

1975 No. 467

## SOCIAL SECURITY

**The Social Security (Employed Earners' Employments for Industrial Injuries Purposes) Regulations 1975***Made* - - - 20th March 1975*Laid before Parliament* 24th March 1975*Coming into Operation* 6th April 1975

The Secretary of State for Social Services, in exercise of powers conferred by sections 51(1) and (2), 129, 131, 132 and 157 of the Social Security Act 1975(a), paragraph 9(1)(a) and (c) of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(b) and of all other powers enabling her in that behalf, after reference to the Industrial Injuries Advisory Council, hereby makes the following regulations:—

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Social Security (Employed Earners' Employments for Industrial Injuries Purposes) Regulations 1975, and shall come into operation on 6th April 1975.

(2) In these regulations, unless the context otherwise requires—

“the Act of 1975” means the Social Security Act 1975;

“ship or vessel”, for the purposes of these regulations, includes hovercraft;

“designated area” in relation to the Continental Shelf Act 1964(c) means any area which may from time to time be designated by Order in Council under that Act as an area within which the rights of the United Kingdom with respect to the sea bed and subsoil and their natural resources may be exercised;

other expressions to which meanings are assigned in the Continental Shelf Act 1964 have the same meanings as in that Act, and other expressions have the same meaning as in the Act of 1975.

(3) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(d) shall apply in relation to this instrument and in relation to any revocation effected thereby as if these regulations, the regulations revoked by them and any regulations revoked by the regulations so revoked were Acts of Parliament, and as if each revocation were a repeal.

(a) 1975 c. 14.  
(c) 1964 c. 29.

(b) 1975 c. 18.  
(d) 1889 c. 63.

(5) Nothing in these regulations shall affect the operation of any Order in Council giving effect to a reciprocal agreement with the government of any country outside the United Kingdom and the Isle of Man, except in so far as the contrary intention appears in such Order in Council.

*Employments to be treated for industrial injuries purposes as employed earners' employments*

2. Subject to regulation 3 of these regulations, the employments specified in Part I of Schedule 1 to these regulations shall be treated as employed earners' employments for the purposes of Chapters IV and V of Part II of the Act of 1975.

*Employments not to be treated for industrial injuries purposes as employed earners' employments*

3. The employments specified in Part II of Schedule 1 to these regulations shall not be treated as employed earners' employments for the purposes of Chapters IV and V of Part II of the Act of 1975.

*Employments relating to mariners to be treated for industrial injuries purposes as employed earners' employments*

4. Subject to regulation 5 of these regulations, employments specified in Part I of Schedule 2 to these regulations shall be treated as employed earners' employments for the purposes of Chapters IV and V of Part II of the Act of 1975.

*Employments relating to mariners not to be treated for industrial injuries purposes as employed earners' employments*

5. The employments specified in Part II of Schedule 2 to these regulations shall not be treated as employed earners' employments for the purposes of Chapters IV and V of Part II of the Act of 1975.

*Employments relating to airmen to be treated for industrial injuries purposes as employed earners' employments*

6. Subject to regulation 7 of these regulations, employments specified in Part III of Schedule 2 to these regulations shall be treated as employed earners' employments for the purposes of Chapters IV and V of Part II of the Act of 1975.

*Employments relating to airmen not to be treated for industrial injuries purposes as employed earners' employments*

7. The employments specified in Part IV of Schedule 2 to these regulations shall not be treated as employed earners' employments for the purposes of Chapters IV and V of Part II of the Act of 1975.

*Persons to be treated as employers for certain industrial injuries purposes*

8. In relation to any employed earner who is employed in any employment specified in column 1 of Schedule 3 to these regulations, the person specified opposite thereto in column 2 of that Schedule shall, for the purposes of industrial injuries benefit and its administration, be treated as that person's employer in that employment.

*Revocations and general savings*

9.—(1) The regulations specified in column 1 of Schedule 4 to these regulations are hereby revoked to the extent mentioned in column 3 of that Schedule.

