10. MARINERS

The National Insurance (Industrial Injuries) (Mariners) Regulations, 1948

1948 No. 1471

Made - - - -	*29th June*, 1948
*Laid before Parliament**	*30th June*, 1948
Coming into Operation	*5th July*, 1948

M.N.I./I.I.110.

The Minister of National Insurance, in exercise of powers conferred by sections 25, 26, 32, 65 (1) and 77 of the National Insurance (Industrial Injuries) Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations*:—

9 & 10 Geo. 6. c. 62.

PART I—GENERAL

Citation, commencement and interpretation.

1.—(1) These regulations may be cited as the National Insurance (Industrial Injuries) (Mariners) Regulations, 1948, and shall come into operation on the 5th July, 1948.

(2) In these regulations, unless the context otherwise requires—

"the Act" means the National Insurance (Industrial Injuries) Act, 1946;

9 & 10 Geo. 6. c. 67.

"the National Insurance Act" means the National Insurance Act, 1946;

"the Collection of Contributions Regulations" means the National Insurance and Industrial Injuries (Collection of Contributions) Regulations, 1948(a);

"the National Insurance (Mariners) Regulations" means the National Insurance (Mariners) Regulations, 1948(b);

"the Minister" means the Minister of National Insurance;

"mariner" means a person who is an insured person under the Act by virtue of paragraphs 2, 3 and 4 of Part I of the First Schedule thereto;

"prescribed disease" means a disease or injury prescribed for the purposes of Part IV of the Act;

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* In accordance with section 87 (1) of the National Insurance (Industrial Injuries) Act, 1946, a draft of regulations 1, 2, 4 to 9, 11, 12 (2) and (3), 13 and 14 has been approved by each House of Parliament. The necessary Resolutions were passed by the House of Lords on the 28th June, 1948, and by the House of Commons on the 23rd June, 1948.

(a) S.I. 1948 No. 1274, p. 3037 below. (b) S.I. 1948 No. 1467, p. 2785 above.

"home trade ship" has the same meaning as in the National Insurance (Mariners) Regulations;

and, subject as aforesaid, expressions to which meanings are assigned in the Merchant Shipping Acts, 1894 to 1938, have the same meanings as in those Acts; and other expressions have the same meanings as in the Act.

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulations.

(4) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. 52 & 53 Vict. c. 63.

Part II—Insurability and Contributions

Insurability.

2.—(1) Subject to the following provisions of this regulation, a mariner who neither is domiciled nor has a place of residence in the United Kingdom shall be excepted from insurance under the Act in respect of his employment as such mariner.

(2) A mariner shall not be excepted from insurance under the provisions of the last foregoing paragraph if—

(*a*) he is employed under a contract of service either as master or a member of the crew of any ship to which paragraph 2 of Part I of the First Schedule to the Act (which relates to insurability) applies; and

(*b*) he is ordinarily resident in a country included in the Schedule to these regulations:

Provided that this paragraph shall not apply to a mariner who is employed as aforesaid under a British whaling contract.

(3) The foregoing provisions of this regulation shall have effect subject to any Order in Council giving effect to any reciprocal agreement made under section 85 of the Act (which section relates to reciprocal agreements with Dominions, colonies and foreign countries).

(4) The subsequent provisions of these regulations shall not apply to a mariner who is excepted from insurance under the provisions of this regulation.

Contributions.

3. Subject to the provisions of the two next following regulations, where contributions under the National Insurance Act are payable by or on behalf of, or in respect of, any person under the provisions of the National Insurance (Mariners) Regulations or of any regulations for the time being in force as to the payment of contributions under the National Insurance Act in respect of share fishermen and that person is insured under the Act as a mariner by virtue of these regulations, the contributions payable under the Act in respect of that person shall be paid at the same time and in the same manner as the contributions so payable under the National Insurance Act.

Contributions of pilots.

