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## MARITIME LABOUR CONVENTION, 2006 Medical Certification

**Notice to all shipowners, ship operators and ship managers; employers of seafarers; masters, officers and seafarers on sea-going ships ordinarily engaged in commercial operations**

*This notice should be read in conjunction with the Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010 as amended and Merchant Shipping Notice MSN 1886 (M+F) on Medical Standards and Eyesight Standards for Seafarers*

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### Summary

This Notice contains guidance on the application and provisions of the Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010 (“the 2010 Regulations”), including:

- how to obtain a seafarer medical certificate
- validity of a seafarer medical certificate
- medical standards and categories of medical fitness
- the medical review (“appeal”) system

These Regulations do not apply to seafarers on fishing vessels (to which the Merchant Shipping (Work in Fishing Convention) (Medical Certification) Regulations 2018 apply – see MSN 1883(F)) - pleasure vessels (not used commercially) and offshore installations whilst on their working stations.

The 2010 Regulations are also the statutory basis for:

- use of the ML5 medical report and certificate for seafarers on certain small vessels;
- 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;

all of which are established administrative arrangements.

- The statutory medical fitness standards are published in Merchant Shipping Notice (MSN 1886 (M+F))



Relationship with the Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010, as amended

- The 2010 Regulations need to be read in conjunction with this Merchant Shipping Notice, as it sets out some of the key details which supplement the legal obligations in those Regulations. Failure to comply with those obligations may be a criminal offence under the 2010 Regulations.
- In order to assist with this Paragraph 14 contains an index which clearly sets out and/or identifies the provisions in this Notice which relate to the relevant provision in the 2010 Regulations.

## **1. Introduction/ Background [Headings should be Arial, size 11, bold]**

- 1.1 The Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010, (referred to in this Notice as “the 2010 Regulations”) which came into force on 1 January 2010, implemented in the UK the medical certification provisions of the Maritime Labour Convention 2006.
- 1.2 They also implemented the requirements of clause 13 of the Social Partners’ Agreement set out in the Annex to Council Directive 1999/63/EC of 21 June 1999 (The Seafarers’ Working Time Directive)<sup>1</sup>.
- 1.3 The Merchant Shipping (Maritime Labour Convention) (Consequential and Minor Amendments) Regulations 2014 and the Merchant Shipping (Maritime Labour Convention) (Miscellaneous Amendments) Regulations 2018 make minor changes to these regulations which are reflected in paragraphs 2.2, 2.5. and 4.7, and correct errors in regulation 2 and regulation 5

## **2. Application – General**

- 2.1 The 2010 Regulations apply to sea-going UK ships wherever they may be, and for the purposes of Port State Control, to non-UK ships when in a UK port or UK waters, and the requirement to hold a valid medical certificate applies to seafarers on those ships.
- 2.2 MCA’s interpretation of the meaning of the term “seafarer” for the purpose of these Regulations is explained in Marine Guidance Note MGN 471(M). “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. The meaning of “sea-going ship” is given in section 2.5 below.
- 2.3 The requirements of these Regulations do not apply to pleasure vessels, offshore installations whilst on their working stations or to fishing vessels. (The Merchant Shipping (Work in Fishing Convention) (Medical Certification) Regulations 2018 are explained in MSN 1883 (F)). Nor do the 2010 Regulations apply to those working on vessels operating solely in inland waterways (waters of categories A, B, C or D) – although the master of an inland waterway vessel will need to demonstrate medical fitness in order to obtain their master’s qualification.

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<sup>1</sup> As amended by Council Directive 2009/13/EC. The requirements of the remaining clauses of that Agreement, relating to hours of work, are implemented separately in the new Merchant Shipping (Hours of Work) Regulations 2002.



2.4 The 2010 Regulations apply only to those working under the seafarers working time regime. Other working time regimes (for mobile workers on inland waterways, or for land-based workers, or for sea-fishermen) may also apply on sea-going ships by agreement between social partners. Medical fitness certification forms no part of those regimes.

## 2.5 Sea-going ship

2.5.1 For the purposes of these Regulations, sea-going” in relation to a United Kingdom ship means

(a) a ship which operates outside the waters specified as Category A, B, C and D waters in Merchant Shipping Notice 1837(M);

(b) a ship to which the Merchant Shipping (Survey and Certification) Regulations 1995 apply and in respect of which no exemption under regulation 2(2) of those Regulations applies;

(c) a ship to which regulation 4 of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 applies, and which falls within the description given in paragraph (3) of that regulation; or

(d) a high speed craft in respect of which a permit to operate outside waters of Categories A, B, C or D has been issued in accordance with regulation 8 of the Merchant Shipping (High Speed Craft) Regulations 2004.

