

Government Circular 48/71
G.O. Reference: N2304/51/6.

ISLE OF MAN

SOCIAL SECURITY

**THE SOCIAL SECURITY (ISLE
OF MAN) ORDER 1971**

The Social Security (Isle of Man) Order 1971 made on 4th October 1971 by the Lieutenant Governor under the powers conferred on him by subsection (1) of section 33 of the Isle of Man Board of Social Security Act 1970 and approved by resolution of Tynwald on 20th October 1971.

Explanatory Memorandum

1. The Isle of Man Board of Social Security Act 1970 empowers the Governor, by order, to amend, vary or repeal any of the provisions of that Act, and the Old Age Pensions, Family Allowances and National Insurance (Isle of Man) Act, 1956, empowers the Governor, by order, to amend, vary or repeal any of the provisions of the enactments named, in the Schedule to that Act in such manner as appears to him expedient for the purpose of making such enactments correspond (subject to such modifications or adaptations as he may consider appropriate) with the like enactments on similar subject matters from time to time operating in Great Britain. The provisions of such an order may be made retrospective and shall take effect on such day or days as may be specified in the order, not being earlier than the date from which the corresponding enactments have effect in Great Britain. Any such order must be laid before Tynwald as soon as may be after it is made but does not take effect until approved by resolution of Tynwald. When such an order has been approved by resolution of Tynwald, it has effect as if it were an Act of Tynwald.

2. *Corresponding British legislation.* The provisions of this Order correspond to those enacted in Great Britain by the Social Security Act 1971

3. Section 1 deals with the determination of the amount of supplementary benefit payable in certain circumstances.

4. Subsection (2) provides for a statutory deduction from the supplementary benefit entitlement of persons who are or would be disqualified for national insurance unemployment benefit under section 12(2) of the National Insurance (Isle of Man) Act 1948, because of industrial misconduct, of 40 per cent. of the adult scale rate applicable, subject to a maximum of 40 per cent. of the rate for a single householder.

5. Subsection (3) provides that any person becoming employed again following the end of a trade dispute shall have any advance of wages made or offered to him by his

♦ employer, and any earnings from his full-time work, taken fully into account in determining an award of supplementary benefit.

6. Subsection (4) provides that strike pay, and payments analogous to strike pay, shall be taken into account in assessing supplementary benefit in the same way as other miscellaneous income is under paragraph 25 of Schedule 1 to the Isle of Man Board of Social Security Act 1970.

7. Section 2, together with Schedule 1, provides that any supplementary benefit paid on return to work to a person who has been without employment by reason of a stoppage of work due to a trade dispute at his place of employment and who was disqualified for receiving supplementary benefit for his own requirements under the trade dispute disqualification in section 9 of the Isle of Man Board of Social Security Act 1970, shall be recoverable, with provision for recovery by deduction from his wages by his employer.

♦ 8. Section 3 slightly enlarges the scope of section 15 of the Isle of Man Board of Social Security Act 1970 (which relates to the prevention of duplication of payments), so as to permit recoveries to be made from arrears of certain social security benefits in respect of supplementary benefit paid to the claimant's separate dependants.

9. Section 4 extends to the Isle of Man Board of Social Security Act 1970 the existing powers of inspectors under section 44 of the National Insurance (Isle of Man) Act 1948, as amended.

10. Section 5 will enable reciprocal agreements with other countries to apply to supplementary benefit as well as national insurance benefit and family allowances.

11. Section 6 abolishes entitlement in any circumstances to unemployment benefit and sickness benefit under the National Insurance Acts and to injury benefit under the National Insurance (Industrial Injuries) Acts for the first three days of a period of interruption of employment.

♦ 12. Section 7 increases to £50 the maximum fine to which, under section 2(6) of the National Insurance (Isle

of Man) Act 1948 or section 3(4) of the National Insurance (Industrial Injuries) (Isle of Man) Act 1948, a person is liable on summary conviction for failing to pay a contribution.

13. *Financial Provisions.* The abolition of the payment of waiting days is expected to result in a reduction in a full year of approximately £10,500 in expenditure from the National Insurance Fund and approximately £1,500 from the Industrial Injuries Fund. The introduction of the other provisions may result in a small saving in payments of Supplementary Benefit.

Arrangement of Sections

Provisions relating to supplementary benefit

SECTION

1. Amendment of provisions for determining amount of supplementary benefit.
2. Supplementary benefit paid after return to full-time employment following a trade dispute to be recoverable in certain cases.
3. Further provision for preventing duplication of supplementary and other benefits.
4. Extension of functions and powers of inspectors under National Insurance (Isle of Man) Act 1948.
5. Reciprocal agreements with other countries in connection with supplementary benefit.

