

1978 No. 1877

SOCIAL SECURITY

**The Social Security (Contributions) (Mariners) Amendment
Regulations 1978**
Laid before Parliament in draft

Made - - - 19th December 1978

Coming into Operation 6th April 1979

Whereas a draft of the following regulations was laid before Parliament and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Services in exercise of the powers conferred upon him by sections 3(2) and 129(1) of, and paragraph 6(1)(d) of Schedule 1 to, the Social Security Act 1975(a) and paragraph 9 of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(b) and of all other powers enabling him in that behalf, after considering the report of the National Insurance Advisory Committee on the draft submitted to them in accordance with section 139 of the Social Security Act 1975 hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations which may be cited as the Social Security (Contributions) (Mariners) Amendment Regulations 1978 shall be read as one with the Social Security (Contributions) Regulations 1975(c) as amended(d) (hereinafter referred to as “the principal regulations”) and shall come into operation on 6th April 1979.

Amendment of regulation 79 of the principal regulations

2. In regulation 79(a) (modification of employed earner’s employment)—
- (a) in head (ii) there shall be deleted the words “, in either case,”;
 - (b) at the beginning of head (iii) there shall be inserted the words “in a case to which head (ii) applies,”.

Amendment of regulation 81 of the principal regulations

3. In regulation 81 of the principal regulations (earnings period for mariners)—
- (a) in paragraph (1) after the words “Subject to the provisions of the next succeeding paragraph” there shall be inserted the words “and of regulation 88 of these regulations”;
 - (b) after paragraph (2) there shall be added the following paragraph—
 - “(3) Where the voyage period falls partly in one year and partly in one or more other years contributions paid in respect of earnings paid to or for the benefit of the mariner in respect of his employment as such in respect of that voyage period shall be apportioned between

(a) 1975 c. 14.

(b) 1975 c. 18.

(c) S.I. 1975/492.

(d) The relevant amending instruments are S.I. 1976/1; 1977/114; 1978/507.

the years proportionately to the length of the part of the voyage period occurring in each such year and each amount of contributions so apportioned shall be treated as paid in respect of the year to which that amount is apportioned.”.

Revocation of regulations 88, 88A, 88B and 88C of the principal regulations

4. Regulations 88, 88A, 88B and 88C of the principal regulations (special transitional provisions and transitional provisions consequent on the Re-rating Orders 1975, 1977 and (No. 2) Order 1977) are hereby revoked.

Insertion of new regulation 88 in the principal regulations

5. After regulation 87 of the principal regulations there shall be inserted the following regulation—

“Special provisions concerning earnings-related contributions

88.—(1) This regulation shall apply only if earnings-related contributions payable in respect of a mariner’s earnings are collected in accordance with the provisions of Part V of Schedule 2 to these regulations and during the voyage period one or more than one change occurs in any one or more of the following figures applicable in respect of the mariner’s employment—

- (a) the percentage rate for primary or secondary Class 1 contributions specified in section 4(6) of the Act;
- (b) the contracted-out percentage applying in the case of a primary or secondary Class 1 contribution in section 27(2) of the Pensions Act;
- (c) the figure specified in regulation 80(1)(a) or (b) of these regulations by which the percentage rate of secondary Class 1 contributions is reduced;
- (d) the lower or upper earnings limits for Class 1 contributions specified under section 1 of the Pensions Act.

(2) Except for any payment of earnings which is an employer’s payment within the meaning of regulation 86(3) of these regulations and subject to the following provisions of this regulation, where earnings are paid to or for the benefit of a mariner for his employment as such in respect of a voyage period which falls partly in one year and partly in one or more other years and during that voyage period a change such as is specified in the last preceding paragraph occurs, for the purposes of liability for and calculation of earnings-related contributions—

- (a) the earnings shall be apportioned between the years in which the voyage period falls proportionately to the length of the part of the voyage period occurring in each such year; and
- (b) each amount of earnings so apportioned shall be treated as a payment of earnings made at the end of the year or, if the voyage period ends before the end of the year, of the part of the year to which it is apportioned; and
- (c) the earnings period in respect of each amount shall be the length of the period to which that amount is apportioned.

