1982 No. 306

STATUTORY SICK PAY

The Statutory Sick Pay (Mariners, Airmen and Persons Abroad) Regulations (Northern Ireland) 1982

Made . . . . . *22nd September 1982*

Coming into operation . . . . *6th April 1983*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 5(5) and (7), 24(1) and 28(1) of, and paragraph 1 of Schedule 1 to, the Social Security (Northern Ireland) Order 1982(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations which correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(**b**) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Statutory Sick Pay (Mariners, Airmen and Persons Abroad) Regulations (Northern Ireland) 1982 and shall come into operation on 6th April 1983.

(2) In these regulations—

"the Order" means the Social Security (Northern Ireland) Order 1982;

"Part II" means Part II of the Order;

"the General Regulations" means the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(**c**);

and other expressions have the same meanings as in Part II.

Mariners – interpretation

2. In regulations 5 and 9 the expressions "British ship", "foreign-going ship", "managing owner", "mariner", "owner" and "radio officer" have the same meanings as in Case B of Part VIII of the Social Security (Contributions) Regulations (Northern Ireland) 1979(**d**), and the expressions "ship" and "ship or vessel", except in regulation 5(2), include hovercraft.

Airmen – interpretation

3. In regulations 6 and 10—

"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 of 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,

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(**a**) S.I. 1982/1084 (N.I. 16)
(**b**) 1980 c. 30
(**c**) S.R. 1982 No. 263
(**d**) S.R. 1979 No. 186, to which there are amendments not relevant to the subject matter of these regulations

but does not include a person in so far as his employment is as a serving member of the forces;

"British aircraft" means 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 Northern Ireland, 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.

Persons in other member States – meaning of "employee"

4. Subject to regulations 5(2), 6(2) and 7, a person who is—

(*a*) gainfully employed in a member State other than the United Kingdom in such circumstances that if his employment were in Northern Ireland he would be an employee for the purposes of Part II or a person treated as such an employee under regulation 16 of the General Regulations; and

(*b*) subject to the legislation of the United Kingdom under Council Regulation (EEC) No. 1408/71(a);

notwithstanding that he is not employed in Northern Ireland, shall be treated as an employee for the purposes of Part II.

Mariners – meaning of "employee"

5.—(1) Subject to regulation 7, where a mariner—

(*a*) is employed as such and—

(i) the employment is on board a British ship; or

(ii) the employment is on board a ship and the contract in respect of the employment 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; and

(iii) in a case to which head (ii) applies, the person by whom the mariner's earnings are paid, or, in the case of employment as a master or member of the crew of a ship or vessel, either that person or the owner of the ship or vessel (or the managing owner if there is more than one owner) has a place of business in Northern Ireland; or

(*b*) is employed as a master, member of the crew or radio officer on board any ship or vessel, not being a mariner to whom the last preceding sub-paragraph applies; and

(i) in the case of the employment being as a radio officer, if the contract under which the employment is performed is entered into in the United Kingdom, the employer or the person paying the radio officer his earnings for that employment has a place of business in Northern Ireland; or

(ii) in the case of the employment being as a master, member of the crew or radio officer, if the contract is not entered into in the United Kingdom, the employer or the person paying the earnings has his principal place of business in Northern Ireland,

then, unless he is a mariner to whom paragraph (2) applies, he shall, notwithstanding that he may not be employed in Northern Ireland, be treated as an employee for the purposes of Part II.

(2) A mariner who—

(*a*) is in employment (including any period of leave, other than leave for the

(a) O.J. No. L149, 5.7.71, p. 2. (O.J.S.E. 1971 (II) p. 416)