Miscellaneous and general

6. Amendment of qualification for unemployment benefit, sickness benefit and injury benefit.
7. Increase of maximum fines for failure to pay contributions.
8. Citation, construction, commencement, repeal and extent.

SCHEDULES:

Schedule 1 — Provisions as to recovery of sums paid by way of supplementary benefit on awards made by virtue of section 2(2) of this Order.

Schedule 2 — Repeals.

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By His Excellency Sir Peter Hyla Gawne Stallard,
K.C.M.G., C.V.O., M.B.E., Lieutenant Governor of the
said Isle, etc., etc., etc.

I, the said Lieutenant Governor, by virtue of the powers conferred on me by subsection (1) of section 33 of the Isle of Man Board of Social Security Act, 1970, and subsection (1) of section 1 of the Old Age Pensions, Family Allowances and National Insurance (Isle of Man) Act 1956 and of all other powers enabling me in that behalf DO hereby make the following Order:—

Provisions relating to supplementary benefits

1. (1) Schedule 1 to the Isle of Man Board of Social Security Act 1970 (which contains provisions for determining the amount of any benefit under that Act to which a person is entitled) shall have effect subject to the amendments provided for in this section.

Amendment
of provisions
for deter-
mining amount
of sup-
plementary
benefit.

(2) Subject to subsection (5) below, in Part II (calculation of requirements), after paragraph 10 there shall be inserted the following:—

“Persons disqualified for unemployment benefit

10A. (1) If a person's right to a supplementary allowance is subject to the condition of section 10 of this Act, then, in relation to any period during which—

- (a) he is disqualified for receiving unemployment benefit by virtue of section 12(2) of the National Insurance (Isle of Man) Act 1948 (disqualification by reference to conduct resulting in unemployment or conducing to its continuance); or

- (b) he is not so disqualified, but the circumstances are as mentioned in sub-paragraph (2) of this paragraph,

this Part of this Schedule shall have effect, as regards the determination of the amount of any supplementary allowance to which he is entitled, as if the amount specified in that entry in paragraph 9 or paragraph 10 of this Schedule which relates to his requirements (disregarding for this purpose the requirements of any other person which are to be or may be included in his by virtue only of paragraph 3(2) of this Schedule) were reduced by a sum equal to 40 per cent. of the amount so specified or, if the amount so specified exceeds the amount specified in paragraph 9(b) of this Schedule, 40 per cent. of the last-mentioned amount (disregarding any amount by which that sum exceeds a multiple of 5p).

(2) The circumstances referred to in sub-paragraph (1)(b) of this paragraph are that the person concerned—

- (a) has not made a claim for unemployment benefit; or
- (b) has made such a claim, but the claim has not yet been determined; or
- (c) has had such a claim disallowed otherwise than by reason of his being disqualified as mentioned in sub-paragraph (1)(a) of this paragraph,

but in the opinion of the Isle of Man Board of Social Security (hereinafter in this Order referred to as 'the Board') he would be so disqualified if he were to make such a claim, or if his claim had been determined, or if it had not been disallowed for a different reason.

(3) In this paragraph 'unemployment benefit' means unemployment benefit under the National Insurance (Isle of Man) Act 1948."

(3) In Part III (calculation of resources), paragraph 23 (earnings) shall be amended as follows—

- (a) for the word "The" (where first occurring) there shall be substituted the words "(1) Subject to sub-paragraph (2) of this paragraph, the"; and

(b) at the end there shall be added the following:—

“(2) Where a person who by reason of a stoppage of work due to a trade dispute at his place of employment has been without employment for any period during the stoppage becomes engaged in remunerative full-time work again in consequence of the ending of the stoppage—

(a) any advance of earnings made or offered to him during so much of that engagement as falls within the period of fifteen days from the beginning thereof shall be taken into account in calculating or estimating his net weekly earnings; and

(b) for the purpose of any claim for benefit made by him during so much of that engagement as falls within that period, subparagraph (1) of this paragraph shall have effect as regards his weekly earnings (but not those of any other person) subject to the modification that the reduction provided for in paragraph (b) of that subparagraph shall be applied only to the amount, if any, by which his net weekly earnings exceed his net weekly earnings from his full-time work (instead of to the full amount of his net weekly earnings).”

