

## 1983 No. 808

## MERCHANT SHIPPING

## SAFETY

**The Merchant Shipping (Medical Examination)  
Regulations 1983**

<i>Made</i> - - - - -	1st June 1983
<i>Laid before Parliament</i>	15th June 1983
<i>Coming into Operation</i>	1st July 1983

The Secretary of State, after consulting with the persons referred to in section 22(2) of the Merchant Shipping Act 1979(a), in exercise of the powers conferred on him by section 21(1)(a) and (b), (3)(e), (p), (q), and (r), (4)(a) and (6)(a)(ba) and (bb) and of section 22(1)(a) and (d) of that Act (b) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

*Citation and Commencement*

1. These Regulations may be cited as the Merchant Shipping (Medical Examination) Regulations 1983 and shall come into operation on 1st July 1983.

*Interpretation*

2. In these Regulations:

“approved” means approved for the purpose by the Secretary of State;

“chemical” means any liquid chemical listed in Chapter VI of the 1980 Inter-Governmental Maritime Consultative Organisation publication entitled “Code for the Construction and Equipment of ships carrying Dangerous Chemicals in Bulk” and any relevant supplement thereto which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“fishing vessel” means a vessel for the time being employed in sea fishing but does not include a vessel used otherwise than for profit;

“GRT” in relation to a ship, means its gross register tonnage and the gross register tonnage of a ship having alternative gross register tonnages shall be taken to be the larger of those tonnages;

(a) 1979 c.39.

(b) Section 21(6)(ba) and (bb) were inserted by section 49(3) of the Criminal Justice Act 1982 (c.48).

“medical fitness certificate” means a certificate issued under regulation 7 below (whether or not subject to restrictions) or a certificate deemed to be equivalent thereto under regulation 5 or 6;

“Merchant Shipping Notice” means a Notice described as such, issued by the Department of Trade and published by Her Majesty’s Stationery Office;

“offshore installation” means any offshore installation within the meaning of section 1(4) of the Mineral Workings (Offshore Installations) Act 1971(a);

“pleasure craft” means a vessel primarily used for sport or recreation;

“prescribed fee” means a fee prescribed in regulations made by the Secretary of State with the approval of the Treasury;

“seafarer” includes a master and a seaman;

“specified by the Secretary of State” means specified in Merchant Shipping Notice No. 1061 and any document amending it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“United Kingdom ship” has the same meaning as in section 21(2) of the Merchant Shipping Act 1979.

#### *Application*

3. (a) These Regulations apply to sea-going United Kingdom ships and  
(b) regulations 13 and 14 of these Regulations apply to sea-going ships other than United Kingdom ships when they are in a United Kingdom port or the territorial waters thereof

being ships which are of 1,600 GRT or over, including sea-going tugs, other than fishing vessels, pleasure craft, and offshore installations whilst on their working stations.

#### *Prohibition on Employment*

4.—(1) Subject to paragraph (4) of this regulation, no person shall employ a seafarer in a ship to which these Regulations apply unless that seafarer is the holder of a valid medical fitness certificate:

Provided that:

- (a) any seafarer who has served at sea at any time during the two years immediately preceding the date on which these Regulations come into operation may continue his sea-going employment without such a medical fitness certificate for a period of two years from that date;
- (b) any seafarer, the validity of whose certificate expires while he is in a location where medical examination in accordance with these Regulations is impracticable, may continue to be employed without such a certificate for a period not exceeding three months from the date of expiry of such medical certificate.

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(a) 1971 c.61; section 1 was substituted by section 24 of the Oil and Gas (Enterprise) Act 1982 (c.23).

(2) Subject to paragraph (4) of this regulation, no person shall employ a seafarer in a ship in a capacity or in a geographical area precluded by any restriction in that seafarer's medical fitness certificate.

(3) Subject to paragraph (4) of this regulation, no person shall employ a seafarer in a ship carrying chemicals in bulk unless that seafarer is the holder of a valid medical fitness certificate issued in respect of a medical examination undertaken not more than 12 months previously, notwithstanding that the period of validity specified in the medical fitness certificate may exceed 12 months.

