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## ILO WORK IN FISHING CONVENTION

### Medical Certification - Application to Existing Fishermen (“Grandfather Rights”)

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

*This notice should be read with the Merchant Shipping (Work in Fishing Convention) (Medical Certification) Regulations 2018, Merchant Shipping Notice 1883 (F) and MSN 1886 (M+F). This MGN expires 30 November 2023*

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#### Summary

- From 30 November, fishermen will be required to hold a medical fitness certificate to work on a fishing vessel. This requirement will be phased in.
- The phase-in dates are set out in the table in paragraph 1.2.
- Existing fishermen who are eligible and have a medical condition which does not pose an immediate risk to safety may be issued with a medical certificate under “grandfather rights”.
- Any fisherman holding an overseas medical fitness certificate on 30 November 2018 will be able to continue to work with that certificate, even if it is not one normally accepted by the UK for working on a UK vessel, until it expires or for two years, whichever is sooner.

#### 1. Introduction

1.1 The Merchant Shipping (Work in Fishing Convention) (Medical Certification) Regulations 2018 come into force on 30 November 2018. They introduce a new requirement for fishermen to have a statutory medical fitness certificate.

1.2 This requirement will be phased in over time as follows



	<b>VESSEL</b>	<b>OPERATING PATTERN</b>	<b>DATE MEDICAL CERTIFICATE REQUIRED</b>	<b>NOTES</b>
1.	Any FV vessel	Subject to inspection in a foreign port	31 May 2019	ENG1
2.	FV of 24m in length or over	At sea for more than 7 days	31 May 2019	ENG1
3.	FV of 24m in length or over to which 1. and 2. do not apply		30 November 2019	ENG1
4.	FV under 24m in length	At sea for more than 72 hours	30 November 2019	ENG1
5.	FV under 24m in length	Operating more than 200 miles from the coastline of the UK or beyond the Continental shelf	30 November 2019	ENG1
6.	FV under 24m in length to which 1., 4. and 5. do not apply	At sea for no more than 72 hours	30 November 2023	ENG1/ML5 <sup>1,2</sup>

## 2. Application of medical fitness standards

2.1 Approved doctors will examine fishermen using the statutory medical fitness standards published in MSN 1886 (M+F)<sup>2</sup>. If an existing fisherman does not meet the medical standards e.g. would normally be either temporarily or permanently unfit for work at sea or would be subject to a restriction which meant that they could not continue to work, the Approved Doctor (AD) will consider whether grandfather rights can be applied.

2.2 In considering the application of grandfather rights. the AD will need to establish that the fisherman has a record of working on a fishing vessel, and that their medical condition has been stable for long enough to establish that they can manage that condition while working.

2.3 The AD will consider the safety of the fisherman, colleagues on the vessel, the safety of the vessel and the physical capability of the fisherman to undertake their role. **Grandfather rights cannot be applied if a medical condition exists that would seriously conflict with maritime or navigational safety, or if the safety of others can be reasonably foreseen to be at risk.**

## 3. Grandfather rights

3.1 The purpose of applying grandfather rights for existing fishermen is to try to ensure that, where they can do so without significant risk to their own or others' health and safety,

<sup>1</sup> Any holder of a Certificate of Competency for a vessel of 16.5m or more requires an ENG1.

<sup>2</sup> An ML5 certificate is valid for fishermen working on FVs under 24m and operating only in categorized waters

<sup>2</sup> See Annex 1 for specific advice on eyesight standards.



fishermen are able to continue to carry out an occupation they have been engaged in safely prior to the introduction of the requirement for a medical fitness certificate. This recognizes that there would have to be a very good reason for someone who had been working over a long period to become disqualified from doing so due to a change in legislation when there has been no other change in circumstances.

- 3.2 An existing fisherman must apply for their first medical certificate within 5 years of the Regulations coming in to force for grandfather rights to be considered. Once a medical certificate has been issued under grandfather rights, the fitness decision and any associated restriction will be carried forward when their medical certificate is renewed, unless and until their condition worsens significantly or they seek to change the work that they do or their area of operation or obtain a new certificate of competency etc.

#### **4. Demonstrating eligibility for grandfather rights**

- 4.1 If the AD needs to apply grandfather rights they will let you know and you will be required to provide additional evidence. It will save time to take any recent reports from your consultant or GP with you when you attend your ENG1 examination.

- 4.2 Please note the following:

4.2.1 You must be applying for an ENG 1 for the first time, i.e. you are applying as a result of the ILO Regulations coming into force.

4.2.2 You must provide

(1) evidence that you have been working as a fisherman before the date of coming into force of the Regulations. Examples of suitable evidence would be one or more of the following:

- (a) MCA fishing Certificate of Competency
- (b) Seafish 5-day Bridge Watchkeeping Certificate
- (c) Basic Health and Safety OR Safety Awareness and Risk assessment
- (d) SEAFISH course completion card
- (e) Sea service Testimonials e.g. from skippers/the fishing vessel owners/managers, which demonstrate that you have worked regularly as a fisherman. If you are the owner of the vessel, take the registration document for the vessel including fishing vessel number, and your name on the document as the owner.