(4) In Part III (calculation of resources), after paragraph 25 there shall be inserted the following:—

“ Specific resources falling to be treated as income

25A. In calculating a person's resources for purposes of this Schedule there shall be treated as income (and, subject to paragraph 25 of this Schedule, taken into account as such) any payment which he receives or is entitled to obtain (whether from a trade union or any other source) by reason of being without employment for any period during a stoppage of work due to a trade dispute at his place of employment.”

(5) Subsection (2) above shall not have effect in relation to claims for benefit under the Isle of Man Board of Social Security Act 1970 made before the coming into force of that subsection.

Supplementary benefit paid after return to full-time employment following a trade dispute to be recoverable in certain cases.

2.—(1) Where a person—

- (a) has by reason of a stoppage of work due to a trade dispute at his place of employment been without employment for any period during the stoppage; and
- (b) is a person whose requirements for that period (except so far as they included the requirement to provide for any other person) fell (or would have fallen) to be disregarded for purposes of benefit by virtue of section 9(1) of the *Isle of Man Board of Social Security Act 1970* (persons affected by trade disputes),

then, if after the coming into force of this section he becomes engaged in remunerative full-time work again in consequence of the ending of the stoppage, subsections (2) and (3) below shall apply in his case.

(2) Section 6(1) of the said Act of 1970 (exclusion of persons in full-time employment from entitlement to benefit) shall not apply to the person in question until the expiration of the period of fifteen days from the beginning of the engagement mentioned in subsection (1) above; but any sum paid to him on an award of benefit made to him during that period by virtue of this subsection shall be recoverable from him in accordance with the provisions of Part I of Schedule 1 to this Order.

(3) Nothing in any regulations made under section 6(2) of the said Act of 1970 (general power to provide for postponing the application of the said section 6(1) in the case of persons becoming engaged in remunerative full-time work) shall apply to the person in question as regards the engagement mentioned in subsection (1) above.

(4) Where on a claim for benefit made by a person engaged in remunerative full-time work the Board determines that the claimant is by virtue of subsection (2) above entitled to benefit and award him benefit accordingly, the Board shall determine in accordance with subsection (5) below the claimant's protected earnings for the purposes of Part I of Schedule 1 to this Order and shall give to him a notice in writing—

- (a) stating that the Board has made an award of benefit

to the claimant as a person entitled thereto by virtue of the said subsection (2) and that accordingly any sum paid to him on that award will be recoverable from him as there provided; and

(b) specifying the amount of benefit awarded to the claimant on the claim and his protected earnings for the purposes of the said Part I as determined by the Board.

(5) For the purposes of Part I of Schedule 1 to this Order the protected earnings of a person engaged in remunerative full-time work (that is to say the amount below which the earnings actually paid to him for any week in respect of that work must not be reduced by any deduction made under the provisions of that Part) shall be a sum of money equal to the amount arrived at by taking the amount of his weekly requirements, determined in accordance with the provisions of paragraphs 1 and 3 and Part II of Schedule 1 to the Isle of Man Board of Social Security Act 1970, adding £3.00, and subtracting from the result the aggregate weekly amount of any allowances under the Family Allowances (Isle of Man) Act 1946 which would fall to be taken into account in calculating his resources for purposes of the said Act of 1970.

(6) Section 16(1) of the Isle of Man Board of Social Security Act 1970 (under which the Board may by regulations make provision for carrying Part II of that Act into effect) shall have effect as if the reference to Part II of that Act included a reference to this section and Part I of Schedule 1 to this Order; and without prejudice to the generality of the said section 16(1) as amended by this subsection, the purposes for which provision may be made by regulations thereunder shall in particular include the purposes specified in Part II of Schedule 1 to this Order.

(7) Expressions used in Part II of Schedule 1 to this Order and in Part I thereof have the same meaning in Part II as in Part I.

(8) Any person who fails to comply with any provision requiring him to give notice of any matter to the Board, being a provision contained in regulations made under the said section 16(1) in pursuance of paragraph 2 of Part II of Schedule 1 to this Order, shall be liable on summary conviction to a fine not exceeding £20.

(9) If it appears to the Board that, in cases where two or more persons falling within subsection (1)(a) and (b) above become engaged in remunerative full-time work again in consequence of the ending of the same stoppage of work, anomalies in the operation of this section would result from the arrangements for dealing with claims for benefit under the Isle of Man Board of Social Security Act 1970, the Board may by regulations make such provision as the Board thinks appropriate for securing that this section will operate uniformly in relation to both or all of those persons:

Provided that no provision shall be made by regulations under this subsection which would result in any benefit paid to a person being recoverable from him by virtue of subsection (2) above where that benefit is paid to him in circumstances in which it would not be so recoverable apart from any such regulations.

