

The Minister responsible for Maritime Administration, in exercise of the power conferred by sections 3 and 39 of the Merchant Shipping Act 2002, makes the following Regulations:

Citation
1 These Regulations, which amend the Merchant Shipping (Seafarer’s Wages) Regulations 2013 (the “principal Regulations”), may be cited as the Merchant Shipping (Seafarer’s Wages) Amendment Regulations 2014.

Amends the preamble
2 The preamble to the principal Regulations is amended by deleting the number “45” and substituting the number “39”.

Amends regulation 2
3 Regulation 2 of the principal Regulations is amended by inserting, next after the definition of “commercial activity”, the following—

“ “consolidated wage” means a salary or a wage that includes—

- (a) basic pay; and
- (b) all other pay related benefits (including overtime pay).”

Inserts regulation 8A
4 The principal Regulations are amended by inserting, next after Regulation 8, the following—

“Penalty
8A (1) Any person who acts in breach of regulation 4, 6, 7 or 8 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$5,000.

(2) Any master of a ship who acts in breach of regulation 5 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$3,000.”

Amends regulation 9(1)
5 Regulation 9(1) of the principal Regulations is amended by deleting “2.3” and substituting “2.2”.

Commencement
6 These Regulations shall come into operation on the same date on which the Merchant Shipping (ILO) Amendment Act 2012 comes into operation.

Made this 26th day of June 2014

Minister of Tourism Development and Transport

BERMUDA
MERCHANT SHIPPING (MEDICAL CERTIFICATION OF SEAFARERS) AMENDMENT REGULATIONS 2014
BR 57 / 2014
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SCHEDULE

The Minister responsible for Maritime Administration, in exercise of the power conferred by section 3 and 59(1) of the Merchant Shipping Act 2002, makes the following Regulations:

Citation
1 These Regulations, which amend the Merchant Shipping (Medical Certification of Seafarers) Regulations 2013 (the “principal Regulations”), may be cited as the Merchant Shipping (Medical Certification of Seafarers) Amendment Regulations 2014.

Amends Regulation 2
2 Regulation 2 of the principal Regulations is amended by inserting, immediately after the definition of “medical fitness certificate” the following—

“ “Medical Referee” means a qualified medical practitioner not party to the matter being considered;”

Amends Regulation 7(3)
3 Regulation 7(3) of the principal Regulations is amended by—

- (a) deleting “in Schedule 1 (“Guidelines for Medical Certificate for Service at Sea”) ”; and
- (b) substituting “in the Schedule (“Government of Bermuda Department of Maritime Administration Seafarer Medical Fitness Certificate”).”.

Inserts Regulations 7A and 7B
4 The principal Regulations are amended by inserting, next after Regulation 7, the following—

“Suspension and cancellation of medical fitness certificate
7A (1) This regulation applies if a medical practitioner who has been authorised by the Minister to issue a medical fitness certificate in accordance with regulation 6(1)(b) has reasonable grounds for believing that—

- (a) there has been a significant change in the medical fitness of a seafarer during the period of validity of that seafarer’s medical fitness

- certificate;
- (b) a seafarer is not complying with the terms of a condition to which that seafarer’s medical fitness certificate is subject;
- (c) when a medical fitness certificate was issued to a seafarer, had a medical practitioner been in possession of full details of that seafarer’s condition, the medical practitioner could not reasonably have considered that the seafarer was fit, having regard to the medical standards specified in ILO/IMO Guidelines for Medical Certificate for Service at Sea; or
- (d) a medical fitness certificate was issued to a seafarer otherwise than in accordance with these Regulations.

(2) If this regulation applies, the medical practitioner may—

- (a) suspend the validity of that medical fitness certificate until the seafarer to whom the certificate was issued has undergone further medical examination;
- (b) suspend the validity of the medical fitness certificate for such period as the medical practitioner considers the seafarer to whom the certificate was issued will remain unfit to perform the duties that that seafarer will carry out at sea; or
- (c) cancel the certificate if the medical practitioner considers that the seafarer to whom the certificate was issued is likely to remain permanently unfit to perform the duties that that seafarer will carry out at sea,

and must notify the seafarer concerned accordingly.