2.5.2 Government ships such as those operated by the MOD Fleet which are not ordinarily engaged in commercial maritime operations are not covered by the 2010 Regulations, although it is expected that they will generally comply with the Standards.

## 3. Requirement for seafarer to hold a medical fitness certificate (Regulations 6 and 7)

3.1 The 2010 Regulations make it a legal requirement for any seafarer employed or engaged in any capacity aboard a sea-going ship to hold a valid certificate attesting to their medical fitness for the work for which they are employed. A valid certificate is an ENG 1 or an equivalent certificate. The ENG 1 certificate is the property of the seafarer and must be carried on board the ship on which they are working. It is an offence either to work on a sea-going ship without a valid medical fitness certificate, or to employ a seafarer who does not hold a valid medical fitness certificate on a sea-going ship.

3.2 It is also an offence to work as a seafarer or to employ a seafarer in a capacity or in a geographical area for which their medical fitness certificate is not valid by virtue of a restriction (see paragraph 6.1 below), which is shown on the certificate.

3.3 Where a seafarer’s medical fitness certificate has been issued subject to conditions (see paragraph 6.1. below) the seafarer must not work, or the employer must not employ them, in such a way as to breach a condition.

### 3.4 Exceptions

- A seafarer whose 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 provision is intended to be used only where a certificate expires while in a location where medical examination in accordance with the 2010 Regulations is



impracticable – 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, with MCA's approval, a seafarer who has no valid medical fitness certificate because their medical certificate has expired within the last month, may exceptionally be employed for a period not exceeding three months without a valid medical certificate, provided that their last medical fitness certificate was valid for a full 24 months (or 12 months if the seafarer is under 18 years of age). The seafarer must obtain a replacement medical fitness certificate at the next port at which it is possible to do so. Any case requiring approval should be referred to MCA's Medical Administration Team at the address at the end of this Notice.

3.5 It is the responsibility of the employer, or those authorised to act on his behalf, to ensure that the decision and any restriction (or, where disclosed, condition) imposed by the Approved Doctor is taken fully into account when the engagement or the continued employment of a seafarer is under consideration. This should include considering whether it is possible to accommodate such restrictions by making "reasonable adjustments" to the seafarer's duties or working environment, in compliance with the Equality Act 2010.

#### **4. Application for an ENG 1 Medical Certificate**

- 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 In addition to the Approved Doctors who are authorised to carry out medical examinations for any seafarer, some shipping companies also have doctors who are approved by the MCA to carry out statutory medical examinations for their own employees only.
- 4.5 A seafarer attending a medical examination will be asked for personal and photographic identification which will be checked by the Approved Doctor. When it is not a first seafarer medical, the previous medical certificate (ENG 1 or equivalent) should also be brought to the examination. In addition, if the seafarer has a medical condition on which they have received specialist advice, any medical information or reports from the consultant should be brought if possible as they are likely to help the Approved Doctor make a decision.
- 4.6 The Approved Doctor is entitled to require payment of the prescribed maximum fee, (published on our website as above), as listed in the Merchant Shipping (Fees) Regulations 2018, but where the seafarer is employed or has an offer of employment, this cost should be met by the seafarer's employer or company.
- 4.7 The Approved Doctor will ask about the seafarer's medical history, including whether they have had any previous seafarer medical examination, and the outcome of that examination. The seafarer will be required to sign a declaration on the report of the medical examination confirming that the information they give is correct. It is the seafarer's responsibility to reveal to the Approved Doctor the outcome of any previous medical examination. They are also required to inform the Approved Doctor of any significant medical condition they may have, or medical treatment they are undergoing at the time of the examination. Failure to do so may be considered as obtaining a certificate under false



pretences, which is an offence under fraud legislation. The Approved Doctor will also carry out an examination, including testing eyesight and colour vision.

