



Jersey

SOCIAL SECURITY (MARINERS) (JERSEY) ORDER 1974

Official Consolidated Version

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SOCIAL SECURITY (MARINERS) (JERSEY) ORDER 1974

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SOCIAL SECURITY (MARINERS) (JERSEY) ORDER 1974¹

THE EMPLOYMENT AND SOCIAL SECURITY COMMITTEE, in pursuance of Articles 11, 29, 36 and 44 of the [Social Security \(Jersey\) Law 1974](#), orders as follows –

Commencement [[see endnotes](#)]

1 Interpretation

In this Order, unless the context otherwise requires –

“determining authority” means, as the case may require, the determining officer or the Social Security tribunal;

“Jersey ship” means a ship or vessel registered in Jersey of which the owner (or managing owner if there is more than one owner) or the manager resides or has the owner or manager’s principal place of business in Jersey;

“Law” means the [Social Security \(Jersey\) Law 1974](#);

“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 Jersey with a view to its performance (in whole or in part) while the ship or vessel is on her voyage.²

2 Insurance of mariners

- (1) Subject to the provisions of paragraph (2), where a mariner –

- (a) is employed as a mariner on board any Jersey ship; or
- (b) is employed as master or a member of the crew of any ship or vessel other than a Jersey ship and –
 - (i) the contract in respect of the employment is entered into in Jersey 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 Jersey,

then, notwithstanding that the mariner does not fulfil the conditions of Article 3 of the Law, the mariner shall be insured under the Law and the mariner's employment shall be treated as an employed person's employment.

- (2) Notwithstanding the provisions of paragraph (1), 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 Jersey, the United Kingdom, the Bailiwick of Guernsey or the Isle of Man shall be excepted from insurance in respect of that employment.

3 Duty of master

It shall be the duty of the master of every ship or vessel to comply with all orders or directions given to the master 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 this or any other relevant Order made thereunder.

4 Accidents happening outside Jersey

- (1) Incapacity benefit shall be payable, subject to and in accordance with the provisions of the Law, in respect of an accident arising out of and in the course of the employment of any person as a mariner notwithstanding that the accident happens to the mariner outside Jersey.³
- (2) ⁴
- (3) Paragraph (1) shall be extended to an insured person who –
 - (a) in the course of the person's employment as an apprentice pilot, is on board any ship or vessel, whether or not the person is a mariner as defined in this Order;
 - (b) is ordinarily employed, otherwise than under a contract of service, as master or a member of the crew of a fishing boat registered in Jersey under the [Shipping \(Registration\) \(Jersey\) Regulations 2004](#), 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.⁵
- (4) For the purposes of this Article, an accident shall be deemed to arise out of and in the course of the employment of a person as a mariner –
 - (a) where, having been left at a port other than a proper return port on account of illness, injury, risk of infection or loss of or damage to the ship or vessel in which the person was employed, the accident happens to the person while subsequently returning to a proper return port at the expense of the employer

in whose service the person was up to the time of being so left, notwithstanding that during that time the person renders no services and receives no wages, but only if the accident would have been deemed so to have arisen had the return journey been undertaken in pursuance of an obligation under the person's contract of service with the employer aforesaid;

- (b) where the accident happens to the mariner in or about a ship or vessel on board which the mariner is for the time being employed while the mariner 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 minimize serious damage to property; or
- (c) being a pilot, where the accident happens to the pilot –
 - (i) while the pilot is on board or is embarking in or disembarking from any ship or vessel, in connection with the pilot's duties as such pilot, or
 - (ii) while, having left such ship or vessel at a place other than a port in Jersey, the pilot is returning without undue delay to Jersey.

5 Removal of disqualification, in the case of mariners, for receiving benefit whilst absent from Jersey

- (1) A mariner 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 the mariner's employer's expense for the purpose of commencing such employment shall not, by reason of the mariner's being absent from Jersey (but subject to the provisions of Article 7(1) of the [Social Security \(Incapacity Benefits\) \(Jersey\) Order 2004](#)) be disqualified on any day for receiving incapacity benefit if –
 - (a) the mariner has been left outside Jersey or has been discharged or has not commenced such employment –
 - (i) on account of any hurt or injury received, or any illness suffered, by the mariner while so employed or under contract so to travel,
 - (ii) in consequence of any action taken, while the mariner is or was so employed or under contract so to travel, for the purpose of preventing infection; or
 - (b) whilst so employed or under contract so to travel, the mariner has been left outside Jersey for any reasons other than those specified in subparagraph (a), and reports to the appropriate superintendent or consular officer or Chief Officer of customs not later than 14 days after being so left, or, if at the time of being so left, the mariner was placed in custody, immediately after the mariner's release from custody:

