



MONTSERRAT

CHAPTER 6.07

PENSIONS ACT and Subsidiary Legislation

Revised Edition
showing the law as at 1 January 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

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The following Pension (Increase) Acts are not included in this revised edition and they may be found as follows—

Caps: 186 of the 1962 Revised Edition, volume 3, page 1593
187 of the 1962 Revised Edition, volume 3, page 1599
188 of the 1962 Revised Edition, volume 3, page 1603
Amended by Act 10 of 1963

Acts: 10 of 1963
18 of 1963
Amended by Act 22 of 1965

Acts: 11 of 1968
2 of 1972
18 of 1974
Amended by Act 1 of 1975

Acts: 33 of 1979
3 of 1982
6 of 1985

NOTE: (1) There have been numerous Acts which were designed to increase the pension payable according to different criteria and circumstances—to establish any individual pension entitlement, these Pension (Increase) Acts must be consulted.

(2) Act 6 of 1960 (Cap. 185 of 1962 Revised Edition) shortly clarified what law applies and its effect is shown in a footnote to section 3(5) of the Pensions Act.

(3) Act 3 of 1974 provides that pensions are a charge on the Consolidated Fund.

(4) Personal Pensions Acts are omitted.

CHAPTER 6.07

PENSIONS ACT

ARRANGEMENT OF SECTIONS

SECTION

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CHAPTER 6.07

PENSIONS ACT

*(Acts 12 of 1947, 7 of 1953, 4 of 1955, 6 of 1956,
23 of 1956, 3 of 1958, 15 of 1961, 4 of 1962, 14 of 1963,
8 of 1966, 12 of 1967, 13 of 1969, 30 of 1979, 27 of 1982,
5 of 1985 and 13 of 1992)*

Commencement

[1 April 1948]

Short title

1. This Act may be cited as the Pensions Act.

Interpretation

2. (1) In this Act—

“**house allowance**” includes the estimated value of free quarters as defined in Regulations under this Act;

“**inducement allowance**” means the inducement allowance referred to in paragraph (a) of clause 3 of the Schedule to the Overseas Service Act, 1961;

“**non-pensionable office**” means an office which is not a pensionable office;

“**other public service**” means public service not under the Government of Montserrat;

“**pensionable emoluments**”—

(a) in respect of service under the Government of Montserrat, includes salary, inducement allowance, personal allowance, house allowance, and in the case of a teacher, any charge pay that may be paid to such teacher when in charge of a government elementary school, but does not include duty allowance, entertainment allowance or any other emoluments whatever;

(b) in respect of other public service, means emoluments which count for pension in accordance with the law or regulations in force in such service;

“**pensionable office**” means—

(a) in respect of service under the Government of Montserrat, an office which, by virtue of the provision for the time being in force in an Order made by the Governor in Council and

published in the *Gazette*, is declared to be a pensionable office and any such Order may specify a date prior to such Order from which the office is deemed to be a pensionable office; and any such Order may from time to time be amended, added to, or revoked by an Order so made and published; but where by virtue of any such amendment or revocation any office ceases to be a pensionable office, then so long as any person holding that office at the time of the amendment or revocation continues therein, the office shall, as respects that person, continue to be a pensionable office;

- (b) in respect of other public service, an office which is for the time being a pensionable office under the law or regulations in force in such service;

“personal allowance” means a special addition to salary granted personally to the holder for the time being of the office, but does not include such an addition if it is granted subject to the condition that it shall not be pensionable;

“public service” means—

- (a) service in a civil capacity under the Government of Montserrat or any other country or territory in the Commonwealth;
- (b) service under the East Africa Commissioner, the East African Common Services Organisation, the East African Posts and Telecommunications Administration, the East African Railways and Harbours Administration, the East African Community, the East African Harbours Corporation, the East African Posts and Telecommunications Corporation or the East African Railways Corporation;
- (c) service which is pensionable—
 - (i) under the Oversea Superannuation Scheme;
 - (ii) under any Acts relating to the superannuation of teachers in the United Kingdom;
 - (iii) under a local authority in the United Kingdom;
 - (iv) under the National Health Service of the United Kingdom;
- (d) any other service that a Secretary of State or the Governor after consultation with a Secretary of State has determined to be public service for purposes of this Act and any such determination* may specify a date prior to such determination from which such other service is deemed to be public service;

* Montserrat Development Finance, Marketing Corporation (G1/1983)
Montserrat Water Authority (G1/1983)

- (e) except for the purposes of computation of pension or gratuity and of section 9 service in respect of which a pension may be granted under the Governor's Pensions Act, 1957 of the United Kingdom; and
- (f) service as the holder of the office of President, Vice-President, Justice of Appeal, Registrar, Officer or Servant of the Court of Appeal for Eastern Africa or the Court of Appeal for East Africa;

“salary” means the salary attached to a pensionable office or, where provision is made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office.

(2) For the avoidance of doubts it is hereby declared that, where an officer has been confirmed in a pensionable office and is thereafter appointed to another pensionable office, then, unless the terms of such appointment otherwise require, such last mentioned office is, for the purposes of this Act, an office in which he has been confirmed.

Pensions Regulations

3. (1) Pensions, gratuities and other allowances may be granted by the Governor in accordance with the Pensions Regulations to officers who have been in service under the Government of Montserrat.

(2) Except as is otherwise provided in this section, the said Regulations may from time to time be amended, added to or revoked by regulations made by the Governor in Council with the sanction of a Secretary of State, and all regulations so made shall be laid before the Legislative Council and published in the *Gazette*.

(3) Whenever the Governor in Council is satisfied that it is equitable that any of the Pensions Regulations or any other regulations amending or adding to the same should have retrospective effect in order to confer a benefit upon or remove a disability attaching to an officer that regulation may be given retrospective effect for that purpose:

Provided that no such regulation shall have retrospective effect unless it has received the prior approval of the Legislative Council signified by resolution.

(4) The expression “**this Act**” shall, wherever it occurs in this Act, be construed as including a reference to the said Pensions Regulations.

(5) Any pension or gratuity granted under this Act shall be computed in accordance with the provisions in force at the actual date of an officer's retirement.

* The law applicable to the grant and payment to an officer of a pension in respect of Montserrat public service is the law in force when that public service commences, or any later law not less favourable to the beneficiary. (See Act 6/1960, Cap. 185 of the 1962 Revised Edition for the full text of this provision).

Pensions, etc., to be charged on revenues of Montserrat

4. There shall be charged on and paid out of the general revenues of Montserrat all such sums of money as may from time to time be granted by way of pension, gratuity or other allowance in pursuance of this Act.

Pensions, etc. not of right

5. (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity, or other allowance; nor shall anything in this Act affect the right of the Crown to dismiss any officer at any time and without compensation.

(2) Where it is established to the satisfaction of the Governor that an officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity, or other allowance may be reduced or altogether withheld.

Circumstances in which pension may be granted

6. (1) No pension, gratuity or other allowance shall be granted under this Act to any officer except on his retirement from the public service in one of the following cases—

- (a) on or after attaining the age of fifty-five years or, in special cases with the approval of a Secretary of State, forty-five years;
- (b) in the case of transfer to other public service, on or after attaining the age at which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity:

Provided that if his service in such other public service is superannuated under the Federated Superannuation System for Universities or a similar insurance scheme, he has retired on one of the grounds mentioned in paragraphs (a), (c), (d), (e) and (f);

- (c) on the abolition of his office;
- (d) on compulsory retirement for the purpose of facilitating improvement in the organization of the department to which he belongs, by which greater efficiency or economy may be effected;
- (e) on medical evidence to the satisfaction of the Governor or a Secretary of State that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
- (f) in the case of termination of employment in the public interest as provided in this Act;

(g) on retirement in circumstances, not mentioned in the preceding paragraphs of this section, rendering him eligible for a pension under the Pensions (Governors of Dominions &c.) Acts, 1911 to 1936, or any Act amending or replacing those Acts:

Provided that a gratuity may be granted to a female officer, in accordance with the provisions of this Act, who retires for the reason that she has married or is about to marry, notwithstanding that she is not otherwise eligible under this section for the grant of any pension, gratuity or other allowance;

(h) upon the voluntary retirement before the age of fifty-five years of an officer who has completed twenty years continuous service.