4. Where in any contribution week(a) a mariner is employed as a pilot within paragraph 3 of Part I of the First Schedule to the Act, and that employment is not an employed contributor's employment for the

(a) *See* S. 88 (1), National Insurance (Industrial Injuries) Act, 1946.

purposes of the National Insurance Act, any contribution payable under the Act in respect thereof shall be paid in accordance with the following provisions of this regulation, that is to say:—

(*a*) the mariner himself shall pay both the employer's contribution and the insured person's contribution, and shall be treated as the employer for the purposes of regulation 8 of the Collection of Contributions Regulations (which relates to employment by two or more employers) as regards that employment;

(*b*) such contributions shall be paid by the affixing of a single stamp to a second insurance card which shall be obtained in accordance with the Collection of Contributions Regulations;

(*c*) save as aforesaid, the provisions of the Collection of Contributions Regulations shall apply as they apply to contributions as a self-employed person.

Contributions of share fishermen.

5. Notwithstanding any provisions of the Act restricting the rights of deducting or otherwise recovering the employer's contribution(a), employer's contributions paid in respect of a mariner who is employed as master or a member of the crew of a fishing vessel to which paragraph 2 of Part I of the First Schedule to the Act applies, and is remunerated in whole or in part by a share in the profits or gross earnings of the vessel, may be deducted from the gross earnings of the vessel before the mariner's share is ascertained.

Contributions in respect of masters or members of the crew of ships or vessels other than home trade ships.

6. In the case of a mariner employed as master or a member of the crew of any ship or vessel other than a home trade ship, the weekly rate of the employer's contributions payable in respect of him in accordance with section 2 of, and Part I of the Second Schedule to the Act shall be reduced by one halfpenny.

PART III—BENEFIT

Accidents happening and diseases contracted outside Great Britain.

7.—(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 insurable 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 insured person 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 as to benefit in the case of masters and members of the crew and pilots.

8. The provisions of Part II of the Act (which relates to benefit) shall, in their application to a person insured as a mariner by virtue of employment as master or a member of the crew of any ship or vessel to which paragraph 2 of Part I of the First Schedule to the Act applies, or by virtue of employment as a pilot within paragraph 3 thereof, have effect subject to the following modifications:—

(*a*) Where the mariner, having been left at a port other than a proper return port(b) on account of illness, injury, risk of infection or loss

(a) *See* s. 4, National Insurance (Industrial Injuries) Act, 1946.
(b) *See* s. 45, Merchant Shipping Act, 1906 (6 Edw. 7. c. 48).

of or damage to the ship or vessel in which he was employed, subsequently returns to such a port 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 so returning 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 9 of the Act (which relates to accidents happening while travelling in the 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 paragraph (*b*) of subsection (1) of the said section 9 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 10 of the Act (which relates to 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 are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

(*d*) Injury benefit shall not be payable for any period during which the mariner is entitled to wages under the provisions of the Merchant Shipping Acts, 1894 to 1938.

Accidents happening to pilots.

9. An accident happening to a mariner employed as a pilot within paragraph 3 of Part I of the First Schedule to the Act 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.

10.—(1) Those provisions of subsection (1) of section 32 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 as master or a member of the crew of any ship or vessel to which paragraph 2 of Part I of the First Schedule to the Act applies or as a pilot within paragraph 3 thereof, subject to the following exceptions:—

(*a*) A mariner shall not be disqualified for receiving injury benefit or disablement benefit (other than any increase of disablement benefit) for any period during which he is absent from Great Britain.

(*b*) A person shall not be disqualified for receiving death benefit in respect of the death of a mariner for any period during which that person is in any part of His Majesty's dominions, or is in a country included in the Schedule to these regulations in which the mariner was ordinarily resident at the time of his death.

(*c*) An increase of injury benefit shall, subject to the provisions of the Act, be payable in respect of a person as a mariner's wife or husband for any period during which that person is residing with the mariner outside Great Britain and for which, by virtue of the foregoing provisions of this regulation, the mariner is not disqualified for receiving that benefit.

(2) The payment of injury benefit or death benefit payable to any person in respect of an accident or disease such as is referred to in paragraph (1) of this regulation (whether in respect of a period of absence from Great Britain or otherwise) shall be suspended whilst that person is absent from Great Britain, unless—

(*a*) in the case of injury benefit, the Minister in any particular case otherwise determines, or the person is in Eire, the Isle of Man or the Channel Islands or has nominated a person in Great Britain (who is approved by the Minister) to receive payment of such benefit on his behalf; or

(*b*) in the case of death benefit, the person is in any part of His Majesty's dominions, or is in a country included in the Schedule to these regulations in which the mariner was ordinarily resident at the time of his death.

