

SCHEDULE 2

Regulation 4

PART I

MARINERS' EMPLOYMENTS TO BE TREATED AS EMPLOYED EARNERS' EMPLOYMENTS FOR INDUSTRIAL INJURIES PURPOSES

1. In the provisions of this Part of this Schedule—

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

(2) “British ship” means —

- (a) any ship or vessel belonging to Her Majesty;
- (b) any ship or vessel whose port of registry is a port in Great Britain;
- (c) any other British ship or vessel (not being a ship or vessel whose port of registry is a port in Northern Ireland) 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 Great Britain; and in this sub-paragraph the expression “British ship” shall have the same meaning as in the Merchant Shipping Acts 1894 to 1970;
- (d) any hovercraft registered in the United Kingdom, not being hovercraft whose owner (or managing owner if there is more than one owner) or manager resides or has his principal place of business in Northern Ireland, or whose owner (or managing owner if there is more than one owner) has no place of business in the United Kingdom;

(3) “manager” means in relation to any ship or vessel, the person to whom the management of the ship or vessel is entrusted by or on behalf of the owner; and references in this paragraph 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;

(4) “managing owner” means that owner of any ship or vessel who, where there is more than one such owner, is responsible for the control and management of that ship or vessel;

(5) “share fisherman” means any person who—

- (a) is ordinarily employed in the fishing industry otherwise than under a contract of service, as a master or member of the crew of any fishing boat within the meaning of section 373 of the Merchant Shipping Act 1894 being a fishing boat manned by more than one person, and remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of the fishing boat; or
- (b) has ordinarily been so employed, but who by reason of age or infirmity permanently ceases to be so employed and becomes ordinarily engaged in employment ashore in Great Britain, otherwise than under a contract of service, making or mending any gear appurtenant to a British fishing boat or performing other services ancillary to or in connection with that boat and is remunerated in respect of that employment in whole or in part by a share of

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the profits or gross earnings of that boat and has not ceased to be ordinarily engaged in that employment.

Commencement Information

I1 Sch. 2 para. 1 in force at 6.4.1975, see [reg. 1\(1\)](#)

2. Where a mariner is employed as such—

- (a) on board a British ship; or
 - (b) on other than a British ship and the following conditions are satisfied, as appropriate—
 - (i) he is employed as master or member of the crew and his earnings are paid by the owner of the ship or vessel; and
 - (a) the owner (or managing owner, if there is more than one owner) of the ship has a place of business in Great Britain; and
 - (b) the person employed either signed the crew agreement in the United Kingdom or entered there into the contract of employment to act as master or member of the crew, whether of a particular ship or vessel of the owner or of the ships or vessels of the owner as may be determined in accordance with the contract; or
 - (ii) he is employed as master or member of the crew and his earnings are paid by some person other than the owner of the ship or vessel; and
 - (a) the contract with the person by whom the earnings are paid is entered into in the United Kingdom and that person has a place of business in Great Britain; or
 - (b) that person has his principal place of business in Great Britain; or
 - (iii) he is employed in any other capacity on board any ship or vessel and the person by whom his earnings are paid has a place of business in Great Britain;
- then that employment of the mariner shall be treated as employed earner's employment.

Commencement Information

I2 Sch. 2 para. 2 in force at 6.4.1975, see [reg. 1\(1\)](#)

3. Employment under a contract to act as master or member of the crew of such of the ships or vessels of a particular owner or owners as may be determined in accordance with the contract, where the employment would be treated as employed earner's employment by virtue of paragraphs 1 and 2 of this Part of this Schedule in the case of each ship or vessel if the contract related to it alone.

Commencement Information

I3 Sch. 2 para. 3 in force at 6.4.1975, see [reg. 1\(1\)](#)

4.—(1) In the case of a qualified British radio officer, employment under a contract to act as radio officer on board such ships or vessels as may be determined in accordance with the contract, where the contract is a contract of service, provided that—

- (a) the contract with the person by whom his earnings are paid is entered into in the United Kingdom and that person has a place of business in Great Britain; or
- (b) that person has his principal place of business in Great Britain;

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not being employment while the person employed is serving as a radio officer on board a ship or vessel.

(2) In this paragraph the expression “qualified British radio officer” means a person who possesses qualifications enabling him to be radio officer on board a British ship registered in the United Kingdom of a class required under section 3 of the Merchant Shipping (Safety Convention) Act 1949 to carry a radio officer, and the expression “radio officer” includes radio operator.

Commencement Information

I4 Sch. 2 para. 4 in force at 6.4.1975, see [reg. 1\(1\)](#)

5. Employment as a share fisherman.

Commencement Information

I5 Sch. 2 para. 5 in force at 6.4.1975, see [reg. 1\(1\)](#)

6. Employment as pilot operating from a port in Great Britain on board any ship or vessel notwithstanding that the person so employed does not hold a licence or deep sea certificate from a pilotage authority in Great Britain covering that employment.

Commencement Information

I6 Sch. 2 para. 6 in force at 6.4.1975, see [reg. 1\(1\)](#)

7. Employment as a regular or enrolled member of the crew of any lifeboat stationed in Great Britain under the control of the Royal National Lifeboat Institution.

Commencement Information

I7 Sch. 2 para. 7 in force at 6.4.1975, see [reg. 1\(1\)](#)

Regulation 5

PART II

MARINERS' EMPLOYMENTS NOT TO BE TREATED AS EMPLOYED EARNERS' EMPLOYMENTS FOR INDUSTRIAL INJURIES PURPOSES

1. Employment under a contract of service—

(1) as master or member of the crew of any ship or vessel not being an employment which is treated as employed earner's employment by virtue of Part I of this Schedule and not being employment on a ship or vessel which is employed exclusively in Great Britain; or

(2) in any other capacity on board any ship or vessel not being a ship or vessel employed exclusively in Great Britain, where 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 is employment under a contract of service entered into with a view to its performance (in whole or in part) while the ship or vessel is on her voyage, and either—

(a) the said contract was entered into outside the United Kingdom; or

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(b) the person by whom the earnings are paid has no place of business in Great Britain; but not including any such employment as is mentioned in paragraph 6 of Part I of this Schedule.

