1975 No. 90

SOCIAL SECURITY

The Social Security (Employed Earners' Employments for Industrial Injuries Purposes) Regulations (Northern Ireland) 1975

Made . . . . . 3*rd April* 1975
Coming into operation . . . . 6*th April* 1975

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 51(1) and (2), 124, 126 and 148 of the Social Security (Northern Ireland) 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 it in that behalf, 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 (Northern Ireland) 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 (Northern Ireland) Act 1975;

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

and other expressions have the same meanings 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(c) shall apply in relation to this statutory rule 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.

(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.

(a) 1975 c. 15 (b) 1975 c. 18 (c) 1889 c. 63

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.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 3rd April 1975.

(L.S.) *C. G. Oakes*
Assistant Secretary

SCHEDULE 1 Regulations 2 and 3

PART I

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

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

2. Employment in Northern Ireland 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 (Northern Ireland) 1965(**d**) 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 in Northern Ireland in plying for hire with any vehicle or vessel the use of which is obtained under any contract of bailment (other than 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.

(d) 1965 c. 20 (N.I.)

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 whose port of registry is a port in Northern Ireland;

(*b*) any other British ship or vessel (not being a ship or vessel whose port of registry is a port in Great Britain) 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 Northern Ireland; and in this sub-paragraph the expression "British ship" shall have the same meaning as in the Merchant Shipping Acts 1894 to 1970;

(*c*) 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 Great Britain, 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(e) 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

(e) 1894 c. 60

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 Northern Ireland; 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 Northern Ireland; or

(*b*) that person has his principal place of business in Northern Ireland; or

(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 Northern Ireland;

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 Northern Ireland; or

(*b*) that person has his principal place of business in Northern Ireland;

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(f) to carry a radio officer, and the expression "radio officer" includes radio operator.

(f) 1949 c. 43