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GUERNSEY STATUTORY INSTRUMENT

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1978 - No. 32

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

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

THE STATES INSURANCE AUTHORITY, in exercise of the powers conferred upon it by section one and section sixteen of the Social Insurance (Guernsey) Law, 1978, and 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 :-

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

"share fisherman" means any person who is or has been employed in the fishing industry, whether or not under a contract of service, as master or a member of the crew of a fishing vessel manned by more than one person and remunerated in respect of that employment in whole or in part by a share in the profits or gross earnings of the fishing vessel; and the expression "the fishing vessel"

means that fishing vessel of which the person is a  
master or a member of the crew;

and any other expressions have the same meanings as in the Law.

(2) In these regulations, any reference to earnings paid weekly or earnings paid monthly shall be construed in accordance with regulation two of the Social Insurance (Contributions)(Guernsey) Regulations, 1978.

(3) 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shall be construed as including a reference to that enactment or those regulations, as the case may be, as amended, repealed, replaced or revoked by or under any other enactment or by any other regulations.

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

#### Classification of insured persons

2. For the purposes of the Law, the classification of insured persons shall be modified in manner following, that is to say:-

- (a) subject to the provisions of paragraph (b) and paragraph (c) of this regulation, every insured person shall, in respect of any employment specified in any paragraph of column (A) of Part I of the First Schedule to these regulations, be treated as an employed person in so far as he is gainfully occupied in such employment and is not a person specified in the corresponding paragraph of column (B) of that Part;
- (b) subject to the provisions of paragraph (c) of this regulation, every insured person shall, in respect of any employment specified in any paragraph of column (A) of Part II of the said First Schedule, be treated as a self-employed person in so far as he is gainfully occupied in such employment and is not a person specified in the corresponding paragraph

of column (B) of that Part;

- (c) every insured person shall, in respect of any employment specified in any paragraph of column (A) of Part III of the said First Schedule, be treated as a non-employed person, and any such employment shall be disregarded, in so far as he is not a person specified in the corresponding paragraph of column (B) of that Part.

Employments treated as continuing

3. For the purposes of the Law, the employment of a person shall be treated as continuing in the circumstances specified in the Second Schedule to these regulations.

Special provisions with respect to persons declared by the Ordinary Court to be included in a particular class of insured persons

4.(1) Where, under the provisions of the Law relating to references and appeals to the Ordinary Court, the Ordinary Court decides any question as to the class of insured persons in which a person is to be included, and that decision is inconsistent with some previous determination of a question by the Authority, then, if the Authority is satisfied that contributions appropriate to another class have been paid by or in respect of any person by reason of that determination or in the reasonable belief that that determination was applicable, it may, if it appears to it that it would be in the interest of the person by or in respect of whom such contributions have been paid, or of any claimant or beneficiary by virtue of that person's insurance, so to do, direct that that person shall be treated as though he had been included in the class of insured persons corresponding to the contributions paid during any period for which contributions appropriate to that other class were so paid before the date on which the decision of the Ordinary Court was given, and, if such a direction is given, that person shall be deemed to have been included in

that class accordingly for any such period.

(2) Where the Authority, on review under subsection (1) of section seventy-six of the Law, has revised a determination of a question previously given by it, the provisions of this regulation shall apply with the necessary modifications in the same manner as they apply where the Ordinary Court has given a decision inconsistent with a determination previously given by the Authority.

Persons to be treated as employers

5. For the purposes of section five of the Law, in relation to any payment of earnings to or for the benefit of an employed person in any employment described in any paragraph in column (A) of the Third Schedule to these regulations, the person specified in the corresponding paragraph in column (B) of that Schedule shall be treated as the employer in relation to that employed person.

Repeals

6. The Social Insurance (Classification)(Guernsey) Regulations, 1964, the Social Insurance (Classification)(Amendment)(Guernsey) Regulations, 1966, the Social Insurance (Classification)(Amendment)(Guernsey) Regulations, 1973, and the Social Insurance (Classification)(Amendment)(Guernsey) Regulations, 1978, are hereby repealed.

Citation and commencement

7. These regulations may be cited as the Social Insurance (Classification)(Guernsey) Regulations, 1978, and 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.

## FIRST SCHEDULE

Regulation two

## PART I

Employments in respect of which, subject to the provisions of regulation two and to the exceptions in column (B) of this Part, persons are treated as employed persons.

(A)

Persons excepted from the operation of column (A)

(B)

1. Employment under the States of Guernsey, the States of Alderney or any other public authority (not being employment under the Crown), or employment under a parochial authority, notwithstanding that any such employment is not employment under a contract of service.

1. Any person in employment specified in paragraph 1 of column (A) where the service ordinarily performed by the person in that employment (or, if he is employed in more than one such employment, the aggregate service performed by him in those employments) is part-time service only.

2. Employment of a medical practitioner or a dental practitioner in which he is wholly or mainly engaged and is remunerated by salary.

2. None.

3. Employment as a minister of religion, not being employment under a contract of service.

3. Any person in employment specified in paragraph 3 of column (A) whose remuneration in respect of that employment (disregarding any payment in kind) does not consist wholly or mainly of stipend or salary.

4. Employment by any one employer in the planting, sowing, picking, lifting, gathering, collecting or harvesting of plants or plant produce (including fruit, vegetables, flowers, grain, bulbs, potatoes or any other root crop), or in any operation ancillary thereto (including the preparation for market of any plants or plant produce as aforesaid), notwithstanding that any such employment is not employment under a contract of service.

