



BERMUDA

MERCHANT SHIPPING (MEDICAL CERTIFICATION OF SEAFARERS)  
REGULATIONS 2013

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The Minister responsible for Maritime Administration, in exercise of the power conferred by sections 3 and 59(1) of the Merchant Shipping Act 2002, makes the following Regulations—

Citation

1 These Regulations may be cited as the Merchant Shipping (Medical Certification for Seafarers) Regulations 2013.

Interpretation

2 In these Regulations—

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“Bermuda ship” means a ship which is a Bermuda ship within the meaning of section 2(1) of the Act;

“commercial activity” means any employment of the vessel for which a contract or charter party is in force and includes the carriage of any cargo or persons for reward;

“ENG1 certificate” means a UK seafarer’s medical certificate issued by a medical practitioner approved by the Government of the UK to issue medical fitness certificates for seafarers;

“immediate family” means in relation to an individual, the husband or wife of the individual and a relative of the individual or the individual’s husband or wife;

“Maritime Labour Certificate” means the certificate issued in accordance with Title 5 of the Maritime Labour Convention;

“Maritime Labour Convention” means the Maritime Labour Convention 2006, adopted at a general conference of the International Labour Organization in Geneva on 7 February 2006;

“medical fitness certificate” means a certificate issued in accordance with these regulations or issued in accordance with Regulation 1/9 of the STCW Convention;

“pleasure vessel” means—

- (a) a vessel which at the time it is being used is:
  - (i) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or immediate family or friends of the owner; or in the case of a vessel owned by a body corporate, used only for sport or pleasure and on which the passengers are employees or officers of the body corporate, or their immediate family or friends;
  - (ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; and
  - (iii) and no other payments are made by or on behalf of the users of the vessel other than by the owner; or
- (b) any vessel wholly owned by or on behalf of a member’s club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family; and for the use of which any charges levied are paid into club funds for the general use of the club; and no other payments are made by or on behalf of users of the vessel other than by the owner;

“relative” means brother, sister, ancestor or lineal descendant;

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“seafarer” means any person, including a master, who is employed or engaged or works in any capacity on board a ship, on the business of the ship and where there is doubt as to whether a person working or engaged on a ship is a seafarer and subject to these regulations the Minister shall make a determination and in doing so he shall be guided by the advice and guidance provided by the International Labour Organization;

“shipowner” means the owner of a ship or another organisation or person such as the manager, agent or bareboat charterer who has assumed the responsibility for the operation of the ship from the owner;

“STCW Convention” means the International Convention on Standards of Training Certification and Watchkeeping 1978 as amended in 1995 made by the International Maritime Organization and includes any later amendments to that Convention.

Application

3 These Regulations apply—

- (a) to Bermuda ships wherever they may be other than—
  - (i) fishing vessels;
  - (ii) vessels owned and operated by a government department or agency for non-commercial purposes; or
  - (iii) pleasure vessels in which no seafarers are employed.
- (b) to the extent specified in regulation 9 other than ships that are not Bermuda ships when in port in Bermuda other than—
  - (i) fishing vessels;
  - (ii) pleasure vessels; or
  - (iii) warships, naval auxiliaries and other ships owned or operated by a state and not engaged on commercial activity.

Requirement for a seafarer’s medical certificate

4 (1) In every ship to which these regulations apply the shipowner shall ensure that every seafarer holds a valid medical fitness certificate before the seafarer is employed on board.

(2) It shall be the duty of the master of every ship to which these regulations apply to ensure that every seafarer on commencing employment on board has a valid medical fitness certificate.

(3) A seafarer whose medical fitness certificate expires during this employment and while he is in a location where it is impracticable to obtain a new medical fitness certificate may continue to be employed after the date of expiry of his certificate until the ship’s arrival at a port where a new medical certificate can be obtained but the period when

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the seafarer is employed without a valid medical fitness certificate shall not exceed three months from the date of expiry of such medical fitness certificate.

(4) A medical fitness certificate shall cease to be valid if the seafarer holding it is employed in a capacity or in a geographical area precluded by any restriction stated in that seafarer's medical fitness certificate.

Validity of a medical fitness certificate

5 (1) Every medical fitness certificate shall specify the period for which it is to remain valid and the period of validity shall in no circumstances exceed—

- (a) one year in the case of seafarers under the age of 18; or
- (b) two years in the case of seafarers over the age of 18.

(2) Every medical fitness certificate shall be written in English but may include a translation into the language of the issuing country.

