
Standards of Training, Certification and Watchkeeping Convention, 1978 as Amended Manila Amendments: Medical Certification, Hours of Work and Alcohol Limits

Notice to all Shipowners, Employers, Ship masters and Seafarers

This notice should be read with in conjunction with MSN 1822 (M) & MSN1767

PLEASE NOTE:-

Where this document provides guidance on the law it should not be regarded as definitive. The way the law applies to any particular case can vary according to circumstances - for example, from vessel to vessel and you should consider seeking independent legal advice if you are unsure of your own legal position.

Summary

This guidance note alerts ship owners, ship managers and ship masters that the STCW convention has been amended. Most of the amendments affect training requirements, and will be dealt with elsewhere, but this notice explains the changes as they relate to medical certification, hours of rest and alcohol limits for seafarers.

1. Background

1.1 The International Convention on Standards of Training, Certification and Watchkeeping 1978, as amended (STCW), was further amended in June 2010 ("the Manila amendments"). Most of the amendments deal with training requirements, but there are also changes to:

- 1.1.1 Regulation I/9, Code A-I/9 and B-I/9 Medical certificates
- 1.1.2 Regulation VIII/1, Code A-VIII/1 and B-VIII/1 Fitness for duty – hours of rest
- 1.1.3 Regulation VIII/1, Code A-VIII/1 and B-VIII/1 Fitness for duty – alcohol limits

This MGN explains those changes as they apply to UK ships.

2. Changes to medical certification

2.1 The Manila amendments include changes to provisions on the medical examination and certification of seafarers in Regulation I/9, Standard A-I/9 and B-I/9 to bring them into line with the Maritime Labour Convention, 2006 (MLC). MCA has already introduced the

Merchant Shipping (Maritime Labour Convention)(Medical Certification) Regulations 2010, which fully implement the MLC provisions on medical certification, and no further changes are required to those regulations or to the UK system as described in MSN 1822 (M) as a result of the Manila amendments.

2.2 The current ENG1 medical certificate format will change to incorporate the precise wording from, and references to the MLC and STCW Manila amendments. Approved doctors and social partners have been consulted on the updated format although the basic format will remain unchanged and the new certificate will be in place by 2013. For more information contact the Medical Administration Team – details at the end of this notice.

3. Hours of work and rest

3.1 The current UK Merchant Shipping (Hours of Work) Regulations 2002 implemented the requirements of the ILO Convention on Seafarers' Hours of Work and the Manning of Ships, (ILO 180)¹, which have been carried forward unchanged into the MLC. The Manila amendments (STCW Code - Regulation VIII/1 and Section A-VIII/1) therefore require no changes to the main provisions regarding minimum hours of rest in the Merchant Shipping (Hours of Work) Regulations 2002 ("the 2002 regulations").

3.2 Following the provision in ILO 180/the MLC, regulation 5 of the 2002 regulations contains a provision for exceptions from the minimum hours of rest provisions to be authorised by the MCA. Such exceptions must be supported by a collective bargaining agreement or workforce agreement (paragraphs 4.3 to 4.5 of MSN 1767(M)).

3.3 The Manila amendments to STCW Regulation VIII/1 and Code A-VIII/1 came into force on 1 January 2012. These place additional conditions on the types of exception that can be authorised.

3.4 On UK ships, since the UK is a signatory to both STCW and to ILO 180, MCA will only consider exceptions which comply both with the requirements of the MLC (i.e. that they are subject to a workforce or collective agreement) and which comply with the limitations in the STCW Code, section A-VIII/1 – set out below.

3.5 This MGN reminds ship owners, ship managers and ship masters that any existing authorised exceptions need to be reviewed in order to ensure that they comply with the new conditions. Amendments to the terms of such exceptions may be required, and these must be subject to a fresh authorisation.

STCW amendments: revised conditions for exceptions

3.6 Authorised exceptions shall, as far as possible, follow the standard minimum hours of rest, but may take account of more frequent or longer leave periods, or the granting of compensatory leave for watch keeping seafarers or seafarers working on board ships with short voyages.

3.7 Weekly rest, Where an exception is approved:

- Seafarers must receive a minimum of 70 hours rest in any 7-day period;
- Exceptions from the normal weekly rest period (77 hours) shall not be allowed for more than two consecutive weeks;

1. As enshrined in Council Directive 1999/63/EC concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association and the Federation of Transport Workers' Unions in the European Union

- The intervals between two periods of exceptions on board shall not be less than twice the duration of the exception.

