

# Part 7- Offshore Workers & Her Majesty's Forces

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# Chapter 07 - Part 7 - Offshore Workers & Her Majesty's Forces

## Introduction

### General

073260 This part of the chapter describes the special rules that apply to

1. mariners
2. airmen
3. continental shelf workers **and**
4. members of Her Majesty's Forces.

073261 - 073269



# Definitions

## Mariner

073270 For Industrial Injuries benefits a mariner is a person employed under a contract of service

1. on board any ship or vessel as a master **or** as a crew member **or** as a pilot on board or in any other capacity on board **and**
2. treated as employed earner's employment<sup>1</sup>.

*1 SS (II) (Mariners' Ben) Regs, reg 1(2)*

073271 For other benefits a mariner is a person employed under a contract of service on board any ship or vessel

1. as a master **or**
2. as a crew member **or**
3. in any other capacity on board when the employment in that other capacity is with the ship or vessel **or** the crew **or** any passengers or cargo or mail carried **and** the contract is entered into in the UK with a view to its performance (in whole or in part) while the ship or vessel is on its voyage.

073272 This does not include a serving member of the forces except those undergoing training or instruction in certain prescribed establishments and organizations<sup>1</sup> for 72 consecutive hours or less<sup>2</sup>.

*1 SS (II) (Mariners' Ben) Regs, reg 1(2); 2 SS (Conts) Regs, Sch 6, Part 1*

073273 The following expressions used in the Merchant Shipping Acts have the same meaning as in the Acts<sup>1</sup>

“Chief Officer of Customs” includes the

- collector
- superintendent
- principal coast officer **or**
- other chief officer of Customs at each post.

“Superintendent”, so far as respects a British possession, includes any

- Shipping master **or**
- Other officer carrying out the duties of a superintendent.

“Consular Officer” when used in connection with a foreign country, means the officer recognized by Her Majesty as a consular officer of that foreign country.

*1 Merchant Shipping Acts 1894-1981*

## Airman

073274 For II benefits an airman is a person employed under a contract of service

1. on any aircraft as a pilot **or** as a commander **or** as a navigator **or** as any other crew member **or** in any other capacity on board **and**
2. treated as employed earner's employment<sup>1</sup>.

For employment to be in "any other capacity on board", it must be for the purposes of the aircraft or its crew or passengers or cargo or mail carried<sup>2</sup>.

*1 SS (II) (Airmen's Ben) Regs, reg 1(2); 2 SS (Employed Earners' Employments for II Purposes) Regs75, Sch 2, Part III, para 1*

073275 An airman's employment on a British aircraft<sup>1</sup> is treated as employed earners' employment for II purposes where

1. the airman is domiciled or has a place of residence in the UK<sup>2</sup> **and**
2. the employer has a place of business in GB<sup>3</sup> **and**
3. if the airman is employed in some other capacity (see 073274), the contract must be entered into in the UK with a view to its performance (in whole or in part) while the aircraft is in flight<sup>4</sup>.

*1 SS (Employed Earners' Employments for II Purposes) Regs75 Sch 2, Part III, para 1; 2 Sch 2, Part IV, para 1; 3 Sch 2, Part III, para 2; 4 Sch 2, Part III, para 1 & Part IV, para 2(2)*

073276 Where the airman is employed on a non-British aircraft, the conditions at DMG 073275 must be met, but the employer's principal place of business must be in GB<sup>1</sup>.

*1 SS (Employed Earners' Employments for II Purposes) Regs75 Sch 2, Part III, para 2(2)*

073277 For other benefits an airman is a person employed under a contract of service on any aircraft

1. as a pilot **or**
2. as a commander **or**
3. as a navigator **or**
4. as any other crew member **or**
5. in any other capacity on board when the employment in that other capacity is with the aircraft **or** the crew **or** any passengers or cargo or mail carried **and** the contract is entered into in the UK with a view to its performance (in whole or in part) while the aircraft is in flight.

073278 This does not include a serving member of the forces except those undergoing training or instruction in certain prescribed establishments<sup>1</sup> and organizations for 72 consecutive hours or less<sup>2</sup>.

