19. SHARE FISHERMEN

The National Insurance (Share Fishermen) Provisional Regulations, 1948*

1948 No. 1395

Made - - - -	*25th June*, 1948
Laid before Parliament	*28th June*, 1948
Coming into Operation	*2nd July*, 1948

M.N.I. 135.

The Minister of National Insurance, in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed, hereby certifies under subsection (4) of section 77 of the National Insurance Act, 1946, that on account of urgency the following regulations should come into operation without delay, and, in exercise of the powers conferred by sections 1 (3), 8 (1), 9 (1) and 52 (2) of that Act, and of all other powers enabling him in that behalf, hereby makes the following regulations as provisional regulations:—

9 & 10 Geo. 6. c. 67.

Citation, commencement and interpretation.

1.—(1) These regulations may be cited as the National Insurance (Share Fishermen) Provisional Regulations, 1948, and shall come into operation on the 2nd July, 1948.

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

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

" the Minister " means the Minister of National Insurance;

" 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 sub-paragraph (2) of paragraph 2 of Part I of the First Schedule to the National Insurance (Industrial Injuries) Act, 1946, applies;

9 & 10 Geo. 6. c. 62.

" 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 Eire), the Channel Islands, the Isle of Man, and the continent of Europe between the River Elbe and Brest inclusive;

---

* *Under section 77 (4) of the National Insurance, Act, 1946, these Provisional Regulations will not continue in force for longer than three months after the receipt by the authorities making them of the Report of the National Insurance Advisory Committee on the preliminary draft thereof submitted to them in accordance with the said section 77.*

(*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.;

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.

2. The provisions of these regulations shall apply to any insured person (hereinafter referred to as a " share fisherman ") who, during the year, is wholly or mainly engaged in, and derives his livelihood wholly or mainly from, employment as skipper or a member of the crew of a fishing vessel manned by more than one person, in respect of which employment he is remunerated in whole or in part by a share in the profits or gross earnings of the fishing vessel, or a person who, having newly entered into the fishing industry, may reasonably be expected so to be engaged and to derive his livelihood. Share fishermen.

3.—(1) A share fisherman who is not employed under a contract of service shall nevertheless be treated in respect of employment by virtue of which he is a share fisherman as if he were employed in an employed contributor's employment(**a**) if he is employed— Classification of share fishermen.

(*a*) on board a fishing vessel which is a British ship; or

(*b*) on board a fishing vessel which is not a British ship, and—

(i) the employment is commenced in the United Kingdom and is intended to be performed (in whole or in part) while the 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 Great Britain.

(2) For the purpose of paying contributions in respect of a share fisherman to whom paragraph (1) of this regulation applies, the owner (or managing owner or manager, if there be more than one owner) shall be treated as the employer of that share fisherman.

4. In the case of a share fisherman to whom paragraph (1) of the last foregoing regulation applies and who is employed on board a fishing vessel which is a home-trade ship, the following provisions shall apply:— Contributions of share fishermen on board home-trade ships.

(*a*) where the fishing vessel is at any time at sea or at a port outside Great Britain on the date when an insurance card(**b**) would, but for this regulation, cease to be current, that insurance card shall remain current—

(i) if the engagement is due to terminate in Great Britain, until the termination of the engagement; and

(ii) if the engagement is due to terminate outside Great Britain, until the return of the share fisherman to Great Britain;

(**a**) *See* s. 1 (2), National Insurance Act, 1946.

(**b**) *See* reg. 1, National Insurance and Industrial Injuries (Collection of Contributions) Regulations, 1948 (S.I. 1948 No. 1274, p. 3037 below).

(*b*) where the fishing vessel is at any time at sea or at a port outside Great Britain, the employer shall not be required to affix stamps to the insurance card of the share fisherman 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;

(*c*) every employer shall apply to the appropriate superintendent(**a**) or consular officer(**a**) for a sufficient number of emergency cards(**b**) for use in connection with his fishing vessels, and such emergency cards shall be used where, but only where—

(i) the share fisherman has been unable for any reason to obtain an insurance card before joining the fishing vessel; or

(ii) all the appropriate spaces on the insurance card have been filled by the affixing of stamps;

(*d*) where the employer does not pay wages or other pecuniary remuneration in respect of the employment of the share fisherman, he shall affix stamps to the insurance card of that share fisherman 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;

(*e*) where the share fisherman is left behind on shore in any place outside Great Britain 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 Minister, if the share fisherman is left in any part of His Majesty's dominions, or, if he is left elsewhere, to the appropriate consular officer;

(*f*) in the event of the share fisherman deserting the ship, or dying during the period of his engagement, or being left behind on shore in any place outside Great Britain for any reason other than his unfitness or inability to proceed to sea, the employer shall deliver his insurance card duly stamped to the appropriate superintendent or consular officer on the termination of the voyage, or when the ship first returns to a port in the United Kingdom, whichever is the earlier;

(*g*) 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 of the last two preceding paragraphs, the employer shall, as soon as may be, deliver it to the Minister.