- 4.8 It may be necessary, with the seafarer's consent, for the Approved Doctor to obtain information from the seafarer's General Practitioner or consultant or other doctor providing medical care to the seafarer. When it is necessary to consult with other doctors, the usual ethical considerations about patient consent and medical confidentiality apply, but the decision on fitness for seafaring, in accordance with the required Standards, rests with the Approved Doctor, subject to the review procedure (described in section 11 of this Notice).
- 4.9 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. The seafarer will be required to give consent to this at the start of the medical examination.
- 4.10 If the Approved Doctor has also carried out any occupational health examination on behalf of an employer, the occupational health information, such as records of hearing tests will be retained for 40 years.
- 4.11 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 5)

- 5.1 The Approved Doctor's decision on a seafarer's medical fitness must follow the statutory medical and eyesight standards set out in MSN 1886 (M+F) (available to download from the MCA web site [www.gov.uk](http://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 Candidates for an ML5 medical certificate are also subject to the standards in MSN 1886 (M+F).

## 6 Categories of medical fitness

- 6.1 The following categories are applied in assessing whether or not a seafarer 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 seafarer with a "Fit" certificate with restrictions on the geographical locations or duties in which the seafarer is fit to work – for example, the restriction "not fit for lookout duties" where the seafarer has a colour vision deficiency, as mentioned above. This restriction will be written on the



face of the ENG 1 certificate, and is a notification to any employer, the master, and to the issuing authority for any Certificate of Competency issued. There are a small number of restrictions which may preclude the issue of certain certificates of competency. MCA will advise.

- **Conditions:** The 2010 Regulations also provide for the Approved Doctor to set conditions for the issue of a medical fitness certificate. A condition is a formal notification from the Approved Doctor to the seafarer of measures that must be taken in order for the seafarer's medical fitness to be maintained. This should be put in writing, but should not be written on the ENG 1 certificate since it should be confidential between the doctor and the seafarer. It will however, on occasion, be necessary for the seafarer to make their employer or master aware of the condition agreed, for example where the seafarer is required to take regular medication which must be carried on board.

6.2 If the Approved Doctor issues a medical fitness certificate to the seafarer with restrictions, or finds them temporarily unfit or permanently unfit, they will also issue a Notice of Failure/Restriction (form MSF 4106, known as the ENG 3) which the seafarer can use to apply for a review of the Approved Doctor's decision ("appeal – see section 11 of this notice).

6.3 The Approved Doctor should normally explain to the seafarer the medical reasons for the refusal of a certificate or the inclusion of a restriction, as this will help the seafarer to understand whether to apply for a review of the decision. (The exception would be if the Approved Doctor considers that such disclosure would be harmful to the seafarer's health.)

#### Replacement certificate

6.4 If a certificate is lost or damaged, the seafarer may ask the Approved Doctor to issue a replacement certificate. This will be at the Approved Doctor's discretion. The replacement certificate will be valid for the remaining validity of the original certificate. An administrative fee may be charged.

6.5 The Approved Doctor will notify MCA of the seafarer's name, date of birth and the serial number of the original ENG 1 and the new certificate issued.

6.6 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.

6.7 Only the Approved Doctor who issued the original certificate can issue a replacement without conducting a full examination.

## **7 Validity of ENG 1 (Regulation 6)**

7.1 The medical fitness certificate will specify the date that the medical examination was carried out and the expiry date of the certificate. Under the 2010 Regulations, the maximum validity period for all seafarers over 18 is 2 years, and for seafarers under 18 years old, 1 year. If the seafarer's health demands it, an Approved Doctor may issue a certificate valid for a period of less than 2 years.

## **8 Certificates accepted as equivalent to an ENG 1 medical fitness certificate (Regulations 10 and 11)**

8.1 There are two groups of certificates which the MCA accepts are equivalent to the ENG 1 in particular circumstances:



- (a) for the crew of a passenger vessel of Class VI or VI(A), and for the master and crew of a small commercial vessel of large yacht operating under the appropriate MCA Code of Practice which goes no more than 60 miles from shore, an ML5 (Regulation 10). See also MGN 264 (Medical Fitness Requirements for Those Employed on Boats Certificated under MCA Codes of Practice, Crew of Seagoing Local Passenger Vessels and Non-seagoing Boatmasters);
- (b) for any vessel, a certificate of medical fitness issued by the Maritime Authority of any country which is recognised by the UK as complying with STCW 78 as amended and as equivalent to the UK certificate. The countries whose certificates are recognised as equivalent are listed in MSN 1815 (Regulation 11). The certificate must show key information in English. It remains valid until the expiry date shown on the certificate.