(4) Paragraphs (1), (2) and (3) of this regulation shall not apply to the employment of:—

- (i) a pilot (who is not a member of the crew);
- (ii) a person employed in a ship solely in connection with the construction, alteration, repair or testing of the ship, its machinery or equipment, and not engaged in the navigation of the ship;
- (iii) a person solely employed in work directly related to:
  - (a) the exploration of the seabed or sub-soil or the exploitation of their natural resources;
  - (b) the storage of gas in or under the seabed or the recovery of gas so stored;
  - (c) the laying, inspection, testing, repair, alteration, renewal or removal of any submarine telegraph cable; or
  - (d) pipe-line works as defined in section 26(2) of the Petroleum and Submarine Pipe-lines Act 1975(a) (including the assembling, inspection, testing, maintaining, adjusting, repairing, altering, renewing, changing the position of, or dismantling a pipe-line or length of pipe-line),  
and who is not employed by the owner or the person employing the master of the ship and is not engaged in the navigation of the ship in the deck, engine room, radio, medical or catering department of that ship;
- (iv) a member of the naval, military or air forces of the Crown or of any service administered by the Defence Council, when acting as such a member;
- (v) a person employed in a port who is not ordinarily employed at sea; or
- (vi) a person employed in a ship solely to provide goods, personal services or entertainment on board and who is not employed by the owner or the person employing the master of the ship and who has no emergency safety responsibilities.

*Certificates equivalent to a medical fitness certificate*

5. Any certificate of medical and visual fitness issued by an approved medical practitioner employed by the General Council of British Shipping to a seafarer in respect of a medical examination conducted before the date on

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(a) 1975 c.74.

which these Regulations come into operation shall be deemed for the purposes of these Regulations to be equivalent to a medical fitness certificate issued under these Regulations:

Provided that any such certificate issued by any such practitioner shall remain valid from the date of the medical examination only for the appropriate maximum period (according to the age of the seafarer) prescribed in regulation 8 below or for such lesser period as may be specified in the certificate.

6. Any medical fitness certificate issued to a seafarer in accordance with the provisions of the Medical Examination (Seafarers) Convention 1946 (International Labour Organisation Convention 73 of 1946)(a) or the Merchant Shipping (Minimum Standards) Convention 1976 (International Labour Organisation Convention 147 of 1976)(b):

- (a) by an authority empowered in that behalf by the laws of a country outside the United Kingdom which has ratified the said Convention of 1946 or the said Convention of 1976; or
- (b) by an approved authority empowered in that behalf by the laws of a country outside the United Kingdom

shall be deemed for the purposes of these Regulations to be equivalent to a medical fitness certificate issued under these Regulations:

Provided that any certificate issued by any such authority shall remain in force, unless renewed, only until the expiration of the period of validity specified in that certificate.

#### *Issue of medical fitness certificate*

7. Every applicant for a medical fitness certificate shall, on payment of the prescribed fee, be examined by an approved medical practitioner and if the practitioner considers that the applicant is fit, having regard to the medical standards specified by the Secretary of State, he shall issue the applicant with a medical fitness certificate in an approved form; and such certificate may be restricted to such capacity of sea service or geographical areas as the practitioner considers appropriate.

#### *Period of validity of certificate*

8. An approved medical practitioner who issues a medical fitness certificate under regulation 7 shall specify the period of validity, from the date of the medical examination, for which the certificate is to remain in force, subject to the following maximum periods:

- (a) in respect of seafarers under 18 years of age, one year;
- (b) in respect of seafarers 18 years of age and under 40 years of age, five years;
- (c) in respect of seafarers 40 years of age and over, two years.

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(a) Cmd. 7109.

(b) Cmnd. 7163.

9. If an approved medical practitioner has reasonable grounds for believing that there has been a significant change in the medical fitness of a seafarer during the period of validity of his medical fitness certificate, he shall notify the seafarer concerned and may:

- (a) suspend the validity of that certificate until the seafarer has undergone a further medical examination;
- (b) suspend the certificate for such period as he considers the seafarer will remain unfit to go to sea; or
- (c) cancel the certificate if he considers that the seafarer is likely to remain permanently unfit to go to sea.

