1967. No. 108 **[C]**

NATIONAL INSURANCE

Mariners

REGULATIONS, DATED 9TH MAY 1967, MADE BY THE NATIONAL INSURANCE JOINT AUTHORITY AND THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966.

The National Insurance Joint Authority, in exercise of powers conferred by section 19 of the National Insurance Act (Northern Ireland) 1966(**a**), and the Ministry of Health and Social Services, in conjunction with the Ministry of Finance so far as relates to matters with regard to which the Ministry of Finance has so directed, in exercise of powers conferred by sections 4, 13(1), 15(1), 21(5), 48, 74(2), 89(2) and 95 of that Act, and of all other powers enabling them in that behalf, hereby make the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Mariners) Regulations (Northern Ireland) 1967 and shall come into operation on 15th May 1967.

(2) In these regulations—

"the Act" means the National Insurance Act (Northern Ireland) 1966;

"the determining authority" means, as the case may require, an insurance officer or a local tribunal constituted under section 76 of the Act or the Commissioner;

"insurance card" and "emergency card" have the same meanings as in the National Insurance and Industrial Injuries (Collection of Contributions) Regulations (Northern Ireland) 1948(**b**);

"mariner" means a person who is or has been employed under a contract of service either as master or a 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 the ship or vessel or her 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 ship or vessel is on her voyage;

and includes a share fisherman but does not include a person in so far as he is in, or is deemed to be in, employment in the naval, military or air force service of the Crown;

"share fisherman" means any person who is or has been employed in the fishing industry, whether or not under a contract of service, as master

(**a**) 1966, c. 6 (N.I.). (**b**) See regs. 1(2) and 5 of S.R. & O. (N.I.) 1948, No. 258.

or a member of the crew of any ship or vessel, 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 in the profits or gross earnings of the fishing boat; and the expression "the fishing boat" means that fishing boat of which the person is master or a member of the crew;

"manager" means, in relation to any ship or vessel, the ship's husband or other person to whom the management of the ship or vessel is entrusted by or on behalf of the owner; 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 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;

"British ship" means all those ships and vessels to which paragraph 2(2) of Part I of Schedule 1 to the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(**a**) applies;

"home-trade ship" includes—

(*a*) every ship or vessel employed in trading or going within the following limits, that is to say, the United Kingdom (including for this purpose the Republic of Ireland), the Channel Islands, the Isle of Man, and the continent of Europe between the River Elbe and Brest inclusive;

(*b*) every fishing vessel not proceeding beyond the following limits:
on the South, Latitude 48° 30′ N.;
on the West, Longitude 12° W.;
on the North, Latitude 61° N.;

"home-trade port" means any port situate within the limits specified in paragraph (*a*) of the definition of home-trade ship;

"foreign-going ship" means any ship or vessel which is not a home-trade ship;

"passenger" and "passenger ship" have the same meanings as are respectively assigned to "passenger" and "passenger steamer" in the Merchant Shipping (Safety Convention) Act 1949(**b**);

and, subject as aforesaid, expressions to which meanings are assigned in the Merchant Shipping Acts 1894 to 1965 have the same meanings as in those Acts.

Insurance of mariners

2.—(1) Subject to the provisions of paragraph (2), where a mariner—

(*a*) is employed as a mariner on board any British ship; or

(*b*) is employed as master or a member of the crew of any ship or vessel other than a British ship 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;

then, notwithstanding that he does not fulfil the conditions of section 1 of the Act (which section relates to the description and classification of insured persons), the mariner shall be insured under the Act and his employment shall be treated as an employed contributor's employment:

Provided that this paragraph, in so far as it treats employment as being an employed contributor's employment, shall not apply in respect of the

(a) 1966, c. 9 (N.I.). (b) 12, 13 & 14 Geo. 6. c. 43.

employment of a person as a share fisherman not under contract of service unless that person either—

(*a*) during the twelve months immediately preceding the commencement of that employment has, or would but for his being unemployed or incapable of work have, been wholly or mainly engaged in, and derived his livelihood wholly or mainly from, employment as a share fisherman or such employment and any other employment as an employed person; or

(*b*) if unable to satisfy the foregoing condition, may reasonably be expected so to be engaged and to derive his livelihood during the twelve months following the commencement of that employment;

and in determining under this proviso the commencement of such employment, but for that purpose only, any such employment occurring before 5th July 1948 shall be disregarded.

(2) Notwithstanding the provisions of paragraph (1), a mariner employed as master or a member of the crew of any ship or vessel, who neither is domiciled nor has a place of residence in the United Kingdom, shall be excepted from insurance in respect of that employment, but the employer shall, nevertheless, be liable to pay under the Act, in respect of any such mariner employed on board a British ship—

(*a*) being a home-trade ship, the same contributions as he would otherwise have been liable to pay as employer's contributions in accordance with section 3(*b*) of, and Part II of Schedule 1 to, the Act; and

(*b*) being a foreign-going ship which—

(i) is at a home-trade port, or

(ii) is sailing directly between two home-trade ports, or

(iii) is carrying passengers to or from a home-trade port and is a passenger ship, or

(iv) is carrying cargo to or from a home-trade port, or

(v) is sailing in ballast on a ballast voyage which begins or ends at a home-trade port, or

(vi) is engaged in the fishing industry, or

(vii) is not included in heads (i) to (vi) above but is sailing directly to or directly from a home-trade port,

contributions equal to one-half of the contributions which he would otherwise have been liable to pay as employer's contributions in accordance with section 3(*b*) of, and Part II of Schedule 1 to, the Act, subject to the qualification that where any such contribution would, apart from this provision, include a fraction of a penny, that fraction shall be disregarded if it is less than a halfpenny and shall be treated as a penny if it is a halfpenny or more:

Provided that—

(*a*) this paragraph shall have effect subject to any Order in Council giving effect to any reciprocal agreement made under section 99 of the Act (reciprocal agreements with the government of any country outside the United Kingdom);

(*b*) the employer of any such mariner who is employed under a British whaling contract shall not be liable to pay any contributions in respect of him; and

(*c*) for the purposes of heads (iii) and (iv) of sub-paragraph (*b*), carrying shall be deemed to begin when the embarkation of passengers or the loading of cargo, as the case may be, begins and shall be deemed to end

when disembarkation or unloading, as the case may be, has been completed.