3.8 Daily rest, Where an exception is approved:

- the 10 hours of rest required in any 24 hours period may be divided into no more than three periods, one of which shall be at least 6 hours in length and neither of the other two periods shall be less than one hour in length;
- the intervals between consecutive periods of rest shall not exceed 14 hours;
- Exceptions shall not extend beyond two 24-hour periods in any 7-day period.
- Exceptions shall, as far as possible, take into account the guidance regarding prevention of fatigue in section B-VIII/1.

Review of Exceptions

3.9 Where currently authorised exceptions fall foul of the above revised limits, they should be reviewed, in consultation with the relevant union or with the workforce as appropriate. If revised working patterns can be agreed which comply with the above limits, these may be authorised by Marine Offices.

3.10 N.B. In due course, when the MLC is in force, the exception should also be recorded in the employer's Declaration of Maritime Labour Compliance Part II.

"Overriding operational conditions"

3.11 A provision in A-VIII/1.4 states that the minimum rest periods need not be maintained in the case of an emergency **or in other overriding operational conditions**.

3.12 B-VIII/1 includes the following guidance on "**Prevention of fatigue**":

1. In observing the rest period requirements, "**overriding operational conditions**" should be construed to mean only essential shipboard work which cannot be delayed for safety, security or environmental reasons or which *could not reasonably have been anticipated* at the commencement of the voyage.

3.13 MCA interprets this to mean that a planned passage under pilotage or the additional work due to cargo operations during a scheduled port call – unless bad weather or unexpected port delays disrupt normal schedules to an unforeseen extent – cannot be considered to be "overriding operational conditions" which would justify a breach of minimum hours of rest.

4. Change in alcohol limits for seafarers

4.1 Following the Manila amendments, STCW Regulation VIII/1, among the requirements for fitness for duty, sets a blood alcohol limit of 0.05% and an alcohol in the breath limit of 0.25mg/l.

4.2 The current UK blood alcohol limit of 0.08% and alcohol in the breath limit of 0.35mg/l is set by Part 4 of the Railways and Transport Safety Act 2003, and is the same as that for drink-driving in the UK. Testing is currently done by the police, using the same equipment and protocols as for drink drivers.

4.3 The UK limit applies to the following groups :

Professional staff on duty:

- A professional master of a ship,
- A professional pilot of a ship, and
- A professional seaman in a ship while on duty

Professional staff off duty:

- If in the event of an emergency he would or might be required by the nature or terms of his engagement or employment to take action to protect the safety of passengers

4.4 The UK Government is considering how best to implement these new limits for professional mariners without changing the enforcement provisions or penalties associated with them. Amending the current legal alcohol limits in the UK would require changes to UK legislation and to testing equipment, which have not yet been undertaken (as at January 2012).

4.5 Ships operating internationally will need to ensure their crews are aware of, and comply with, the new limits. It is recommended that where the statutory alcohol limit is included in company alcohol policies, the new STCW limit is used.

4.6 Paragraphs 4.1 and 4.2 express the alcohol limits in the form used in STCW Regulation VIII/1. The limits applicable under UK legislation (in the Railways and Transport Safety Act 2003) are expressed differently. The table below sets out the STCW and UK limits in both notations to show how they correspond:

Alcohol Limit	STCW Regulation VIII/1		Railways and Transport Safety Act *	
In the blood	0.05% blood alcohol content	50mg of alcohol in 100ml	0.08% blood alcohol content	80mg of alcohol in 100ml
In the breath	0.25mg/l	25microgrammes of alcohol in 100ml	0.35mg/l	35microgrammes of alcohol in 100ml

* Note: This Act also provides for a limit of 107mg of alcohol in 100ml of urine; there is no comparable provision in the STCW.

More Information

Seafarer Safety and Health Branch
Maritime and Coastguard Agency
Bay 1/29
Spring Place
105 Commercial Road
Southampton
SO15 1EG

Tel : +44 (0) 23 8032 9247
Fax : +44 (0) 23 8032 9251
e-mail: seafarer.s&h@mcga.gov.uk

General Inquiries: infoline@mcga.gov.uk

MCA Website Address: www.mcga.gov.uk

File Ref: MS 122/6/83

Published: April 2012
Please note that all addresses and
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*An executive agency of the
Department for
Transport*