(3) The medical practitioner may require that a seafarer surrender a medical fitness certificate which has been issued to that seafarer and which has been suspended or cancelled pursuant to paragraph (2), as that practitioner directs.

(4) In this regulation, “a significant change in the medical fitness of a seafarer” means a condition which affects or would be reasonably likely to affect that seafarer’s ability to carry out their duties, including their ability to undertake emergency duties.

Review of a medical practitioner’s decision
7B (1) A seafarer who is aggrieved by—

- (a) the refusal of a medical practitioner, who has been so authorised by the Minister, to issue a medical fitness certificate in accordance with regulation 6(1)(b);

(b) any restriction imposed on such a certificate; or

- (c) the suspension for a period of more than three months or cancellation of such a certificate by a medical practitioner, pursuant to regulation 7A,

may apply to the Minister for the matter to be reviewed by a single medical referee appointed by the Minister.

(2) The appointed medical referee will review the medical information from the authorised medical practitioner and the application form from the seafarer.

(3) The cost of the review, and of any additional specialist reports required by the medical referee in order to make a decision, shall be met by the company sponsoring the authorised medical practitioner.

(4) The Minister must have the matter reviewed if the application—

- (a) was lodged with the Minister within one month of the date on which the applicant was given notice of the—

- (i) refusal;
- (ii) imposition of restriction;
- (iii) suspension; or
- (iv) cancellation;

(b) includes consent for the medical practitioner responsible for the—

- (i) refusal;
- (ii) imposition of restriction;
- (iii) suspension; or
- (iv) cancellation,

to provide a report to the medical referee; and

- (c) specifies the name and address of that practitioner.

(5) If an application is made after the time prescribed in paragraph (4)(a) the Minister, upon consideration of any reasons for the lateness of the application, may decide that the matter is nonetheless to be reviewed.

(6) If requested by the applicant, the medical practitioner must send to the applicant a copy of the report of the medical practitioner and any other evidence provided by the medical practitioner to the medical referee.

(7) In a case within paragraph (1)(a) or (c), if in the light of the medical evidence, and having regard to the medical standards specified by the Minister in ILO/IMO Guidelines for Medical Certificate for Service at Sea, the medical referee considers that the person is fit to perform the duties that they will carry out at sea, the medical referee must issue to the applicant a medical fitness certificate in the form specified in the ILO/IMO Guidelines for Medical Certificate for Service at Sea, or terminate the suspension or cancellation of the applicant’s medical fitness certificate, as the case may be.

(8) In a case within paragraph (1)(b), and having regard to the medical standards specified in ILO/IMO Guidelines for Medical Certificate for Service at Sea, if in light of the medical evidence the medical referee considers that restrictions as to capacity of sea service or geographical areas should be imposed on a certificate issued to the applicant, or that any restriction so imposed by a medical practitioner should be deleted or varied, the medical referee must issue to the applicant a medical fitness certificate in the form approved by the Minister which records any restrictions so imposed or varied, and the former certificate shall cease to have effect.


(9) If, in light of the medical evidence, and having regard to the medical standards specified in ILO/IMO Guidelines for Medical Certificate for Service at Sea, the medical referee considers that the applicant is unfit to perform the duties that person will carry out at sea, the medical referee must notify the applicant of the period during which the medical referee considers that the applicant will remain unfit to go to sea.

(10) If the applicant fails to attend an appointment with the medical referee without giving adequate notice, then the Minister may recover from the applicant as a civil debt the cost incurred by the Minister of that appointment.”

Inserts Schedule
5 The principal Regulations are amended by inserting the Schedule.

Commencement
6 These Regulations shall come into operation on the same date on which the Merchant Shipping (ILO) Amendment Act 2012 comes into operation.

