

INTERNATIONAL LABOUR ORGANIZATION WORK IN FISHING CONVENTION (No. 188)

Medical examination and certification for fishermen:

Application of the Merchant Shipping (Work in Fishing) (Medical Certification) Regulations 20yy

Notice to fishing vessel owners, operators and managers; employers of fishermen; skippers, officers and fishermen on fishing vessels

This notice should be read in conjunction with the Merchant Shipping (Work in Fishing) (Medical Certification) Regulations 20nn and Merchant Shipping Notice MSN zzzz on Medical Standards and Eyesight Standards for Seafarers

Summary

This Notice contains guidance on the application and provisions of the 20yy Regulations, including:

- why medical fitness examinations are important and the responsibility of fishermen, owners and skippers to comply with the requirements;
- how to obtain a medical certificate
- validity of a medical certificate
- categories of medical fitness
- the medical review (“appeal”) system
- the requirement for a seafarer to report a significant change in their medical condition, or an absence from work of 30 days or more;
- the right of Approved Doctors to make an administrative charge for the issue of duplicate certificates.

This Notice contains information on

- the qualifications required by a medical practitioner, as defined in regulation 2, to apply to be approved to conduct seafarer medical examinations
- the medical certificates which are valid medical certificates as required under regulation 5.

1. Introduction

1.1 The Merchant Shipping (Work in Fishing)(Medical Certification) Regulations 20yy, (referred to in this Notice as “the Regulations”) [will come] into force on [insert date]. They put into UK law the medical certification provisions of the International Labour Organization’s (ILO) Work in Fishing Convention (No. 188) (“the Convention”).

1.2 The medical fitness standards which fishermen must meet to obtain a medical certificate under these Regulations are published in MSN xxxx.

1.3 Working on a fishing vessel can be an unforgiving environment and medical fitness is important because: -

- fishermen may work a long way from medical facilities which could put them at risk if they become ill while at sea; even when working relatively close to shore, there may be a delay in access to emergency medical treatment, compared to someone working ashore;
- a medical examination will identify when a fisherman has an increased risk of developing a medical condition or of sudden incapacity and so may prevent a fisherman being taken ill when at sea;
- some medical conditions will reduce the fisherman's ability to undertake the strenuous physical activity involved in work in fishing;
- if one fisherman is unable to perform their duties properly because they have been taken ill, others working on the vessel or the vessel itself may be put at risk.

1.4 Regular medical examination may also help to identify a medical condition, or risk of developing a medical condition, at an early stage so that action can be taken to prevent it developing or worsening.

2. Application – General

2.1 The Regulations apply to UK-flagged fishing vessels wherever they may be, and for the purposes of Port State Control, to non-UK fishing vessels when in a UK port or UK waters. The requirement to hold a valid medical certificate applies to fishermen on those ships.

2.2 “fisherman” means every person including the skipper employed or engaged in any capacity on board any fishing vessel, but does not include a person solely engaged as a pilot for the vessel.

2.3 For fishing vessels which are

- 24m in length or over; or
- which normally remain at sea for more than 3 days, the requirement to hold a valid medical certificate applies from the date of coming into force of the Regulations.

2.4 For fishing vessels which are

- under 24m in length; or
- which do not normally remain at sea for more than 3 days, the requirement to hold a valid medical certificate applies from 17 November 2019.

2.5 “Normally remain at sea for more than 3 days” means not returning to port within a 72 hour period.

3. Requirement for fisherman to hold a medical fitness certificate (Regulation 5)

3.1 Any fishermen working on a fishing vessel must have a valid medical fitness certificate. The fisherman must ensure that their medical fitness certificate is on board the vessel when they are working.

Valid medical fitness certificates

3.2 For any person holding a certificate of competence as a skipper on a fishing vessel of 16.5m and over, the valid medical fitness certificate is

- (i) an ENG1 issued by a medical practitioner approved by the MCA (known as an Approved Doctor - see paragraphs 4.2 and 4.3); or

(ii) a certificate of medical fitness issued by the Maritime Authority of any country which is recognised by the UK as equivalent to the UK certificate. The countries whose certificates are recognised as equivalent are listed in MSN 1815. The certificate must show key information in English.

