulations;
- (b) for the purposes of the proviso to paragraph (1) of regulation 6 of the principal regulations, as provides that an officer's pension shall not exceed forty-five eightieths of his average remuneration; or
- (c) for the purposes of sub-paragraph (a) of paragraph (1) of the first schedule to the principal regulations (which limits the extent to which a pension can be surrendered).

12.—(1) Where a pension payable to an officer would, apart from these Regulations, be subject to reduction in accordance with regulation 33 of the principal regulations, so much of that pension as is attributable to any period of participating employment shall be reduced—

- (a) for each year of such employment which is reckonable as contributing service otherwise than as a practitioner in calculating the amount of that pension by a sum equal to one two-hundred-and-fortieth of so much of the retiring remuneration as does not exceed £780 per annum.
- (b) for each year of such employment which is reckonable as non-contributing service in calculating the amount of the pension by a sum equal to one four-hundred-and-eightieth of so much of the retiring remuneration as aforesaid; and
- (c) for each year ending on the thirty first day of March or part of such year of such employment which is contributing service as a practitioner, by a sum equal to one half per cent. of so much of his remuneration in that year or part of a year as does not exceed seven hundred and eighty pounds per annum.

Provided that where a mental health officer is entitled by virtue of regulation 32 of the principal regulations to reckon any year of contributing service as such officer as if it were two years, so much of the pension as is attributable to any additional year so reckonable shall, in lieu of such reduction as aforesaid be reduced by the sum of one pound fourteen shillings in respect of each such year.

(2) Where an officer other than an officer who is a registered medical or dental practitioner becomes entitled to a pension on ceasing to be employed in non-participating employment no account shall be taken for the purposes of this regulation of any retiring remuneration in excess of the amount by reference to which his employment became non-participating employment in accordance with a certificate issued under section 6 of the Act of 1961.

REDUCTION OF PENSIONS PAYABLE TO CERTAIN CLASSES OF OFFICER

13.—Where a pension payable to an officer would, apart from these Regulations be subject to reduction under sub-paragraphs (a) or (b) of paragraph (3) of regulation 33 of the principal regulations, so much of that pension as is attributable to any period of participating employment shall be reduced in accordance with the said sub-paragraph (a) or sub-paragraph (b) as the case may be, and shall be further reduced in accordance with Regulation 12 of these Regulations, but shall be increased by the sum of one pound fourteen shillings for each year of contributing service and seventeen shillings for each year of non-contributing service comprised in that period;

Provided that where a mental health officer to whom this regulation applies is entitled by virtue of regulation 32 of the principal regulations to reckon any year of contributing service as such an officer as if it were two years, so much of the pension as is attributable to any additional year so reckonable shall be reduced solely in accordance with the said sub-paragraph (a) or sub-paragraph (b) as the case may be.

SERVICE IN EXCESS OF 40 YEARS

14.—Where the period reckonable for the calculation of a pension exceeds 40 years' contributing service or 40 years' contributing and non-contributing service, the non-contributing service being reckoned at half its actual length, then—

- (a) in the case of any pension to which regulation 12 of these regulations applies, there shall be deducted from the amount by which the pension is to be reduced under that regulation, the sum of one pound fourteen shillings in respect of each completed year of such excess period; and
- (b) in the case of a pension to which regulation 13 of these regulations applies, there shall be deducted from the amount by which the pension is to be reduced under that regulation an amount in respect of each such year equal to that by which the pension would have been reduced under sub-paragraph (a) or (b) of paragraph (3) of Regulation 33 had the year been reckonable as contributing service.

PENSIONS NOT SUBJECT TO REDUCTION IN CONNECTION WITH THE ACT OF 1948

15.—Where a pension payable to an officer is not subject to reduction in accordance with paragraph (3) of regulation 33 of the principal regulations, so much of that pension as is attributable to any period of participating employment shall be reduced in accordance with regulation 12 of these regulations, but shall be increased by the sum of one pound fourteen shillings for each year of contributing service and seventeen shillings for each year of non-contributing service comprised in that period.