(2) (a) Neither a pension nor any commuted pension payable under paragraph (h) of subsection (1) shall become payable until the officer has attained the age of fifty-five years, whereupon it shall be computed as if it were then being paid at the date of the Officer's actual retirement, but in the case of a pension will attract any pension increase awarded after the officer attains the age of fifty-five years;

(b) Notwithstanding anything in paragraph (a) an officer retiring under the provisions of paragraph (h) of subsection (1) shall be entitled to draw his earned gratuity if he had given notice of his retirement on or before the first day of November in the year preceding the year in which his retirement is to take effect;

(c) an officer who takes voluntary retirement before the age of fifty-five years and who subsequently becomes mentally or bodily infirm before attaining the age of fifty-five years, may be granted a pension from the date of his becoming mentally or bodily infirm, notwithstanding that he has not attained the age of fifty-five years.

(Amended by Acts 27 of 1982, 5 of 1985 and 13 of 1992)

Termination of service

7. Where an officer's service is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the officer thereto and all the other circumstances of the case, such termination is desirable in the public interest, and a pension, gratuity or other allowance cannot otherwise be granted to him under the provisions of this Act, the Governor may, if he thinks fit, grant such pension, gratuity or other allowance as he thinks just and proper, not exceeding in amount that for which the officer would be eligible if he retired from the public service in the circumstances described in paragraph (e) of section 6.

Compulsory retirement

8. It shall be lawful for the Governor to require an officer to retire from service under the Government of Montserrat—

- (a) at any time after he attains the age of fifty-five years; or
- (b) in special cases, with the approval of a Secretary of State, at any time after he attains the age of forty-five years.

(Amended by Act 27 of 1982)

Maximum pension

9. (1) Except in cases provided for by subsection (2), a pension granted to an officer under this Act shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service under the Government of Montserrat.

(2) An officer who shall have been granted a pension in respect of other public service shall not at any time draw from the funds of Montserrat an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his public service:

Provided that where an officer receives in respect of some period of public service both a gratuity and a pension, the amount of such pension shall be deemed for the purposes of this subsection to be four-thirds of its actual amount.

(3) Where the limitation prescribed by the preceding subsection operates, the amount of pension to be drawn from the funds of Montserrat shall be subject to the approval of a Secretary of State in order that it may be determined with due regard to the amount of any pension or pensions to be drawn in respect of other public service.

(4) For the purposes of the preceding subsections an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such an additional pension under this Act, the amount thereof together with the remainder of his pension or pensions shall not exceed five-sixths of his highest pensionable emoluments at any time in the course of his public service.

Increase in pension in cases of retirement for ill health with more than ten but less than twenty years' service

10. Subject to the provisions of this Act and of the Pensions Regulations, every officer holding a pensionable office in Montserrat who has been in service under the Government of Montserrat in a civil capacity for more than ten but less than twenty years, and who retires from the said service in the circumstances mentioned in paragraph (e) of section 6 may, on retirement, be granted a pension as if his pensionable service had been twenty years.

Liability of pensioners to be called upon to take further employment

11. (1) Every pension granted under this Act shall be subject to the condition that unless or until the officer shall have attained the age of fifty years, he may, if physically fit for service, be called upon by a Secretary of State to accept, in *lieu* of his pension, an office, whether in Montserrat or in other public service, not less in value, due regard being had to circumstances of climate, than the office which he held at the date of his retirement. If a pensioner so called upon declines to accept such office the payment of his pension may be suspended until he has attained the age of fifty years.

(2) The provisions of the foregoing subsection shall not apply in any case where the Governor, being of opinion that the officer is not qualified for other employment in the public service or that there is no reason to expect that he can be shortly re-employed therein, otherwise directs.

Suspension of pension on re-employment

12. If an officer to whom a pension has been granted under this Act is appointed to another office in the public service, the payment of his pension may, if the Governor thinks fit, be suspended during the period of his re-employment.

Pensions, etc., not to be assignable

13. A pension, gratuity or other allowance granted under this Act shall not be assignable or transferable except for the purpose of satisfying—

- (a)** a debt due to the Government of Montserrat; or
- (b)** an order of any Court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the officer to whom the pension, gratuity or other allowance has been granted, and shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatever except a debt due to the Government as aforesaid.

Pensions, etc., to cease on bankruptcy

14. (1) If any person to whom a pension or other allowance has been granted under this Act is adjudicated bankrupt or is declared insolvent by judgment of any competent Court, then such pension or allowance shall forthwith cease.

(2) If any person is adjudicated bankrupt or is declared insolvent as aforesaid either—

- (a)** after retirement in circumstances in which he is eligible for pension or allowance under this Act but before the pension or allowance is granted; or

(b) before such retirement, and he shall not have obtained his discharge from bankruptcy or insolvency at the date of his retirement,

then, in the former case any pension or allowance eventually granted to him shall cease as from the date of the adjudication or declaration as the case may be and, in the latter case, the pension or allowance may be granted, but shall cease forthwith and not become payable.

(3) Where a pension or allowance ceases by reason of this section, it shall be lawful for a Secretary of State or if the person in question is resident in Montserrat, the Governor, from time to time during the remainder of such person's life, or during such shorter period or periods, either continuous or discontinuous, as a Secretary of State or the Governor, as the case may be, shall think fit, to direct all or any part of the moneys to which such person would have been entitled by way of pension or allowance, had he not become bankrupt or insolvent, to be paid to, or applied for the maintenance or benefit of, all or any to the exclusion of the other or others, of the following, that is to say, such person and any wife, child or children of his, in such proportions and manner as a Secretary of State or the Governor, as the case may be, thinks proper, and such moneys shall be paid or applied accordingly.

(4) Moneys applied for the discharge of the debts of the person whose pension or allowance has so ceased shall, for the purposes of this section, be regarded as applied for his benefit.

(5) When a person whose pension or allowance has so ceased obtains his discharge from bankruptcy or insolvency, it shall be lawful for a Secretary of State or, if such person is resident in Montserrat, the Governor, to direct that the pension or allowance shall be restored as from the date of such discharge or any later date, and the pension or allowance shall be restored accordingly.

Pensions, etc., may cease on conviction

15. (1) If any person to whom a pension or other allowance has been granted under this Act is sentenced to a term of imprisonment by any competent Court for any offence, such pension or allowance shall, if a Secretary of State or, if such person is resident in Montserrat, the Governor, so directs, cease as from such date as a Secretary of State or the Governor, as the case may be, determines.

(2) If any person is sentenced as aforesaid after retirement in circumstances in which he is eligible for pension or allowance under this Act but before the pension or allowance is granted, then the provisions of the foregoing paragraph shall apply as respects any pension or allowance which may be granted to him.

(3) Where a pension or allowance ceases by reason of this section it shall be lawful for a Secretary of State or the Governor, as the case may be, to direct all or any part of the moneys to which such person would have

been entitled by way of pension or allowance had he not been sentenced as aforesaid to be paid, or applied, in the same manner in all respects as prescribed in the preceding section, and such moneys shall be paid or applied accordingly.

(4) If such person after conviction at any time receives a free pardon, the pension or allowance shall be restored with retrospective effect; but in determining whether arrears of such pension or allowance are payable to such person and in computing the amount thereof, account shall be taken of all moneys paid or applied under the preceding subsection.