(10) Paragraph 4(1)(b) of Schedule 1 to the Isle of Man Board of Social Security Act 1970 shall not apply to payment made by virtue of subsection (2) above.

Further provision for preventing duplication of supplementary and other benefits.

3. In section 15 of the Isle of Man Board of Social Security Act 1970 (prevention of duplication of payments), after subsection (1) there shall be inserted the following subsection:—

“(1A) Where for any period—

- (a) a person (in this subsection referred to as A) is entitled to, or to an increase in the amount of, any relevant social security benefit in respect of another person (in this subsection referred to as B); and
- (b) B's requirements have been taken into account in determining the amount of any benefit payable under this Act for that period to B or some other person (other than A); and
- (c) the amount of the benefit so payable under this Act has been determined on the basis that A has not made payments for the maintenance of B at a rate equal to or exceeding the amount of, or of the increase in, the relevant social security benefit,

- the amount of, or of the increase in, the relevant social security benefit may, at the discretion of the authority administering it, be abated by the amount by which the amounts paid under this Act exceed what the Board determine they would have been had A, at the time the amount of the benefit under this Act was determined, been making payments for the maintenance of B at a rate equal to the amount of the relevant social security benefit or, as the case may be, of the increase in the relevant social security benefit.

In this subsection 'relevant social security benefit' means any such benefit, allowance or pension as is mentioned in paragraphs (a) to (d) of subsection (1) above."

4.—(1) Every appointment of an inspector made after the passing of this Order under section 44 of the Insurance Act (which relates to the appointment and powers of inspectors) shall be an appointment for the purposes of the 1970 Act as well as for those of the Insurance Act; and every appointment under that section which is in force at the passing of this Order shall have effect as an appointment for the purposes of both that Act and this Order.

Extension of functions and powers of inspectors under National Insurance (Isle of Man) Act 1948.

(2) Accordingly—

(a) any reference in the said section 44 to the Insurance Act (other than any such reference occurring in the phrase "an inspector appointed under this Act") shall be construed as including a reference to the 1970 Act; and

(b) in subsection (3) of that section the reference to benefit shall be construed as including a reference to benefit within the meaning of the 1970 Act.

(3) In this section "the Insurance Act" and "the 1970 Act" mean respectively the National Insurance (Isle of Man) Act 1948 and the Isle of Man Board of Social Security Act 1970, and any reference to section 44 of the Insurance Act is a reference to it as amended by section 2(1) of the National Insurance Order, 1968.

Reciprocal agreements with other countries in connection with supplementary benefits.

5. The provisions of section 56 of the National Insurance (Isle of Man) Act 1948 (which provides that, for the purpose of giving effect to any agreement with the government of any other country providing for reciprocity in matters such as are specified in subsection (1) of that section, the Governor, may by Order, make provision for modifying or adapting that Act in its application to cases affected by the agreement) shall have effect as if—

- (a) the matters specified as aforesaid included matters relating to payments for purposes similar or comparable to the purposes of the Isle of Man Board of Social Security Act 1970; and
- (b) any reference in those provisions to the National Insurance (Isle of Man) Act 1948 included a reference to the said Act of 1970.

Miscellaneous and general

Amendment of qualification for unemployment benefit, sickness benefit and injury benefit.

6.—(1) A person shall not in any event be entitled under the National Insurance (Isle of Man) Act 1948 either to unemployment benefit or to sickness benefit for the first three days of any period of interruption of employment commencing on or after the date on which this subsection comes into force, and accordingly in section 10(1) of that Act the words from “ unless ” to the end shall cease to have effect.

(2) An insured person shall not in any event be entitled to injury benefit under section 10 of the National Insurance (Industrial Injuries) (Isle of Man) Act 1948 in respect of any day during the injury benefit period where that day is one of the first three days of a period of interruption of employment commencing on or after the date on which this subsection comes into force, and accordingly in section 5 (2) (b) of the National Insurance (Isle of Man) Order, 1966, the words from “ unless ” to the end shall cease to have effect.

Increase of maximum fines for failure to pay contributions.

7. The maximum fine to which an employer or insured person is liable on summary conviction of an offence under subsection (6) of section 2 of the National Insurance (Isle of Man) Act 1948 or subsection (4) of section 3 of the National Insurance (Industrial Injuries) (Isle of Man) Act 1948 in respect of a failure to pay any contribution which he is liable under the Act in question to pay shall, fo

offences committed after the coming into force of this section, be fifty pounds; and accordingly, as regards offences so committed, each of those subsections shall have effect with the substitution of the words "fifty pounds" for the words "ten pounds".