(3) Notwithstanding the provisions of sub-paragraphs (b) and (c) of the last preceding paragraph and subject to the provisions of the next succeeding paragraph—

- (a) except where the earnings are paid in the year in which the voyage period begins, where the voyage period begins on or after 6th March

in any year the amount apportioned to that year shall be treated as a payment of earnings made at the end of the next succeeding year or, as the case may be, part of the year and the earnings period in respect of that amount and in respect of the amount apportioned to the next succeeding year or, as the case may be, part of the year shall, unless it is a voyage period to which the provisions of sub-paragraph (c) of this paragraph apply, be the period beginning on the date on which the voyage period commences and ending on the date on which the payment of earnings is treated as made;

- (b) except where the voyage period begins on or after 6th March in any year and ends before 6th May in the immediately succeeding year in which case the provisions of the last preceding sub-paragraph shall apply, where the voyage period ends before 6th May in any year the amount apportioned to that year shall be treated as a payment of earnings made at the end of the immediately preceding year and the earnings period in respect of that amount and in respect of the amount apportioned to the immediately preceding year shall, unless it is a voyage period to which the provisions of sub-paragraph (c) of this paragraph apply, be
 - (i) in a case where the voyage period began in the immediately preceding year, the voyage period;
 - (ii) in any other case, the period beginning on 6th April of the immediately preceding year and ending on the date on which the voyage period ends;
- (c) where the voyage period begins on or after 6th March in any year, continues throughout the immediately succeeding year, and ends before 6th May in the following year, the earnings period in respect of the amount apportioned to each year of the voyage period shall be the voyage period.

(4) Where the voyage period extends beyond the date on which the earnings are paid, any amount apportioned to any year after the year in which the earnings are paid shall be treated as a payment of earnings made at the end of the year in which the earnings are paid and the earnings period in respect of that amount and in respect of the amount apportioned to the year in which the earnings are paid and, where applicable, in respect of any amount which is treated under the provisions of paragraph (3)(a) above as paid at the end of the year in which the earnings are paid, shall be—

- (a) in a case where the voyage period began in the year in which the earnings are paid, the voyage period;
- (b) in a case where the voyage period began on or after 6th March in the year immediately preceding the year in which the earnings are paid, the voyage period;
- (c) in any other case, the period beginning on 6th April of the year in which the earnings are paid and ending on the date on which the voyage period ends.

(5) Where the earnings period—

- (a) is less than a week that period shall be treated as a week;
- (b) exceeds a week or a whole multiple of a week by part of a week,
 - (i) if that part of the week is a period in excess of 3 days, that part of the week shall be treated as a week;
 - (ii) if that part of the week is a period of 3 days or less, that part of the week shall be disregarded (and the mariner's earnings in

respect of his employment as such during that part of the week shall be assessed as if it were earnings for employment in the week immediately preceding that part of the week).

(6) Where earnings are apportioned between the years in which the voyage period falls in accordance with the foregoing provisions of this regulation, contributions paid in respect of each amount of earnings so apportioned shall be treated as paid in respect of the year to which that amount is apportioned.”.

Minor or consequential amendments of the principal regulations

6. In the principal regulations—

- (a) in regulations 1(2) and 77 (interpretation) there shall be deleted the definitions of “The Re-rating Order 1975”, “The Re-rating Order 1977” and “The Re-rating (No. 2) Order 1977”;
- (b) in regulation 85(1)(a) (payments to be disregarded) for the words “within the meeting” there shall be substituted the words “within the meaning”;
- (c) in regulation 86(3) (special payments to mariners after terminal payment) for the words “regulations 85 and 88 of these regulations” there shall be substituted the words “regulation 85 of these regulations”;
- (d) in regulation 89(d) (modification in relation to share fishermen) for “15(1)(b)” there shall be substituted “15(1)”;
- (e) in regulation 124(2) (appropriation and savings) there shall be deleted the figure “88”.

David Ennals,

Secretary of State for Social Services.

19th December 1978.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations further amend the Social Security (Contributions) Regulations 1975 (“the principal regulations”).

The Regulations amend the principal regulations by providing for mariners employed on British ships to be treated as employed earners and, in relation to them, excludes the provision that the person by whom the mariner’s earnings are paid or the owner of the ship should have a place of business in Great Britain.

The Regulations revoke the transitional provisions relating to mariners (which are spent) and make new provision for the calculation of earnings-related contributions payable by mariners in respect of a voyage period which falls partly in two or more tax years.

The Regulations also make provision as to the tax years in respect of which contributions paid in respect of the voyage period may be treated as paid.

The other amendments are of a minor or consequential nature.

The report of the National Insurance Advisory Committee on the draft of these Regulations dated 27th October 1978 is contained in the House of Commons Paper No. 86 (Session 1978/79) published by Her Majesty’s Stationery Office.

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