Pensions, etc., may cease on accepting certain appointments

16. If any person to whom a pension or other allowance has been granted under this Act otherwise than under section 18 becomes either a director of any company the principal part of whose business is in any way directly concerned with Montserrat, or an officer or servant employed in Montserrat by any such company, without the prior permission of the Governor in writing, such pension or allowance shall cease if the Governor so directs:

Provided that it shall be lawful for the Governor, on being satisfied that the person in respect of whose pension or allowance any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in Montserrat, as the case may be, to give directions for the restoration of such pension or allowance, with retrospective effect, if he shall see fit, to such a date as he shall specify, and the pension or allowance shall be restored in accordance with any such directions.

Gratuity where officer dies in the service or after retirement

17. (1) (a) Where an officer holding a pensionable office who is not on probation or agreement, or an officer holding a non-pensionable office to which he has been transferred from a pensionable office in which he has been confirmed, dies while in service under the Government of Montserrat, it shall be lawful for the Governor to grant to his legal personal representative a gratuity of an amount not exceeding either his annual pensionable emoluments, or his commuted pension gratuity, if any, whichever is the greater.

(b) For the purposes of this section—

- (i) **“annual pensionable emoluments”** means the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer if he had retired at the date of his death in the circumstances described in paragraph (e) of section 6;
- (ii) **“commuted pension gratuity”** means the gratuity, if any, which might have been granted to the officer under regulation 25 of the Pensions Regulations if his public service had been wholly in Montserrat and if he had

retired at the date of his death in the circumstances described in paragraph (e) of section 6 and had elected to receive a gratuity and reduced pension.

(2) Where any such officer to whom a pension, gratuity or other allowance has been granted under this Act dies after retirement from service under the Government of Montserrat, and the sums paid or payable to him at his death on account of any pension, gratuity or other allowance in respect of any public service are less than the amount of the annual pensionable emoluments enjoyed by him at the date of his retirement, it shall be lawful for the Governor to grant to his legal personal representative a gratuity equal to the deficiency.

(3) The provisions of this section shall not apply in the case of the death of any officer where benefits corresponding to the benefits which may be granted under this section are payable under the Colonial Superannuation Scheme in respect of such death.

(4) Notwithstanding the provisions contained in subsections (1) and (2) the Governor may in any case where the amount of the gratuity payable thereunder does not exceed the sum of \$480, dispense with the production of probate or letters of administration and cause the gratuity to be paid to the dependant or dependants of the officer and, where there is more than one such dependant, may divide the gratuity among the dependants in such proportion as he may think fit.

Pensions to dependants when an officer dies as a result of injuries received or disease contracted in the discharge of his duties

18. (1) Where an officer dies—

- (a) in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (b) as a result of contracting a disease to which he is specifically exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, while in service under the Government of Montserrat, and such death occurs within seven years of the date of the injury or contracting the disease, it shall be lawful for the Governor to grant, in addition to the grant, if any, made to his legal personal representative or in addition to the payment, if any, made to his dependant or dependants under section 16—
 - (i) if the deceased officer leaves a widow, a pension to her, while unmarried, at a rate not exceeding ten-sixtieths of his annual pensionable emoluments at the date of the injury or \$96 a year, whichever is the greater;

- (ii) if the deceased officer leaves a widow to whom a pension is granted under the preceding paragraph and a child or children, a pension in respect of each child, until such child attains the age of nineteen years, of an amount not exceeding one-eighth of the pension prescribed under the preceding paragraph;
- (iii) if the deceased officer leaves a child or children, but does not leave a widow, or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of nineteen years, of double the amount prescribed by the preceding paragraph;
- (iv) if the deceased officer leaves a child or children and a widow to whom a pension is granted under paragraph (i) and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until such child attains the age of nineteen years, of double the amount prescribed in paragraph (ii);
- (v) if the deceased officer does not leave a widow, or if no pension is granted to his widow, and if his mother were wholly or mainly dependent on him for her support, a pension to the mother, while without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow;
- (vi) if the deceased officer does not leave a widow or mother, or if no pension is granted to his widow or mother, and if his father were wholly or mainly dependent on him for his support, a pension to the father while without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow;
- (vii) if the deceased officer does not leave a child or children who is or are eligible for a pension under the provisions of this section, and if any brother or sister were wholly or mainly dependent on him for support, a pension to any such brother or sister until he or she attains the age of nineteen years while without adequate means of support, of an amount not exceeding the pension which might have been granted under paragraphs (ii), (iii) or (iv):

Provided that—

- (a) if in the opinion of the Governor there are compassionate grounds for so doing, he may grant to any child of a deceased officer being a child who at the date of the death of the officer was wholly or mainly dependent on him for support and who had attained the age of nineteen years, a pension for such period as the Governor may determine, of an amount not exceeding the pension which may be granted under paragraphs (ii), (iii) or (iv);

- (b) where a deceased officer leaves a child who was incapacitated at the time of the officer's death (hereinafter in this section referred to as an "incapacitated child") the Governor may, notwithstanding any pension which may have been granted under paragraphs (ii), (iii) or (iv), grant an additional pension in respect of such incapacitated child after he has attained the age of nineteen years and so long as his incapacity shall continue, of an amount not exceeding one half of the pension which may be granted under paragraph (ii) or paragraph (iii) aforesaid;
- (c) where compensation in respect of the death is payable under the Workmen's Compensation Act, or where benefits corresponding to benefits granted under this section are payable under the Colonial Superannuation Scheme in respect of death, the Governor may reduce the pension which may be payable under this section to such extent as he may consider reasonable;
- (d) no pension shall be payable under this subsection at any time in respect of more than six children exclusive of incapacitated children;
- (e) in the case of a pension granted under paragraph (v), if the mother is a widow at the time of the grant of the pension and subsequently re-marries such pension shall cease as from the date of re-marriage; and if it appears to the Governor at any time that the mother is adequately provided with other means of support, such pension shall cease as from such date as the Governor may determine;
- (f) a pension granted to a female child under this section shall cease upon the marriage of such child under the age of nineteen years.

(2) In the case of an officer not holding a pensionable office, the expression "**pensionable emoluments**" in the preceding subsection shall mean the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(3) If an officer proceeding by a route approved by the Governor to or from Montserrat, at the commencement or termination of his service in Montserrat, or of a period of leave therefrom, dies as the result of damage to the vessel, aircraft or vehicle in which he is travelling, or of any act of violence directed against such vessel aircraft or vehicle, and the Governor is satisfied that such damage or act is attributable to circumstances arising out of war in which Her Majesty may be engaged, such officer shall be deemed, for the purposes of this section, to have died in the circumstances described in paragraph (a) of subsection (1):

Provided that this subsection shall not apply in the case of an officer who is eligible to receive an award under subsection (4).

(4) An officer who dies as a result of an injury received while travelling by air in pursuance of official instructions, which injury is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, shall be deemed for the purposes of this section to have died in the circumstances described in paragraph (a) of subsection (1):

Provided that in such a case the rates of pension prescribed in paragraphs (i) and (ii) of subsection (1) shall be fifteen-sixtieths and one-sixth respectively.

(5) (a) Where the Governor is satisfied that damages have been or will be recovered in respect of the death for which an additional pension or pension may be granted under subsection (1), the Governor may take those damages into account against such additional pension or pension in such manner and to such extent as he may think fit and may withhold or reduce the additional pension or pension accordingly.

(b) For the purposes of this subsection an officer shall be deemed to recover damages whether they are paid in pursuance of a judgment or order of a court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce that claim.