Extinguishment of right of mariners to receive payment of benefit.

11. Where a mariner has failed to obtain payment of benefit within the period of six months specified in the proviso to paragraph (1) of regulation 18 of the National Insurance (Industrial Injuries) (Claims and Payments) Regulations, 1948(a), and his failure is due to the fact that he was absent from Great Britain by reason of his employment as a mariner, that proviso shall apply to him with the substitution for the said period of six months of such a period as the Minister may, in any particular case, determine.

PART IV—MISCELLANEOUS

Notice of accident and obligations of employers.

12.—(1) The requirements of any regulations made under paragraph (*a*) of subsection (1) of section 25 of the Act (which relates to the giving of 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 26 of the Act (which relates to the obligations of employers) as to the investigation and recording of the circumstances of such accident.

(a) S.I. 1948 No. 1362, p. 2942 above.

(3) The owners or managing owner of any ship or vessel shall comply with the requirements of any regulations made under the said section 26 as to the furnishing of information, when required to do so by the Minister, as to 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 as to any occupation prescribed for the purposes of Part IV 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 Part IV may be payable.

(4) Any provisions of any regulations made under the said section 26 which require the keeping of a book for the recording of particulars of accidents shall not apply to a ship or vessel.

13. For the purposes of any claim for benefit by or in respect of a mariner, evidence may be taken— **Evidence.**

(*a*) in any part of His Majesty's dominions, before a judge or magistrate or by a superintendent;

(*b*) in a foreign country, by a British consular officer.

14. The provisions 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. **Application of the Act and regulations.**

Dated this 29th day of June, 1948.

James Griffiths,
Minister of National Insurance.

SCHEDULE

Regulations 2 (2), 10 (1) and 10 (2).

Australia	Belgium
Canada	Denmark
Eire	France
New Zealand	Holland
Newfoundland	Norway
South Africa	Sweden
The Channel Islands	United States of America

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations modify and amplify the general provisions of the National Insurance (Industrial Injuries) Act, 1946, and the regulations made thereunder, in their application to " mariners " as defined by section 77 of that Act (that is, to persons employed under a contract of service on board a British ship or vessel). The principal modifications and amplifications are: (*a*) mariners not domiciled nor having a place of residence in the United Kingdom are excepted from insurance unless

they are employed as masters or members of crews and are ordinarily resident in one of a number of specified countries (regulation 2); (*b*) there are special provisions as to the payment of contributions in respect of pilots and share fishermen (regulations 4 and 5) and masters and members of the crews of ships other than home trade ships (regulation 6); (*c*) benefit is payable (subject to the provisions of the Act) in respect of accidents happening and diseases contracted outside Great Britain (regulation 7); (*d*) 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 8 and 9); (*e*) 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 10); (*f*) provision is also made for the extension of the normal period after which, if payment has not been obtained, the right to benefit under the Act is extinguished (regulation 11); and (*g*) there are special provisions as to giving notice of accidents (regulation 12), and taking evidence abroad (regulation 13). The remaining provisions are incidental or consequential.

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11. MEDICAL CERTIFICATION

The National Insurance (Industrial Injuries) (Medical Certification) Regulations, 1948

1948 No. 1262

Made - - - -	15*th June*, 1948
Laid before Parliament	15*th June*, 1948
Coming into Operation	18*th June*, 1948

M.N.I./1.1.108.

9 & 10 Geo. 6. c. 62.

The Minister of National Insurance, in exercise of the powers conferred by subsection (1) of section 51 of the National Insurance (Industrial Injuries) Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, commencement, and interpretation.

1.—(1) These regulations may be cited as the National Insurance (Industrial Injuries) (Medical Certification) Regulations, 1948, and shall come into operation on the 18th June, 1948.

(2) In these regulations, unless the context otherwise requires—

" the Act " means the National Insurance (Industrial Injuries) Act, 1946;

" the Minister " means the Minister of National Insurance;

" the determining authority " means an insurance officer, a local appeal tribunal or the Commissioner, as the case may require, appointed or constituted for the purposes of the Act;

" incapacity " means incapacity by reason of which a person is rendered incapable of work (**a**);

and other expressions have the same meanings as in the Act.

(**a**) *See* s. 11 (1), National Insurance (Industrial Injuries) Act, 1946.