3.3 For any persons working on a fishing vessel which is

- 24m in length or over, or
- which normally remains at sea for more than 3 days

the valid medical fitness certification is an ENG1 or recognised equivalent as set out in 3.2 above.

3.4 For persons other than the skipper working on fishing vessels which are

- under 24m in length; or
- which do not normally go to sea for more than 3 days,

the valid medical fitness certificate is either

- (i) an ENG1 or recognised equivalent as set out in 3.2 above, or
- (ii) an ML5 certificate (see section 8).

3.5 In either case, a certificate is only valid until the expiry date shown on the certificate. It must not have been withdrawn or suspended (see section 10).

3.6 It is an offence

- to work on a fishing vessel without a valid medical fitness certificate;
- to work in a capacity or in a geographical area for which the medical fitness certificate is not valid by virtue of a restriction on the certificate(see paragraph 5.4.2 below);
- to work in such a way as to breach a condition, where the certificate has been issued subject to conditions (see paragraph 5.4.3 below) .

3.7 It is also an offence for the owner [or skipper] to engage a fisherman to work on a vessel without a valid medical fitness certificate, or in a capacity which is not compliant with a restriction or condition. However, the owner should also consider whether it is possible to accommodate any restrictions by making “reasonable adjustments” to the fisherman’s duties or working environment, in compliance with the Disability Discrimination Act.

3.8 Exceptions

- A fisherman whose medical fitness certificate has expired during the course of a voyage may continue to work until the next port of call at which a replacement certificate can be obtained, or for up to three months from the date of expiry of the certificate – whichever is the sooner. The validity of the certificate cannot be extended. A replacement medical fitness certificate must be obtained at the next port at which it is possible to do so.
- This exception should only be used where a certificate expires while in a location where it is impossible to obtain a valid medical certificate – e.g. in a foreign port where there is no UK Approved Doctor within reach and in a country from which MCA does not accept the national medical fitness certificate or where this is not available to foreign nationals.
- In urgent cases, and with MCA’s express approval, a fisherman who has no valid medical fitness certificate may exceptionally be employed for a period not

exceeding three months without a valid medical certificate, provided that their last medical fitness certificate -

- expired no more than one month ago; and
- was valid for a full 24 months (or 12 months if the seafarer is under 18 years of age).

In such a case, the fisherman must obtain a replacement medical fitness certificate at the next port at which it is possible to do so. Approval should be requested from MCA's Medical Administration Team at the address at the end of this Notice.

- 3.8 A fisherman required to hold a valid medical fitness certificate must produce the certificate on demand to a proper authority (for example an inspector appointed under Section 258 of the Merchant Shipping Act 1995, or a Port State Control inspector).

4. Making an appointment for an ENG1 medical examination

- 4.1 A list of Approved Doctors with contact details is published on the MCA's webpage.

- 4.2 For MCA Approved Doctors in the UK see:
<https://www.gov.uk/government/publications/mca-approved-doctors-uk-based>

- 4.3 For MCA Approved Doctors overseas, see:
<https://www.gov.uk/government/publications/mca-approved-doctors-overseas>

- 4.4 Unless the fishing vessel owner, employer or manning agent has arrangements in place to use a particular Approved Doctor for all of their crew, the fisherman may contact any of the MCA Approved Doctors and ask for an ENG1 medical examination.

- 4.5 Approved Doctors should be able to offer an appointment for an ENG1 medical examination within one week of request. Where this is not possible, for instance because of holidays, the Approved Doctor should be able to suggest alternative Approved Doctors in the vicinity – although this may not apply to fishermen who require review by the original examining doctor, or if the fishing vessel owner or manager requires medicals to be carried out by a specific approved doctor. Fishermen who are having difficulty in obtaining an appointment or feel there is a lack of availability in a specific area should notify the Medical Administration Team on the contact details provided at the end of this notice.

- 4.6 A fisherman attending a medical examination will be asked for personal and photographic identification which will be checked by the Approved Doctor. Any previous medical certificate (ENG 1 or equivalent) (or Notice of Failure or Restriction (ENG3) if applicable) should also be brought to the examination.

- 4.7 The Approved Doctor will charge a fee for the examination, which is set in legislation and published on the www.gov.uk website as above. Where the fisherman is employed or has an offer of employment, this cost should be met by the fisherman's employer or company.

