

CAYMAN ISLANDS



Merchant Shipping Law

MERCHANT SHIPPING (MARITIME LABOUR CONVENTION) (MEDICAL CERTIFICATION) REGULATIONS, 2014

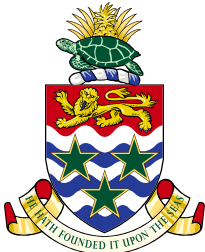
(SL 41 of 2014)

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(SL 41 of 2014)

The Cabinet, in exercise of the powers conferred by section 110 and 463 of the Merchant Shipping Law (2011 Revision), makes the following Regulations —

Citation

1. These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations, 2014.

Definitions

2. (1) In these Regulations —

“**authorised person**” means a person authorised by the Chief Executive Officer to carry out inspections and audits for the purposes of these Regulations and includes any surveyor of ships appointed under section 419 of the Law;

“**Chief Executive Officer**” means Chief Executive Officer of the Maritime Authority established under section 3 of the *Maritime Authority Law (2013 Revision)*;

“**CISN 05/2011**” means Shipping Notice CISN 05/2011 published by the Maritime Authority regarding Issue of Endorsements Attesting to the Recognition of a Certificate of Competency;

“**Law**” means the *Merchant Shipping Law (2011 Revision)*;

“**medical fitness certificate**” means a certificate issued by or under the authority of a country listed in the Schedule;

“**medical practitioner**” means a medical practitioner who, is entitled to practise in the country or territory in which that practitioner is based, and whose qualifications are as equivalent to those required of a practitioner based in the Islands who is a registered medical practitioner;

“**MSN 1822**” means Merchant Shipping Notice 1822 (M) of the UK’s Maritime and Coastguard Agency, regarding Seafarer Medical Examination System and Medical and Eyesight Standards;

“**non-Cayman Islands ship**” means a ship that is not a Cayman Islands ship;

“**offshore installation**” means any installation which is intended for underwater exploitation of mineral resources or exploration with a view to that exploitation; and

“**seafarer**” means any person, including a master, who is employed or engaged or works in any capacity on board a ship and whose normal place of work is on a ship; and

“**shipowner**” means —

- (a) in relation to a ship which has a valid Maritime Labour Certificate, the person identified as the shipowner on that Certificate; or
- (b) in relation to any other ship the owner of the ship or, if different, any other organisation or person such as the manager, or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the owner.

Application

3. (1) Subject to paragraph (2) —
- (a) these Regulations apply to Cayman Islands ships wherever they may be; and
 - (b) regulation 12 applies to ships which are not Cayman Islands ships, when they are in port in the Islands or Cayman Islands waters.
- (2) These Regulations do not apply to —
- (a) pleasure vessels;
 - (b) fishing vessels;
 - (c) warships or naval auxiliaries; or
 - (d) offshore installations whilst on their working stations.
- (3) These Regulations do not apply to and in the case of regulation 5, do not apply as respects, any person whose work is not part of the routine business of the ship and whose principal place of work is ashore.



Seafarer to have a valid medical certificate

4. (1) Subject to paragraphs (3) and (4), a person may not work as a seafarer on a ship to which these Regulations apply unless that person has been issued with a medical fitness certificate which is still valid and is not suspended.
- (2) A seafarer who has been issued with a medical fitness certificate shall carry that certificate on board during the term of that seafarer's employment on a ship to which these Regulations apply.
- (3) A seafarer whose medical fitness certificate has expired during the course of a voyage may continue to work until —
- (a) the first port at which it is possible for the seafarer to make an application for a medical fitness certificate and be examined by a medical practitioner; or
- (b) the expiry of three months starting on the date of the expiry of the certificate.
- (4) In urgent cases, with the Chief Executive Officer's approval, if a person does not hold a valid medical fitness certificate; but —
- (a) has held a medical fitness certificate for a period of not less than 24 months; or
- (b) in the case of a person under 18 years at the date of issue of the certificate, has held a medical fitness certificate for a period of not less than 12 months,
- and that certificate has expired no earlier than one month before the date on which that person joined a ship to which these Regulations apply, that person may work as a seafarer on that ship until the first port at which it is possible for an application for a medical fitness certificate as respects that person to be made and for that person to be examined by a medical practitioner, but in any case not for a period exceeding three months.
- (5) A person may not work as a seafarer on a ship to which these Regulations apply in a capacity of sea service or in a geographical area precluded by any restriction in that person's medical fitness certificate.
- (6) A person may not work as a seafarer on a ship to which these Regulations apply in breach of a condition of that person's medical fitness certificate.

Employment of seafarers

5. (1) Subject to paragraphs (2) and (3), a person may not employ another person as a seafarer on a ship to which these Regulations apply unless that other person has been issued with a medical fitness certificate which is still valid and is not suspended.

- (2) A person may continue to employ as a seafarer, on a ship to which these Regulations apply, a person whose medical fitness certificate has expired during the course of a voyage until —
- (a) the first port at which it is possible for the seafarer to make an application for a medical fitness certificate and be examined by a medical practitioner; or
 - (b) the expiry of three months starting on the date of expiry of the certificate, whichever is the sooner.
- (3) In urgent cases, with the Chief Executive Officer's approval, if a person who is a seafarer does not hold a valid medical fitness certificate; but —
- (a) has held a medical fitness certificate for a period of not less than 24 months; or
 - (b) in the case of a person under 18 years at the date of issue of the certificate, has held a medical fitness certificate for a period of not less than 12 months,
- and that certificate has expired no earlier than one month from the date on which the seafarer joined a ship to which these Regulations apply, another person may employ that person as a seafarer on that ship until the first port of call at which it is possible for an application for a medical fitness certificate as respects that seafarer to be made and for that seafarer to be examined by a medical practitioner,
- but in any case not for a period exceeding three months.
- (4) A person may not employ a person as a seafarer in a ship to which these Regulations apply in a capacity of sea service or in a geographical area precluded by any restriction in that person's medical fitness certificate.
- (5) A person may not employ a person as a seafarer in a ship to which these Regulations apply in a way that breaches a condition of the person's medical fitness certificate.