(3) Where—

(*a*) in relation to a mariner employed in an employment as master or a member of the crew of a ship or vessel, not being a ship or vessel used wholly or mainly for the disposal of sludge, the provisions of paragraph (1)(*a*) or (*b*) are satisfied, and he is not excepted from insurance in respect of that employment by virtue of paragraph (2), and

(*b*) 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

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

the mariner shall be treated as if that employment continued throughout the period (hereafter in this paragraph referred to as "the said period") from the termination of that employment to the end of the period of leave on pay; and accordingly the mariner, if he would otherwise have ceased to be insured under the Act, shall continue to be so insured throughout the said period, and the employer who was the mariner's employer in that employment shall be treated, for the purposes of the provisions of the Act relating to contributions, as his employer throughout the said period.

(4) In paragraph (3) and in the following provisions of these regulations, a "period of leave on pay" means, in relation to a mariner who, upon the termination of a voyage, is entitled to a day or days of leave on pay, a period immediately following the day on which that termination occurs and equal in length to the period of that leave.

Contributions of mariners employed as masters or members of the crews of home-trade ships

3. In the case of a mariner employed as master or a member of the crew of a home-trade ship, the following provisions shall apply:

(1) Where the ship is at any time at sea or at a port outside Northern Ireland on the date when an insurance card would, but for this regulation, cease to be current, that insurance card shall remain current—

(*a*) if the engagement is due to terminate in Northern Ireland, until the termination of the engagement; and

(*b*) if the engagement is due to terminate outside Northern Ireland, until the return of the mariner to Northern Ireland.

(2) Where the ship is at any time at sea or at a port outside Northern Ireland, the employer shall not be required to affix stamps to the insurance card of the mariner in respect of contributions payable under the Act unless he then pays wages or other pecuniary remuneration in respect of the period for which contributions are payable, or the employment terminates during that time.

(3) Every employer shall apply to such person as the Ministry may direct for a sufficient number of emergency cards for use in connection with his ships, and such emergency cards shall be used where, but only where—

(*a*) the mariner has been unable for any reason to obtain an insurance card before joining the ship; or

(*b*) all the appropriate spaces on the insurance card have been filled by the affixing of stamps.

(4) Where the employer does not pay wages or other pecuniary remuneration in respect of the employment of the mariner, he shall affix stamps to the insurance card of that mariner before the termination of the voyage or the termination of the agreement, whichever happens first, and shall not be bound to affix stamps on the first day of employment in each week.

(5) Where the mariner is left behind on shore in any place outside Northern Ireland by reason of his unfitness or inability to proceed to sea, the employer shall, as soon as may be, deliver his insurance card duly stamped to the Ministry if the mariner is left in any part of the Commonwealth or in the Republic of Ireland, or, if he is left elsewhere, to such person as the Ministry may direct.

(6) In the event of the mariner deserting the ship, or dying during the period of his engagement, or being left behind on shore in any place outside Northern Ireland for any reason other than his unfitness or inability to proceed to sea, the employer shall deliver his insurance card duly stamped to such person as the Ministry may direct on the termination of the voyage or when the ship first returns to a port in the United Kingdom, whichever is the earlier.

(7) In any case where, for any reason other than the loss or destruction of the insurance card, the card cannot be delivered in accordance with either paragraph (5) or (6), the employer shall, as soon as may be, deliver it to the Ministry.

Returns of contributions paid in respect of non-domiciled mariners employed as masters or members of the crews of home-trade ships

4.—(1) Where contributions under the Act are payable in respect of any mariner employed as master or a member of the crew of a home-trade ship in accordance with the provisions of regulation 2(2)(*a*), the owner or manager shall, subject to the provisions of paragraph (3) of this regulation, make a return showing, in respect of such ship for the whole period of any voyage or voyages terminating during the period covered by the return, the number of such mariners so employed on board the ship in respect of whom contributions are payable under the said regulation 2(2)(*a*) and the total amount of the contributions so payable:

Provided that for the purposes of this regulation the voyage of such a ship, to which section 116(4) or section 403(1) of the Merchant Shipping Act 1894 (agreements with crews of home-trade ships) applies, shall be deemed to terminate as at the date of the termination of the agreement with the crew thereof in accordance with the provisions of the appropriate subsection.

(2) The amount of the contributions payable under the said regulation 2(2)(*a*) shall be paid in such manner as the Ministry may direct, at the same time as the return is made.

(3) In the case of a home-trade ship on board which no mariner, to whom the said regulation 2(2)(*a*) applies, has been employed, or which has not completed a voyage during the period covered by the return, the owner or manager of the ship shall make a statement on the said return to that effect:

Provided that nothing herein contained shall require a return to be made in the case of a home-trade ship which either is such a ship employed solely in harbours, or on short excursions or pleasure trips to sea, or is a tug boat,