About the medical examination

- 4.8 The Approved Doctor will ask about the fisherman's medical history, including whether they have had any previous medical examination for an ENG1, and the outcome of that examination. The fisherman will be required to sign a declaration on the report of the medical examination confirming that the information they have given is correct.

- 4.9 The fisherman should also inform the Approved Doctor of any medical condition they are aware that they have, or any medical treatment they are undergoing at the time of the examination. Knowingly withholding such information may be considered as obtaining a certificate under false pretences, which is an offence under fraud legislation.
- 4.10 The Approved Doctor will carry out an examination, including testing eyesight and colour vision. See Annex A for further detail.
- 4.11 The Approved Doctor will keep full clinical notes of any detailed medical examination, and records including a completed medical report form (known as an ENG 2) will be retained for 10 years. These records may be subject to clinical and administrative audit by the MCA to ensure that Approved Doctors are following MCA medical Standards and procedures correctly.
- 4.12 Occupational health information, such as records of hearing tests will be retained for forty years.
- 4.13 Approved Doctors are also required to send to the MCA statistical returns (i.e. containing no identifiable personal information) on examinations carried out.

5. Statutory Standards of medical fitness (Regulation 6)

- 5.1 The Approved Doctor's decision on a fisherman's medical fitness must follow the statutory medical and eyesight Standards for seafarers set out in **MSN XXXX** (available to download from the MCA web site www.gov.uk details at the end of this notice). The Notice also gives some information about factors the approved doctor will consider in reaching their decision.

5.2 Categories of medical fitness

- The following categories are applied in assessing whether or not a fisherman is fit in terms of the medical and eyesight Standards:
 - Category 1 :** Fit for sea service, with no restrictions
 - Category 2 :** Fit for sea service **but with restrictions**
 - Category 3 :** **Temporarily unfit** for sea service. The Approved Doctor must specify the duration of the period of unfitness.
 - Category 4:** **Permanently unfit** for sea service. This category will normally be considered to last for a minimum of five years and may only be changed at a later date if an Approved Doctor is presented with medical evidence of the reversal of the original medical condition. Review by a Medical Referee may also be required.
- Restrictions:** The Approved Doctor may issue a "Fit" certificate with restrictions on the geographical locations or duties in which the fisherman is medically fit to work – for example, the restriction "no solo watchkeeping" where there is a risk of sudden incapacity. This restriction will be written on the face of the ENG 1 certificate, and is a notification to any employer, the skipper and to the issuing authority for any Certificate of Competency issued. Some restrictions may preclude the issue of certain certificates of competency. MCA will advise.

- **Conditions:** Alternatively, the Approved Doctor may set conditions for the issue of a medical fitness certificate. A condition is a formal notification from the Approved Doctor to the fisherman of measures that must be taken in order for their medical fitness to be maintained. This will be put in writing, but will not be written on the ENG 1 certificate since it should be confidential between the doctor and the fisherman. It will however sometimes be necessary for the fisherman to make their employer or skipper aware of the condition agreed, for example where the fisherman is required to take regular medication which must be carried on board.

6. Issue of ENG1 medical certificate (Regulation 6)

- 6.1 If the Approved Doctor considers the fisherman is fit to perform the duties they are to carry out at sea and meets the medical and eyesight Standards, the Approved Doctor will issue a medical fitness certificate (form MSF 4104 known as the ENG 1) under Category 1.
- 6.2 If the Approved Doctor considers the fisherman is fit to perform restricted duties, or duties in a restricted area of operation, in accordance with the medical and eyesight Standards, the Approved Doctor will issue a medical fitness certificate under Category 2. In this case they will normally also issue to the fisherman a Notice of Failure/Restriction (form MSF 4106, known as the ENG 3) which the fisherman can use to apply for a review of the Approved Doctor's decision ("appeal – see section 11 of this notice).
- 6.3 If the Approved Doctor considers the fisherman is temporarily unfit (Category 3) or permanently unfit (Category 4) they must issue the fisherman with a Notice of Failure/Restriction (form MSF 4106, known as the ENG 3), which the fisherman can use to apply for a review of the Approved Doctor's decision ("appeal" – see section 11). The period of unfitness may range from a few weeks (e.g. to allow simple investigations to be undertaken) to a year or more (e.g. pending treatment). Fishermen found temporarily unfit for a period of 3 months or less (Category 3), do not have a right of review.
- 6.4 The Approved Doctor should normally disclose to the fisherman the medical reasons for the refusal of a certificate or the inclusion of a restriction, as this will help the fisherman to understand whether to appeal. (The exception would be if the Approved Doctor considers that such disclosure would be harmful to the fisherman's health.)