Period of validity of medical fitness certificate

6. A medical fitness certificate is valid only from the date of the medical examination or the date of consideration by a medical referee and for the following maximum periods —
- (a) in respect of a person under 18 years of age, one year; or
 - (b) in respect of a person of 18 years of age or over, two years,
- or, in either case, the shorter period specified on the certificate.



Certificates equivalent to a medical fitness certificate

7. (1) A medical fitness certificate which has been issued to a person by an authority empowered to issue that certificate by the laws of any country or territory outside the Islands listed in Shipping Notice C15N 05/2011 is for the purposes of these Regulations equivalent to a medical fitness certificate issued under these Regulations, but only until the expiry date specified on the certificate.
- (2) The Chief Executive Officer may from time-to-time approve a medical fitness certificate which has been issued to a person by an authority empowered to issue that certificate by the laws of any country or territory outside the Islands not listed in the Schedule to these Regulations and that certificate shall be equivalent to a medical fitness certificate issued under these Regulations, but only until the expiry date specified on the certificate.
- (3) A certificate to which paragraph (1) or (2) applies is not equivalent to a medical fitness certificate unless it is issued in English, or in English and some other language.

Reporting of medical conditions

8. (1) A person who is a seafarer who holds a medical fitness certificate and who —
- (a) is, or is likely to be, absent from work for a period of thirty days or more due to a medical condition; or
- (b) develops a significant medical condition,
- shall report that medical condition as soon as practicable.
- (2) A report made in accordance with paragraph (1) shall be made —
- (a) to the authority which issued that certificate; or
- (b) in any other case, to a medical practitioner.
- (3) If a seafarer makes a report required by paragraph (1), the validity of that seafarer's medical fitness certificate is suspended from the date on which it first becomes practicable for that seafarer to make the report until the date on which a medical practitioner or the authority has assessed, if necessary by conducting a medical examination of the seafarer, that the seafarer is fit having regard to the medical standards specified in MSN 1822.
- (4) In this regulation "medical condition" includes both injury and illness, and a significant medical condition is one which adversely affects or is reasonably likely adversely to affect the seafarer's ability to carry out their duties, including the seafarer's ability to undertake emergency duties.

Health assessment and transfer of seafarers on night watchkeeping duties

9. (1) If —
- (a) a medical practitioner has certified that a seafarer engaged on watchkeeping duties is suffering from health problems which the practitioner considers to be due to the fact that the seafarer performs work during the night; and
 - (b) it is possible for the seafarer's employer to transfer the seafarer to work —
 - (i) to which the seafarer is suited; and
 - (ii) which is to be undertaken during the periods that the seafarer will cease to perform work during the night,
- the shipowner shall transfer the seafarer accordingly.
- (2) In paragraph (1), “night” means a period —
- (a) the duration of which is not less than nine consecutive hours; and
 - (b) which includes the period between midnight and 5 a.m. local time.

Offences and penalties

10. (1) A person who contravenes regulation 4 or 5 commits an offence and is liable —
- (a) on summary conviction to a fine of ten thousand dollars; or
 - (b) on conviction on indictment to a fine of twenty thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*.
- (2) A shipowner who fails to comply with regulation 8 commits an offence and is liable —
- (a) on summary conviction to a fine of ten thousand dollars; or
 - (b) on conviction on indictment to a fine of twenty thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*.
- (3) A person who —
- (a) obstructs a relevant inspector in the exercise of the inspector's powers under regulation 11 or 12; or
 - (b) fails without reasonable excuse to comply with a requirement made under regulation 12
- commits an offence is liable —
- (a) on summary conviction to a fine of ten thousand dollars; or
 - (b) on conviction on indictment to a fine of fifty thousand dollars,



notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*.

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

Inspection and detention of a Cayman Islands Ship

- 11.** An authorised person may inspect a Cayman Islands ship to which these Regulations apply and if the authorised person is satisfied that a seafarer, whose employer is required by regulation 5 to ensure that the seafarer is the holder of a medical fitness certificate, is unable to produce a certificate which meets the requirement of that regulation and the state of the seafarer's health is such that the ship could not sail without serious risk to the safety and health of those on board, the authorised person may detain the ship but shall not in the exercise of these powers detain or delay the ship unreasonably.

Inspection of ships other than Cayman Islands ships

- 12.** (1) When a ship other than a Cayman Islands ship is in an Islands' port or waters, an authorised person may inspect that ship and may require any seafarer on board that ship to produce any document, in order to ascertain whether the requirements of Regulation 1.2 and Standard A1.2 of the Maritime Labour Convention, 2006 are met in relation to the seafarers working on that ship.
 - (2) Where an authorised person is satisfied that any seafarer working on a ship which is not a medical certification requirements of Regulation 1.2 and Standard A1.2 of the Maritime Labour Convention, 2006, the relevant inspector may send —
 - (a) a report to the government of the State whose flag the ship is entitled to fly; and
 - (b) a copy of the report to the Director General of the International Labour Office.
 - (3) A ship shall not in the exercise of the power under this regulation be delayed unreasonably.

Repeals

- 13.** The Merchant Shipping (Medical Examination) Regulations, 2002 are repealed.

Made in Cabinet the 19th day of August, 2014.

Meredith Hew
Acting Clerk of the Cabinet.