(6) For the purposes of this section—

(a) the word “**brother**” includes in relation to a person, every male child of his father or his mother;

(b) the word “**child**” shall include—

(i) a posthumous child;

(ii) a step-child or illegitimate child born before the date of the injury or contracting the disease, as the case may be, and wholly or mainly dependent upon the deceased officer for support; and

(iii) an adopted child, adopted in a manner recognized by law, before the date of the injury or contracting the disease, as the case may be, and dependent as aforesaid;

(c) the expression “**incapacitated**” means in relation to a child, incapable by reason of some specific bodily or mental disability of earning his own living, and a child who is in any event too young to earn his own living shall be treated as incapacitated for the purposes of this section if it appears that, by reason of any specific bodily or mental disability, he will be incapable of earning his own living when he attains the age at which he would otherwise be capable of doing so;

(d) the word “**father**” includes, in relation to a person, his stepfather and a male person by whom he has been adopted;

- (e) the word “**mother**” includes, in relation to a person, his stepmother and a female person by whom he has been adopted;
- (f) the word “**sister**” includes, in relation to a person, every female child of his father or his mother.

Act not applicable to police force

19. The members of the police force, except the Superintendent and Assistant Superintendents, shall not come under the provisions of this Act.

Application of Act

20. (1) The provisions of this Act shall apply—

- (a) to every officer appointed to the public service of Montserrat—
 - (i) after the commencement of this Act; or
 - (ii) before the commencement of this Act, to whom it was intimated before appointment that he would be liable to be affected by any change in the pensions law of Montserrat; and
- (b) to every officer serving in Montserrat at the commencement of this Act, or transferred from Montserrat to any other public service before the date of such commencement and still in the public service on that date, unless not later than twelve months after such commencement or within such further period as the Governor may in any special case allow, he gives notice in writing to the Governor of his desire that the provisions of the Acts set out in the Second Schedule to this Act and the Regulations made thereunder shall apply to him, in which case they shall continue to apply accordingly.

(2) If any officer who shall have given notice under paragraph (b) of the preceding subsection is thereafter re-appointed to the service of Montserrat, the provisions of this Act shall apply to him in respect of his whole service:

Provided that except where such an officer shall eventually become eligible for a pension or gratuity under this Act in respect of his service both before and after his re-employment, a pension or gratuity granted to him solely in respect of service prior to such re-employment shall not be recomputed.

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PENSIONS REGULATIONS – SECTION 3

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PART I

PRELIMINARY

Short title

1. These Regulations may be cited as the Pensions Regulations.

Interpretation

2. In these Regulations—

“**pensionable service**” means service which may be taken into account in computing pension under these Regulations;

“**qualifying service**” means service which may be taken into account in determining whether an officer is eligible by length of service for pension, gratuity or other allowance;

“**the Act**” means the Pensions Act.

PART II

OFFICERS WITHOUT OTHER PUBLIC SERVICE

Application of Part II

3. Save when the Governor in any special case otherwise directs, this Part of these Regulations shall not apply in the case of any officer transferred to or from the service of Montserrat from or to other public service except for the purpose of determining whether such officer would have been eligible for pension or gratuity, and the amount of pension or gratuity, for which the officer would have been eligible, if the service of the officer had been wholly under the Government of Montserrat.

Pension to whom and at what rates to be granted

4. Subject to the provisions of the Act and of these Regulations, every officer holding a pensionable office under the Government of Montserrat, who has been in service under the Government of Montserrat in a civil capacity for ten years or more, may be granted on retirement a pension at the annual rate of one six-hundredth of his pensionable emoluments for each complete month of his pensionable service.

Gratuities where length of service does not qualify for pension

5. Every officer, otherwise qualified for a pension, who has not been in service under the Government of Montserrat in a civil capacity for ten years, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under regulation 4.

Marriage gratuities

6. Where a female officer having held a pensionable office under the Government of Montserrat for not less than five years and having been confirmed in the pensionable office, retires from service under the Government of Montserrat either—

- (a) because of her intention to marry (which intention shall be notified to the Governor at the time of retirement) and marries within three months of her retirement; or
- (b) within six months after her marriage,

and is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part of these Regulations, she may be granted on production of satisfactory evidence of her marriage, a gratuity not exceeding one-twelfth of a month's pensionable emoluments for each completed month of pensionable service under the Government of Montserrat or one year's pensionable emoluments whichever shall be the less.

PART III**TRANSFERRED OFFICERS****Application of Part III**

7. This Part of these Regulations shall apply only in the case of an officer transferred to or from service under the Government of Montserrat from or to other public service.

Interpretation

8. (1) In this Part and Part IV of these Regulations—

“Scheduled Government” means—

- (a) the Government of any territory, or any authority, mentioned in the Schedule to these Regulations;
- (b) the Government of Ceylon, in respect of any officer appointed to service under that Government before the 4th day of February, 1948;
- (c) the Government of Palestine, in respect of any officer appointed to service under that Government before the 15th day of May, 1948;

- (d) the Government of the Somali Republic in respect of an officer appointed to service under the Government of the Somaliland Protectorate before the 26th day of June, 1960;
- (e) the Government of Cyprus, in respect of any officer appointed to service under that Government before the 16th day of August, 1960; and
- (f) the East African Common Services Organization in respect of any person deemed to have been appointed or appointed to service as President, Vice-President, Justice of the Appeal, Registrar, officer or servant of the Court of Appeal for Eastern Africa by or under the Eastern African Court of Appeal Order in Council, 1961;
- (g) the Montserrat Port Authority.

“Service in the Group” means service under the Government of Montserrat and under a Scheduled Government or Scheduled Governments.

(2) Where an officer to whom this Part of these Regulations applies is, on his retirement from the public service, not granted a pension or gratuity in respect of his employment in the service in which he is last employed, solely by reason of the fact that he has not held office or pensionable office therein for a specified period, he should nevertheless be deemed for the purposes of this Part of these Regulations to have retired in circumstances in which he is permitted by the law or regulation of the service in which he is last employed to retire on pension or gratuity.

Pension for service wholly within the group

9. (1) Where the other public service of an officer to whom this Part of these Regulations applies has been wholly under one or more Scheduled Governments and his aggregate service would have qualified him had it been wholly under the Government of Montserrat for a pension under the Act, he may, subject as mentioned in the proviso to paragraph (b) of section 6 of the Act on his retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, be granted in respect of his service under the Government of Montserrat a pension of such an amount as shall bear the same proportion to the amount of pension for which he would have been eligible had his service been wholly under the Government of Montserrat as the aggregate amounts of his pensionable emoluments during his service under the Government of Montserrat shall bear to the aggregate amounts of his pensionable emoluments throughout his service in the Group.

(2) In determining for the purposes of this regulation the pension for which an officer would have been eligible if his service had been wholly under the Government of Montserrat—

- (a) in the application of regulation 19, his pensionable emoluments shall be determined by reference to the pensionable emoluments enjoyed by him at the date of retirement from the public service or during the three years or lesser period preceding that date, as the case may be, except that where the officer is not serving under a Scheduled Government at that date, the date upon which he was last transferred

from the service of the Scheduled Government shall be deemed to be the date of his retirement for the purposes of this subparagraph;

- (b) no regard shall be had to an additional pension under regulation 23 or regulation 24;
- (c) regard shall be had to the condition that the pension may not exceed two-thirds of his highest pensionable emoluments;
- (d) no period of other public service under a Scheduled Government in respect of which no pension or gratuity is granted to him shall be taken into account.

(3) For the purposes of this regulation the aggregate amount of an officer's pensionable emoluments shall be taken as the total amount of pensionable emoluments which he would have received or enjoyed had he been on duty on full pay in his substantive office or offices throughout his period of service in the Group subsequent to the attainment of the age of twenty years:

Provided that—

- (a) in calculating the aggregate amount of his pensionable emoluments, no account shall be taken of any service under the Government of Montserrat or a Scheduled Government in respect of which no pension or gratuity is granted to him by that Government or Scheduled Government as the case may be;
- (b) where any service in a civil capacity otherwise than in a pensionable office is taken into account as pensionable service, the officers aggregate pensionable emoluments during that service shall be taken into account to the same extent as that service is taken into account as pensionable service.

