1975 No. 108

SOCIAL SECURITY

The Social Security (Mariners' Benefits) Regulations (Northern Ireland) 1975

Made . . . . . *4th April* 1975

Coming into operation . . . . *6th April* 1975

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 17(1)(*a*), 20(3) and 124(1) of the Social Security (Northern Ireland) Act 1975(**a**), and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Mariners' Benefits) Regulations (Northern Ireland) 1975, and shall come into operation on 6th April 1975.

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

"the Act" means the Social Security (Northern Ireland) Act 1975;

"British ship" means any ship or vessel whose port of registry is a port in Northern Ireland or in the case of a hovercraft which is registered in the United Kingdom;

"foreign-going voyage" means a voyage going outside the following limits, that is to say, the United Kingdom, the Republic of Ireland, the Channel Islands, the Isle of Man and the continent of Europe between the river Elbe and Brest inclusive;

"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;

"mariner" means a person who is or has been 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;

but does not include a person in so far as his employment is as a serving member of the forces (as defined in regulation 1(2) of the Social Security (Contributions) Regulations 1975(**b**)), unless he is serving or undergoing training or instruction in any of the forces mentioned in Part I of Schedule 5 to those regulations (except the regular naval, military or air forces of the Crown) for a continuous period not exceeding 72 consecutive hours;

(a) 1975 c. 15 (b) S.I. 1975/492

"owner", in relation to any ship or vessel, means the person to whom the ship or vessel belongs and who, subject to the right of control of the captain or master of the ship or vessel, is entitled to control of that ship or vessel, and references 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 who for the time being is entitled as charterer to possession and, subject as aforesaid, control of the ship or vessel by virtue of the demise or any sub-demise;

"share fisherman" means any person who—

(*a*) is ordinarily employed in the fishing industry otherwise than under a contract of service, as master or a member of the crew of any British fishing boat within the meaning of section 373 of the Merchant Shipping Act 1894(**c**), 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 Northern Ireland 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 such employment;

"sea-going share fisherman" means a person falling within sub-paragraph (*a*) of the definition of "share fisherman" above;

"on-shore share fisherman" means a person falling within sub-paragraph (*b*) of the definition of "share fisherman" above;

and, subject as aforesaid, expressions to which meanings are assigned in the Merchant Shipping Acts 1894 to 1970 have the same meanings as in those Acts; and other expressions have the same meanings as in the Act.

(3) Regulations 1, 4, 6(1) and (2) and 9, in their application to mariners but not in their application to share fishermen, shall have effect as if any reference therein in whatever terms to ships or vessels or activities or places connected therewith included a reference to hovercraft or activities or places connected with hovercraft, subject to the modifications contained in the Schedule to these regulations.

(4) 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, or which may re-enact or replace it, with or without modification.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**d**) shall apply for the purposes of the interpretation of this statutory rule as they apply for the purposes of the interpretation of an Act of Parliament.

(**c**) 1894 c. 60 (**d**) 1889 c. 63

Days in periods of paid leave not to be treated as days of unemployment

2. Where a person, either being domiciled or having a place of residence in the United Kingdom—

(*a*) is employed as a mariner on board any British ship, not being a ship used wholly or mainly for the disposal of sludge; or

(*b*) is employed as a mariner on board any ship or vessel, not being a British ship or a ship or vessel used wholly or mainly for the disposal of sludge, and—

(i) 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

(ii) the owner (or managing owner, if there is more than one owner) has a place of business in Northern Ireland; and

(*c*) upon the termination of a voyage ending during the period of that employment, he is entitled to a day or days of leave on pay, and

(*d*) that employment is terminated before the end of the period of leave on pay,

no day in the period of leave shall be treated as a day of unemployment.

Information to be furnished by mariners on claims for benefit

3. Upon making any claim for benefit, any mariner shall, if so required, furnish to the Department the number of his continuous discharge book and particulars of the ships and vessels on board which he was employed during any period material to the claim.

Removal of disqualification for receiving benefit by reason of absence from Northern Ireland

4. Any person, who is or has been employed as a mariner on board any ship or vessel or who is or has been under contract to travel at his employer's expense for the purpose of commencing such employment, shall not by reason of his being absent from Northern Ireland (but subject to the provisions of any regulations made under section 20(2)(*a*) (disqualification through misconduct) of the Act), be disqualified on any day for receiving—

(*a*) sickness or invalidity benefit, if

(i) on account of any hurt or injury received, or any illness suffered, by him while so employed or under contract so to travel; or

(ii) in consequence of any action taken, while he is or was so employed or under contract so to travel, for the purpose of preventing infection;

he has been left outside Northern Ireland or has been discharged or has not commenced such employment; or

(*b*) unemployment, sickness or invalidity benefit, if, while so employed or under contract so to travel, he has been left outside Northern Ireland for any reasons other than those specified in sub-paragraphs (i) and (ii) of paragraph (*a*) of this regulation, and reports to the appropriate superintendent or consular officer or chief officer of customs not later than 14 days after being so left, or, if, at the time of being so left, he was placed in custody, immediately after his release from custody:

Provided that this regulation shall cease to have effect—

(*a*) on that person's commencing or resuming employment outside Northern Ireland; or