*Application for a review*

10.—(1) A seafarer who is aggrieved by:

- (a) the refusal of an approved medical practitioner to issue him with a medical fitness certificate, or
- (b) any restriction imposed on such a certificate, or
- (c) the suspension for a period of more than three months or cancellation of that certificate by an approved medical practitioner pursuant to regulation 9,

may apply to the Secretary of State for the matter to be reviewed by a single medical referee appointed by the Secretary of State:

Provided that an application for such a review may be made only by:

- (i) a seafarer who has served at sea at any time during the two years immediately preceding the date on which these Regulations come into operation; or
- (ii) a seafarer who has held a valid medical fitness certificate at any time during the two years immediately preceding that refusal, imposition of a restriction, suspension or cancellation.

(2) Any such application shall:

- (a) be lodged with the Secretary of State within one month of the date of the refusal, imposition of a restriction suspension or cancellation (or such longer period as the Secretary of State may determine if delay is caused by the seafarer's employment on board ship away from the United Kingdom);
- (b) include a consent to the approved medical practitioner responsible for the refusal, imposition of a restriction, suspension or cancellation providing a report to the medical referee, and specify the name and address of that practitioner; and
- (c) be accompanied by the prescribed fee.

(3) The medical referee to whom the matter is referred by the Secretary of State shall obtain a report from the approved medical practitioner by whom the applicant was examined and may examine the medical condition of the applicant. The medical referee shall, if the applicant so requests, disclose to the applicant the report of the approved medical practitioner and any other evidence not produced by the applicant himself except that if the medical referee considers that such disclosure would be harmful to the applicant's

health the referee shall not be required to make such disclosure. The medical referee shall have regard to any relevant medical evidence, whether produced by the applicant, his employer, or, as the case may be, the Merchant Navy Establishment Administration, or otherwise, and whether or not disclosed as aforesaid.

(4) In the light of the medical evidence before him, the medical referee shall, if he considers that the applicant is fit, having regard to the medical standards referred to in regulation 7, issue the applicant with a medical fitness certificate in the approved form. Where the medical referee considers that restrictions as to capacity or geographical area other than those imposed on the medical fitness certificate issued to the applicant should be imposed, or that any restrictions so imposed should be deleted or varied, he shall issue to the applicant a revised medical fitness certificate and the former certificate shall thereupon cease to have effect. In any other case he shall notify the applicant of his decision. Any such action by the medical referee shall be taken not later than two months from the date on which the application for review is lodged with the Secretary of State (which date shall be notified to the medical referee by him) or within such longer period as the Secretary of State may determine.

#### *Records and annual returns*

**11.** Any approved medical practitioner who conducts a medical examination in accordance with these Regulations shall:

- (a) make and retain for six years a record in an approved form of each medical examination which he carries out pursuant to these Regulations; and
- (b) send to the Secretary of State at his direction a return of all such examinations in the form approved by the Secretary of State (which form so far as the Secretary of State considers practicable shall not include medical information which can be identified as applying to a particular person).

#### *Inspection and detention of a United Kingdom ship*

**12.** Any person duly authorised by the Secretary of State may inspect any United Kingdom ship to which these Regulations apply and if he is satisfied that any seafarer, whose employer is required by regulation 4 of these Regulations to ensure that he is the holder of a medical fitness certificate, is unable to produce a certificate which meets the requirements of that regulation, and the state of his health is such that the ship could not sail without serious risk to the safety and health of those on board, he may detain the ship, but shall not in the exercise of these powers detain or delay the ship unreasonably.

#### *Inspection, detention and other measures in respect of ships other than United Kingdom ships*

**13.—(1)** Any person duly authorised by the Secretary of State may inspect any ship to which these Regulations apply other than a United Kingdom ship when the ship is in a United Kingdom port, and if he is satisfied that any seafarer is unable to produce a valid medical fitness certificate he may:

- (a) send a report to the government of the country in which the ship is registered, and a copy thereof to the Director General of the International Labour Office; and
- (b) where conditions on board are clearly hazardous to safety or health:
  - (i) take such measures as are necessary to rectify those conditions;
  - (ii) detain the ship:

Provided that the measures specified in sub-paragraphs (i) and (ii) may be taken only when the ship has called at a United Kingdom port in the normal course of business or for operational reasons.

(2) If he takes either of the measures specified in paragraph (1)(b), the person duly authorised shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag State of the ship.

(3) The person duly authorised shall not in the exercise of his powers under this regulation unreasonably detain or delay the ship.