Provided that this paragraph shall cease to have effect –

- (a) on that person's commencing or resuming employment outside Jersey;
- (b) in any case where that person does not return to Jersey without undue delay, on the person's return being so delayed; or
- (c) in any other case, on the person's return to Jersey.⁶

- (2) Where, by virtue of this Article, a mariner is not disqualified for receiving benefit although absent from Jersey, the mariner shall not be disqualified for receiving any increase (where payable) of any such benefit in respect of his or her spouse by reason of the spouse being absent from Jersey provided that the spouse is residing with the mariner.

6 Information to be furnished by mariners on claims for benefit

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 Minister the number of the mariner's continuous discharge book and particulars of the ships and vessels on board which the mariner was employed during any period material to the claim.

7 Suspension of payment of benefit to mariners whilst absent from Jersey

The payment to a mariner of benefit to which the provisions of Article 4 or 5 apply shall, unless the Minister in any particular case otherwise determines, be suspended while the mariner is absent from Jersey unless the mariner has nominated a person in Jersey (who is approved by the Minister) to receive payment of the benefit on the mariner's behalf.

8 Extinguishment of right of mariners to receive payment of benefit

Where a mariner has failed to obtain payment of benefit within the period of 2 years specified in Article 14(1) of the [Social Security \(Claims and Payments\) \(Jersey\) Order 1974](#), and the mariner's failure is due to the fact that the mariner was absent from Jersey by reason of the mariner's employment as a mariner, that paragraph shall apply to the mariner with the substitution for the said period of 2 years of such a period as the Minister may, in any particular case, determine.⁷

9 Evidence of incapacity

- (1) For the purpose of any claim to incapacity 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 the Commonwealth or the Republic of Ireland, before a judge or magistrate, or by a superintendent;
 - (b) in a foreign country, by a British consular officer.⁸
- (2) For the purpose of any claim for incapacity 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.⁹

10 Offences

If any person contravenes or fails to comply with any requirement of this Order in respect of which no special penalty is provided, the person shall for each offence be liable to a penalty of level 2 on the standard scale, or where the offence consists of continuing any such contravention or failure after conviction thereof, a penalty of level 2 on the standard

scale, together with a further penalty of level 1 on the standard scale for each day on which it is continued.¹⁰

11 Application of the Law and Orders

The provisions of the Law and of the Orders made thereunder shall, so far as they are not inconsistent with the provisions of this Order, apply to mariners with this modification, that, where a mariner is on account of his or her being at sea or outside Jersey by reason of his or her 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, the mariner shall be deemed to have complied therewith if he or she performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.

12 Citation

This Order may be cited as the Social Security (Mariners) (Jersey) Order 1974.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Social Security (Mariners) (Jersey) Order 1974	R&O.6089	1 January 1975
Social Security (Mariners) (Amendment) (Jersey) Order 1985	R&O.7437	1 September 1985
Social Security (Mariners) (Amendment No. 2) (Jersey) Order 2004	R&O.78/2004	1 October 2004
States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005	R&O.48/2005	9 December 2005
Social Security (Mariners) (Amendment No. 3) (Jersey) Order 2009	R&O.85/2009	7 August 2009
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)

Table of Renumbered Provisions

Original	Current
1(1)	1
1(2)	spent, omitted from this revised edition

Table of Endnote References

- ¹ *This Order has been amended by the States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- ² *Article 1 amended by R&O.85/2009*
- ³ *Article 4(1) amended by R&O.78/2004*
- ⁴ *Article 4(2) revoked by R&O.78/2004*
- ⁵ *Article 4(3) substituted by R&O.7437, amended by R&O.78/2004, R&O.85/2009*
- ⁶ *Article 5(1) amended by R&O.78/2004*
- ⁷ *Article 8 amended by R&O.78/2004*
- ⁸ *Article 9(1) amended by R&O.78/2004*
- ⁹ *Article 9(2) amended by R&O.78/2004*
- ¹⁰ *Article 10 amended by L.1/2016*