(Amended by S.R.O. 18/1963)

Pension where other service not within the Group

10. (1) Where the other public service of an officer to whom this Part of these Regulations applies has not included service under any of the Scheduled Governments, and his aggregate service would have qualified him, had it been wholly under the Government of Montserrat, for a pension under these Regulations, he may, subject as mentioned in the proviso to paragraph (b) of section 6 of the Act, on his retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on a pension or gratuity, be granted in respect of his service under the Government of Montserrat a pension at the annual rate of one six-hundredth of his pensionable emoluments for each complete month of his pensionable service under the Government of Montserrat.

(2) Where the officer is not in service under the Government of Montserrat at the time of such retirement, his pensionable emoluments for the purposes of the preceding paragraph shall be those which would have been taken for the purposes of computing his pension if he had retired from the public service and been granted a pension at the date of his last transfer from service under the Government of Montserrat.

Pension when other service both within and not within the Group

11. Where a part only of the other public service of an officer to whom this Part of these Regulations applies has been under one or more of the Scheduled Governments, the provisions of regulation 9 shall apply; but in calculating the amount of pension, regard shall be had only to service in the Group.

Gratuities where length of service does not qualify for pension

12. Where an officer to whom this Part of these Regulations applies retires from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, but has not been in the public service in a civil capacity for ten years, he may subject as mentioned in the proviso to paragraph (b) of section 6 of the Act be granted in respect of his service under the Government of Montserrat a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period might have been granted to him under regulation 9, 10 or 11, as the case may be.

Marriage gratuities

13. A female officer to whom this Part of these Regulations applies who retires for the reason that she has married or is about to marry, and in consequence—

- (a) would, if the whole of her public service had been under the Government of Montserrat, have been eligible for a gratuity under regulation 6; and
- (b) if she is at the date of her retirement in other public service, eligible for a gratuity under provisions corresponding to that regulation in the law or regulations of the public service in which she is last employed,

may, if she is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part of these Regulations, be granted a gratuity which bears to the gratuity for which she would be eligible if the whole of her public service had been in the service in which she is last employed the proportion which her service under the Government of Montserrat bears to her total public service:

Provided that for the purpose of computing such an officer's total public service under this paragraph, no regard shall be had to any service under a Government which does not grant a gratuity to her in consequence of her retirement.

PART IV

GENERAL

General rules as to qualifying service and pensionable service

14. (1) Subject to the provisions of these Regulations, qualifying service shall be the inclusive period between the date on which an officer begins to draw salary in respect of public service and the date of his leaving the public service, without deduction of any period during which he has been absent on leave.

(2) No period which is not qualifying service by virtue of the foregoing paragraph shall be taken into account as pensionable service.

(3) No period during which the officer was not in public service shall be taken into account as qualifying service or as pensionable service.

Reckoning of past service for pension

14A. (1) Notwithstanding anything in regulation 14 or in Regulation 16—

- (a) where an officer in the pensionable service whether during probationary period or not resigns from service to follow a course of study which would enhance that persons qualifications, and that person secures an appointment in the public service within a period of five years from the date of such resignation, the period of pensionable service prior to resignation shall be reckoned for the purpose of pension;
- (b) where an officer in the pensionable service resigns from service to accept an appointment with a regional or international organisation or a statutory authority established under the laws of Montserrat, the period of that officer's pensionable service prior to such resignation shall be reckoned for the purpose of pension if the officer is again appointed to the pensionable service within a period of five years from such resignation.

(2) The provisions of subregulation (1) shall apply whether or not a public officer resigns before the commencement of this Regulation but the benefit conferred by this Regulation shall be applicable only where a part of the pensionable service of that public officer is given after the commencement of this Regulation.

(Inserted by S.R.O. 82/1995)

Continuity of service

15. (1) Except as otherwise provided in these Regulations, only continuous service shall be taken into account as qualifying service or as pensionable service:

Provided that any break in service caused by temporary suspension of employment not arising from misconduct or voluntary resignation shall be disregarded for the purposes of this paragraph.

(2) An officer—

- (a) whose pension has been suspended under section 12 of the Act or under a corresponding provision in any law or regulation relating to the grant of pensions in respect of public service; or
- (b) who has retired from the public service without pension on account of ill-health, abolition of office, or re-organisation designed to effect greater efficiency or economy, and has subsequently been re-employed in the public service; or
- (c) who has left pensionable service under the Teachers (Superannuation) Act, 1925, with a view to entering public service not being service pensionable under the said Act and has, not later than three months

after leaving such first mentioned service, received any salary in respect of employment in public service not so pensionable,

may, if the Governor thinks fit, be granted the pension or gratuity for which he would have been eligible if any break in his public service immediately prior to such suspension, re-employment or employment had not occurred, such pension to be in *lieu* of—

- (i) any pension previously granted to him from funds of Montserrat, and
- (ii) any gratuity so granted which is required to be refunded as a condition of the application to the officer of this regulation,

but additional to any gratuity so granted which is not required to be refunded as aforesaid.

Leave without salary

16. No period during which an officer shall have been absent from duty on leave without salary shall be taken into account as pensionable service unless such leave shall have been granted on grounds of public policy with the approval of a Secretary of State.

Service in Her Majesty's Forces

17. When an officer, during some period of his service, has been on the active list of the Royal Navy, the Army or the Royal Air Force, and pension contributions have been paid in respect of that period from the funds of Montserrat or of any Scheduled Government and have not been refunded, such period shall not be taken into account as pensionable service.

Teaching service may be counted as pensionable service

18. Where an officer holding a pensionable office retires from the service of Montserrat in circumstances in which he is eligible—

- (a) for a pension or gratuity under these Regulations; and
- (b) for a pension or gratuity under the Denominational School Teachers' Pension Act in this regulation hereinafter referred to as "the Act",

then, if his service which, but for this regulation, would be pensionable only under the Act, was immediately followed by pensionable service under these Regulations (which said services are in these Regulations referred to as "combined service") the Governor may, either generally or in any particular case, direct that such service which is pensionable under the Act may be taken into account as though it were pensionable service under these Regulations:

Provided that—

- (a) where any such direction has been given, any pension or gratuity granted under these Regulations shall—

- (i) in the case of an officer whose combined service shall have been wholly in Montserrat be in *lieu* of any pension or gratuity for which the officer is eligible under the Act; or
- (ii) in the case of an officer whose service as a teacher within the meaning of the Act shall have been partly in Montserrat and partly in another Colony of the Leeward Islands, be in *lieu* of any pension or gratuity for which the officer is eligible under the Act, and be paid charged and apportioned in the manner provided in section 4 of the Act and for that purpose such service shall be deemed to be service under the Government of Montserrat, and

(b) any break in service which may be disregarded under the provisions of regulation 15 may likewise be disregarded in determining for the purposes of this regulation whether the period of service which is pensionable under the Act was immediately followed by pensionable service under these Regulations.

Emoluments to be taken for computation of pensions, etc

19. (1) For the purpose of computing the amount of the pension or gratuity of an officer who has had a period of not less than three years' pensionable service before his retirement—

- (a) in the case of an officer who has held the same office for a period of three years immediately preceding the date of his retirement, the full annual pensionable emoluments enjoyed by him at that date in respect of that office shall be taken;
- (b) in the case of an officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, otherwise than by the grant of any scale increment, the full annual pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him shall be taken;
- (c) in other cases one third of the aggregate pensionable emoluments enjoyed by the officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken:

Provided that—

- (i) if such one third is less than the highest annual pensionable emoluments enjoyed by him at the date of any transfer within such period of three years those annual pensionable emoluments shall be taken; and
- (ii) if such one third is less than the annual pensionable emoluments which would have been enjoyed by him at the date of his retirement, if he had continued to hold any office from which he has been transferred at any time during such period of three years, and had received all scale increments which, in the opinion

of the Governor, would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken.