*1 SS (Conts) Regs, Sch 6, Part 1; 2 SS (Airmen's Ben) Regs, reg 1(2)*

## Questions for determination

073279 When it has been decided (see DMG Volume 1 - Decision Making and Appeals) whether

1. the employment is employed earner's employment **or**
2. a person is or has been under a contract of service **or** contract to act in a particular capacity

the DM decides in what capacity a person is acting on board a ship or aircraft.

## Continental shelf worker

073280 A continental shelf worker is a person who is or has been in prescribed employment on the continental shelf. Definition of prescribed employment

073281 Prescribed employment means any employment<sup>1</sup>, whether under a contract of service or not, in any appointed or designated area<sup>2</sup>, but see DMG Volume 1 - Decision Making and Appeals.

*1 Oil and Gas (Enterprise) Act 1982, s 23(2); 2 SS Ben (PA) Regs, reg 11(1)*

073282 Designated area means any area set out by Order in Council under the Continental Shelf Act 1964 as an area where the UK may explore the seabed, subsoil and exploit their natural resources<sup>1</sup>.

*1 SS Ben (PA) Regs, reg 11(1)*

073283 Prescribed area means any area over which Norway or any EC country (except the UK) exercises sovereign rights to explore the seabed and subsoil and exploit the natural resources or other named areas (but see DMG 073281). This area must be outside the territorial water of

1. Norway **or**
2. any EC country (except the UK).

## Accidents happening or prescribed diseases caught outside Great Britain

073284 For accidents happening or prescribed diseases caught outside Great Britain "prescribed employment" and "prescribed area" are defined slightly differently<sup>1</sup>.

*1 SS Ben (PA) Regs, reg 10C(1)*

073285 Prescribed employment means

1. employment in a prescribed area for exploring the seabed and subsoil **or** exploiting the natural resources **or**

2. prescribed employment described in DMG 073281.

073286 Prescribed area means an area over which Norway or any EC country (except the UK) exercises sovereign rights to explore the seabed and subsoil and exploit the natural resources. This area is outside the territorial water (see DMG 073320) of

1. Norway **or**
2. any EC country (except the UK).

## Oil and Gas (Enterprise) Act

073287 The activities named in the Act<sup>1</sup> are connected with

1. exploring, or exploiting the natural resources of, the shore or bed of waters named by Order in Council **or** the subsoil beneath **and**
2. installations kept, or set up for exploiting or exploring mineral resources in or under the shore or bed of water named **or** storing or recovering gas in or under the shore or bed of these waters **or** transporting things by a pipe, or system of pipes, built or placed on, in or under the shore or bed of such waters **or** providing accommodation for people who work on or from such installations.

*1 Oil and Gas (Enterprise) Act 1982, s 23 (2)*

## Members of Her Majesty's Forces

073288 A serving member of the forces<sup>1</sup> (see DMG 073382) is a person

1. over 16 years old **and**
2. who gives full-pay service (see DMG 073384) as a member of certain named establishments or organizations<sup>2</sup>.

*1 SS (Ben) (Members of the Forces) Regs, reg 1(2); 2 SS (Conts) Regs, Sch 6, Part 1*

073289 A serving member of the forces does not include

1. certain people recruited locally overseas **and**
2. deserters<sup>1</sup>.

*1 SS (Conts) Regs, Sch 3, Part 1, reg 1(2)*

073290 - 073299

# Claims

073300 A claim for benefit made by a mariner, airman, continental shelf worker or member of the forces<sup>1</sup> is treated as made within the prescribed time if that person

1. is outside the United Kingdom because of that employment and unable to claim within the prescribed time **and**
2. claims as soon as is reasonably practicable.

*1 SS (Mariners' Ben) Regs, reg 9; SS (Airmen's Ben) Regs, reg 3; SS (II) (Mariners' Ben) Regs, reg 8; SS (II) (Airmen's Ben) Regs, reg 5; SS Ben (PA) Regs, reg 11(4); SS (Ben) (Members of the Forces) Regs, reg 5*

073301 - 073309



# Mariners

## Escaping disqualification for being absent from Great Britain

### Incapacity Benefit and Severe Disablement Allowance

073310 A mariner is **not** disqualified for being absent from Great Britain (070702) if that mariner

1. is, or has been, under contract to travel at the employer's expense to start work **and**
2. has been left outside Great Britain (073318), discharged or unable to start work because of any hurt **or** injury **or** illness **or** action taken to prevent infection<sup>1</sup>.