Issue of a medical fitness certificate

6 (1) Every medical fitness certificate shall be issued by—

- (a) a qualified medical practitioner in a country which is approved by the Minister and listed in a Bermuda Shipping Notice and who is authorised by that country to issue such certificates, and is listed in the register of recognised medical practitioners maintained by that country;
- (b) a qualified medical practitioner authorised by the Minister for the purpose of issuing seafarer's medical certificates; or
- (c) a qualified medical practitioner authorised by the UK to issue ENG1 certificates in accordance with the United Kingdom requirements for such certificates.

(2) Every medical fitness certificate shall include a statement that—

- (a) the hearing and eyesight of a the seafarer is satisfactory;
- (b) the colour vision of the seafarer concerned in the case of seafarers employed in navigational watchkeeping roles and in engineering watchkeeping roles where the ability to discern colours is essential to their fitness for the role is satisfactory; and
- (c) the seafarer is not suffering from any medical condition likely to be aggravated by service at sea or to render the seafarer unfit for such service or to endanger the health of other persons on board.

(3) In addition to the requirements of paragraph (2) each medical certificate shall include the minimum information set out in section A-I/9 of the STCW Convention.

(4) Every medical fitness certificate issued shall be valid for a maximum period of—

- (a) two years for seafarers above the age of 18 years; or

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- (b) one year for seafarers below the age of 18 years.

Standard of medical fitness

7 (1) Every examination for the issue of a medical fitness certificate shall follow the “Guidelines on the medical examination of seafarers (ILO/IMO/JMS/2011/2012)” jointly published by the International Labour Organization and the International Maritime Organization, published in 2013.

(2) Seafarers shall only be issued with a medical fitness certificate when they are found to be able to meet the minimum in-service eyesight standards for seafarers set out in section A-I/9-1 and Table A-I/9 of the STCW Convention and the fitness standards described in section A-I/9-2 of the STCW Convention.

(3) A medical fitness certificate, issued following the satisfactory completion of the medical examination required under subsection (1), shall be in the format as set out in Schedule 1 (“Guidelines for Medical Certificate for Service at Sea”).

Review of a medical practitioner’s decision

- 8 (1) A person who is aggrieved due to a medical practitioner’s decision—
- (a) to refuse to issue a medical certificate, in accordance with regulation 6;
  - (b) to impose any restriction by way of a medical certificate; or
  - (c) to impose a period of suspension for a period of more than three months;
  - (d) to cancel a medical certificate pursuant to any medical examination or medical reason,

may apply in writing to the Minister for a review of the medical practitioner’s decision.

(2) In accordance with sub-section (1) the Minister shall, within two months of receiving the person’s written application, notify the person in writing of the result of his reconsideration.

(3) In accordance with subsection (1), the review shall be carried out in accordance with the procedure contained in Bermuda Merchant Shipping (Medical Certification of Seafarers Notice) 2013.

Penalties

9 (1) A shipowner who contravenes regulation 4(1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

(2) A master who contravenes regulation 4(2) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

(3) Any person, including a seafarer, who falsifies a medical fitness certificate, or a seafarer who makes a false declaration to obtain a medical fitness certificate, or who intentionally hides a medical condition which affects his medical fitness certificate, commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

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(4) It shall be a defence for a person charged under this regulation to show that he took all reasonable precautions and exercised due diligence to avoid the commission of the offence.

Inspection

10 (1) Any person duly authorised by the Minister may inspect any ship to which these regulations apply when in port in Bermuda, and if he is satisfied that the arrangements for medical certification are not in accordance with the requirements stated in the declaration part 1 to the ship's Maritime Labour Certificate or that they do not comply with the requirements of the Maritime Labour Convention, in the case of a ship which is not issued with a Maritime Labour Certificate, he may detain the ship, but shall not in the exercise of these powers detain or delay the ship unreasonably.

(2) Any authorised officer of the Department of Maritime Administration who discovers that a Bermuda ship does not comply with these regulations may—

- (a) withdraw the ship's Maritime Labour Certificate pending rectification of the deficiency; or
- (b) if the ship is in a port outside Bermuda, inform the port state control authorities for that port of the deficiency.

Revocation

11 The Merchant Shipping (Medical Examination) Regulations 1986 are hereby revoked.

Commencement

12 These Regulations shall come into operation on the same date on which the Merchant Shipping (ILO) Amendment Act 2012 comes into operation.

Made this 20th day of December 2013

Minister of Tourism Development and Transport