REDUCTION OF RETIRING ALLOWANCES, SHORT SERVICE GRATUITIES AND DEATH GRATUITIES

16.—(1) Subject to the provisions of this regulation, if no pension is payable to an officer, but there is payable to or in respect of him a retiring allowance under regulation 5 of the principal regulations, a short service gratuity under regulation 8 of these regulations or a death gratuity under regulation 10 of these regulations, and by reason of the cessation of his employment, a payment in lieu of contributions is required to be made under the Act of 1961, or such a payment has previously been made under the Act of 1961, the Northern Ireland Act or

the Act of 1959 in circumstances not involving a return of contributions, the retiring allowance, short service gratuity, death gratuity or similar benefit shall be reduced by a sum amounting to half of the payment in lieu of contributions or half of the aggregate of such payments if more than one has been made.

(2) No payment in lieu of contributions shall be taken into account for the purpose of this regulation—

- (a) on more than one occasion;
- (b) if the payment was made on the termination of any period of employment which is not reckonable as service for the purposes of the principal regulations; or
- (c) if the payment is one which has been reduced under regulation 13 of the National Insurance (Isle of Man) (Non-Participation—Assurance of Equivalent Pension Benefits) Regulations, 1961, or any corresponding regulation in the United Kingdom or Northern Ireland.

REDUCTION OF PENSION IN RESPECT OF OTHER RECKONABLE EMPLOYMENT

17.—(1) Where a person has become employed as an officer after having been employed in other employment, (in this regulation referred to as 'his former employment') and by virtue of any provision in the principal regulations, his service in his former employment is to be reckoned in any manner and to any extent as service as an officer then, if his former employment included any period of participating employment or non-participating employment at the end of which a payment in lieu of contributions had been made under the Act of 1961, the Act of 1959, or the Northern Ireland Act, so much of any pension payable to him as is attributable to any such period shall, in lieu of any reduction for which this part of these regulations provides, be reduced in like manner as if—

- (a) he had continued in his former employment and retired from it on the day when he ceased to be employed as an officer; and
- (b) any modification provision applicable to him immediately before he ceased to be employed in his former employment had been applied in relation to the period of his service before that date.

(2) The extent to which any retirement benefit shall be regarded as subject to reduction in connection with the Act of 1961, shall be the extent to which that benefit would be reduced under regulation 15 of these regulations if that regulation applied for the reduction of the benefit.

ADJUSTMENTS FOLLOWING PAYMENTS IN LIEU OF CONTRIBUTIONS

18.—(1) Subject to the provisions of this regulation, where an officer leaves employment or dies in circumstances in which under the principal regulations there is payable to or in respect of him an amount by way of return of contributions and a payment in lieu of contributions under the Act of 1961, the Act of 1959 or the Northern Ireland Act has previously been made in respect of him in circumstances not involving a return of contributions, the amount payable to or in respect of him by way of return of contributions shall be reduced by a sum equal to the amount, or aggregate of the amounts, by which, under sub-section 5 of section 9 of the Act of 1961, or under the corresponding provision of the Act of 1959 or the Northern Ireland Act, as the case may be, any payment by way of return of contributions could have been reduced if one had been made at the time when the previous payment in lieu of contributions was made.

(2) No payment in lieu of contributions shall be taken into account for the purposes of this regulation—

- (a) on more than one occasion; or

- (b) if the payment is one which has been reduced under regulation 13 of the National Insurance (Isle of Man) (Non-Participation—Assurance of Equivalent Pension Benefits) Regulations, 1961, or any corresponding regulation in the United Kingdom or Northern Ireland.

(3) Where a payment to any officer by way of return of contributions is reduced under sub-section (5) of section 9 of the Act for 1961, or under paragraph (1) of this regulation or under any corresponding provision in the United Kingdom or Northern Ireland, the amount by which the payment is reduced shall be treated for the purposes of any subsequent return of contributions to which the officer may become entitled as having been returned and retained by the officer.