*1 SS (Mariners' Ben) Regs, reg 4(a)*

073311 The decision maker should not disqualify a mariner for being absent from Great Britain (070702) if that mariner

1. has been left outside Great Britain (073318) because of any hurt **or** injury **or** illness **or** action to prevent infection **and**
2. has reported to the proper superintendent, consular officer or chief customs officer within 14 days of being left outside Great Britain **or** immediately after release from custody<sup>1</sup>, if that mariner was placed in custody after being left outside Great Britain.

*1 SS (Mariners' Ben) Regs, reg 4(b)*

### Jobseeker's Allowance

073312 A mariner is not disqualified for receiving **contribution based Jobseeker's Allowance** for receiving Jobseeker's Allowance for being absent from Great Britain if<sup>1</sup> that mariner

1. is or has been employed as a mariner or under contract to travel at his employer's expense to start work **and**
2. has been left outside of Great Britain **and**
3. reports to the proper superintendent, consular officer or chief customs officer within 14 days of being left outside of Great Britain **or** as soon as reasonably practicable.

*1 reg 4A(1)*

## Reduced Earnings Allowance

073313 The decision maker should **not** disqualify a mariner for receiving Reduced Earnings Allowance for being absent from Great Britain<sup>1</sup>.

*1 reg 5(b)*

## Statutory Sick Pay

073314 Home trade mariners who are absent from Great Britain are entitled to Statutory Sick Pay, provided the normal conditions are satisfied, if they are

1. employees or treated as employees<sup>1</sup> **and**
2. incapable of work during a period of entitlement while absent from Great Britain.

*1 SSP (MA & PA) Reg, regs 5 & 5A*

073315 Foreign going mariners who pay a reduced rate of national insurance contributions are not entitled to Statutory Sick Pay<sup>1</sup>.

*1 reg 10*

## Disqualified for being absent from Great Britain

### Incapacity Benefit - misconduct

073316 A person does not escape disqualification for being absent from Great Britain if the incapacity was because of misconduct<sup>1</sup>.

*1 SS (Mariners' Ben) Regs, reg 4(a); SS CB Act 92, sec 171E*

### End of escape from disqualification

073317 The escape from disqualification ends

1. when a person starts or restarts employment outside Great Britain **or**
2. at the start of any undue delay in returning a person to a "place for return" (073323) **or**
3. on the person's return to a "place for return"<sup>1</sup>.

*1 SS (Mariners' Ben) Regs, reg 4A(2); R(S) 11/61; R(S) 6/63; R(S) 4/64*

## Left outside Great Britain

073318 A British ship on the high seas or in territorial waters is not part of Great Britain<sup>1</sup>.

*1 R(S) 23/52*

073319 The decision maker should treat a person as left outside Great Britain if the ship sails leaving that person behind. The person avoids disqualification from the following day.

073320 A person should be treated as left outside Great Britain from the day after that person finished being a crew member, if that person

1. has been put ashore or transferred to another ship **and**
2. taken off ship's articles.

073321 The above applies even if the ship remains in port or the person rejoins the ship as a passenger<sup>1</sup>.

*1 R(S) 6/54; R(S) 10/58*

073322 The decision maker should **not** treat a person taken off ship's articles but not put ashore as left outside Great Britain<sup>1</sup>.

*1 R(S) 8/54*

## Place for return

073323 The employer is responsible for returning a mariner to the "place for return"<sup>d</sup>. There is no provision for any person or authority to decide the correct place of return. If the question arises, the decision maker should decide whether any "place" is the correct "place for return"<sup>2</sup> where the mariner is returned to depends upon where that person resides in Great Britain. However, a mariner can agree a place of return with the employer.

*1 Merchant Shipping (Repatriation) Regs, reg 3(1); 2 R(S) 4/64; Merchant Shipping (Repatriation) Regs, reg 7*

073324 Where a mariner is returned to depends on whether that person resides in Great Britain. However, a mariner can agree with the employer to be returned anywhere.