(2) For the purpose of determining under paragraph (1) the pensionable emoluments that an officer has enjoyed or would have enjoyed, as the case may be, he shall be deemed—

- (a) to have been on duty on full pensionable emoluments throughout the period of three years immediately preceding the date of his retirement; and
- (b) to have enjoyed the benefit of any increase due to a general revision in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period of three years.

(3) For the purpose of computing the amount of pension or gratuity of an officer who has had a period of less than three years' pensionable service before his retirement—

- (a) the average annual pensionable emoluments enjoyed by him during such period shall be taken;
- (b) he shall be deemed to have been on duty on full pensionable emoluments throughout such period; and
- (c) he shall be deemed to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period.

(4) The estimated value of free quarters in respect of service under the Government of Montserrat shall be calculated at the rate of one-sixth of the actual salary of the office.

Service in non-pensionable office

20. Only service in a pensionable office shall be taken into account as pensionable service:

Provided that—

(1) Where a period of service in a civil capacity otherwise than in a pensionable office is immediately followed by service in a pensionable office and the officer is confirmed therein, such period may, with the approval of the Governor, be so taken into account.

(2) Any break in service which may be disregarded under the provisions of regulation 15 may likewise be disregarded in determining for the purposes of the preceding proviso whether one period of service immediately follows another period of service.

(3) (a) Where an officer has been transferred from a pensionable office in which he has been confirmed to a non-pensionable office and subsequently retires either from a pensionable office or a non-pensionable office, his service in the non-pensionable office may,

with the approval of the Governor, be taken into account as though it were service in the pensionable office which he held immediately prior to such transfer and at the pensionable emoluments which were payable to him at the date of the transfer.

(b) Where a period of service in a non-pensionable office is taken into account under this regulation, the officer shall, during that period, be deemed for the purpose of regulations 6, 23 and 24 to be holding a pensionable office, and, where that period is taken into account under the preceding proviso, to have been confirmed therein.

Acting service

21. Any period during which an officer has performed only acting service in an office may be taken into account as pensionable service (subject, if the office is a non-pensionable office, to the provisions of the preceding regulation) if the period of such acting service—

(a) is not taken into account as part of his pensionable service in other public service, and

(b) is immediately preceded or followed by service in a substantive capacity in a pensionable office under the same government or authority, and not otherwise.

Service under age of 18 or on probation or agreement

22. Save as otherwise provided in these Regulations, there shall not be taken into account as pensionable service—

(a) any period of service while the officer was under the age of eighteen years, or

(b) any period of service while he was on probation or agreement, unless without break of service he is confirmed in a pensionable office in the public service:

Provided that any break of service which may be disregarded under the provisions of regulation 15 may likewise be disregarded in determining whether the officer is confirmed in a pensionable office without break of service.

(Amended by S.R.O. 1/1983)

PART V

SUPPLEMENTARY

Abolition of office and reorganization

23. If an officer holding a pensionable office retires from the public service in consequence of the abolition of his office or for the purpose of facilitating improvements in the organization of the department to which he belongs, by which greater efficiency or economy may be effected—

- (a) he may, if he has been in a public service for less than ten years, be granted in *lieu* of any gratuity, under regulation 5 or regulation 12, a pension under regulation 4, 9, 10 or 11, as the case may be, as if the words “for ten years or more” were omitted from regulation 4;
- (b) he may, if he retires from the service of Montserrat, be granted an additional pension at the annual rate of one sixtieth of his pensionable emoluments for each complete period of three years’ pensionable service:

Provided that—

- (i) the addition shall not exceed ten sixtieths; and
- (ii) the addition together with the remainder of the officer’s pension shall not exceed the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement, and retired on reaching the age at which he may be required to retire without the approval of a Secretary of State, having received all increments for which he would have been eligible by that date.

Officers injured or contracting diseases in the discharge of their duties

24. (1) This Regulation shall apply to an officer who while in the service of Montserrat either—

- (a) is permanently injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (b) contracts a disease to which he is specifically exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct.

(2) In this regulation, unless the contrary intention appears, references to an officer being injured and to the date on which an injury is sustained shall respectively be construed as including references to him contracting such a disease as is mentioned in paragraph (1) and to the date on which such disease is contracted.

(3) Where an officer to whom this regulation applies is holding a pensionable office in which he has been confirmed—

- (a) he may, if his retirement is necessitated or materially accelerated by his injury and he has been in the public service for less than ten years, be granted, in *lieu* of any gratuity under regulation 5 or regulation 12, a pension under regulation 4, 9, 10 or 11, as the case may be, as if the words “for ten years or more” were omitted from the said regulation 4;
- (b) he may be granted on retirement an additional pension, at the annual rate of the proportion of his actual pensionable emoluments at the

date of his injury appropriate to his case as shown in the following table—

When his capacity to contribute to his own support is—

slightly impaired—five sixtieths;
impaired—ten sixtieths;
materially impaired—fifteen sixtieths;
totally destroyed—twenty sixtieths:

Provided that the amount of the additional pension may be reduced to such an extent as the Governor shall think reasonable where the injury is not the cause or the sole cause of retirement.

- (4) (a) Where an officer to whom this regulation applies is not holding a pensionable office, or is holding a pensionable office in which he has not been confirmed, he may be granted on retirement a pension of the same amount as the additional pension which might be granted to him under paragraph (3), if his office were a pensionable office and he had been confirmed therein.
- (b) The provisions of regulation 25 shall not apply to a pension granted under this paragraph.
- (5) (a) If, for the purpose of assessing the amount of any additional pension or pension to be granted under subparagraph (b) of paragraph (3) or under paragraph (4) to any officer to whom this regulation applies, the degree of permanent impairment of his capacity to contribute to his support is in doubt, he may be granted a provisional award to have effect until such time as the degree of permanent impairment can be determined.
- (b) The provisions of regulation 25 shall not apply to an award made under this paragraph.
- (6) If an officer proceeding by a route approved by the Governor to or from Montserrat, or from one island in Montserrat to another, at the commencement or termination of his service in Montserrat, or of a period of leave therefrom is permanently injured as the result of damage to the vessel, aircraft or vehicle in which he is travelling, and the Governor is satisfied that such damage or act is attributable to circumstances arising out of any war in which Her Majesty may be engaged, such officer shall be deemed for the purpose of this regulation to have been injured in the circumstances described in paragraph (1).
- (7) An officer who is permanently injured while travelling by air in pursuance of official instructions, and whose injury is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, shall be deemed for the purposes of this regulation to have been injured in the circumstances described in paragraph (1):

Provided that in such a case the rates of pension prescribed in paragraph (3) shall be seven and a half sixtieths, fifteen sixtieths, twenty-two and a half sixtieths and thirty sixtieths respectively.

(8) Neither sub-paragraph (b) of paragraph (3) nor paragraph (4) shall apply in the case of an officer selected for appointment to the service of Montserrat on or after the coming into force of the Act who, in consequence of his injury, is entitled to compensation under the Workmen's Compensation Act.

(9) Neither paragraph (3) nor paragraph (4) shall apply in the case of an officer who in consequence of his injury is entitled under the Colonial Superannuation Scheme to benefits corresponding to the benefits granted under those paragraphs.

(10) (a) Where the Governor is satisfied that damages have been or will be recovered by an officer in respect of an injury for which an additional pension or pension may be granted under sub-paragraph (b) of paragraph (3) or under paragraph (4), the Governor may take those damages into account against such additional pension or pension in such manner and to such extent as he may think fit and may withhold or reduce the additional pension or pension accordingly.

(b) For the purpose of this paragraph an officer shall be deemed to recover damages whether they are paid in pursuance of a judgment or order of the Court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce that claim.

Gratuity and reduced pension

25. (1) Any officer to whom a pension is granted under the Act may, at his option exercisable as in this regulation provided, be paid in *lieu* of such pension, a pension at the rate of three fourths of such pension together with a gratuity equal to twelve and a half times the amount of the reduction so made in the pension:

Provided that in the application of this regulation to cases where the limitation prescribed by subsection (2) of section 9 of the Act operates, the words "**such pension**" shall mean the amount of pension which the officer might have drawn from the funds of Montserrat if he had not exercised his option under this regulation.