PART IV — MISCELLANEOUS

CONTRIBUTIONS DEEMED TO HAVE BEEN MADE

19.—If in respect of any period an officer pays no contributions under the principal regulations by virtue of the fact that the amount of the reduction in his contributions provided for by these regulations equals or exceeds the amount of his contributions he shall, nevertheless, be deemed for the purposes of sub-paragraph (a) of paragraph (1) of regulation 14 of the principal regulations to have made the contributions required by that regulation in respect of that period.

FRACTIONS OF A PENNY

20.—For the purposes of these Regulations no account shall be taken of fractions of a penny less than a halfpenny and fractions of a penny of a halfpenny or more shall be treated as a penny.

PART V.

LIMITATION OF SURRENDER, COMMUTATION, Etc., OF PENSIONS

21.—(1) No provision in the principal regulations—

- (a) for the surrender, commutation or assignment of a pension, or
- (b) for the reduction, termination or suspension of a pension if invoked for any cause other than one prescribed by regulations made under paragraph (c) of subsection (1) of section 7 of the Act of 1961.

so far as it affects any officer who is, or was immediately before he ceased to be employed, in non-participating employment, shall operate so as to reduce a pension payable to an officer who attains the age of sixty-five years in the case of a man, or sixty years in the case of a woman, below such amount as would be equal when expressed as a weekly rate to the graduated retirement pension which would be payable to the officer under the Act of 1961, in return for an amount of graduated contributions equal to one such contribution paid in each week of the period of his service in respect of a weekly payment of remuneration of £15.

(2) For the purposes of the last foregoing sub-paragraph, "service" means service reckonable by an officer for the purposes of calculating the amount of any benefit payable to him, except any earlier period of service in respect of which—

- (a) a payment in lieu of contributions has been made under the Act of 1961, or
- (b) equivalent pension benefits satisfying the requirements of Part II of the Act of 1961 have already been assured to the officer.

GIVEN under my hand this 15th day of March, 1961.

R. H. GARVEY,

Lieutenant Governor.

EXPLANATORY NOTE

(This note is not part of the Regulation, but is intended to indicate their general purport).

These Regulations modify the Isle of Man National Health Service Superannuation Scheme in connection with the operation of the National Insurance (Isle of Man) Act, 1961.

Part I of the Regulations contains definitions of words and expressions used and provides that the regulations made under section 54 of the National Health Service Act, 1948 (under which the Scheme was established) are to be modified in accordance with the succeeding provisions of the Regulations.

Part II provides that superannuation contributions payable under the Scheme are to be reduced during periods of participating employment for the purposes of the National Insurance (Isle of Man) Act, 1961. The method of reduction takes account of any reduction already required to be made in connection with the National Insurance (Isle of Man) Act, 1948, and provides for a single consolidated reduction. A corresponding reduction is made in any additional contributory payment for a period for which reduced contributions have been paid. Under Part III pensions payable under the Scheme are reduced where any service reckonable for the pension also qualifies the employee for graduated retirement benefit under the National Insurance (Isle of Man) Act, 1961. Here again any reduction required to be made under the National Insurance (Isle of Man) Act, 1948, is consolidated. Lump sum benefits under the Scheme in respect of non-participating employment are reduced to take account of payments which an employer is required to make under the Act of 1961 on the termination of non-participating employment. Where the previous service of any employee in other employment outside the National Health Service has become reckonable under the Scheme, the pension attributable to that service will be reduced in the same way as it would have been reduced in the previous employment.

The miscellaneous provisions in Part IV include a provision for the deduction from contributions returned to an employee of sums paid in respect of him as payments in lieu of contributions, and also a provision that the contributions required by the Scheme are to be deemed for the purpose of reckoning contributing service to have been made in full, notwithstanding the reductions required by the Regulations.

In Part V of the Regulations provision is made for modifying the pensions scheme applicable to Isle of Man National Health Service employees—

- (i) by limiting the right to surrender, commute or assign a pension in certain cases, and
- (ii) by limiting certain provisions for the reduction, termination or suspension of a pension.

These Regulations were approved by Tynwald on the 22nd day of March, 1961.