

1975 No. 90

SOCIAL SECURITY

The Social Security (Employed Earners' Employments for Industrial Injuries Purposes) Regulations (Northern Ireland) 1975*Made* 3rd 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 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.

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.

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

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.

5. Employment as a share fisherman.

6. Employment as pilot operating from a port in Northern Ireland on board any ship or vessel notwithstanding that the person so employed does not hold a licence or deep sea certificate from a pilotage authority in Northern Ireland covering that employment.

7. Employment as a regular or enrolled member of the crew of any lifeboat stationed in Northern Ireland under the control of the Royal National Lifeboat Institution.

PART II

Regulation 5

Mariners' employments not to be treated as employed earners' employments for industrial injuries purposes

1. Employment under a contract of service—

(1) as master or member of the crew of any ship or vessel not being an employment which is treated as employed earner's employment by virtue of Part I of this Schedule and not being employment on a ship or vessel which is employed exclusively in Northern Ireland; or

(2) in any other capacity on board any ship or vessel not being a ship or vessel employed exclusively in Northern Ireland, where 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 is employment under a contract of service entered into with a view to its performance (in whole or in part) while the ship or vessel is on her voyage, and either—

- (a) the said contract was entered into outside the United Kingdom; or
- (b) the person by whom the earnings are paid has no place of business in Northern Ireland;

but not including any such employment as is mentioned in paragraph 6 of Part I of this Schedule.

2. 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 included in paragraph 1 of this Part of this Schedule in the case of each ship or vessel if the contract related to it alone.

3.—(1) Subject to the provisions of this paragraph, the employment of a person who would be an employed earner in relation to that employment by virtue of Part I of this Schedule but who is neither domiciled nor has a place of residence in the United Kingdom.

(2) If such person is ordinarily resident in a country included in the list set out at the end of this sub-paragraph he shall not be subject to the provisions of the last foregoing sub-paragraph if either—

- (a) he is employed in employment under a contract of service as master or a member of the crew of a British ship within paragraph 1(2) of Part I of this Schedule; or
- (b) he is employed in employment under a contract to act as master or a 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, and the employment would be included in sub-paragraph (a) of this paragraph in the case of each ship or vessel, if the contract related to it alone.

List of countries

Australia	Belgium
Canada	Denmark
France	Malta
New Zealand	Norway
Republic of Ireland	South Africa
Sweden	The Channel Islands
The Netherlands	United States of America.

PART III

Regulation 6

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

1. In the provisions of this Part of this Schedule—

“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 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;

“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.

2. Where an airman is employed as such on board any aircraft, and the employer of that airman or the person paying the airman his earnings in respect of the employment (whether or not the person making the payment is acting as agent for the employer) or the persons under whose directions the terms of the airman's employment and the amount of the earnings to be paid in respect thereof are determined has—

- (1) in the case of the aircraft being a British aircraft, a place of business in Northern Ireland; or
- (2) in any other case, his principal place of business in Northern Ireland, then that employment of the airman shall be treated as employed earner's employment.

3. Employment under a contract to act as pilot, commander, navigator or other member of the crew of such of the aircraft of a particular owner or owners as may be determined in accordance with the contract where the employment would be included in paragraph 2 of this Part of this Schedule in the case of each aircraft if his contract related to it alone.

PART IV

Regulation 7

Airmen's employments not to be treated as employed earners' employments for industrial injuries purposes

1. The employment of an airman who would be an employed earner in relation to that employment by virtue of Part III of this Schedule but who is neither domiciled nor has a place of residence in the United Kingdom.

2. Employment under a contract of service—

- (1) as pilot, commander, navigator or other member of the crew of any registered aircraft, where that employment is not treated as employed earner's employment by virtue of Part III of this Schedule; or
- (2) in any other capacity on board any registered aircraft where the employment in that other capacity is for the purpose of the aircraft or its crew or of any passengers or cargo or mails carried thereby and is employment under a contract of service entered into with a view to its performance (in whole or in part) while the aircraft is in flight, and either—
 - (a) the said contract was entered into outside the United Kingdom; or
 - (b) the person by whom the earnings are paid has no place of business in Northern Ireland.

3. Employment under a contract to act as pilot, commander, navigator or other member of the crew of such of the aircraft of a particular owner or owners as may be determined in accordance with the contract where the employment would be included in the last foregoing paragraph in the case of each aircraft if the contract related to it alone.

SCHEDULE 3

Regulation 8

Employments in respect of which persons are treated as employers for industrial injuries purposes

