
GUERNSEY STATUTORY INSTRUMENT

1978 - No. 29

The Social Insurance (Mariners) (Guernsey)
Regulations, 1978

Made 4th December, 1978
Laid before the States
Coming into operation 1st January, 1979

THE STATES INSURANCE AUTHORITY, in exercise of the powers conferred upon it by section fifteen and section ninety-six of the Social Insurance (Guernsey) Law, 1978, and in exercise of all other powers enabling it in that behalf, hereby orders :-

Interpretation

1.(1) In these regulations, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :-

"determining authority" means, as the case may require,
the Administrator or the Tribunal;

"Guernsey ship" means a ship or vessel registered in
Guernsey 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 Guernsey;

"the Law" means the Social Insurance (Guernsey) Law, 1978;

"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; "mariner" means a person who is or has been employed under a contract of service either as master or a 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 the ship or vessel or her crew or of any passengers or cargo or mails carried thereby; and
- (b) the contract is entered into in Guernsey with a view to its performance (in whole or in part) while the ship or vessel is on her voyage;

and, subject as aforesaid, expressions to which meanings are assigned in the Merchant Shipping Act, 1894, have the same meanings as in that Act and any other expressions have the same meanings as in the Law.

(2) Except where the context otherwise requires, any reference in these regulations to any enactment or regulations shall be construed as including a reference to that enactment or those regulations, as the case may be, as amended, repealed, replaced or revoked by or under any other enactment or by any other regulations.

(3) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of these regulations as it applies to the interpretation of a Guernsey enactment.

Insurance of mariners

2.(1) Subject to the provisions of paragraph (2) of this regulation, where a mariner -

(a) is employed as a mariner on board any Guernsey ship; or

(b) is employed as master or a member of the crew of any ship or vessel other than a Guernsey ship and -

(i) the contract in respect of the employment is entered into in Guernsey with a view to its performance (in whole or in part) while the ship or 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 Guernsey; or

(c) is a radio officer employed on board any ship or vessel, not being a mariner to whom subparagraph (a) or (b) of this paragraph applies;

then, notwithstanding that he does not fulfil the conditions of section one of the Law, the mariner shall be insured under the Law and his employment shall be treated as an employed contributor's employment.

(2) Notwithstanding the provisions of the last preceding paragraph, a mariner employed as master or a member of the crew of any ship or vessel, who neither is domiciled nor has a place of residence in Guernsey, shall be excepted from insurance in respect of that employment, but the employer shall, nevertheless, be liable to pay under the Law, in respect of any such mariner employed on board a Guernsey ship, the contributions which he would

otherwise have been liable to pay as secondary Class 1 contributions.

Returns of contributions paid in respect of non-domiciled mariners employed as masters or members of the crew

3.(1) Where contributions are payable in respect of any mariner employed as master or a member of the crew of a Guernsey ship in accordance with the provisions of paragraph (2) of regulation two of these regulations, the owner or manager shall, subject to the provisions of paragraph (3) of this regulation, send to the Authority a return showing, in respect of the period covered by the return, the number of such mariners so employed on board the ship in respect of whom contributions are payable under the said paragraph (2) and the total amount of the contributions so payable:

Provided that where no such mariner has been so employed, the owner or manager of the ship shall make a statement on the return to that effect and shall send the return to the Authority.

(2) The amount of the contributions payable under the said paragraph (2) shall be paid to the Authority at the same time as the return is made.

(3) Any return under this regulation shall be in such form and shall be made at such times and in such manner as the Authority may from time to time direct.

Duty of master

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

Information to be furnished by mariners on claims for benefit

5. Upon making any claim for benefit, any mariner who is or has been employed as master or a member of the crew of any ship or vessel shall, if so required, furnish to the Authority the number of his continuous discharge book and particulars of the ships and vessels on board which he was employed during any period material to the claim.

Removal of disqualification in the case of mariners receiving benefit whilst absent from Guernsey

6. Notwithstanding the provisions of the Social Insurance (Residence and Persons Abroad)(Guernsey) Regulations, 1978, any person, who is or has been employed as master or a member of the crew of any ship or vessel or who is or has been under contract to travel at his employer's expense for the purpose of commencing such employment, shall not, by reason of his being absent from Guernsey (but subject to the provisions of paragraph (a) of regulation nine of the Social Insurance (Unemployment, Sickness and Invalidity Benefit)(Guernsey) Regulations, 1978) be disqualified on any day for receiving -