8.—(1) This Order may be cited as the Social Security (Isle of Man) Order 1971, and—

Citation,
construction,
commencement,
repeal and
extent.

- (a) the National Insurance (Isle of Man) Acts 1948 to 1970 and this Order may be cited together as the National Insurance (Isle of Man) Acts 1948 to 1971; and
- (b) the National Insurance (Industrial Injuries) (Isle of Man) Acts 1948 to 1971 and this Order may be cited together as the National Insurance (Industrial Injuries) (Isle of Man) Acts 1948 to 1971; and
- (c) the Isle of Man Board of Social Security Act 1970 and this Order may be cited together as the Supplementary Benefit (Isle of Man) Acts 1970 and 1971.

(2) This Order, so far as it relates to the subject-matter of the Isle of Man Board of Social Security Act 1970, shall be construed as one with that Act.

(3) Except where the context otherwise requires, any reference in this Order to any enactment shall be construed as a reference to that enactment as amended or applied by or under any other enactment, including this Order.

(4) The provisions of this Order shall come into force as follows—

- (a) this section and sections 3 to 7 on the day that this Order is approved by resolution of Tynwald;
- (b) section 1 (2) and (5) (and section 1 (1) so far as it relates to section 1 (2)), on 5th November 1971;
- (c) section 2, on 3rd April 1972;

(d) the other provisions (including section 1 (1) except so far as it relates to section 1 (2), and subsection (5) below), on 3rd November 1971.

(5) The enactments mentioned in Schedule 2 to this Order are hereby repealed to the extent respectively specified in column 2 of that Part.

SCHEDULES

SCHEDULE 1

Section 2

PROVISIONS AS TO RECOVERY OF SUMS PAID BY WAY
OF SUPPLEMENTARY BENEFIT ON AWARDS MADE BY
VIRTUE OF SECTION 2(2) OF THIS ORDER

PART I

RECOVERY OF BENEFIT PAID

General

1. (1) In this Part of this Schedule—

“available earnings”, in relation to an employee on any pay-day, means the earnings which remain payable to him on that pay-day after deduction by his employer of all amounts lawfully deductible by the employer otherwise than by virtue of a deduction notice;

“award”, subject to paragraph 8 of this Schedule, means an award of benefit made by virtue of section 2(2) of this Order, and cognate expressions shall be likewise construed;

“the claimant”, in relation to a notification of award, means the person stated therein to have had an award of benefit made to him;

“employment” means employment in remunerative full-time work, and related expressions shall be construed accordingly.

“pay-day”, in relation to earnings paid to an employee, means an occasion on which they are paid;

“prescribed” means prescribed by regulations;

“protected earnings”, in the case of any person, means his protected earnings for the purposes of this Part of this Schedule, as determined by the Board in accordance with section 2(5) of this Order;

“regulations” means regulations made by the Board under section 16(1) of the Isle of Man Board of Social Security Act 1970, as amended by section 2 of this Order;

“repaid by the claimant” means paid by the claimant directly to the Board by way of repayment of benefit paid to the claimant on any award made to him during the period of fifteen days from the beginning of the relevant engagement (including any additional benefit paid to him thereon where the amount of the award is increased on an appeal or as a result of a review).

(2) For the purposes of this Part of this Schedule in its application to any sum which is recoverable from a person by virtue of subsection (2) of section 2 of this Order as having been paid to him by virtue of that subsection during the period of fifteen

days from the beginning of an engagement falling within sub-section (1) of that section, "the relevant engagement" means that engagement.

(3) The provisions of this Part of this Schedule relating to the recovery of benefit by deduction from earnings are framed in terms applicable to employees whose earnings are paid weekly; but the Board may by regulations provide that, in the case of employees whose earnings are paid otherwise, those provisions shall have effect with such adaptations as may be specified in the regulations.

Service and contents of deduction notices

2. (1) Unless the amount of benefit awarded to the claimant has already been repaid by the claimant, the Board shall serve on the person, if any, by whom the claimant is for the time being employed a notice under this paragraph (in this Schedule referred to as a "deduction notice") relating to the claimant.

(2) Every deduction notice shall contain the following particulars, namely—

- (a) particulars enabling the employer to identify the claimant;
- (b) the amount by reference to which deductions are to be made by the employer from the claimant's earnings by virtue of the notice;
- (c) the claimant's protected earnings; and
- (d) such other particulars as may be prescribed.