(2) Anything whatsoever done under or by virtue of any regulations revoked by these regulations shall be deemed to have been done under or by virtue of the corresponding provisions of these regulations, and anything whatsoever begun under any such regulations may be continued under these regulations as if begun under these regulations.

(3) Nothing in paragraph (2) of this regulation shall be taken as affecting the general application by regulation 1(4) of these regulations of the rules for the construction of Acts of Parliament contained in section 38 of the Interpretation Act 1889 (effect of repeals) with regard to the effect of revocations.

*Barbara Castle,*

Secretary of State for Social Services.

20th March 1975.

Regulations 2 and 3

SCHEDULE 1

PART I

EMPLOYMENTS TO BE TREATED AS EMPLOYED EARNERS' EMPLOYMENTS FOR INDUSTRIAL INJURIES PURPOSES

1. Employment in Great Britain under a contract of apprenticeship where the person employed as an apprentice is not gainfully employed thereunder.

2. Employment in Great Britain as a member, or as a person training to become a member, of any fire brigade, rescue brigade, first aid party or salvage party or air raid precautions party at a mine or quarry or at any premises to which any of the provisions of the Factories Act 1961(a) apply, or at a shop, office or other premises used solely for business or commercial purposes, in any case in which such organisation is established in pursuance of an obligation imposed under statute or by or with the consent of the owner or occupier of any such mine, quarry or other premises.

3. Employment as a person appointed for the purposes of section 123(1) of the Mines and Quarries Act 1954(b) by the workmen employed in a mine or quarry to which that Act applies.

4. Employment of a person in pursuance of an Agreement dated 3rd March 1941, and made between the Mining Association of Great Britain and the Mineworkers' Federation of Great Britain, as amended by an Agreement dated 5th December 1946 (which substituted the National Coal Board and the National Union of Mineworkers respectively as parties thereto)—

(a) as full-time or part-time inspector of a mine; or

(b) for the purposes of accompanying any such inspector on the inspection of a mine.

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(a) 1961 c. 34.

(b) 1954 c. 70.

5. Employment in or about a mine or quarry of any person (being a person nominated pursuant to section 116(1) of the Mines and Quarries Act 1954 or a person nominated by such a person for the purposes of such employment) in attending at any place at which an accident or dangerous occurrence has happened or in performing any other duty, pursuant to any consent given by an inspector for the purposes of section 120 of that Act.

6. Employment in Great Britain as a special constable.

7. Employment in any designated area which is employment in connection with the exploitation of the resources mentioned in section 1(1) (exploitation and exploration of Continental Shelf) of the Continental Shelf Act 1964(a) or with the exploration of the sea bed and subsoil in any designated area and which, were every such area in Great Britain, would be employed earner's employment under Chapter IV of Part II of the Act of 1975.

8. Employment in Great Britain in plying for hire with any vehicle or vessel the use of which is obtained under any contract of bailment or, in Scotland, of letting to hire (not being in either case a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise.

#### PART II

##### EMPLOYMENTS NOT TO BE TREATED AS EMPLOYED EARNERS' EMPLOYMENTS FOR INDUSTRIAL INJURIES PURPOSES

1. Employment of a person by his or her spouse where the employment is either—
  - (a) not for the purposes of the spouse's employment; or
  - (b) not employment in respect of which the person ordinarily receives earnings at or above the lower earnings limit for Class 1 contributions within the meaning of section 4 of the Act of 1975.
2. Employment by the father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, or half-sister of the person employed, insofar as the employment—
  - (a) is employment in a private dwelling-house in which both the person employed and the employer reside; and
  - (b) is not employment for the purposes of any trade or business carried on there by the employer.