## Resident in United Kingdom

073325 The place for return for a mariner who is resident in the United Kingdom is the closest of the following to the place of return to the United Kingdom

1. the mariner's home in the United Kingdom **or**
2. the place where the Merchant Navy Establishment Administration Office at where the mariner is registered is situated.

## **Not resident in the United Kingdom**

073326 The place for return for a mariner who is not resident in the United Kingdom is the country of residence at the place where that person

1. joined the ship, if that person joined the ship in that country **or**
2. was engaged to join the ship, if that person did not join the ship in that country.

## **Any other place**

073327 The mariner should be returned to any other place agreed to by the mariner and the employer.

## **Accidents happening and diseases caught outside Great Britain**

073328 Benefit is not usually payable for an accident happening outside Great Britain or a prescribed disease due to the nature of employment outside Great Britain. This does not apply if the person who has the accident or catches a disease is

1. a mariner **or**
2. an employed earner who, during employed earner's employment as an apprentice pilot, is on board any ship or vessel, whether or not that person is a mariner<sup>1</sup>.

*1 SS (II) (Mariners' Ben) Regs, reg 2*

## **Accidents treated as arising from and during employment**

073329 The decision maker should treat an accident as arising from and during employment<sup>1</sup>, even if it did not occur during employment and the mariner provides no services and receives no wages, if

1. the mariner has been left behind in any country because of illness **or** injury **or** risk of infection or loss of **or** damage to the ship or vessel in which the person worked **and**
2. the mariner is later returned to a "place for return" at the employer's expense **and**
3. the DM would have treated an accident on the return journey to have arisen from and during employment if that journey had been made because of a duty under contract of service with the employer.

*1 reg 3(a)*

## Accidents happening while travelling in employer's transport

073330 The rules<sup>1</sup> which apply to a person who has an accident travelling to or from a place of work do not apply to a mariner who

1. is travelling in any ship or vessel to or from the place of work **and**
2. has the express or implied permission of the employer to do this.

*1 SS CB Act 92, s 99(1)(b)*

073331 Place of work includes the ship or vessel in which the person works<sup>1</sup>. It does not matter who provides the transport service.

*1 SS (II) (Mariners' Ben) Regs, reg 3(b)*

## Accidents happening while meeting an emergency

073332 The DM can treat an accident happening to a person acting in an emergency as arising from and during employment<sup>1</sup>. The decision maker should treat an accident happening to a mariner as having arisen from and during employment if it happens when

1. the person is a mariner **and**
2. there is an emergency on or with any ship or vessel **and**
3. that person is taking steps to rescue, aid or protect people who are or are thought to be injured or in danger **or** to avert or minimise serious damage to property<sup>2</sup>.

*1 SS CB Act 92, s 100; 2 SS (II) (Mariners' Ben) Regs, reg 3(c)*

## Accidents happening to marine pilots

073333 The DM should treat a marine pilot who normally works from a British port as having an accident arising during employment if the accident happens while

1. carrying out duties on board, embarking in or going ashore from, any ship or vessel **or**
2. returning soon to port having left a ship or vessel<sup>1</sup>.

*1 reg 4*

073334 This rule<sup>1</sup> is limited to arising during the employment. The claimant will have to prove that the accident arose from the employment<sup>2</sup>, unless the decision maker can decide that the accident arose from the employment because there is no evidence to the contrary.

*1 SS CB Act 92, s 94(3); 2 s 101*

## Notice of accident and duties of employer

073335 The decision maker should treat notice of a mariner's accident as given in accordance with regs<sup>1</sup> if given to

1. the master **or**
2. any authorized officer

of the ship or vessel in which the mariner works<sup>2</sup>.

*1 SS (C & P) Regs, reg 31 & 32; 2 SS (II) (Mariners' Ben) Regs, reg 6(1)*

073336 The master of the ship or vessel must

1. look into and record the circumstances of the accident<sup>1</sup> **and**
2. provide information requested by the Secretary of State about any accident or prescribed occupation<sup>2</sup>.