Contributions of share fishermen on board fishing vessels other than home-trade ships.

5.—(1) In the case of a share fisherman to whom paragraph (1) of regulation 3 applies and who is employed on board a fishing vessel other than a home-trade ship, contributions shall be paid in such manner as the Minister may from time to time direct, and, in default of any such direction, the employer shall in respect of every voyage of the fishing vessel—

(*a*) prepare a schedule showing the number of contributions payable in respect of all such share fishermen employed on board any such vessel at any time during the voyage;

(*b*) furnish such particulars as the Minister may require in respect of every such share fisherman on a separate form (hereafter in this regulation called a " voyage card ");

(**a**) *See* s. 742, Merchant Shipping Act, 1894.

(**b**) *See* reg. 5, National Insurance and Industrial Injuries (Collection of Contributions) Regulations, 1948 (S.I. 1948 No. 1274, p. 3037 below).

(*c*) deliver the schedule and voyage cards to the Minister within seven clear days after the termination of the voyage and at the same time pay to him the total amount of the contributions shown on the schedule:

Provided that where the agreement with the crew is a fishing boat's running agreement within the meaning of subsection (1) of section 403 of the Merchant Shipping Act, 1894, the voyage shall be deemed to commence and terminate at the dates of the commencement and termination of the agreement respectively, so, however, that, on every return to a port in the United Kingdom before the final termination of the agreement, the employer shall deliver to the Minister a schedule and the appropriate voyage cards, together with the amount of the contributions due— 57 & 58 Vict. c. 60.

(i) within seven clear days of such return, in respect of any such share fishermen who have been discharged during the absence of the ship or vessel from the United Kingdom, or before the date of such delivery; and

(ii) before the ship or vessel leaves port, in respect of any such share fishermen who have been discharged since the date of such delivery.

(2) The schedules and voyage cards shall be in such form as may from time to time be approved by the Minister, and shall be supplied to an employer without charge.

(3) Contributions paid by reference to a schedule and voyage card shall be treated as having been paid week by week in the course of the period in respect of which they were paid.

Duty of skipper.

6. It shall be the duty of the skipper of every fishing vessel to comply with all orders or directions given to him by the owner or manager of the vessel with a view to the carrying into effect of the provisions of the Act and of these or any other relevant regulations made thereunder.

Breach of regulations.

7. If any person contravenes or fails to comply with any requirement of these regulations in respect of which no special penalty is provided, he shall for such offence be liable on summary conviction to a penalty not exceeding ten pounds, or where the offence consists of continuing any such contravention or failure after conviction thereof, ten pounds together with a further ten pounds for each day on which it is so continued.

Application of regulations made under the Act.

8. The provisions of the regulations made under the Act which are applicable to a share fisherman to whom paragraph (1) of regulation 3 applies shall apply with this modification, that, where such a share fisherman is, on account of his being at sea or outside the United Kingdom, by reason of his employment as a share fisherman 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 after the happening of the event or the expiration of the specified time.

Dated this 25th day of June, 1948.

James Griffiths,
Minister of National Insurance.

J. W. Snow,
Joseph Henderson,
Two of the Lords Commissioners of
His Majesty's Treasury.

EXPLANATORY NOTE

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

These Regulations relate to the classification and contributions of share fishermen. The main provisions relate to (*a*) the definition of share fishermen (regulation 2); (*b*) the classification as employed persons of share fishermen not employed under a contract of service and the treating for contribution purposes of the owner or managing owner of the fishing vessel as the employer of the share fisherman (regulation 3); (*c*) the contributions of share fishermen on board home-trade ships (regulation 4); (*d*) the contributions of share fishermen on board fishing vessels other than home-trade ships (regulation 5); and (*e*) breaches of the regulations (regulation 7). The remaining provisions are of a minor or consequential character.

---

20. TRANSFER OF ASSETS

The National Insurance (Transfer of Assets) Regulations, 1948

1948 No. 1408

Made - - - -	*26th June*, 1948
Laid before Parliament	*28th June*, 1948
Coming into Operation	*1st July*, 1948

M.N.I. 131.

The National Insurance Joint Authority, in conjunction with the Treasury, in exercise of the powers conferred by section 66 of the National Insurance Act, 1946, and of all other powers enabling them in that behalf, hereby make the following regulations:—

9 & 10 Geo. 6. c. 67.

Citation, commencement and interpretation.

1.—(1) These regulations may be cited as the National Insurance (Transfer of Assets) Regulations, 1948, and shall come into operation on the 1st July, 1948.

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

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

" the Minister " means the Minister of National Insurance;

" the Commissioners " means the National Debt Commissioners;

" asset " means any asset which, by virtue of subsection (1) of section 66 of the Act, becomes an asset of the National Insurance