Replacement certificate

- 6.5 The ENG 1 certificate is the property of the fisherman. If a certificate is lost or damaged, the fisherman may ask the Approved Doctor to issue a replacement certificate. This will be at the Approved Doctor's discretion.
- 6.6 The Approved Doctor will notify MCA of the fisherman's name, date of birth and the serial number of the original ENG 1 and the new certificate issued. The replacement certificate will be valid for the remaining validity of the original certificate. An administrative fee may be charged.
- 6.7 However, if a significant period of time has passed since the medical examination was carried out, the Approved Doctor may consider that a new examination is required so that they can issue a new certificate, which may be valid for up to two years, in which case the full statutory fee for a medical examination will be payable.

7. Validity of ENG1 (Regulation 7)

- 7.1 The medical fitness certificate will specify the date that the medical examination was carried out and the expiry date of the certificate.
- 7.2 The maximum validity period for any person over 18 is 2 years, and for those under 18 years old, 1 year.
- 7.3 If there is a medical reason, an Approved Doctor may issue a certificate valid for a period of less than 2 years.
- 7.4 The owner, employer or skipper may at any time require a fisherman who holds a valid medical certificate to obtain a new certificate if, as a result of illness, injury or other reasonable cause, they believe the fisherman may no longer meet the medical fitness standards.

8. Application for an ML5 medical certificate

N.B. This section is included for information only. MCA will not be separately processing ML5 applications for those working on fishing vessels until 2019. Details of the process for referral will be published in due course. Fishermen who may need an ML5 for other purposes (e.g operation of a small commercial vessel), should apply through the RYA or marine office as per [guidance]. ML5 referrals for fishing will not be accepted before 2019.

- 8.1 The application for an ML5 certificate (referred to as the ML5 report form) can be downloaded from www.gov.uk (search for "ML5 form" or follow the link <https://www.gov.uk/government/publications/ml5-medical-report-form-and-certificate-msf-4112>).
- 8.2 The ML5 report form can be completed by any doctor registered with the UK General Medical Council (GMC) and with a valid licence to practice. This allows a fisherman to ask their GP to complete the form. There is no prescribed fee for the doctor completing the ML5 form. The fee is at the discretion of the doctor completing the ML5 form.
- 8.3 The report form is designed in a question and answer format. If the doctor can complete the form with no ticks in any box indicating a medical problem, or any notes on medical conditions, the doctor may complete and issue the ML5 certificate.
- 8.4 However, if the doctor ticks the box against any of the medical conditions listed, or write any comments in the final box, the doctor may not issue the certificate, and the application will have to be referred to a MCA-appointed medical assessor for a decision. *[Details to follow]* This requires the applicant to provide information about their area of operation, the sort of vessel they work on, and their duties, as well as any supplementary medical information which the medical assessor may need to make their decision (e.g. clinical or consultant reports)..
- 8.5 There is no charge for a referral. In order to ensure that the referral is dealt with promptly, it is important to ensure that the medical assessor is provided with all available supporting information they may need to make their decision when the form is submitted.