(3) Subject to the following provisions of this Part of this Schedule—

- (a) the amount specified in a deduction notice as the amount by reference to which deductions are to be made by the employer shall be equal to the amount of benefit specified in the relevant notification of award given to the claimant by virtue of section 2(4) of this Order as having been awarded to the claimant or, if any part of the last-mentioned amount has been repaid by the claimant before the date of the notice, shall be equal to so much of that amount as has not been so repaid before that date; and
- (b) the sum so specified as the claimant's protected earnings shall, subject to regulations, be the same as that specified in the relevant notification of award given to the claimant by virtue of section 2(4) of this Order.

(4) If, after the Board has served a deduction notice relating to the claimant, a further award relating to the same person is made, then, unless the aggregate of the amounts of benefit in all awards relating to the claimant since the beginning of the relevant engagement has already been repaid by the claimant, the Board shall serve a fresh deduction notice on the person, if any, by whom the claimant is for the time being employed.

(5) Where a fresh deduction notice is served at any time by virtue of sub-paragraph (4) above, then—

- (a) if at that time there is in force in relation to the claimant a previous deduction notice served after the beginning of the relevant engagement, the amount specified in the fresh notice as the amount by reference to which deductions are to be made by the employer shall be equal to the sum of the following amounts, namely—

- (i) the amount specified in the previous notice as the amount by reference to which deductions are to be so made; and
- (ii) the amount of the further benefit in consequence of which the fresh notice is being served, is specified as having been awarded to the claimant,

reduced by the aggregate of any amounts repaid by the claimant on or after the date of the previous notice and before the date of the fresh notice;

- (b) in any other case, the amount so specified in the fresh notice shall be the amount which would fall to be so specified therein in accordance with paragraph 5 below if the fresh notice were being served by virtue of the paragraph.

(6) Service of a fresh deduction notice by virtue of sub-paragraph (4) above shall have the effect of cancelling any earlier deduction notice relating to the claimant which is in force when the fresh notice is served, but shall not affect the validity of anything done by virtue of the earlier notice while it was in force.

● **Period for which deduction notice has effect**

3. (1) A deduction notice shall come into force when it is served on the employer of the claimant to whom it relates and shall (unless previously cancelled by virtue of paragraph 2(6) above or sub-paragraph (2) below) cease to have effect as soon as any of the following conditions is fulfilled, that is to say—

- (a) if the claimant dies or ceases to be in the employment of the person on whom the notice was served;

- (b) if the aggregate of—

- (i) all amounts, if any, repaid by the claimant on or after the date of the notice in question; and

- (ii) all amounts, if any, deducted from the claimant's earnings by virtue of the notice in question or, if the condition specified in sub-paragraph (4) below is fulfilled in the case of the notice in question, all amounts, if any, deducted from the claimant's earnings by virtue of that notice or any relevant earlier deduction notice within the meaning of that sub-paragraph,

reaches the amount specified in the notice in question as the amount by reference to which deductions are to be made by the employer;

- (c) if the period of fourteen weeks beginning with the date of the notice expires.

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(2) The Board may at any time give a direction in writing cancelling a deduction notice, and shall cause a copy of any direction of the Board under this sub-paragraph to be served on the employer concerned and on the claimant; and a direction given under this sub-paragraph shall take effect when a copy of it is served on the employer concerned.

(3) Where a deduction notice is cancelled under sub-paragraph (2) above, no further deduction notice relating to the claimant shall be served in connection with any benefit awarded to him by virtue of subsection (2) of section 2 of this Order during the period of fifteen days from the beginning of the relevant engagement.

(4) If, in the case of a deduction notice which is in force (in this sub-paragraph referred to as "the current notice") the following condition is fulfilled, namely that at the time when that notice was served on the employer there was in force in relation to the claimant an earlier deduction notice served on the same employer after the beginning of the relative engagement, each of the following shall for the purposes of sub-paragraph (1)(b)(ii) above constitute a relevant earlier deduction notice, that is to say—

(i) that earlier deduction notice; and

(ii) any still earlier deduction notice relating to the claimant which was served on that employer after the beginning of the relevant engagement, if (subject to sub-paragraph (5) below) the claimant was continuously in the employment of that employer from the time when the still earlier notice in question was served to the time when the current notice was served.

(5) For the purposes of sub-paragraph (4) above the continuity of a period of employment under the same employer shall be treated as having been broken on any occasion on which a deduction notice relating to the employee which was served on the employer after the beginning of the relevant engagement ceased to have effect by reason of the expiration of the period of fourteen weeks mentioned in sub-paragraph (1)(c) above.