## 9 Reporting of medical conditions (Regulation 12)

- 9.1 If a seafarer is absent from work for 30 days or more for a medical reason (illness or injury), they must report the reason as soon as possible to an approved medical practitioner (if practicable the one who issued their certificate) who will advise whether a further medical examination is required before the seafarer returns to work.
- 9.2 Similarly, if a seafarer develops a medical condition 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 absence or condition is identified, the seafarer's medical fitness certificate is suspended until they have been assessed by a medical practitioner. This may not require examination, but as a minimum, advice should be sought from the medical practitioner. Failure to seek re-assessment in the light of a newly identified medical condition may put at risk both the seafarer concerned and those they work with.
- 9.4 Where a seafarer on a UK ship 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 the seafarer undergoes an examination for a UK ENG 1 medical certificate.
- 9.5 A seafarer who is the holder of a valid medical certificate may at any time be required by the employer or owner or master of a ship, 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 seafarer may no longer meet appropriate minimum standards.

## 10 Suspension and cancellation of a certificate (Regulation 9)

- 10.1 An Approved Doctor has the power to suspend or cancel a medical certificate if they have 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 2010 Regulations.



- 10.2 The certificate may be suspended until the person holding it has undergone a further medical examination, or for a specified period, or permanently cancelled, depending on circumstances. The Approved Doctor has the right under the 2010 Regulations to require the holder to surrender their medical certificate
- 10.3 A seafarer required to hold a valid medical fitness certificate is required to produce it to a proper authority (for example an inspector appointed under Section 258 of the Merchant Shipping Act 1995, or a Port State Control inspector) on demand.
- 10.4 A seafarer 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 10)

- 11.1 A seafarer (including any seafarer applying for their first ENG 1) may apply for a review of 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 review against a condition notified by an Approved Doctor (see paragraph 6.1) or against a decision of temporary unfitness (Category 3) for 3 months or less.
- 11.3 To apply for a review the seafarer should complete the application form which forms part of the Notice of Failure/ Restriction (ENG 3) issued by the Approved Doctor and send it to the MCA’s Medical Administration Team at the address at the end of this MSN. The application should be made within **one month** of the date of the ENG 3 being issued.
- 11.4 In signing the application for review, the seafarer is also giving consent for the Approved Doctor to release his or her ENG 2 report form and any other information provided to the Approved Doctor (including supplementary medical reports, GP letters, or any other information that led to the Approved Doctor’s decision) 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. The MCA’s Medical Administration Team will then arrange for the case to be reviewed by a medical referee appointed by the Secretary of State for Transport.
- 11.5 Before applying for a review, the seafarer may wish to review the medical fitness standards at Annex A of MSN 1886 (M+F) (the ENG 3 form will state which clause of the standards is relevant) or seek independent medical advice from their General Practitioner (GP), or perhaps from their federation/association or employer or shipowner. 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 seafarer 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.
- 11.6 Where a medical referee has determined that a seafarer 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.





11.7 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 Transfer of night workers to day work (Regulation 15)

12.1 Under the 2010 Regulations, “night” is defined as a period of 9 consecutive hours including the period between midnight and 5am. Although the 2010 Regulations are expressed in “local” time, it is recognised that “ship’s time” may be different when a ship is at sea.

12.2 In assessing the medical fitness of a seafarer with watchkeeping responsibilities, the Approved Doctor or Medical Referee will consider whether any health problems are due to the fact that the seafarer performs night work. If so, they should so certify and the seafarer’s employer should, where possible, transfer the seafarer to a suitable job not involving night work.

## 13 References to this Notice in the Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010

Regulation 6 and 7: The form of a medical fitness certificate is specified in paragraph 6.1.

Regulation 8(2): The Categories of medical fitness which may be certified for an ENG 1 are specified in section 6.1.

Regulation 8(2): The conditions which a practitioner may impose on a medical fitness certificate under regulation 8(2) are those specified in paragraphs 6.1.

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 Code vessel or domestic passenger vessel (except for the master of a sea-going domestic passenger vessel). These are specified at paragraph 8.1(a).

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 11). Those countries are listed in Merchant Shipping Notice MSN 1815(M) Amendment 2.

### More Information

Seafarer Safety and Health Branch  
Maritime and Coastguard Agency  
Bay 2/17  
Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG

Tel : +44 (0) 203 817 2835  
e-mail: seafarer.sh@mcga.gov.uk

Website Address: [www.gov.uk/government/organisations/maritime-and-coastguard-agency](http://www.gov.uk/government/organisations/maritime-and-coastguard-agency)



General Enquiries: [infoline@mcga.gov.uk](mailto:infoline@mcga.gov.uk)

File Ref: MC 11/3/159

Published: November 2018  
Please note that all addresses and  
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