9. Reporting of medical conditions (Regulation 9)

- 9.1 If as a result of an illness or injury, a fisherman is absent from work for 30 days or more (or expects to be), they must report the reason as soon as possible to an Approved Doctor (if practicable the one who issued their certificate). The Approved Doctor will advise whether a further medical examination is required before the fisherman returns to work.
- 9.2 If a fisherman develops a medical condition or suffers an injury which may affect their fitness to work at sea, they must report this to an Approved Doctor and, if advised to do so, attend for a medical examination for re-issue of their medical certificate.
- 9.3 In either case, once the reason for absence or medical condition is identified, the fisherman's medical fitness certificate is suspended until they have been advised by a medical practitioner whether they need re-examination, and if so have been re-examined.
- 9.4 Where a fisherman on a UK fishing vessel holds a medical certificate issued on behalf of another maritime administration, they should consult the issuing authority. If that is not practicable, advice should be sought from a UK Approved Doctor, who may advise that the fisherman undergoes an examination for a UK ENG 1 medical certificate.
- 9.5 A fisherman may at any time be required by the vessel owner, their employer or skipper, if in accordance with their terms and conditions, to obtain a new certificate where as a result of illness, injury or reasonable cause it is believed the fisherman may no longer meet appropriate minimum standards.

10. Suspension and cancellation of a certificate (Regulation 10)

- 10.1 If an Approved Doctor has reasonable grounds for believing that:
- (a) there has been significant change in the medical fitness of a person while holding a valid certificate; **or that**
 - (b) the person is not complying with the terms of a condition of issue of the certificate; **or that**
 - (c) they did not have full details of the person's condition at the time of examination, and if they had done so he could not reasonably have considered that the seafarer met the required standards; **or that**
 - (d) the medical fitness certificate was not issued in accordance with the Regulations;
- the Approved Doctor may suspend or cancel the certificate.
- 10.2 The certificate may be suspended until the person holding it has undergone a further medical certificate, or for a specified period, or permanently cancelled, depending on circumstances. The Approved Doctor has the right under the Regulations to require the holder to surrender their medical certificate (Regulation 10(3)), and if it is not returned may inform the MCA's Medical Administration Team, who will take appropriate action.
- 10.3 A fisherman whose medical fitness certificate is suspended for more than three months or cancelled has a right of review ("appeal") of that suspension or cancellation – see section **11**.

11. Application for a review ("appeal" - Regulation 14)

- 11.1 A fisherman (including any fisherman applying for their first ENG1) may appeal against the decision of the Approved Doctor if they are found
- i. permanently unfit (Category 4), or
 - ii. temporarily unfit for more than 3 months (Category 3), or
 - iii. fit only for restricted service (Category 2),
- or if their certificate is cancelled or suspended for more than 3 months by an Approved Doctor.
- 11.2 There is no right of appeal against a condition notified by an Approved Doctor (see paragraph 5.2.3) or against a decision of temporary unfitness for 3 months or less.
- 11.3 To apply for a review the fisherman should complete the application form which forms part of the Notice of Failure/ Restriction (ENG 3) which will be issued by the Approved Doctor, and send it to the MCA's Medical Administration Team at the address at the end of this Notice. The application should be made within **one month** of the date of the Notice.
- 11.4 In signing the application for review, the fisherman is also giving consent for the Approved Doctor to release his or her report to the Medical Referee. If the applicant wishes to submit additional medical evidence in support of their application they should arrange for this to be sent to the Medical Referee before the appointment date.
- 11.5 The MCA will then arrange for the appeal to be considered by a Medical Referee appointed by the Secretary of State for Transport. There are currently [7] referees located in different parts of the United Kingdom and MCA will offer a choice of the most convenient location
- 11.6 Before appealing, the fisherman may wish to seek independent medical advice from their General Practitioner (GP), or perhaps from their trade union or employer. The cost of the review, and of any additional specialist reports required by the Medical Referee in order to make their decision, is met by MCA. The fisherman is responsible for their travel costs to their appointment, and if having agreed the appointment time with the referee they fail to attend without giving due notice, may be required to cover the cost of the missed appointment.
- 11.7 The role of the Medical Referees, who work to the same medical and eyesight Standards as the Approved Doctor, is :
- to ensure that the diagnosis has been established beyond reasonable doubt, in accordance with the medical evidence on which the Approved Doctor reached their decision and, if necessary with the assistance of a report from a Consultant in the appropriate speciality,
 - to determine whether the medical and eyesight Standards, especially those with a discretionary element, have been properly interpreted; and
 - to consider the possibility of a person previously declared permanently unfit returning to sea in some capacity.
- 11.8 Where a Medical Referee has determined that a fisherman is permanently unfit to go to sea, MCA will not normally allow a further application for review from that person within five years of that determination.

