
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Regulation 1.2 of the Maritime Labour Convention, 2006 (Cmd. 7049). The Regulations also implement Clause 13 of the Annex to Directive 1999/63/EC (O.J. No.L167, 02.07.1999, p.33) as amended by Article 2.4 of Directive 2009/13/EC (O.J. No. L124, 20.05.2009, p.30). They apply to seafarers on sea-going United Kingdom ships wherever they may be. *Regulation 18 (Inspection)* also applies to sea-going ships other than United Kingdom ships, while they are in a United Kingdom port or United Kingdom waters.

Regulations 6 and 7 provide that seafarers working on seagoing United Kingdom ships must possess medical fitness certificates and carry them on board a ship on which they are working, and preclude employers from employing seafarers who do not have such a certificate. In limited circumstances and for limited periods of time, a seafarer may work on a ship without a medical fitness certificate and, in those circumstances, an employer may employ that seafarer.

Regulations 8 to 11 make provision as to the issuing and validity of medical fitness certificates and for equivalent certificates to be accepted as medical fitness certificates in certain circumstances.

Regulation 12 provides that seafarers must report medical conditions to the medical practitioner or other authority who issued their medical fitness certificate. Where this obligation applies, a medical certificate will be suspended until such time as the medical practitioner or authority has assessed the seafarer's condition. *Regulation 13* provides that, where there has been a significant change in a seafarer's medical fitness, or where the medical practitioner who issued a medical fitness certificate was not in possession of full details about the seafarer and, if those details were appreciated the certificate would not have been issued, or where such a certificate has not been issued in compliance with these Regulations, a medical practitioner may suspend or cancel the certificate.

Regulation 14 provides that the Secretary of State must arrange for the review by a medical referee of certain decisions by a medical practitioner. An application for review must be made within one month of the date of notification of the decision challenged, unless the Secretary of State agrees that a longer period is appropriate.

Regulation 15 provides that where a medical practitioner certifies that a seafarer on night watchkeeping duties suffers from health problems which the medical practitioner considers are because the seafarer works at night, and where an employer is able to transfer the seafarer to other suitable work which is not performed at night, the employer must transfer the seafarer to that work.

Regulation 16 provides that medical practitioners and medical referees must keep records, and must send to the Secretary of State, on request, a return of medical examinations which have been carried out.

Regulation 17 provides that, on application and payment of the medical practitioner's administrative costs, a replacement medical fitness certificate may be issued where the person to which that certificate was issued is no longer in possession of it.

Regulation 18 provides for offences and penalties for persons, including seafarers and employers, who fail to comply with the Regulations.

Regulation 19 applies to Government ships the inspection provisions, and the improvement notice and prohibition notice provisions, of the Merchant Shipping Act 1995. *Regulation 20* provides a power to inspect non-United Kingdom ships, and a power to report a failure to comply with the medical certification provisions of the Maritime Labour Convention to the government of the State in which that ship is entitled to be registered.

The Regulations are made under sections 85(1)(a) and (b), (1A), (1B), (3) and (5) to (7) and 86(1) of the Merchant Shipping Act 1995 except in so far as they relate to government ships. Section

Changes to legislation: *There are currently no known outstanding effects for the The Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010. (See end of Document for details)*

2(2) of the European Communities Act 1972 is used to extend the application of the Regulations to government ships, in order to implement the obligations of Regulation 1.2 of the Maritime Labour Convention, 2006 as respects such ships.

Merchant Shipping Notices are published by the Maritime and Coastguard Agency. Copies may be obtained from M-Notices Subscriptions, PO Box 362, Europa Park, Grays Essex RM17 9Ay, tel 01375 484548, fax 01375 484556, email mnotices@ecgroup.co.uk. They may also be accessed via the MCA's website <http://www.mca.gov.uk>, which also has details of any amendments or replacements.

An Impact Assessment has been produced and is annexed to the Explanatory Memorandum, which has been placed in the Libraries of both Houses of Parliament and is available alongside the Regulations on the OPSI website at www.opsi.gov.uk.

Changes to legislation:

There are currently no known outstanding effects for the The Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010.