#### SCHEDULE 2

#### Regulation 4

##### PART I

##### MARINERS' EMPLOYMENTS TO BE TREATED AS EMPLOYED EARNERS' EMPLOYMENTS FOR INDUSTRIAL INJURIES PURPOSES

1. In the provisions of this Part of this Schedule—
  - (1) "mariner" means a person who is or has been or is to be in employment under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—
    - (a) the employment in that other capacity is for the purposes of that ship or vessel or her crew or any passengers or cargo or mails carried thereby; and
    - (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on her voyage;
  - (2) "British ship" means—
    - (a) any ship or vessel belonging to Her Majesty;
    - (b) any ship or vessel whose port of registry is a port in Great Britain;

- (c) any other British ship or vessel (not being a ship or vessel whose port of registry is a port in Northern Ireland) of which the owner (or managing owner if there is more than one owner) or the manager resides or has his principal place of business in Great Britain; and in this sub-paragraph the expression "British ship" shall have the same meaning as in the Merchant Shipping Acts 1894 to 1970;
- (d) any hovercraft registered in the United Kingdom, not being hovercraft whose owner (or managing owner if there is more than one owner) or manager resides or has his principal place of business in Northern Ireland, or whose owner (or managing owner if there is more than one owner) has no place of business in the United Kingdom;

(3) "manager" means, in relation to any ship or vessel, the person to whom the management of the ship or vessel is entrusted by or on behalf of the owner; and references in this paragraph to the owner of a ship or vessel shall, in relation to a ship or vessel which has been demised, be construed as referring to the person for the time being entitled as charterer to possession and control of the ship or vessel by virtue of the demise or any sub-demise;

(4) "managing owner" means that owner of any ship or vessel who, where there is more than one such owner, is responsible for the control and management of that ship or vessel;

(5) "share fisherman" means any person who—

- (a) is ordinarily employed in the fishing industry otherwise than under a contract of service, as a master or member of the crew of any fishing boat within the meaning of section 373 of the Merchant Shipping Act 1894(a) being a fishing boat manned by more than one person, and remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of the fishing boat; or
- (b) has ordinarily been so employed, but who by reason of age or infirmity permanently ceases to be so employed and becomes ordinarily engaged in employment ashore in Great Britain, otherwise than under a contract of service, making or mending any gear appurtenant to a British fishing boat or performing other services ancillary to or in connection with that boat and is remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of that boat and has not ceased to be ordinarily engaged in that employment.

2. Where a mariner is employed as such—

- (a) on board a British ship; or
- (b) on other than a British ship and the following conditions are satisfied, as appropriate—
  - (i) he is employed as master or member of the crew and his earnings are paid by the owner of the ship or vessel; and
    - (a) the owner (or managing owner, if there is more than one owner) of the ship has a place of business in Great Britain; and
    - (b) the person employed either signed the crew agreement in the United Kingdom or entered there into the contract of employment to act as master or member of the crew, whether of a particular ship or vessel of the owner or of the ships or vessels of the owner as may be determined in accordance with the contract; or
  - (ii) he is employed as master or member of the crew and his earnings are paid by some person other than the owner of the ship or vessel; and
    - (a) the contract with the person by whom the earnings are paid is entered into in the United Kingdom and that person has a place of business in Great Britain; or
    - (b) that person has his principal place of business in Great Britain; or

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(a) 1894 c. 60.

- (iii) he is employed in any other capacity on board any ship or vessel and the person by whom his earnings are paid has a place of business in Great Britain;

then that employment of the mariner shall be treated as employed earner's employment.

3. Employment under a contract to act as master or member of the crew of such of the ships or vessels of a particular owner or owners as may be determined in accordance with the contract, where the employment would be treated as employed earner's employment by virtue of paragraphs 1 and 2 of this Part of this Schedule in the case of each ship or vessel if the contract related to it alone.

4.—(1) In the case of a qualified British radio officer, employment under a contract to act as radio officer on board such ships or vessels as may be determined in accordance with the contract, where the contract is a contract of service, provided that—

- (a) the contract with the person by whom his earnings are paid is entered into in the United Kingdom and that person has a place of business in Great Britain; or

- (b) that person has his principal place of business in Great Britain;

not being employment while the person employed is serving as a radio officer on board a ship or vessel.

