STATUTORY INSTRUMENTS

1961 No. 323

NATIONAL INSURANCE

The National Insurance (Modification of the Army Pension Scheme) Regulations, 1961

Made - - - -	*24th February*, 1961
Laid before Parliament	*28th February*, 1961
Coming into Operation	*3rd April*, 1961

The Army Council, in pursuance of a determination by the Lords Commissioners of Her Majesty's Treasury under subsection (4) of section 69 of the National Insurance Act, 1946(a), that they are the appropriate Government department in relation to the Scheme for the provision of pensions for persons serving in the Army established by Royal Warrant and by orders and regulations made under section 2 of the Pensions and Yeomanry Pay Act, 1884(b), and in exercise of the powers conferred upon them by the said subsection as extended by section 15 of the National Insurance Act, 1959(c), and of all other powers enabling them in that behalf, hereby make the following Regulations:—

1. These Regulations may be cited as The National Insurance (Modification of the Army Pension Scheme) Regulations, 1961, and shall come into operation on the third day of April, 1961.

2.—(1) In these Regulations, the following expressions have the meanings hereby respectively assigned to them, that is to say:

"the Act of 1884" means the Pensions and Yeomanry Pay Act, 1884;

"the Act of 1959" means the National Insurance Act, 1959;

"employed person" means a person serving in the Army;

"graduated contributions" means graduated contributions under the Act of 1959;

"graduated retirement benefit" means graduated retirement benefit under the Act of 1959;

"non-participating employment" has the meaning assigned to it by subsection (2) of section 7 of the Act of 1959;

"notional graduated retirement benefit" means in relation to any person, the amount expressed as a yearly rate, of the graduated retirement benefit which would be payable to him in return for an amount of graduated contributions equal to one such contribution paid in each week of the period of his non-participating service in respect of a weekly payment of remuneration of fifteen pounds.

(2) Any reference in these Regulations to the provisions of any enactment shall be construed, except where the context otherwise requires, as a reference to these provisions as amended or re-enacted by any subsequent enactment.

(3) The Interpretation Act, 1889(d), shall apply for the purposes of the interpretation of these Regulations as it applies for the purposes of the interpretation of an Act of Parliament.

(a) 9 & 10 Geo. 6. c. 67. (b) 47 & 48 Vict. c. 55. (c) 7 & 8 Eliz. 2. c. 47.
(d) 52 & 53 Vict. c. 63.

3. Where a pension is granted to a person who, immediately before he ceased to be employed as an employed person, was employed in a non-participating employment, so much of his pension payable in respect of any period after age 65 in the case of a man or 60 in the case of a woman as is equal to the amount of his notional graduated retirement benefit shall, notwithstanding anything to the contrary in any Royal Warrant or in any order or regulation made under section 2 of the Act of 1884, not be capable of being terminated or suspended except for such causes as may be prescribed by regulations made by the Minister of Pensions and National Insurance under paragraph (*c*) of subsection (1) of section 8 of the Act of 1959.

4. Where—

(*a*) a pension has been granted to a person who, immediately before he ceased to be employed as an employed person, was employed in a non-participating employment and

(*b*) he makes an application in the case of an officer under the Pensions Commutation Acts, 1871 to 1882, and in the case of a Warrant Officer, non-commissioned officer or soldier under the Act of 1884, for the commutation of the said pension or a portion thereof by payment of a capital sum of money

so much of the said pension as is equal to the amount of his notional graduated retirement benefit shall, notwithstanding anything in the Pensions Commutation Acts, 1871 to 1882, or in the Act of 1884, not be capable of being commuted under those Acts.

Dated this 24th day of February, 1961.

R. W. Goodbody.
J. G. Cowley.
R. G. K. Way.

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

The purpose of these Regulations is to modify any Royal Warrant made under the provisions of the Pensions and Yeomanry Pay Act, 1884, or under any other powers vested in the Army Council by Her Majesty, in connection with the operation of the provisions of the National Insurance Act, 1959.

By virtue of Section 7 (2) of that Act, an employment may not be contracted out of the graduated National Insurance scheme unless those employed in it qualify for equivalent pension benefits. Section 8 (1) of the Act lays down the conditions which must be satisfied if an occupational pension scheme is to be treated as providing equivalent pension benefits. The purpose of Regulations 3 and 4 of these Regulations is to modify Royal Warrants for Pensions of the Army so that the retired pay and pensions paid to officers and other ranks of the Army will satisfy these conditions. Regulation 3 prevents the termination or suspension (except for prescribed causes) of so much of retired pay or pension as is equivalent to the amount of graduated pension which would be payable if graduated contributions were paid at the maximum rate (i.e. on earnings of £15 a week) throughout a like period of service. Regulation 4 prevents the surrender or commutation of a similar portion of retired pay or pension.