Effect of deduction notice

4. (1) So long (but only so long) as a deduction notice is in force in respect of an employee, the following provisions of this paragraph shall apply as regards any pay-day on which his available earnings exceed his protected earnings (as specified in the notice), so however that, as regards any pay-day falling within the period of seven days beginning with the day on which the notice comes into force, sub-paragraph (2) and (3)(a) below shall have effect as if for the words "shall deduct" there were substituted the words "may deduct".

In this paragraph "the notified amount", in relation to a deduction notice, means the amount specified in the notice in accordance with paragraph 2(2)(b) above.

(2) If on the pay-day in question the employee's available earnings exceed his protected earnings (as so specified) by an

amount equal to or less than one-tenth of the notified amount, the employer shall deduct from the employee's available earnings the amount of the excess.

(3) If on the pay-day in question the employee's available earnings exceed his protected earnings (as so specified) by an amount greater than one-tenth of the notified amount, the employer—

(a) shall deduct from the employee's available earnings an amount equal to one-tenth of the notified amount; and

(b) may, with the consent in writing of the employee, deduct from the employee's available earnings a larger amount, so however that the total amount deducted from the employee's available earnings by virtue of this sub-paragraph on any one pay-day shall not be greater than the amount by which the employee's available earnings exceed his protected earnings (as so specified).

(4) Notwithstanding anything in sub-paragraph (2) or (3) above—

(a) the employer shall not make a deduction on a pay-day by virtue of the deduction notice if the employee satisfies him that up to that pay-day he has not obtained payment of the benefit to which the deduction notice relates; and

(b) the employer shall not on any pay-day deduct from the employee's earnings by virtue of the deduction notice an amount greater than the amount by which immediately before that pay-day the aggregate of all such amounts as in relation to that notice are mentioned in paragraphs 3(1)(b)(i) and (ii) above falls short of the notified amount.

(5) Where on any pay-day the employer makes no deduction from the employee's earnings by reason only that the employee has satisfied him as mentioned in sub-paragraph (4)(a) above, the employer shall forthwith give notice of that fact to the Board at the prescribed place and in the prescribed manner, and if he fails to give notice as aforesaid when required by this sub-paragraph to do so shall be liable on summary conviction to a fine not exceeding £20.

(6) Where the employer is required by sub-paragraph (2) or sub-paragraph (3)(a) above to make a deduction on a pay-day and the amount of the deduction which he would be so required to make apart from this sub-paragraph includes a fraction of a new penny, the amount which he is so required to deduct on that pay-day shall be reduced by that fraction of a new penny.

Power to serve further deduction notice in certain circumstances

5. (1) Where a deduction notice has ceased to have effect by reason of the claimant ceasing to be in the employment of the person on whom the notice was served or by reason of the expiration of the period of fourteen weeks mentioned in paragraph 3(c) above, the Board may, if the Board thinks fit, serve a fresh

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deduction notice on the person, if any, by whom the claimant is for the time being employed; and, notwithstanding anything in the foregoing provisions of this Schedule, in any fresh deduction notice served by virtue of this sub-paragraph—

- (a) the amount specified as the amount by reference to which deductions are to be made by the employer shall be equal to the amount mentioned in sub-paragraph (2) below; and
- (b) the amount specified as the claimant's protected earnings shall, subject to regulations, be the same as the amount specified in that behalf in the last deduction notice relating to him which was in force before the date of the fresh notice.

(2) The amount referred to in sub-paragraph (1)(a) above is the aggregate of the amounts of benefit awarded by the Board to the claimant after the beginning of the relevant engagement and before the date of the fresh deduction notice in question, reduced by so much, if any, of the aggregate of those amounts as has been repaid by the claimant before the date of the fresh notice, and further reduced, in respect of every previous deduction notice served after the beginning of the relevant engagement which has been in force in relation to the claimant, by whichever is the greater of the following amounts, namely—

- (i) the aggregate of the amounts actually deducted by the relevant employer from the claimant's earnings by virtue of the previous notice in question; and
- (ii) the aggregate of the amounts which that employer was required by paragraph 4(2) or 4(3)(a) above to deduct from those earnings by virtue of that previous notice.

Liability of employers

6. (1) A person who by virtue of a deduction notice makes one or more deductions from the earnings of a person in his employment shall in accordance with regulations pay the amount or amounts deducted to the Board.

