

1975 No. 470

SOCIAL SECURITY

The Social Security (Industrial Injuries) (Mariners' Benefits) Regulations 1975

<i>Made</i> - - - -	<i>20th March 1975</i>
<i>Laid before Parliament</i>	<i>24th March 1975</i>
<i>Coming into Operation</i>	<i>6th April 1975</i>

The Secretary of State for Social Services, in exercise of powers conferred upon her by sections 82(5), 88 and 129(1) of the Social Security Act 1975(a) and 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, and 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 (Industrial Injuries) (Mariners' Benefits) Regulations 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 Act 1975;

“mariner” means a person whose employment under a contract of service, of whose employment under a contract to act, as master of, or as member of the crew of, or as a pilot on board, or (in regulation 2, 6, 7 and 8 only) in any other capacity on board, any ship or vessel is treated as employed earners' employment for the purposes of Chapters IV and V of Part II of the Act under the Social Security (Employed Earners' Employments for Industrial Injuries Purposes) Regulations 1975(c).

“prescribed diseases” means a disease or injury prescribed for the purposes of Chapter V of Part II of the Act;

“ship or vessel” includes hovercraft;

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) In their application to hovercraft and activities and places connected with hovercraft, these regulations shall have effect 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

(a) 1975 c. 14.
(b) 1975 c. 18.
(c) S.I. 1975/467.

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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(a) shall apply in relation to this instrument and the regulations revoked by it as if this instrument and the regulations revoked by it were Acts of Parliament and as if the revocation were a repeal.

(The reference to the Interpretation Act 1889 is to be construed, under the Interpretation Act 1978 (c. 30), s. 25(2), as a reference to the latter Act as it applies to Acts passed at the time of reference.)

Accidents happening and diseases contracted outside Great Britain

2.—(1) Benefit shall be payable, subject to and in accordance with the provisions of the Act, in respect of an accident arising out of and in the course of, or a prescribed disease due to the nature of, the employment (being employed earners' employment) of any person as a mariner notwithstanding that the accident happens or the disease is contracted while such person is outside Great Britain.

(2) The provisions of this regulation shall be extended to any employed earner who, in the course of his employment as an apprentice pilot, is on board any ship or vessel, whether or not he is a mariner within the meaning of these regulations.

Special provisions about benefit in the case of masters and members of the crew and pilots

3. The provision of Part II (benefit) of the Act, in their application to a mariner, shall have effect subject to the following modifications:-

- (a) where the mariner, having been left behind in any country on account of illness, injury, risk of infection or loss of or damage to the ship or vessel in which he was employed, is subsequently returned to a place determined in accordance with regulations made under section 62 of the Merchant Shipping Act 1970(b) at the expense of the employer in whose service he was up to the time of being so left, an accident happening to him while being so returned shall, notwithstanding that during that time he renders no services and receives no wages, be deemed to arise out of and in the course of his employment as such mariner if it would have been deemed so to have arisen had the return journey been undertaken in pursuance of an obligation under his contract of service with the employer aforesaid;
- (b) in section 53 of the Act (accidents happening while an employed earner is travelling in his employer's transport)-
 - (i) the expression "place of work" shall include the ship or vessel in the service of which the mariner is employed;
 - (ii) the requirements of subsection (1)(b) shall not apply in the case of a mariner who, with the express or implied permission of his employer, is travelling to or from such ship or vessel as aforesaid in any other ship or vessel;
- (c) in addition to the provisions of section 54 of the Act (accidents happening while meeting an emergency), an accident happening to a mariner in or about a ship or vessel on board which he is for the time being employed shall be deemed to arise out of and in the course of his employment if it happens while he is taking steps on an actual or supposed emergency on or in connection with any ship or vessel to rescue, succour or protect persons who are, or thought to be or possibly

(a) 1889 c. 63.

(b) 1970 c. 36.

to be, injured or imperilled, or to avert or minimise serious damage to property;

[Paragraph (d) of regulation 3 revoked by regulation 3(2) of S.I. 1983/186 as from 6.4.83.]

Accidents happening to pilots

4. An accident happening to a mariner employed as a pilot who normally plies his trade as a pilot from a port in Great Britain shall be treated as arising in the course of his employment if it happens—

- (a) while, with a view to carrying out his duties as such pilot, he is on board or is embarking in or disembarking from any ship or vessel; or
- (b) while, having left such ship or vessel at a place other than the port from which he normally plies his trade, he is returning without undue delay to that port.

Disqualification and suspension during absence from Great Britain

5. Those provisions of section 82(5) of the Act which provide for disqualification for the receipt of benefit during periods of absence from Great Britain shall have effect in relation to benefit payable in respect of an accident arising out of and in the course of, or a prescribed disease due to the nature of, the employment of a mariner, subject to the following exceptions:-

[Paragraph (a) of regulation 5 revoked by regulation 3(2) of S.I. 1983/186 as from 6.4.83.]

- (b) a mariner shall not be disqualified ►for receiving reduced earnings allowance under section 59A of the Act◄ by reason of being absent from Great Britain in the course of his employment (being employed earner's employment as a mariner).