<i>Employments</i> (1)	<i>Persons treated as employers</i> (2)
1. Employments in an office (including elective office) with emoluments chargeable to income tax under Schedule E.	1. The person specified or prescribed as the secondary contributor in relation to that office in or under section 4(4)(b)(i) and (ii) of the Act of 1975.
2. Employment (as office cleaner) specified in paragraph 1 of column (A) of Schedule 3 to the Social Security (Categorisation of Earners) (Northern Ireland) Regulations 1975(g), as amended(h).	2. (a) Where the person employed is supplied by, or through, the agency of, some third person and receives his remuneration from, or through the agency of, that third person, that third person; (b) in any other case, except where the employment is also one described in paragraph 6 of column (1) of this Schedule, the person with whom the person employed contracted to do the work.
3. Employment (agency employment) specified in paragraph 2 of column (A) of Schedule 3 to the Social Security (Categorisation of Earners) (Northern Ireland) Regulations 1975, as amended.	3. Where the person employed is supplied by or through the agency of a body of persons unincorporate and the person employed is a member of that body, the other members of that body, and, in any other case, the third person by whom or through whose agency the person employed is supplied.
4. Employment (fire brigade and rescue parties and maritime pilots) specified in paragraph 2 of Part I of Schedule 1 to these regulations and paragraph 6 of Part I of Schedule 2 to these regulations.	4. The person or body from whom the pecuniary remuneration in respect of that employment is received or where no such remuneration is received the person or body under whose direction the employment is carried on.
5. Employment (share fishermen) specified in paragraph 5 of Part I of Schedule 2 to these regulations.	5. The owner (or the managing owner or manager, if there is more than one owner) of the fishing boat.
6. Employment (under a liquidator) specified in paragraph 3 of column (A) of Schedule 3 to the Social Security (Categorisation of Earners) (Northern Ireland) Regulations 1975, as amended.	6. The person who at the time of the employment holds the office of liquidator.

(g) S.R. 1975 No. 27

(h) S.R. 1975 No. 55

<i>Employments</i> (1)	<i>Persons treated as employers</i> (2)
7. Employment (casual employments in club) of a casual nature for the purposes of any game or recreation where the person so employed is engaged or paid for that employment through a club.	7. The club.
8. Employment (bailee of vehicle or vessel plying for hire) specified in paragraph 3 of Part I of Schedule 1 to these regulations.	8. The person from whom the use of the vehicle is so obtained.

SCHEDULE 4

Regulation 9(1)

Regulations revoked

Column 1 <i>Regulations revoked</i>	Column 2 <i>Reference</i>	Column 3 <i>Extent of revocations</i>
The National Insurance (Industrial Injuries) (Mariners) Regulations (Northern Ireland) 1948.	S.R. & O. (N.I.) 1948 No. 205 (p. 1060).	Regulations 2 to 6.
The National Insurance (Industrial Injuries) (Airmen) Regulations (Northern Ireland) 1948.	S.R. & O. (N.I.) 1948 No. 206 (p. 980).	Regulation 2.
The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations (Northern Ireland) 1951.	S.R. & O. (N.I.) 1951 No. 61 (p. 424).	The whole of the regulations.
The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations (Northern Ireland) 1954.	S.R. & O. (N.I.) 1954 No. 114 (p. 483).	The whole of the regulations.
The National Insurance (Industrial Injuries) Mariners (Insurability) Regulations (Northern Ireland) 1954.	S.R. & O. (N.I.) 1954 No. 115 (p. 485).	The whole of the regulations.
The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations (Northern Ireland) 1958.	S.R. & O. (N.I.) 1958 No. 11 (p. 478).	The whole of the regulations.
The Family Allowances, National Insurance, Industrial Injuries and Miscellaneous Provisions (Decimalisation of the Currency) Regulations (Northern Ireland) 1970.	S.R. & O. (N.I.) 1970 No. 15 (p. 40).	Regulation 25.
The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations (Northern Ireland) 1972.	S.R. & O. (N.I.) 1972 No. 228 (p. 1230).	The whole of the regulations.

Column 1 <i>Regulations revoked</i>	Column 2 <i>Reference</i>	Column 3 <i>Extent of revocations</i>
The National Insurance (Industrial Injuries) (Mariners) Amendment (No. 2) Regulations (Northern Ireland) 1972.	S.R. & O. (N.I.) 1972 No. 236 (p. 1277).	The whole of the regulations.
The National Insurance (Industrial Injuries) (Insurable and Excepted Employments) Regulations (Northern Ireland) 1973.	S.R. & O. (N.I.) 1973 No. 11 (I, p. 42).	The whole of the regulations.
The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations (Northern Ireland) 1973.	S.R. & O. (N.I.) 1973 No. 320 (II, p. 1813).	The whole of the regulations.
The National Insurance (Industrial Injuries) (Insurable and Excepted Employments) Amendment Regulations (Northern Ireland) 1974.	S.R. 1974 No. 18.	The whole of the regulations.
The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations (Northern Ireland) 1974.	S.R. 1974 No. 160.	The whole of the regulations.

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport.)

These regulations supplement and modify for industrial injuries purposes the general provisions relating to employed earners' employments contained in the Social Security (Northern Ireland) Act 1975 and the Social Security (Categorisation of Earners) (Northern Ireland) Regulations 1975 as amended.

The principal additions and modifications are:

- (a) provision is made for additional employments to be treated as employed earners' employments (regulation 2 and Schedule 1 Part I) and for certain employments not to be so treated (regulation 3 and Schedule 1 Part II);
- (b) provision is also made for certain mariners' and airmen's employments to be treated as employed earners' employments (regulations 4 and 6 and Schedule 2 Parts I and III) and for certain mariners' and airmen's employments not to be so treated (regulations 5 and 7 and Schedule 2 Parts II and IV);
- (c) the regulations also prescribe the persons to be treated as employers of employed earners in respect of certain specified employments.