(2) In this paragraph the expression "qualified British radio officer" means a person who possesses qualifications enabling him to be radio officer on board a British ship registered in the United Kingdom of a class required under section 3 of the Merchant Shipping (Safety Convention) Act 1949(a) to carry a radio officer, and the expression "radio officer" includes radio operator.

5. Employment as a share fisherman.

6. Employment as pilot operating from a port in Great Britain on board any ship or vessel notwithstanding that the person so employed does not hold a licence or deep sea certificate from a pilotage authority in Great Britain covering that employment.

7. Employment as a regular or enrolled member of the crew of any lifeboat stationed in Great Britain under the control of the Royal National Lifeboat Institution.

## PART II

## Regulation 5

### MARINERS' EMPLOYMENTS NOT TO BE TREATED AS EMPLOYED EARNERS' EMPLOYMENTS FOR INDUSTRIAL INJURIES PURPOSES

1. Employment under a contract of service—

- (1) as master or member of the crew of any ship or vessel not being an employment which is treated as employed earner's employment by virtue of Part I of this Schedule and not being employment on a ship or vessel which is employed exclusively in Great Britain; or

- (2) in any other capacity on board any ship or vessel not being a ship or vessel employed exclusively in Great Britain, where the employment in that other capacity is for the purposes of the ship or vessel or her crew or of any passengers or cargo or mails carried thereby and is employment under a contract of service entered into with a view to its performance (in whole or in part) while the ship or vessel is on her voyage, and either—

- (a) the said contract was entered into outside the United Kingdom; or

- (b) the person by whom the earnings are paid has no place of business in Great Britain;

but not including any such employment as is mentioned in paragraph 6 of Part I of this Schedule.

(a) 1949 c. 43.

2. Employment under a contract to act as master or member of the crew of such of the ships or vessels of a particular owner or owners as may be determined in accordance with the contract where the employment would be included in paragraph 1 of this Part of this Schedule in the case of each ship or vessel if the contract related to it alone.

3.—(1) Subject to the provisions of this paragraph, the employment of a person who would be an employed earner in relation to that employment by virtue of Part I of this Schedule but who is neither domiciled nor has a place of residence in the United Kingdom.

(2) If such person is ordinarily resident in a country included in the list set out at the end of this sub-paragraph he shall not be subject to the provisions of the last foregoing sub-paragraph if either—

- (a) he is employed in employment under a contract of service as master or a member of the crew of a British ship within paragraph 1(2) of Part I of this Schedule; or
- (b) he is employed in employment under a contract to act as master or a member of the crew of such of the ships or vessels of a particular owner or owners as may be determined in accordance with the contract, and the employment would be included in sub-paragraph (a) of this paragraph in the case of each ship or vessel, if the contract related to it alone.

*List of countries*

Australia	Belgium
Canada	Denmark
France	Malta
New Zealand	Norway
Republic of Ireland	South Africa
Sweden	The Channel Islands
The Netherlands	United States of America.

Regulation 6

PART III

AIRMAN'S EMPLOYMENTS TO BE TREATED AS EMPLOYED EARNERS' EMPLOYMENTS FOR INDUSTRIAL INJURIES PURPOSES

1. In the provisions of this Part of this Schedule—

“airman” means a person who is, or has been, employed under a contract of service either as a pilot, commander, navigator or other member of the crew of any aircraft, or in any other capacity on board any aircraft where—

- (a) the employment in that other capacity is for the purposes of the aircraft or its crew or any passengers or cargo or mails carried thereby; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the aircraft is in flight;

“British aircraft” means any aircraft belonging to Her Majesty and any aircraft registered in the United Kingdom of which the owner (or managing owner if there is more than one owner) resides or has his principal place of business in Great Britain, and references to the owner of an aircraft shall, in relation to an aircraft which has been hired, be taken as referring to the person for the time being entitled as hirer to possession and control of the aircraft by virtue of the hiring or any subordinate hiring.