- (a) industrial disablement benefit; or
- (b) sickness benefit, invalidity benefit, limited medical benefit, industrial medical benefit or industrial injury benefit, if -
 - (i) on account of any hurt or injury received, or any illness suffered, by him while so employed or under contract so to travel; or
 - (ii) in consequence of any action taken, while he is or was so employed or under contract so to travel, for the purpose of preventing infection; he has been left outside Guernsey or has been discharged or has not commenced such employment; or
- (c) unemployment benefit or any such benefit as mentioned in the last foregoing sub-paragraph, if, while so employed or under contract so to travel, he has been left outside Guernsey for any reasons other than those specified in that sub-paragraph and reports to the

appropriate superintendent or consular officer or chief officer of customs not later than fourteen days after being so left, or, if, at the time of being so left, he was placed in custody, immediately after his release from custody:

Provided that this regulation shall cease to have effect -

- (a) on that person's commencing or resuming employment outside Guernsey; or
- (b) in any case where that person does not return to a proper return port without undue delay, on his return being so delayed; or
- (c) in any other case, on his return to a proper return port.

Extinguishment of right of mariners to receive payment of benefit

7. Where a mariner has failed to obtain payment of benefit within the period of twelve months specified in the proviso to paragraph (1) of regulation eleven of the Social Insurance (Claims and Payments)(Guernsey) Regulations, 1978, and his failure is due to the fact that he was absent from Guernsey by reason of his employment as a mariner, that proviso shall apply to him with the substitution for the said period of twelve months of such a period as the Authority may, in any particular case, determine.

Evidence of unemployment or incapacity

8.(1) For the purpose of any claim to unemployment benefit, sickness benefit, invalidity benefit or industrial injury benefit by a mariner employed as master or a member of the crew of any ship or vessel, evidence may be taken -

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

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

(2) For the purpose of any claim to sickness benefit, invalidity benefit or industrial injury benefit by such a mariner, evidence of incapacity may be furnished by such means as the determining authority may accept as sufficient in the circumstances of any particular case.

Special provisions relating to days of unemployment or incapacity for work in the case of mariners employed as masters or members of the crews of any ships or vessels

9.(1) A mariner employed as master or a member of the crew of any crew of any ship or vessel shall notwithstanding that he is absent from Guernsey, be deemed to be available for employment in an employed contributor's employment on any day, if he would be so available were he, on that day, in Guernsey.

(2) Where by virtue of paragraph (b) of regulation six of these regulations a person is not disqualified on any day for receiving sickness benefit, invalidity benefit or industrial injury benefit although absent from Guernsey, he shall be deemed to be incapable of work by reason of some specific disease or bodily or mental disablement on any such day.

Breach of regulations

10. If any person contravenes or fails to comply with any requirement of these regulations, he shall for such offence be liable, on conviction, to a fine not exceeding one hundred 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 the Law and regulations

11. The provisions of the Law 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 at sea or outside Guernsey 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.

Repeals

12. The Social Insurance (Mariners)(Guernsey) Regulations, 1964, and the Social Insurance (Mariners)(Amendment)(Guernsey) Regulations, 1973, are hereby repealed.

Citation

13. These regulations may be cited as the Social Insurance (Mariners) (Guernsey) Regulations, 1978.

Commencement

14. These regulations shall come into operation on the first day of January, nineteen hundred and seventy-nine.

Dated this fourth day of December, nineteen hundred and seventy-eight.

E.H. BODMAN

President of the States Insurance Authority,
for and on behalf of the Authority.

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 Law, and the regulations made thereunder, in their application to persons who are or have been employed under a contract of service on board any ship or vessel (hereafter referred to as "mariners"), and the principal modifications and amplifications are:- (a) mariners outside Guernsey are to be insured under the Law as employed persons (regulation 2(1)); (b) mariners employed as masters or members of crews who neither are domiciled nor have a place of residence in Guernsey are excepted from insurance but their employers will, nevertheless, be liable to pay contributions in respect of them when employed on Guernsey ships (regulation 2(2)); (c) in the case of mariners employed as masters or members of crews the provisions relating to the payment and collection of contributions are modified (regulation 3); (d) the statutory disqualification for the receipt of benefit for periods of absence from Guernsey is removed in certain circumstances in the case of mariners (regulation 6); (e) provision is also made in the case of mariners for the extension of the normal period after which, if payment has not been obtained, the right to benefit is extinguished under the Law (regulation 7); and (f) special provisions have been inserted affecting unemployment benefit, sickness benefit, invalidity benefit or industrial injury benefit for mariners employed as masters or members of crews (regulations 8 and 9). The remaining provisions are of an incidental or consequential character.