11.9 In cases not specifically covered by the statutory medical and eyesight Standards, or in cases where the Approved Doctor has assessed the fisherman as “permanently unfit” and exceptional medical considerations apply, the Medical Referee may decide an appropriate fitness category after obtaining relevant information from the Approved Doctor who made that assessment and any further evidence presented to them.

11.10 The Medical Referee will normally reach a decision within 2 months of the date on which the review was lodged with the MCA. However, this may take longer if further medical information is needed to make the decision.

12. References to this Notice in the Merchant Shipping (Work in Fishing) (Medical Certification) Regulations 20yy

Regulation 6(1), regulation 11(5) and regulation 11(6): The form of a medical fitness certificate is specified in paragraph 6.1. The Categories of medical fitness which may be certified are specified in section 5.2.

Regulation 6(2) : The conditions which a practitioner may impose on a medical fitness certificate under regulation 6(2) are those specified in paragraphs 5.2.

Regulation 10 : The Secretary of State has specified the forms of certificate of medical fitness which are equivalent to a medical fitness certificate for work on a fishing vessel. These are specified at paragraph 3.2 and 3.3.

The Secretary of State has also specified certificates of medical fitness to work as a seafarer issued on the authority of the maritime authority of certain countries or territories outside the UK as equivalent to a UK medical fitness certificate (Regulation 8). Those countries are listed in Merchant Shipping Notice MSN 1815(M).

What is involved in a medical examination?

Length of appointment: An appointment for a medical examination will normally be 30 – 40 minutes. The approved doctor (AD) may delegate some parts of the examination (measuring weight and height, blood pressure readings, vision test etc.) to another health professional in the practice, and the time spent with the AD may not be the whole appointment. But the decision on fitness will be taken by the AD.

Questions about medical history: It is important that the candidate is open and honest about any medical condition they are aware of, and any medication they take or have taken. This will help the AD to make a good decision about the candidate's fitness to work at sea, including any restrictions on the work that they can safely do. Knowingly withholding information may invalidate the medical fitness certificate, and it is a criminal offence to work without a valid medical certificate.

Physical examination: The AD will normally want to see the candidate unclothed, at least down to underwear, to assess their physique and mobility. They may, with the candidate's permission, need to move underwear aside in order to complete the examination.

The AD will also be looking at -

- posture, movement and gait
- condition of skin, especially hands - including scars from past surgery or injury
- clinical test of hearing, examination of external ear and drum, and mobility
- clinical test of eye movements, pupil responses and visual fields
- visual inspection of teeth, gums, mouth and tonsils; if necessary, the AD may ask for details of the candidate's dentist regarding any recent dental appointments;
- the examination of lungs and heart including auscultation and pulses;
- palpation of abdomen
- standing examination of hernial orifices and leg veins
- simple neurological screen - reflexes, sensory function, motor co-ordination in arms and legs

Routine tests

With the exception of colour vision, the following will be carried out at every full examination i.e. at least 2-yearly:

- Height and weight
- BMI (body mass index) calculated from height and weight
- Pulse rate
- Blood pressure
- Urine test with dipsticks for protein, glucose and blood.
- Spirometry or peak flow measurement if the candidate has a respiratory problem
- Vision – distant, near and colour vision tests.

Colour vision: if the candidate fails the Ishihara plate test, a supplementary test will be required for those with navigational lookout duties or engineers. See Annex xx to MSN xxxx.

Additional tests:

Depending on the candidate's medical history and the findings of the routine test, the AD may require further information from the candidate's GP or medical consultant. Alternatively, in accordance with international guidelines on medical examinations for seafarers, one or

more extra medical tests or procedures may be required before they can make a decision on the candidate's medical fitness.

- Additional vision test
- Chest X-ray
- Audiogram (hearing test)
- Physical fitness assessment
- Dental check-up and treatment

Some ADs may be able to do the additional tests themselves or they may refer the candidate to someone else who has the correct equipment.

Where requested by the shipowner, the AD may also undertake immunisations or anti-malaria treatment (for those intending to call at ports in areas with risk of infection) – this is not part of the statutory medical examination.

An additional charge may be made for some tests or for reports. The employer or vessel owner is responsible for these charges, but the AD may need to obtain their agreement before arranging the tests.