2. Where an airman is employed as such on board any aircraft, and the employer of that airman or the person paying the airman his earnings in respect of the employment (whether or not the person making the payment is acting as agent for the employer) or the persons under whose directions the terms of the airman's employment and the amount of the earnings to be paid in respect thereof are determined has—

- (1) in the case of the aircraft being a British aircraft, a place of business in Great Britain; or

(2) in any other case, his principal place of business in Great Britain, then that employment of the airman shall be treated as employed earner's employment.

3. Employment under a contract to act as pilot, commander, navigator or other member of the crew of such of the aircraft of a particular owner or owners as may be determined in accordance with the contract where the employment would be included in paragraph 2 of this Part of this Schedule in the case of each aircraft if his contract related to it alone.

## PART IV

## Regulation 7

AIRMEN'S EMPLOYMENTS NOT TO BE TREATED AS EMPLOYED EARNERS' EMPLOYMENTS FOR INDUSTRIAL INJURIES PURPOSES

1. The employment of an airman who would be an employed earner in relation to that employment by virtue of Part III of this Schedule but who is neither domiciled nor has a place of residence in the United Kingdom.

2. Employment under a contract of service—

(1) as pilot, commander, navigator or other member of the crew of any registered aircraft, where that employment is not treated as employed earner's employment by virtue of Part III of this Schedule; or

(2) in any other capacity on board any registered aircraft where the employment in that other capacity is for the purpose of the aircraft or its crew or of any passengers or cargo or mails carried thereby and is employment under a contract of service entered into with a view to its performance (in whole or in part) while the aircraft is in flight, and either—

(a) the said contract was entered into outside the United Kingdom; or

(b) the person by whom the earnings are paid has no place of business in Great Britain.

3. Employment under a contract to act as pilot, commander, navigator or other member of the crew of such of the aircraft of a particular owner or owners may be determined in accordance with the contract where the employment would be included in the last foregoing paragraph in the case of each aircraft if the contract related to it alone.

## SCHEDULE 3

## Regulation 8

EMPLOYMENTS IN RESPECT OF WHICH PERSONS ARE TREATED AS EMPLOYERS FOR INDUSTRIAL INJURIES PURPOSES

<i>Employments</i> (1)	<i>Persons treated as employers</i> (2)
1. Employments in an office (including elective office) with emoluments chargeable to income tax under Schedule E.	1. The person specified or prescribed as the secondary contributor in relation to that office in or under section 4(4)(b)(i) and (ii) of the Act of 1975.
2. Employment (as office cleaner) specified in paragraph 1 of column (A) of Schedule 3 to the Social Security (Categorisation of Earners) Regulations 1974(a).	2. (a) Where the person employed is supplied by, or through the agency of, some third person and receives his remuneration from, or through the agency of, that third person, that third person; (b) in any other case, the person with whom the person employed contracted to do the work.

(a) S.I. 1974/1244 (1974 II, p. 4709).



<i>Employments</i> (1)	<i>Persons treated as employers</i> (2)
3. Employment (agency employment) specified in paragraph 2 of column (A) of Schedule 3 to the Social Security (Categorisation of Earners) Regulations 1974.	3. (a) In England and Wales where the person employed is supplied by or through the agency of a body of persons unincorporate and the person employed is a member of that body, the other members of that body, and, in any other case, the third person by whom or through whose agency the person employed is supplied; (b) in Scotland, the third person by whom or through whose agency the person employed is supplied.
4. Employment (fire brigade and rescue parties, special constables and maritime pilots) specified in paragraphs 2 and 6 of Part I of Schedule 1 to these regulations and paragraph 6 of Part I of Schedule 2 to these regulations.	4. The person or body from whom the pecuniary remuneration in respect of that employment is received or where no such remuneration is received the person or body under whose direction the employment is carried on.
5. Employment (mines and quarries employments) specified in paragraphs 4 and 5 of Part I of Schedule 1 to these regulations.	5. The person or body from whom the pecuniary remuneration in respect of that employment is received.
6. Employment (share fishermen) specified in paragraph 5 of Part I of Schedule 2 to these regulations.	6. The owner (or the managing owner or manager, if there is more than one owner) of the fishing boat.
7. Employment (under a liquidator) specified in paragraph 3 of column (A) of Schedule 3 to the Social Security (Categorisation of Earners) Regulations 1974.	7. The person who at the time of the employment holds the office of Liquidator.
8. Employment (barrister's clerk) in chambers as a barrister's clerk.	8. The head of chambers.
9. Employment (casual employments in club) of a casual nature for the purposes of any game or recreation where the person so employed is engaged or paid for that employment through a club.	9. The club.
10. Employment (bailee of vehicle or vessel plying for hire) specified in paragraph 8 of Part I of Schedule 1 to these regulations.	10. The person from whom the use of the vehicle is so obtained.