(2) evidence that you are physically capable and can safely undertake your role on the vessel. This could be a letter or certification or training course certificates from the operator or owner of the vessel, Harbour Master, or MCA Surveyor.

4.2.3 The AD will be looking for evidence that any medical condition which might bring your fitness into question has been stable and/or well controlled throughout the past 5 years. This means that you have insight into the condition and its treatment, with evidence of compliance with treatment as well as the absence of the need for emergency medical treatment or any fitness limiting complications. The AD may need to obtain supporting evidence from your GP and treating specialist if appropriate.

4.2.4 In clinical terms the risk that your medical condition could lead to sudden incapacitation at sea/on the vessel must be less than 5% p.a. The AD might ask for your consent to obtain advice from your specialist if necessary.

- 4.3 If there is doubt as to whether the criteria in paragraph 4.2.3 are met, or your medical condition has arisen or deteriorated during the past 5 years, the AD may refer your case to the MCA or Chief Medical Advisor (CMA) for advice.



## 5. ENG 1 certificate

- 5.1 If all these conditions are met, you may be issued with a restricted ENG 1 which allows you to continue working. The AD will discuss with you how to draft a suitable restriction, which should, where this can be done safely, allow you to continue to work in your current role, fishing method and fishing area.
- 5.2 If the AD has applied grandfather rights, **GR** will be written after the restriction on the ENG 1 certificate by the AD to inform any AD carrying out your next ENG1 examination. Where possible you should return to the same AD for subsequent ENG 1 medical examinations. This will allow for the continuing consistent application of grandfather rights at subsequent ENG 1 medical examinations.
- 5.3 You may also be issued with a conditions letter, setting out the conditions of the issue of the ENG 1 certificate. It may be necessary to issue a “to whom it may concern” letter to the skipper or operator of the vessel.
- 5.4 Should your medical condition change during the validity of your certificate you must contact the AD for advice.
- 5.5 If you are issued with a restricted certificate and you disagree with the AD’s decision, you have the right to seek a medical review with a MCA medical referee. It is hoped however that the application of grandfather rights will enable many fishermen to continue to work without restriction preventing them continuing to work.

## 6. Overseas certificates:

- 6.1 If, when the Regulations come into force, a fisherman is working on a UK vessel with a non-UK medical certificate, whether or not it is issued by one of the countries listed in MSN 1815(M+F) as being equivalent to the UK ENG 1 for working on a UK fishing vessel, the MCA will recognize that certificate until it expires, or for two years, whichever is the shorter period.
- 6.2 Thereafter, the fisherman will require a UK ENG 1 or another medical certificate which is recognized by the MCA as equivalent in accordance with the latest version of MSN 1815(M+F) – currently Amendment 2.

## More Information

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## EYESIGHT STANDARDS

The same eyesight standards will apply for fishermen as for other seafarers (although STCW is not strictly applicable to fishermen), however:

- **Colour vision.** Those who hold an MCA fishing Certificate of Competency (CoC) or Seafish 5 day watchkeeping certificate but are found on examination by an AD not to meet the colour vision standard<sup>3</sup> will be able to continue in their current role, but with a restriction to work permitted by that CoC/watchkeeping certificate only, rather than a restriction on lookout duties. They will not be able to qualify for a higher CoC unless they meet the colour vision standards. The colour vision defective box will be ticked Yes, and fit for lookout ticked No, on the ENG 1 certificate.
- For other existing fishermen with colour vision defects, the AD will tick a deficiency i.e. “colour vision defective” and “not fit for lookout” on the ENG 1, which should be restricted to current work, but not explicitly mention lookout duties.
- **Visual acuity.** All fishermen should meet the visual acuity standards in MSN 1886(M+F) - i.e. the same as those required for the Merchant Navy seafarers, with the exception that **existing fishermen** do not have to meet the unaided visual acuity standards in MSN 1886(M+F) (provided they meet the corrected visual acuity standards, can manage safely in an emergency should their spectacles be lost or damaged, and have a conditions letter stating that they must carry adequate spare visual aids). The box regarding visual acuity standards on the ENG 1 will then be ticked No., but the “fit for lookout” box can be ticked provided that they can meet the aided visual acuity standard.
- **Monocular vision.** No new entrants to the industry with monocular vision will be accepted, but existing fishermen with monocular vision, provided they have had a sufficient period of adaptation, can continue to work with the usual restriction as per MSN 1886(M+F).

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Fishermen may have been issued with CoCs on the basis of examination using ishihara plates by an optician. The MCA has no control over the standards applied by opticians and there is a small risk that those with colour vision deficiencies may have been passed due to a misunderstanding of the MCA requirements.