4. None.

## PART II

Employment in respect of which, subject to the provisions of regulation 2 and to the exceptions in column (B) of this Part, persons are treated as self-employed persons.  (A)	Persons excepted from the operation of column (A).  (B)
5. Employment as a sub-postmaster remunerated by scale payment.	5. Any person who renders on the average eighteen or more hours' personal service weekly as a sub-postmaster remunerated by scale payment and is not mainly dependent for his livelihood on the earnings derived by him from any occupation other than employment under the States Post Office Board.
6. Employment under contract of service of a married woman by her husband.	6. None.
7. Employment as a share fisherman.	7. None.

## PART III

Employments in respect of which, subject to the exceptions in column (B) of this Part, persons are treated as non-employed persons and their employment therein disregarded.  (A)	Persons excepted from the operation of column (A).  (B)
8. Any employment under a contract of service -  (a) where the earnings derived therefrom are paid weekly and are less than <del>ten</del> pounds; or  (b) where the earnings derived therefrom are paid monthly and are less than <del>forty-three</del> <del>pounds</del> <del>thirty-three</del> pence.	8. None.

PART III (continued)

(A)

(B)

<p>1. Any employment or employments (other than any employment or employments under a contract of service) where the insured person has applied to the Authority under regulation ten of the Social Insurance (Contributions)(Guernsey) Regulations, 1978, for a certificate of assessment under regulation eleven of those regulations and the Authority is satisfied that the insured person would, but for the provision of this paragraph and of paragraph (6) of the regulation eleven, be liable to pay a Class 2 contribution of an amount less than an amount equal to seven and one-half per centum of the current lower weekly earnings limit.</p>	<p>9. Any person engaged full-time in any employment or employments specified in paragraph 9 of column (A).</p>
<p>2. Employment of a person under the age of eighteen years who is undergoing full-time education at a recognised educational establishment within the meaning of paragraph (1) of regulation thirty-eight of the Social Insurance (Contributions)(Guernsey) Regulations, 1978.</p>	<p>10. None.</p>
<p>3. Any employment or employments as a self-employed person (including any employment in respect of which a person is, under the regulations, treated as a self-employed person) where the insured person is not ordinarily gainfully occupied in any such employment or employments.</p>	<p>11. None.</p>
<p>4. Employment under a contract of service where the service of the person employed is rendered in his own home.</p>	<p>12. None.</p>
<p>5. Employment by the father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grand-son, grand-daughter, stepson, stepdaughter, brother, sister, half-brother or half-sister of the insured person, in so far as the employment -</p> <p>(a) is employment in a private dwelling-house in which both the insured person and the employer reside; and</p> <p>(b) is not employment for the purposes of any trade or business carried on there by the employer.</p>	<p>13. None.</p>

## PART III (continued)

(A)

(B)

14. Employment by the insured person's wife otherwise than for the purposes of a trade or business whether or not under a contract of service.

14. None.

15. Employment of a married woman (whether or not under contract of service) by, or as partner of, or in any similar association with, her husband.

15. Any person employed as specified in paragraph 19 of column (A) where that employment is in a trade or business and she is ordinarily engaged therein for not less than twenty-four hours in a contribution week.

16. Employment, involving part-time service only, in the operation of a life-boat and in any duties ancillary to such operation.

16. None.

17. Employment of any person as a member of the special constabulary of the Island of Guernsey.

17. None.

18. Employment, involving part-time service only, as a member of a fire-brigade.

18. None.

## SECOND SCHEDULE

Regulation three

Circumstances in which employment is treated as continuing

Where an insured person is employed as a self-employed person or in an employment in respect of which he is, under these regulations, treated as falling within the category of a self-employed person, the employment shall in either case be treated as continuing unless and until he is no longer ordinarily employed in that employment.

## THIRD SCHEDULE

## Regulation five

Employment in respect of which persons are treated as employers

Employments (A)	Persons treated as employers (B)
<p>1. Employment as a minister of the Church of England, not being employment under a contract of service.</p>	<p>1. The Church Commissioners for England.</p>
<p>2. Employment as a minister of religion, not being employment -</p> <p>(a) as a minister of the Church of England;</p> <p>(b) under a contract of service; or</p> <p>(c) specified in paragraph 3 of column (B) of Part 1 of the first Schedule to these regulations.</p>	<p>2. The person responsible for the administration of the fund from which the remuneration in respect of the employment is paid.</p>
<p>3. Employment by any one employer in the planting, sowing, picking, lifting, gathering, collecting or harvesting of plants or plant produce (including fruit, vegetables, flowers, grain, bulbs, potatoes or any other root crop), or in any operation ancillary thereto (including the preparation for market of any plants or plant produce as aforesaid) notwithstanding that any such employment is not employment under a contract of service.</p>	<p>3. (a) Where the person employed is supplied by some third person and receives his remuneration from that third person, that third person;</p> <p>(b) in any other case, the person with whom the person employed contracted to do the work.</p>

## EXPLANATORY NOTE

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

These regulations modify the classification of certain insured persons in specified employments with the result that, according to circumstances, persons who would otherwise be employed persons are treated either as self-employed persons or non-employed persons, and persons who would otherwise be self-employed persons are treated either as employed persons or non-employed persons. Non-employed persons are not reclassified.

Provision is made for continuing the status of a self-employed person until they are no longer ordinarily employed as a self-employed person.

Provision is also made for the special classification of persons following a decision of the Ordinary Court or a revised decision of the States Insurance Authority so as to enable the original classification to stand where this would be in the interests of the person concerned.

The remaining provisions are of a consequential character.