(2) The option referred to in paragraph (1) shall be exercisable not later than the day immediately preceding the date of such officer's retirement:

Provided that the Governor may, if it appears to him in all the circumstances equitable so to do, allow him to exercise the option at any time between the date of his retirement and the date of award of pension under the Act.

(3) If an officer has exercised the option his decision shall be irrevocable after the date of his retirement.

(4) If an officer who has not exercised the option dies after the date of retirement but before a pension has been awarded under the Act, it shall be lawful for the Governor to grant a gratuity and a reduced pension as provided in paragraph (1), as if the officer had exercised the option before his death.

(5) The date of the exercise of the option by an officer shall be deemed to be the date of the receipt of his written notification addressed either to the Governor or to the Crown Agents for Oversea Governments and Administrations.

(6) In the case of an officer who is granted a pension by virtue of the provisions of section 6(a) of the Act, any reference in this regulation to the date of

retirement of an officer shall be construed as a reference to the date on which such officer attains the age of fifty-five years. (*Inserted by S.R.O. 1/1983*)

Gratuities for officers who have served in non-pensionable offices

26. (1) An officer holding a non-pensionable office who is not eligible for pension (other than a pension under regulation 24) or otherwise eligible for gratuity from the funds of Montserrat may if he has been in the public service for not less than seven years and retired from the service in one of the cases mentioned in section 6 of the Act other than that mentioned in paragraph (g) thereof may be granted if the Governor thinks fit, a compassionate gratuity not exceeding \$4.80 or one week's pay, whichever is the greater, for each year of his service in Montserrat which would be pensionable service if he were eligible for pension under these Regulations.

(2) For the purpose of this regulation—

- (a)** “**pay**” includes the value of free quarters and any allowance which the Governor may think fit to include;
- (b)** regulation 15 may be disregarded, but directions may be given by the Governor, either generally or in any particular case, for disregarding periods of service prior to breaks of three years or more, to dismissal for misconduct or to voluntary resignation, or periods during which an officer has served less than a number of days prescribed in the directions, and such directions shall have effect as if they were contained in this regulation;
- (c)** an officer who, having held a non-pensionable office, is serving on probation in a pensionable office, shall be deemed to hold a non-pensionable office and his pay shall be deemed to be the pensionable emoluments of the pensionable office or the pay last received by him in respect of his service in a non-pensionable office, whichever shall be the greater.

PART VI

TRANSITIONAL REGULATIONS

Definition of “serving officer”

27. The expression “**serving officer**” means an officer who is serving in Montserrat at the commencement of the Act or has been transferred from Montserrat to other public service before, and is still in the public service on that day:

Provided that if pension, gratuity or other allowance is granted to such an officer in respect of service which, owing to a break in service, does not include service in Montserrat before the coming into force of the Act, the said expression shall not include him in relation to that pension, gratuity or allowance.

Salary includes fees

28. The pensionable emoluments of a serving officer shall include fees paid out of the Treasury of Montserrat by way of salary.

Application to regulation 20

29. In the case of a serving officer the following shall, if to his advantage, be deemed to be substituted for regulation 20—

No service other than service in a pensionable office, will be taken into account in computing pensions or gratuities, except that where the service in a pensionable office has been immediately preceded by an unbroken period of service in an appointment other than a pensionable office, or of service paid for out of an open vote, or of both such services, or of service in the Police Force such period, or any part of such period, may be taken into account:

Provided always that, of the period of service paid for out of an open vote, only two-thirds shall be counted for the purposes of these Regulations:

Provided that when any office shall be declared a pensionable office, the Governor in Council may, by a notification published in the *Gazette*, declare, with or without any terms, conditions or limitations, that service in such office before the same was declared pensionable may be taken into account in computing an officer's pension, gratuity or allowance, and it shall be taken into account accordingly:

Provided further that in the case of an officer transferred to or from the service of Montserrat from or to other public service, service otherwise than in a pensionable office in Montserrat or in other public service shall be taken into account only if he has served in a pensionable office in Montserrat or that service, as the case may be.

Application to regulation 24(8)

30. In the case of an officer selected for appointment to the service of Montserrat before the coming into force of the Act, paragraph (8) of regulation 24 shall not apply, but the amount of additional pension under that regulation may be reduced to such an extent as the Governor shall think reasonable if compensation in respect of the injury is payable under the provisions of the Workmen's Compensation Act.

Preserving rights of serving officers with professional qualifications

31. The following provisions shall apply in the case of a serving officer—

(1) In computing the pension of such an officer, other than one to whom Part III of these Regulations applies, who on retirement from the service, holds one of the offices mentioned in the Second Schedule to these Regulations, the additions in the said Schedule mentioned may be made to his period of service:

Provided that no addition shall be made which, together with the number of years of actual service, shall amount to more than thirty-three and a third years:

Provided also that the full addition shall not be made unless he has served ten years in the office from which he retires, or in an office of the same class in the said Schedule; but, if he has served less than ten years in such an office, an addition may

be made which shall have the like proportion to the full addition which the number of years he has served in such capacity bears to ten years:

Provided further that no addition of years shall be made under this regulation in excess of the number of years by which the officer's age at the date of his entering the pensionable service of the Crown exceeded twenty years.

(2) Where an officer has been transferred to or from the service of Montserrat from or to other public service and held at the date of his transfer or retirement, as the case may be, from the service of Montserrat, and had held for twelve consecutive months prior thereto, one of the offices mentioned in the Second Schedule to these Regulations, he may on his ultimate retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity be granted in addition to the pension granted to him under regulation 9, 10 or 11, as the case may be, an additional pension which shall bear to the additional pension which he might have received under paragraph (1) if he had no other public service the same proportion which the length of his pensionable service in Montserrat bears to the length of his total pensionable service in the public service:

Provided that—

- (a) he shall not be disqualified from receiving an additional pension by reason of the fact that his service in Montserrat would not by itself have rendered him eligible for a pension; and
- (b) in determining the additional pension which he might have received if he had had no other public service, regard shall be had to his age at the date of his entering the public service but regard shall not be had save for the purposes of the following proviso to the second proviso to paragraph (1);
- (c) the additional pension actually granted under this regulation shall not be greater than that which might have been granted under paragraph (1) if he had had no other public service.

(3) This regulation shall apply only to an officer who shall have held an office mentioned in the Second Schedule to these Regulations before the coming into force of the Act. In computing an addition to his service or pension under this regulation no service subsequent to his appointment on or after the coming into force of the Act to any other office, whether in Montserrat or other public service, except an office in the same class in the said Schedule, shall be taken into account as service in an office mentioned in that Schedule, and the addition shall be that appropriate to the last office held by him which may be so taken into account and his service in that office (including any other office in the same class).

Application to Regulation 26

32. In the case of a serving officer the following provisions shall, if to his advantage, apply in *lieu* of regulation 26—

(1) In the case of an officer who is not qualified for a pension or gratuity under these Regulations, but has continuously served in Montserrat for fifteen years or upwards, during which period he has been required to give his whole time to the

service of the Government, a monthly allowance may be granted to such officer not exceeding three-fourths of the pension to which he would have been entitled had he been employed in a pensionable office, or in *lieu* of such allowance there may be paid to him a capital sum equal to the amount of sixty of such monthly payments, but no such capital sum shall be paid in any case of retirement on the ground of ill-health:

Provided that where an officer has been transferred from a pensionable to a non-pensionable office, he shall be entitled either—

- (a) to count his service in the non-pensionable office, as though it were service in a pensionable office at the pay which he received immediately prior to such transfer; or
- (b) to count his service in the pensionable office, as though it were service, in the non-pensionable office, and to take the benefit of this regulation accordingly.