## SCHEDULE 4

## Regulation 9(1)

## REGULATIONS REVOKED

<i>Column 1 Regulations revoked</i>	<i>Column 2 Reference</i>	<i>Column 3 Extent of revocations</i>
The National Insurance (Industrial Injuries) (Airmen) Regulations 1948.	S.I. 1948/1469 (1948 I, p. 2914).	Regulation 2.
The National Insurance (Industrial Injuries) (Mariners) Regulations 1948.	S.I. 1948/1471 (Rev. XVI, p. 432; I, p. 2990).	Regulations 2 to 6.
The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations 1951.	S.I. 1951/290 (1951 I, p. 1508).	The whole of the Regulations.
The National Insurance (Industrial Injuries) (Mariners) (Insurability) Regulations 1954.	S.I. 1954/782 (1954 I, p. 1436).	The whole of the Regulations.
The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations 1954.	S.I. 1954/923 (1954 I, p. 1434).	The whole of the Regulations.
The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations 1957.	S.I. 1957/2244 (1957 II, p. 1739).	The whole of the Regulations.
The National Insurance (Industrial Injuries) (Continental Shelf) Regulations 1964.	S.I. 1964/1856 (1964 III, p. 4050).	Regulation 2.
The Family Allowances, National Insurance, Industrial Injuries and Miscellaneous Provisions (Decimalisation of the Currency) Regulations 1970.	S.I. 1970/46 (1970 I, p. 243).	Regulation 26.
The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations 1972.	S.I. 1972/1276 (1972 II, p. 3822).	The whole of the Regulations.
The National Insurance (Industrial Injuries) (Insurable and Excepted Employments) Regulations 1972.	S.I. 1972/1433 (1972 III, p. 4347).	The whole of the Regulations.
The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations 1973.	S.I. 1973/1445 (1973 II, p. 4414).	The whole of the Regulations.
The National Insurance (Industrial Injuries) (Insurable and Excepted Employments) Amendment Regulations 1974.	S.I. 1974/8 (1974 I, p. 12).	The whole of the Regulations.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations)*

These Regulations supplement and modify for industrial injuries purposes the general provisions relating to employed earners' employments contained in the Social Security Act 1975 and the Social Security (Categorisation of Earners) Regulations 1974 as amended.

The principal additions and modifications are:—

- (a) provision is made for additional employments (including Continental Shelf employments) to be treated as employed earners' employments (regulation 2 and Schedule 1 Part I) and for certain employments not to be so treated (regulation 3 and Schedule 1 Part II);
- (b) provision is also made for certain mariners' and airmen's employments to be treated as employed earners' employments (regulations 4 and 6 and Schedule 2 Parts I and III) and for certain mariners' and airmen's employments not to be so treated (regulations 5 and 7 and Schedule 2 Parts II and IV);
- (c) the regulations also prescribe the persons to be treated as employers of employed earners in respect of certain specified employments.

In so far as these Regulations are made under the power conferred by section 129 of the said Act they only replace provisions of previous regulations with new provisions to the same effect, and therefore, by virtue of section 167(2)(c) of the Act are made without being laid before Parliament in draft under section 167(1) of the Act.

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