Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 17,140, 14 ta' Settembru, 2001
Taqsima B

L.N. 207 of 2001

MERCHANT SHIPPING ACT
(CAP. 234)

Merchant Shipping (Medical Examination) Regulations, 2001

IN exercise of the powers conferred by articles 108 and 374 of the Merchant Shipping Act, the Minister for Transport and Communications has made the following regulations:–

1. The title of these regulations is the Merchant Shipping (Medical Examination) Regulations, 2001. Short title.

2. (1) In these regulations, unless the context otherwise requires– Interpretation.

"the Act" means the Merchant Shipping Act;

"appropriate inspector" means a person so charged in terms of article 154 of the Act;

"approved" means approved by the Registrar-General;

"duly qualified medical practitioner" shall have the same meaning as is assigned to it by article 108(5) of the Act;

"GT" in relation to a ship, means the gross tonnage as determined in accordance with the provisions of the International Convention on Tonnage Measurement of Ships, 1969 signed in London on the 23rd June, 1969;

"medical certificate" means a certificate issued under regulation 5 of these regulations (whether or not subject to restrictions) or a certificate deemed to be equivalent thereto under regulation 10 or 11 of these regulations;

"medical practitioner" means duly qualified medical practitioner.

(2) Any reference in these regulations to an international convention shall include reference to any amendments to such convention and to any international instrument replacing such convention, accepted by the Government of Malta.

Application.

3. (1) Subject to subregulations (2) and (3) hereof, these regulations provide for the issue of medical certificates for the purposes of article 108(1) of the Act.

(2) These regulations shall not apply with respect to:–

(i) a pilot (who is not a member of the crew);

(ii) a person employed in a ship by an employer other than the owner or the person employing the master or the crew of the ship, except radio officers or operators in the service of a wireless telegraph company;

(iii) travelling dockers or longshoremen who are not members of the crew;

(iv) a member of the Armed Forces of Malta, or a member of the Civil Protection Department of Malta, when acting as such a member; and

(v) a person employed in a port who is not ordinarily employed at sea;

(3) Regulation 13 hereof applies to sea-going ships, other than Maltese ships, when they are in a Maltese port or the territorial waters thereof being ships of 200 GT or over, including sea-going tugs, other than fishing vessels and pleasure yachts, and oil rigs and drilling platforms when not engaged in navigation.

Medical examination.

4. (1) The medical examination required under these regulations shall consist of a complete physical examination and shall have regard to the ILO/WHO publication entitled Guidelines for Conducting Pre-Sea and Periodic Medical Fitness Examination for Seafarers (ILO/WHO/D.2/1997) (ISBN 92-2-111129-6), including any amendments introduced thereto from time to time, and to any other relative guidelines as may, from time to time, be further specified by the Registrar-General.

(2) In any examination under these regulations, due regard shall be had to the age of the person to be examined and the nature of the duties to be performed on board ship.

Issue of medical certificate.

5. (1) Every applicant for a medical certificate shall be examined by a duly qualified medical practitioner and, subject to regulation 4 hereof, if the medical practitioner considers that the applicant is fit, the practitioner shall issue the applicant with a medical certificate in terms of subregulation 5(2) and regulation 6 hereof; and such certificate may be restricted to such capacity of sea service or geographical areas as the practitioner considers appropriate.

(2) The medical certificate shall attest –

(a) that the hearing and sight of the person examined and, in the case of a person to be employed in the deck department (except for certain specialist personnel, whose fitness for the work which they are to perform is not liable to be affected by defective colour vision), his colour vision, are all satisfactory; and

(b) that he is not suffering from any disease likely to be aggravated by, or to render him unfit for, service at sea or likely to endanger the health of other persons on board,

and shall contain the personal details of the person examined including the name and surname, nationality, age and relevant identity document number such as the sea service record book or passport number.

Period of validity of medical certificate.

6. (1) Subject to subregulations 6(2) and 6(3) hereof, a duly qualified medical practitioner who issues a medical certificate under regulation 5 hereof shall specify the period of validity, from the date of the medical examination, for which the certificate is to remain in force.

(2) Unless suspended or cancelled in terms of regulation 8 hereof and subject to paragraph (3) of this regulation, the maximum period of validity of a medical certificate shall be two years and, in so far as it relates to colour vision, the maximum period of validity shall be six years:

Provided that if the health of the person examined demands it, a duly qualified medical practitioner may issue a medical certificate valid for such shorter period as may be specified in the certificate.

(3) Where the period of validity of a medical certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

Further medical examination.

7. If a person holding a valid medical certificate suffers a medical condition which precludes seafaring employment, such person shall arrange for an additional medical examination in accordance with regulation 4 hereof as soon as practicable after diagnosis.

Change in conditions relating to medical certificate.

8. If a duly qualified medical practitioner has reasonable grounds to believe:

(i) there has been a significant change in the medical fitness of a person during the period of validity of the medical certificate; or

(ii) had the medical practitioner when issuing the medical certificate been in possession of full details of the person's conditions, and having regard to the provisions of regulation 4 hereof, would not have reasonably considered the person fit to be issued with such certificate; or

(iii) that the medical certificate was issued otherwise than in accordance with these regulations,

the duly qualified medical practitioner shall notify the person concerned and may:

(a) suspend the validity of that certificate until the person has undergone a further medical examination;

(b) suspend the certificate for such period as the medical practitioner considers the person will remain unfit to go to sea; or

(c) cancel the certificate if the medical practitioner considers that the person is likely to remain permanently unfit to go to sea.