(2) No criminal proceedings shall lie against any person on account of a contravention of sub-paragraph (2) or sub-paragraph (3)(a) of paragraph 4 above; but if, on any pay-day on which the said sub-paragraph (2) or the said sub-paragraph (3)(a) requires a person to make a deduction from the earnings of a person in his employment, the employer makes no deduction from the employee's earnings or deducts from them an amount smaller than the amount which he is thereby required to deduct, then—

- (a) so much of the last-mentioned amount as is not deducted by the employer from the employee's earnings on that pay-day shall be recoverable from the employer by the Board; and
- (b) any sum recovered from the employer by the Board by virtue of paragraph (a) of this sub-paragraph in consequence of his omission to deduct the required amount from the employee's earnings on that pay-day shall for

the purposes of this Schedule be deemed to have been repaid by the employee. SCH. 1

(3) For the purposes of any proceedings brought by the Board by virtue of sub-paragraph (2)(a) above against a person in connection with a deduction notice served on him in respect of a person who at the material time was in that person's employment, it shall be presumed, except in so far as the contrary is proved, that on every pay-day which occurred while that notice was in force the employee's available earnings exceeded his protected earnings (as specified in the notice) by an amount greater than one-tenth of the notified amount (within the meaning of paragraph 4 above).

**Right of the Board to recover benefit
directly from claimant**

7. (1) Where, an award having been made, it is at any time not practicable for the Board to effect by means of a deduction notice recovery of the relevant amount, or so much of it as, not having previously been repaid by the claimant or deducted from the claimant's earnings by virtue of this Part of this Schedule, remains to be recovered from the claimant, the relevant amount, or, as the case may be, so much of it as remains to be recovered from the claimant shall by virtue of this paragraph be recoverable from the claimant by the Board.

In this sub-paragraph, "the relevant amount", in relation to an award, means the amount of benefit specified in a notice given to a claimant by virtue of section 2(4) of this Order as having been awarded to the claimant.

(2) For the purpose of any proceedings brought by virtue of this paragraph a certificate purporting to be signed by or on behalf of the Board and stating that it is not practicable for the Board to effect by means of a deduction notice recovery of the amount of benefit specified in a notification of award as having been awarded to the claimant, or so much of that amount as remains to be recovered from the claimant, shall be conclusive evidence of the matters dealt with in the certificate (other than any matter affecting the determination of the actual amount, if any, which the Board is entitled to recover from the claimant by virtue of this paragraph).

8. If after the Board has served a deduction notice relating to the claimant, the amount of the award which was the subject of the notification is increased on an appeal under section 17 of the Isle of Man Board of Social Security Act 1970 or as the result of a review by the Board of any determination affecting that amount, the foregoing provisions of this Schedule shall have effect as if on the date on which the increase is awarded the Board has made a further award to the claimant of the amount of the increase and, subject to regulations, specifying as the claimant's protected earnings the same amount as was specified in that behalf in the last award relating to him which in fact was made by the Board and reference in those provisions to the making of an award shall be construed accordingly.

Increase of
amount of
award on
appeal and
review.

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PART II

PURPOSES FOR WHICH PROVISION MAY BE MADE BY
REGULATIONS

1. Any purpose for which provision is by section 2 of this Order or Part I of this Schedule authorised or required to be made by regulations.

2. For requiring, in such cases as may be prescribed, notice to be given at the prescribed place and in the prescribed manner to the Board where, after a deduction notice relating to any person has been duly served, that person ceases to be in the employment of the person on whom that notice was served or, having so ceased, subsequently enters the employment of the same or any other person.

3. For requiring or enabling the Board, in such circumstances as may be prescribed, to review any determination made by the Board of a person's protected earnings for the purposes of Part I of this Schedule.

4. For enabling the Board to vary any deduction notice for the time being in force so far as may be necessary to bring the sum specified therein as the protected earnings for the purposes of Part I of this Schedule of the person to whom the notice relates into conformity with any determination of that person's protected earnings for those purposes made by the Board (whether on a review or otherwise) after the date of the notice.

5. For modifying the operation of Part I of this Schedule in cases where, by virtue of subsection (1) of section 2 of this Order, subsection (2) of that section applies to the same person as regards two or more separate periods of fifteen days.

Section 8.

SCHEDULE 2

ENACTMENTS REPEALED

Short Title	Extent of Repeal
The National Insurance (<i>Isle of Man</i>) Act, 1948	In section 10(1), the words from "unless" to the end.
The National Insurance Order, 1966	In section 5(2)(b), the words from "unless" to the end.

GIVEN under my hand this 4th day of October 1971.

P. H. G. STALLARD

Lieutenant Governor.