(2) In sub-paragraph (a) of the preceding paragraph the word “**pay**” means the emoluments enjoyed by the officer which would have been pensionable emoluments if the office held by him had been a pensionable office.

**FIRST SCHEDULE
TO THE PENSIONS REGULATIONS**

Aden.
Anguilla.
Antigua.
Bahamas.
Barbados.
Basutoland.
Bechuanaland Protectorate.
Belize.
Bermuda.
British Antarctic Territories.
Cayman Islands.
Ceylon.
Crown Agents for Overseas Governments and Administrations.
Cyprus.
Dominica.
East Africa High Commission.
East African Railways and Harbours Administration.
Eastern Region of Nigeria.
Falkland Islands.
Federal Republic of Nigeria.
Federated Malay States.
Federation of Malaya.
Federation of Nigeria.
Federation of Rhodesia and Nyasaland.
Federation of the West Indies.
Fiji.
Gambia.
Ghana.
Gibraltar.
Gold Coast.
Grenada.
Guyana.
Hong Kong.
Jamaica.
Kenya.
Kenya and Uganda Railways and Harbours Administration.
Malawi.
Leeward Islands (before 1st July, 1956).

Malayan Establishment.
Malayan Union.
Mauritius.
Mid West Nigeria.
Nigeria.
North Borneo.
Northern Region of Nigeria.
Northern Rhodesia.
Nyasaland.
Oversea Audit Service (Home Establishment).
Republic of Zambia.
St. Christopher and Nevis.
St. Helena.
St. Lucia.
St. Vincent.
Sarawak.
Seychelles.
Sierra Leone.
Singapore.
Somaliland Protectorate.
Straits Settlements.
Swaziland.
Tanganyika Territory.
Trinidad.
Turks and Caicos Islands.
Uganda.
United Kingdom of Great Britain and Northern Ireland.
United Republic of Tanzania.
British Virgin Islands.
Western Pacific:—
 Kiribati.
 Tuvalu.
 Solomon Islands.
 Vanuatu.
Western Region of Nigeria.
Tonga.
Zanzibar.

**SECOND SCHEDULE
TO THE PENSIONS REGULATIONS**

R.31

The number of years to be added to the period of service under regulation 31 for the purpose of computing pensions is as follows—

For the first class.....Ten years.
For the second class.....Five years.
For the third classThree years.

PENSIONABLE OFFICES ORDER – SECTION 2

(S.R.O.s 23/1990 and 30/1993)

Commencement

[12 September 1990]

Short title

1. This Order may be cited as the Pensions (Pensionable Offices) Order.

Pensionable Offices

2. The offices specified in the Schedule hereto are hereby declared to be pensionable offices within the meaning and for all purposes of the Pensions Act.

Commencement

3. Each of the offices specified in the Schedule hereto shall be deemed to have been a pensionable office from the respective date when a public officer of the Government of Montserrat was first appointed to an office under that title on pensionable terms.

SCHEDULE

GENERAL

Permanent Secretary
Principle Assistant Secretary
Senior Assistant Secretary
Assistant Secretary
Executive Officer
Senior Clerical Officer
Clerical Officer
Office Attendant

ADMINISTRATION

Chief Training Officer
Training Officer
Superintendent of Prison
Chief Prison Officer
Principal Officer II, I
Prison Officer
Wardress/Clerk

POLICE

Commissioner
Deputy Commissioner
Assistant Superintendent
Inspector
Commander – Fire

AUDIT

Auditor General
Deputy Auditor General
Audit Manager
(Audit Assistant)

LEGISLATURE

Clerk of Councils

Attorney General
Principal/Senior Crown Counsel

GOVERNOR'S OFFICE

Cook
Steward

Crown Counsel
Legal Draftsman

JUDICIAL
 Senior Magistrate
 Magistrate/Registrar
 Bailiff

TREASURY
 Accountant General
 Deputy Accountant General

CHIEF MINISTER
 Personal Assistant
 Information Officer
 Public Relations Officer
 Station Manager
 News Editor/Producer
 News Sub-Editor
 Senior Announcer
 Announcer
 Senior Technician
 Technical Assistant II & I
 Production Assistant
 Technician
 Director of Tourism
 Tourism Officer
 Tourism Assistant III, II, I

**FINANCIAL &
ECONOMIC
DEVELOPMENT**
 Financial Secretary
 Director of Financial Services
 Operation Officer (Computer)

DEVELOPMENT UNIT
 Director of Development
 Senior Economist
 Economist

STATISTICS
 Senior Statistician
 Statistician

POST OFFICE
 Postmaster
 Deputy Postmaster
 Postman

INLAND REVENUE
 Inspector of Taxes III, II, I
 Valuation Officer
 Bailiff
 Comptroller
 Deputy Comptroller

**AGRICULTURE, TRADE
LANDS AND HOUSING**

Executive Officer –
 Price Control
 Senior Clerical Officer –
 (Price Control)
 Director
 Agricultural Engineer
 Senior Veterinary Officer
 Veterinary Officer
 Veterinary Assistant
 Co-operatives Officer
 Principal Agricultural Officer
 Agricultural Officer – Fisheries
 Agricultural Assistant
 Assistant Agricultural Officer
 Food Technologist
 Assistant Food Technologist
 Laboratory Technician
 Livestock Officer
 Forestry Officer
 Forest Ranger
 Foreman – Tractors
 Foreman – Nurseries
 Chief Surveyor/Lands Officer
 Surveyor/Valuation Officer
 Land Registration Officer
 Building Inspector
 Survey Technician
 Trainee Surveyor
 Plan Printer/Attendant

CUSTOMS & EXCISE
 Comptroller
 Deputy Comptroller
 Senior Customs Officer
 Customs Officer
 Junior Customs Officer
 Customs Guard

**COMMUNICATION &
WORKS**

Storekeeper
Assistant Storekeeper
Project Engineer
Civil Engineer
Superintendent of Works
Technical Assistant
Senior Foreman
Foreman
Senior Electrical Inspector
Electrical Inspector
Senior Security Officer
Security Officer
Superintendent of Plant &
Workshop
Specialist Trademan
Manager – Airport
Senior Airport Officer
Airport Officer
Senior Fireman
Fireman Labour Commissioner
Labour Officer
Sports Officer
Vehicle Tester

**HEALTH & COMMUNITY
SERVICES**

Director of Health
Services/Surgeon
Medical Officer
Nutrition Officer
Dental Officer
Dental Nurse
Dental Nurse Assistant
Principal Nursing Officer
Senior Nursing Officer
Sister Tutor
Clinical Instructor
Nurse Anaesthetist
Community Psychiatric Nurse
Ward Sister
Staff Nurse
Nursing Assistant
Senior Nursing Assistant
Public Health Nurse
District Nurse
Principal Environmental
Health Officer
Health Services Manager

Health Educator
Administrative Sister
Assistant Physiotherapist
Physiotherapist
Senior Environmental
Health Officer
Environmental Health Officer
Cemetery Keeper
Senior Radiographer
Senior Pharmacist
Pharmacist
Senior Laboratory Technician
Laboratory Technician
Supervisor of Drivers/Orderlies
Driver/Orderly
Maintenance Mechanic
Supervisor/Maids
Supervisor of Food
Assistant Supervisor of Food
Principal Community
Development Officer
Senior Community
Development Officer
Community Development Officer

EDUCATION

Director of Education
Education Officer
Curriculum Co-ordinator
School Psychologist
Co-ordinator Early
Childhood Education
Health Education Specialist
Maintenance Supervisor
Chauffeur
Head Teacher
Trained Teacher
Untrained Teacher
Principal
Vice Principal
Head of Nursery Schools
Graduate Teacher
Technical Teacher IV, III, II, I
Senior Non-Graduate Teacher
Technician
Laboratory Assistant
Principal Librarian
Librarian
Senior Library Assistant
Library Assistant
Director/Co-ordinator Culture

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