*1 SS (II) (Mariners' Ben) Regs, reg 6(2); 2 reg 6(3)*

073337 The master of the ship or vessel does not have to keep an accident book<sup>1</sup>.

*1 reg 6(4)*

073338 - 073349

# Airmen

## Escaping disqualification for being absent from Great Britain

### Incapacity Benefit and Severe Disablement Allowance

073350 An airman is not disqualified<sup>1</sup> (except for disqualification for misconduct) for receiving Incapacity Benefit or Severe Disablement Allowance<sup>2</sup> because of absence from Great Britain if the airman

1. is, or has been, under contract to travel at the employer's expense to start work **and**
2. has been left outside Great Britain (073318) or unable to start work because of any hurt **or** injury **or** illness **or** action taken to prevent infection.

*1 SS (Airmen's Ben) Regs, reg 1(2); 2 reg 2(1)*

### Reduced Earnings Allowance

073351 The DM should **not** disqualify a person currently employed as an airman for receiving REA for being absent from Great Britain if REA is in payment in respect of an IA which happened, or a PD which was contracted, whilst the claimant was employed as an airman<sup>1</sup>.

*1 SS (II) (Airmen's Ben) Regs 75 reg 4*

### Statutory Sick Pay

073352 Airmen who are absent from Great Britain are entitled to Statutory Sick Pay, provided the normal conditions are satisfied, if they are

1. employees or treated as employees<sup>1</sup> **and**
2. incapable of work during a period of employment while absent from Great Britain.

*1 SSP (MA & PA) Regs, reg 5 & 5A*

## Accidents happening and diseases caught outside Great Britain

073353 A person who has an accident outside Great Britain or a prescribed disease because of employment outside Great Britain is entitled to benefit when employed

1. as an airman **or**

2. on board an aircraft on a test flight starting in Great Britain, whether or not that person is an airman<sup>1</sup>.

*1 SS (II) (Airmen's Ben) Regs, reg 2 Accidents treated as arising from and during employment*

073354 The DM should treat an accident as arising from and during employment, even if it did not occur during employment and the airman provides no services and receives no wages, if

1. the person has been left behind in any country because of illness **or** injury **or** risk of infection **or** loss of or damage to the aircraft in which that person worked **and**
2. the person subsequently returns to the United Kingdom at the employer's expense **and**
3. the decision maker would have treated an accident on the return journey to have arisen from and during employment if that journey had been made because of a duty under contract of service with the employer<sup>1</sup>.

*1 SS (II) (Airmen's Ben) Regs, reg 3(a)*

## Accidents happening while meeting an emergency

073355 The DM should treat an accident happening to an airman as having arisen from and during employment<sup>1</sup> if it happens when

1. the person's employment is as an airman **and**
2. there is an emergency on or with any aircraft **and**
3. that person is taking steps to rescue, aid or protect people who are or are thought to be injured or in danger **or** to avert or minimise serious damage to property<sup>2</sup>.

*1 SS CB Act 92, s 100; 2 SS (II) (Airmen's Ben) Regs, reg 3(b)*

## Accidents happening while travelling in employer's transport

073356 The rules<sup>1</sup> which apply to a person who has an accident travelling to or from a place of work do not apply to an airman who

1. is travelling in any aircraft<sup>2</sup> to or from the place of work **and**
2. has the express or implied permission of the employer to do this.

**Note:** It does not matter whether the aircraft used for transport is used by or for the employer, or as a public transport service.

*1 SS CB Act 92, s 99(1)(b); 2 reg 3(c)*

073357 - 073369

## Continental shelf workers

### Escaping disqualification for being absent from Great Britain

073370 A person is **not** disqualified for receiving **any** benefit for being absent from Great Britain if the absence is due to prescribed employment in a designated area<sup>1</sup> (see DMG 073282).

*1 SS Ben (PA) Regs, reg 11(2)*

073371 A person who is paid benefit in Great Britain is not disqualified for receiving that benefit if in connection with prescribed employment the person is<sup>1</sup>

1. in a prescribed area (073283) **or**
2. travelling between one prescribed area and another **or**
3. travelling between a designated area (073282) and a prescribed area **or**
4. travelling between a prescribed area and Norway or United Kingdom or another European Community country **and**

benefit is not payable for the same circumstance and for the same period under Norwegian or an European Community country's legislation (other than United Kingdom)<sup>2</sup>.