Words in reg. 5(b) substituted by reg. 3 of S.I. 1988/553 as from 11.4.88.

Notice of accident and obligations of employers

6.—(1) The requirements of any regulations made under section 88(a) of the Act (requirement to give notice of accident) shall be deemed to be satisfied in the case of a mariner if notice in accordance with the provisions of such regulations is given to the master of the ship or vessel in which the mariner is, for the time being, employed, or to any other officer of such ship or vessel with authority to receive such notice.

(2) As regards any accident reported under the provisions of the last foregoing paragraph, the master of the ship or vessel shall, subject to the provisions of paragraph (4) of this regulation, comply with the requirements of any regulations made under section 88(b) of the Act (obligations of employers) about the investigation and recording of the circumstances of the accident.

(3) The owners or managing owner of any ship or vessel shall comply with the requirements of any regulations made under the said section 88(b) regarding the furnishing of information, when required to do so by the Secretary of State, about any accident happening or alleged to have happened on board or in the service of such ship or vessel, in respect of which benefit may be payable, or about any occupation prescribed for the purposes of Chapter V of Part II (industrial diseases, etc.) of the Act in which any person has been engaged on board or in the service of such ship or vessel and in respect of which benefit under the said Chapter V may be payable.

(4) Any provisions of any regulations made under the said section 88(b) which require the keeping of a book for the recording of particulars of accidents shall not apply to a ship or vessel.

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Evidence

7. For the purposes of any claim for industrial injuries benefit by or in respect of a mariner, evidence may be taken—

- (a) in any part of the Commonwealth or the Republic of Ireland, before a judge or magistrate or by a superintendent;
- (b) in a foreign country, by a British consular officer.

Application of the Act and regulations

8. The provisions relating to industrial injuries benefit of the Act and of the regulations made thereunder shall, so far as they are not inconsistent with the provisions of these regulations, apply to mariners with this modification, that where a mariner is, on account of his being outside the United Kingdom by reason of his employment as a mariner, unable to perform an act required to be done either forthwith or on the happening of a certain event or within a specified time, he shall be deemed to have complied therewith if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.

Revocations and general savings

9.—(1) Regulations 1 and 7 to 14 of the Schedule to the National Insurance (Industrial Injuries) (Mariners) Regulations 1948(a), as amended(b), and the whole of the National Insurance (Industrial Injuries) (Mariners) Amendment Regulations 1951(c), are hereby revoked.

(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(5) of these regulations of the rules for the construction of Acts of Parliament contained in section 38 of the Interpretation Act 1889(d) (effect of repeals) with regard to the effect of revocations.

(The reference to s. 38 of the Interpretation Act 1889 is to be construed, under the Interpretation Act 1978 (c. 30), s. 25(2), as a reference to ss. 16(1) and 17(2)(a) of the latter Act).

20th March 1975

Barbara Castle
Secretary of State for Social Services

(a) S.I. 1948/1471 (Rev. XVI. p. 432; 1948 I, p. 2990).

(b) S.I. 1951/290, 1954/923, 1958/1083 (1951 I, p. 1508; 1954 I, p. 1434, 1958 II, p. 1669).

(c) S.I. 1951/290 (1951 I, p. 1508).

(d) 1889 c. 63.

THE SCHEDULE

Regulation 1(3)

MODIFICATIONS OF THESE REGULATIONS IN THEIR APPLICATION TO HOVERCRAFT AND ACTIVITIES AND PLACES CONNECTED WITH HOVERCRAFT

1. In regulation 1(2), the words “and, subject as aforesaid, expressions to which meanings are assigned in the Merchant Shipping Acts 1894 to 1970 have the same meaning as in those Acts” shall not apply.
2. In regulation 3(a), after the words “in any country” there shall be inserted the words “outside Great Britain”, and for the words “to a place determined in accordance with regulations made under section 62 of the Merchant Shipping Act 1970” there shall be substituted the words “to Great Britain”.
3. In regulation 7(a), the words “or by a superintendent” shall be omitted.
4. Regulations 2(2), 3(1) and 4 shall not apply.

¹Ref. omitted by reg. 3(3) of S.I. 1983/186 as from 6.4.83.

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations modify and amplify the general provisions relating to benefit for industrial injuries and diseases of the Social Security Act 1975, and the regulations made thereunder, in their application to mariners. The principal modifications and amplifications are: (a) benefit is payable (subject to the provisions of the Act) in respect of accidents happening and diseases contracted outside Great Britain (regulation 2); (b) in the case of masters, members of crews and pilots, the conditions of entitlement to benefit have been modified in respect of accidents happening while going to or from the ship, while being repatriated, and while acting in emergencies (regulations 3 and 4); (c) the provisions as to disqualification for the receipt of and suspension of payment of benefit while absent from Great Britain have been modified in relation to such mariners (regulation 5); and (d) there are special provisions about giving notice of accidents (regulation 6), and taking evidence abroad (regulation 7). The remaining provisions are incidental or consequential.

In so far as these Regulations are made under the power conferred by section 129(1) of the 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.