Application for a review.

9. (1) A person who is aggrieved by:

(a) the refusal of a duly qualified medical practitioner to issue him with a medical certificate, or

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

(c) the suspension for a period of more than three months or cancellation of that certificate by a duly qualified medical practitioner pursuant to regulation 8 hereof,

may apply to the Registrar-General for the matter to be reviewed by a single medical referee appointed by the Registrar-General.

(2) Any such application shall:

(a) be lodged with the Registrar-General within one month of the date on which the person is given notice of the refusal,

imposition of a restriction, suspension, or cancellation (or such longer period as the Registrar-General may determine if delay is caused by the person's employment on board a ship); and

(b) include a consent to the duly qualified medical practitioner responsible for the refusal, imposition of a restriction, suspension or cancellation to provide a report to the medical referee specifying the name and address of that practitioner.

(3) The medical referee to whom the matter is referred by the Registrar-General may obtain a report from the duly qualified medical practitioner by whom the applicant was examined and may examine the medical condition of the applicant. The medical referee shall, if the applicant so requests, disclose to the applicant the report of the duly qualified medical practitioner and any other evidence not produced by the applicant himself except that if the medical referee considers that such disclosure would be harmful to the applicant's health the referee shall not be required to make such disclosure. The medical referee shall have regard to any relevant medical evidence, whether produced by the applicant, the employer, or otherwise, and whether or not disclosed as aforesaid.

(4) If the medical referee, in the light of the medical evidence available, considers that the applicant is fit, having regard to the provisions of regulation 4, shall issue the applicant with a medical certificate. Where the medical referee considers that restrictions as to capacity or geographical area other than those imposed on the medical certificate issued to the applicant should be imposed, or that any restrictions so imposed should be deleted or varied, the medical referee shall issue to the applicant a revised medical certificate and the former certificate shall thereupon cease to have effect. In any other case the medical referee shall notify the applicant of his decision. Any such action by the medical referee shall be taken not later than two months from the date on which the application for review is lodged with the Registrar-General (which date shall be notified to the medical referee by him) or within such longer period as the Registrar-General may determine.

10. Any certificate of medical and visual fitness for seafaring employment issued by a duly qualified medical practitioner to a person in respect of a medical examination conducted before the date on which these regulations come into force shall be deemed for the purposes of these regulations to be equivalent to a medical certificate issued under these regulations: Certificates equivalent.

Provided that any such certificate issued by any such medical practitioner shall remain valid from the date of the medical examination

only for the appropriate maximum period prescribed in regulation 6 hereof or for such shorter period as may be specified in the certificate.

Other medical certificates.

11. Any medical certificate issued to a person in accordance with the provisions of the Medical Examination (Seafarers) Convention, 1946 (International Labour Organisation Convention No. 73 of 1946) or the Merchant Shipping (Minimum Standards) Convention, 1976 (International Labour Organisation Convention No. 147 of 1976):

(a) by an authority empowered in that behalf by the laws of a country outside Malta that has ratified the said Convention of 1946 or the said Convention of 1976; or

(b) by an approved authority empowered in that behalf by the laws of a country outside Malta,

shall be deemed for the purposes of these regulations to be equivalent to a medical certificate issued under these regulations:

Provided that any medical certificate issued by any such authority shall remain in force, unless renewed, only until the expiration of the period of validity specified in that certificate, but in no case for more than the appropriate maximum period prescribed in regulation 6 hereof.

Inspection and detention of a Maltese ship.

12. The Registrar-General, or an appropriate inspector, may inspect any Maltese ship and if satisfied that a person required in terms of article 108 of the Act to be the holder of a medical certificate, is unable to produce such a valid certificate or that the state of health of such person is such that the ship cannot sail without serious risk to the safety and health of those on board, the Registrar-General may:

(i) take such measures as are necessary to rectify those conditions and any expenses incurred therefor shall be a charge on the ship;

(ii) detain the ship.

Inspection, detention and other measures in respect of ships other than Maltese ships.

13. (1) The Registrar-General, or an appropriate inspector, may, in accordance with subregulation 3(3) hereof, inspect any ship which is not a Maltese ship when such ship is in a Maltese port, and if satisfied that a person required to hold a medical certificate is unable to produce such a valid medical certificate, the Registrar-General may:

(a) send a report to the government of the country in which the ship is registered, and a copy thereof to the Director-General of the International Labour Office; and

(b) where conditions on board are clearly hazardous to safety or health:

(i) take such measures as are necessary to rectify those conditions and any expenses incurred therefor shall be a charge on the ship;

(ii) detain the ship:

Provided that the measures specified in sub-paragraphs (i) and (ii) may be taken only when the ship has called at a Maltese port in the normal course of business or for operational reasons.

(2) If the Registrar-General takes either of the measures specified in subregulation (1)(b) hereof, the Registrar-General shall forthwith notify the maritime Administration and the nearest maritime, consular or diplomatic representative of the flag State of the ship.