**14.** Section 460(1) and section 692 of the Merchant Shipping Act 1894(a) (which relate respectively to liability for costs and compensation for the detention of a ship and enforcing the detention of a ship) shall have effect in relation to a ship detained under these Regulations subject to the following modifications—

- (1) in section 460(1) the following words shall be omitted—
  - “by reason of the condition of the ship or the act or default of the owner”
  - “provisional”
  - “as an unsafe ship”
  - “and survey”
  - “or survey”; and
- (2) for the words “this Part of this Act” in section 460(1) and “this Act” wherever they appear in section 692, there shall be substituted “the Merchant Shipping (Medical Examination) Regulations 1983”.

#### *Penalties*

**15.—**(1) Contravention of regulation 4 by an employer shall be an offence punishable on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982(b).

(2) In any proceedings for an offence under these Regulations it shall be a defence for the employer to show that all reasonable steps had been taken by him to ensure compliance with the Regulations.

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(a) 1894 c.60.

(b) 1982 c.48.

*Iain Sproat,*  
Parliamentary Under Secretary of State,  
Department of Trade.

1st June 1983.

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#### EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations give effect in part to the Merchant Shipping (Minimum Standards) Convention 1976 (International Labour Organisation Convention 147) (Cmnd. 7163), laid before Parliament on 24th April 1978 and ratified by the United Kingdom on 28th November 1980, which requires provisions to be made substantially equivalent to those of (amongst other Conventions) the Medical Examination (Seafarers) Convention 1946 (International Labour Organisation Convention 73) (Cmd. 7109) which is in force but has not been ratified by the United Kingdom.

These Regulations apply to sea-going United Kingdom ships of 1,600 GRT and over, other than fishing vessels, pleasure craft and offshore installations (regulation 3); and prohibit (subject to specified exceptions) the employment in such ships of seafarers (both masters and seamen) employed at sea within the two years preceding the coming into operation of the Regulations who fail to obtain a valid medical fitness certificate within two years of the Regulations coming into operation; a seafarer who is newly employed, or who is employed in a bulk chemical carrier must be the holder of such a certificate (regulation 4). Certain other medical certificates are to be treated as equivalent to the certificates prescribed by the Regulations (regulations 5 and 6). Medical fitness certificates are to be issued by medical practitioners approved by the Secretary of State; the certificates may be restricted to certain capacities of sea service or geographical areas (regulation 7) and are to specify the period of validity of the certificate (regulation 8). An approved medical practitioner may in specified circumstances suspend or cancel a certificate (regulation 9). Any seafarer aggrieved by the refusal of a medical fitness certificate, or a restriction on a certificate, or the suspension or cancellation of a certificate, who has either served at sea at any time in the two years before these Regulations came into operation or has held a valid certificate at any time in the two years before the refusal or other action of the medical practitioner, may apply to the Secretary of State for the matter to be reviewed by a medical referee (regulation 10). Approved registered medical practitioners who conduct the medical examinations are required to keep records and to send returns to the Secretary of State when directed so to do (regulation 11).



Provision is made for a United Kingdom ship to be detained if a seafarer cannot produce a valid medical fitness certificate, and the ship cannot sail without serious risk to the safety or health of those on board (regulation 12). Ships other than United Kingdom ships are subject to inspection when in a United Kingdom port and may also be detained (regulation 13).

An employer who employs a seafarer who does not hold the required certificate commits an offence punishable on summary conviction by a maximum fine of level 5 on the standard scale (regulation 15). The "standard scale" is defined in section 75 of the Criminal Justice Act 1982. On the date these Regulations were made, the amount referred to was £1,000. This amount is subject to alteration by orders under section 143 of the Magistrates' Courts Act 1980 (c.43) and section 289D of the Criminal Procedure (Scotland) Act 1975 (c.21) (as amended by the Criminal Justice Act 1982).

The publication of the Inter-Governmental Maritime Consultative Organisation now the International Maritime Organization, referred to in regulation 2, is obtainable from that Organization, 4 Albert Embankment, London SE1. Merchant Shipping Notices are obtainable from the Department of Trade Marine Library, Sunley House, 90 High Holborn, London WC1, and from any Department of Trade Marine Office.

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