*1 SS Ben (PA) Regs, reg 11(1A) & (2A); 2 reg 11(2B)*

### Statutory Sick Pay

073372 A continental shelf worker who is absent from Great Britain is entitled to Statutory Sick Pay, provided the normal conditions are satisfied, if that person is

1. an employee or treated as an employee<sup>1</sup> **and**
2. incapable of work during a period of employment while absent from Great Britain.

*1 SSP (MA & PA) Regs, reg 5 & 5A*

### Accidents happening or prescribed diseases caught outside Great Britain

073373 Payment of Industrial Injuries benefit for an accident happening or a prescribed disease caught outside Great Britain continues if at the time the accident happened or the disease was caught the person is treated as an employed earner under the Industrial Injuries Employments Regulations<sup>1</sup>

1. in an appointed area **or**
2. travelling from one appointed area to another **or**
3. travelling from Great Britain to an appointed area or the appointed area to Great Britain.

*1 SSP (MA & PA) Regs, reg 11(3); SS (EEE for IIP) Regs, Sch 1, Part 1, para 7*

073374 From 30.11.64 a person who suffers or has suffered an accident or caught a prescribed disease outside Great Britain will not be disallowed benefit if in connection with prescribed employment the accident was suffered or the disease caught

1. in a prescribed area or
2. while travelling between one prescribed area and another prescribed area **or**
3. while travelling between an appointed area and a prescribed area **or**
4. while travelling between Norway or a Member State (including the United Kingdom) and a prescribed area<sup>1</sup>.

*1 SS Ben (PA) Regs, reg 10(2)*

073375 - 073379

# Members of Her Majesty's Forces

## JSA, IB and SDA

073380 A serving member of the forces is not entitled to

1. JSA
2. IB **and**
3. SDA.

## Maternity Allowance

073381 A woman who is absent from GB or Northern Ireland is not disqualified for receiving MA if

1. she is a serving member of the forces **or**
2. her absence is for a period within the 26 weeks immediately after she ceased to be a member of the forces<sup>1</sup>.

This rule does not apply to a person who is mentioned in DMG 073374.

*1 SS (Ben) (Members of the Forces) Regs, reg 4(2)*

## Meaning of serving member of the forces

073382 Serving member means<sup>1</sup> any member of the

1. regular naval, military or air forces of the Crown
2. retired and emergency Lists of Officers of the Royal Navy
3. Royal Naval Reserves, including Women's Royal Naval Reserve, Queen Alexandra's Royal Naval Nursing Service Reserve
4. Royal Marines Reserve
5. Army Reserves, including Regular Army Reserve of Officers, Regular Reserves, Long Term Reserve, Army Pensioners
6. Territorial and Army Volunteer Reserve
7. Royal Air Force Reserves, including Royal Air Force Reserve of Officers, Women's Royal Air Force Reserve of Officers, Royal Air Force Volunteer Reserve, Women's Royal Air Force Volunteer Reserve, Class E Reserve of Airmen, Princess Mary's Royal Air Force Nursing Service Reserve, Officers on the Retired List of the Royal Air Force, Royal Air Forces Pensioners

8. Royal Auxiliary Air Force (including Women's Royal Auxiliary Air Force) **and**
9. Ulster Defence Regiment (now known as the Royal Irish Regiment).

The person must also be over 16 years old and be giving full-pay service (see DMG 073384).

*1 SS (Conts) Regs, reg 1(2) & Sch 6, Part 1*

073383 The following are not serving members of the forces

1. a deserter **and**
2. a member of any territorial or reserve force who is not undergoing training or instruction as such a member for over 72 consecutive hours<sup>1</sup> **and**
3. a member of the Ulster Defence Regiment (now known as the Royal Irish Regiment) who is **not** serving also as a member of any of the regular naval, military or air forces of the Crown **or** on the F/T permanent staff of that regiment serving or undergoing training or instruction in that regiment for over 72 consecutive hours<sup>2</sup>.

*1 SS (Ben) (Members of the Forces) Regs, reg 2(1); 2 reg 2(b)*

### **Meaning of full-pay service**

073384 A member of the armed forces is giving full-pay service if normal salary continues to be paid from

1. a civilian employer **or**
2. one of the branches of the armed forces.

073385 A person on unpaid leave or less than normal salary is not giving full-pay service.

073386 - 079999