SCHEDULE (Regulation 7)

<div><div>GOVERNMENT OF BERMUDA DEPARTMENT OF MARITIME ADMINISTRATION SEAFARER MEDICAL FITNESS CERTIFICATE</div></div>										
Authorised by the Department of Maritime Administration, Government of Bermuda, issued under the Provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seaman, 1978 as amended, The Maritime Labour Convention 2006, and Bermuda Merchant Shipping (Medical Certification of Seafarers) Regulations 2013.										
2.0	Seafarer Information									
2.1	Family Name		2.1.1	First / Middle Name						
	Enter Family Name			Enter First / Middle Name						
2.2	Date of Birth:		Enter date of Birth		2.3	Gender:		Male <input type="checkbox"/> Female <input type="checkbox"/>		
2.4	Nationality:		Enter nationality							
2.4	Passport or Seafarer’s Book Number:			Enter Passport or SB Name						
1										
2.5	Department: <small>(e.g. Deck/Engine/Catering/Other)</small>			Enter Department		Rank /Job:	Enter Rank/Job			
3.0	Declaration of the recognised Medical Practitioner <i>(Standards to be met are as per STCW Code Section A-1/9)</i>									
3.1	Seafarers Documentation checked at point of examination				Yes	<input type="checkbox"/>	No	<input type="checkbox"/>		
3.2	Hearing satisfactory				Yes	<input type="checkbox"/>	No	<input type="checkbox"/>		
3.3	Unaided Hearing satisfactory				Yes	<input type="checkbox"/>	No	<input type="checkbox"/>		
3.4	Visual Acuity satisfactory				Yes	<input type="checkbox"/>	No	<input type="checkbox"/>		
3.5	Satisfactory ColourVision <i>(Deck & Engine Only)</i>				Yes	<input type="checkbox"/>	No	<input type="checkbox"/>		
3.6	Fit for look-out Duties <i>(Deck & Engine Only)</i>				Yes	<input type="checkbox"/>	No	<input type="checkbox"/>		
**Visual Aids: <i>(if worn specify which type and for what purpose)</i>					Spectacles <input type="checkbox"/>		required to carry an additional pair of spectacles			
					Contact Lenses <input type="checkbox"/>					
3.7	Medical Fitness Category									
1. FIT <input type="checkbox"/> No Restrictions or Limitations, Full Duration Yes <input type="checkbox"/> No <input type="checkbox"/>										
2. FIT <input type="checkbox"/> Subject to Restrictions and/or Limited Duration, See Below										
++Restricted Duties:				Enter Response						
++Restricted to Ship Type/Geographical area/Other: <i>The above MUST NOT contain any clinical information</i>				Enter Response						
3.8	The Seafarer is free from any medical condition likely to be aggravated by sea service or to endanger the health of other persons on board. Yes <input type="checkbox"/> No <input type="checkbox"/>									
3.9	Examination Date:		Enter Date:		3.10	Certificate Expiry Date:		Enter expiry date		
I confirm that the abovenamed seafarer was examined by me and found to be fit for sea service as stated in Sections 3.7 and 3.8 above.										
Please keep Signature within this box				Enter Response						
4.0	Signature of duly authorised Medical Practitioner				Full Name <i>(Print of duly authorised Medical Practitioner)</i>					
Medical Practitioner’s Official Stamp				Medical Practitioner’s Contact Information:						
				Address:		Enter Address				
				Phone:		Enter Phone Number				
				Email:		Enter E-Mail				
5.0	Seafarers Declaration—I have been informed by the medical practitioner of the content of the medical certificate and of the right to a review in accordance with paragraph 6 of section A-1/9 of the STCW Code in relation to medical fitness standards or any limitations or restrictions imposed on my ability to work. <i>(see overleaf for review procedure)</i>									
Seafarer’s Signature:					Serial Number: Enter Serial Number					
<small>*All Certificates are valid for a Maximumof Two (2) Years from the Examination Date or One (1) Year if the seafarer is under 18 years of age Colour vision test are valid for Six (6) Years</small>										
THE ORIGINAL CERTIFICATE SHOULD BE ISSUED TO THE SEAFARER										

6.0 Review Procedure
Medical Certificate Review Procedure All seafarers who have been refused a medical certificate or have had a limitation imposed on their ability to work must be given the opportunity to have a further examination by an independent medical practitioner or by an independent medical referee. A seafarer whose medical fitness certificate is suspended for more than three months or cancelled has the right of review of that suspension or cancellation. All such seafarers will have been given a Form 6 or Form 7 with the details of the procedure and the application form. The examining medical practitioner should advise the seafarer as regards to the procedure for medical review, in accordance with paragraph 6 of section A-1/9 of the STCW Code in relation to medical fitness standards or any limitations or restrictions imposed on his ability to work.

Made this 26th day of June 2014

Minister of Tourism Development and Transport