Commencement Information

I1 Sch. 2 para. 1 in force at 6.4.1975, see [reg. 1\(1\)](#)

2. Employment under a contract to act as master or member of the crew of such of the ships or vessels of a particular owner or owners as may be determined in accordance with the contract where the employment would be included in paragraph 1 of this Part of this Schedule in the case of each ship or vessel if the contract related to it alone.

Commencement Information

I2 Sch. 2 para. 2 in force at 6.4.1975, see [reg. 1\(1\)](#)

3.—(1) Subject to the provisions of this paragraph, the employment of a person who would be an employed earner in relation to that employment by virtue of Part I of this Schedule but who is neither domiciled nor has a place of residence in the United Kingdom.

(2) If such person is ordinarily resident in a country included in the list set out at the end of this sub-paragraph he shall not be subject to the provisions of the last foregoing sub-paragraph if either—

- (a) he is employed in employment under a contract of service as master or a member of the crew of a British ship within paragraph 1(2) of Part I of this Schedule; or
- (b) he is employed in employment under a contract to act as master or a member of the crew of such of the ships or vessels of a particular owner or owners as may be determined in accordance with the contract, and the employment would be included in sub-paragraph (a) of this paragraph in the case of each ship or vessel, if the contract related to it alone.

List of countries

- Australia
- Canada
- France
- New Zealand
- Republic of Ireland
- Sweden
- The Netherlands
- Belgium
- Denmark
- Malta
- Norway
- South Africa
- The Channel Islands
- United States of America.

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Commencement Information

I3 Sch. 2 para. 3 in force at 6.4.1975, see [reg. 1\(1\)](#)

Regulation 6

PART III

AIRMEN'S EMPLOYMENTS TO BE TREATED AS EMPLOYED EARNERS' EMPLOYMENTS FOR INDUSTRIAL INJURIES PURPOSES

1. In the provisions of this Part of this Schedule—

“airman” means a person who is, or has been, employed under a contract of service either as a pilot, commander, navigator or other member of the crew of any aircraft, or in any other capacity on board any aircraft where—

- (a) the employment in that other capacity is for the purposes of the aircraft or its crew or any passengers or cargo or mails carried thereby; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the aircraft is in flight;

“British aircraft” means any aircraft belonging to Her Majesty and any aircraft registered in the United Kingdom of which the owner (or managing owner if there is more than one owner) resides or has his principal place of business in Great Britain, and references to the owner of an aircraft shall, in relation to an aircraft which has been hired, be taken as referring to the person for the time being entitled as hirer to possession and control of the aircraft by virtue of the hiring or any subordinate hiring.

Commencement Information

I1 Sch. 2 para. 1 in force at 6.4.1975, see [reg. 1\(1\)](#)

2. Where an airman is employed as such on board any aircraft, and the employer of that airman or the person paying the airman his earnings in respect of the employment (whether or not the person making the payment is acting as agent for the employer) or the persons under whose directions the terms of the airman's employment and the amount of the earnings to be paid in respect thereof are determined has—

- (1) in the case of the aircraft being a British aircraft, a place of business in Great Britain; or
- (2) in any other case, his principal place of business in Great Britain, then that employment of the airman shall be treated as employed earner's employment.

Commencement Information

I2 Sch. 2 para. 2 in force at 6.4.1975, see [reg. 1\(1\)](#)

3. Employment under a contract to act as pilot, commander, navigator or other member of the crew of such of the aircraft of a particular owner or owners as may be determined in accordance with the contract where the employment would be included in paragraph 2 of this Part of this Schedule in the case of each aircraft if his contract related to it alone.

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Commencement Information

I3 Sch. 2 para. 3 in force at 6.4.1975, see [reg. 1\(1\)](#)

Regulation 7

PART IV

AIRMEN'S EMPLOYMENTS NOT TO BE TREATED AS EMPLOYED EARNERS' EMPLOYMENTS FOR INDUSTRIAL INJURIES PURPOSES

1. The employment of an airman who would be an employed earner in relation to that employment by virtue of Part III of this Schedule but who is neither domiciled nor has a place of residence in the United Kingdom.

Commencement Information

I1 Sch. 2 para. 1 in force at 6.4.1975, see [reg. 1\(1\)](#)

2. Employment under a contract of service—

(1) as pilot, commander, navigator or other member of the crew of any registered aircraft, where that employment is not treated as employed earner's employment by virtue of Part III of this Schedule; or

(2) in any other capacity on board any registered aircraft where the employment in that other capacity is for the purpose of the aircraft or its crew or of any passengers or cargo or mails carried thereby and is employment under a contract of service entered into with a view to its performance (in whole or in part) while the aircraft is in flight, and either—

(a) the said contract was entered into outside the United Kingdom; or

(b) the person by whom the earnings are paid has no place of business in Great Britain.

Commencement Information

I2 Sch. 2 para. 2 in force at 6.4.1975, see [reg. 1\(1\)](#)

3. Employment under a contract to act as pilot, commander, navigator or other member of the crew of such of the aircraft of a particular owner or owners may be determined in accordance with the contract where the employment would be included in the last foregoing paragraph in the case of each aircraft if the contract related to it alone.

Commencement Information

I3 Sch. 2 para. 3 in force at 6.4.1975, see [reg. 1\(1\)](#)

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