



**SHIPPING (MEDICAL EXAMINATION OF SEAFARERS)
AMENDMENT REGULATIONS 1998**

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 2nd day of February 1998

Present:

THE HON JENNY SHIPLEY PRESIDING IN COUNCIL

PURSUANT to section 204 (2) of the Maritime Transport Act 1994, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Shipping (Medical Examination of Seafarers) Amendment Regulations 1998, and are part of the Shipping (Medical Examination of Seafarers) Regulations 1986* (“the principal regulations”).

*S.R. 1986/104
Amendment: S.R. 1997/31

(2) These regulations come into force on 9 March 1998.

2. Interpretation—(1) Regulation 2 of the principal regulations is amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Coastal ship’ has the same meaning as it had in section 2 (1) of the Act immediately before its repeal by section 202(1) of the Maritime Transport Act 1994:

“‘Director’ has the meaning given to it in section 2(1) of the Maritime Transport Act 1994:

“‘Employ’ includes engage; and ‘employment’ includes engagement for hire:

“‘Foreign-going ship’ has the same meaning as it had in section 2 (1) of the Act immediately before its repeal by section 202 (1) of the Maritime Transport Act 1994:

“‘Specified ship’ means a New Zealand ship of 200 gross tons or more that is a foreign-going ship or a coastal ship:

“‘Voyage’ has the meaning given to it in section 2 (1) of the Maritime Transport Act 1994.”.

(2) Regulation 2 of the principal regulations is amended by revoking the definition of the term “seafarer”, and substituting the following definition:

“‘Seafarer’ means a seafarer (as defined in section 2(1) of the Maritime Transport Act 1994) who is required by these regulations, or by any other regulation or rule made under the Act, to hold a certificate of medical fitness for the purpose of—

“(a) Obtaining a certificate of competency or service; or

“(b) Obtaining or renewing a sea-going licence; or

“(c) Otherwise qualifying for engagement on board a ship.”.

3. New regulations inserted—The principal regulations are amended by inserting, after regulation 2, the following regulations:

“2A. Employer to ensure that seafarers on specified ships have current certificates of medical fitness—(1) An employer must ensure that every seafarer employed by the employer on board a specified ship holds a current certificate of medical fitness issued under these regulations.

“(2) For the purpose of subclause (1), the purpose for which the certificate of medical fitness is issued is irrelevant.

“(3) The Director may permit an employer to employ on a specified ship, for a single voyage, a seafarer who does not hold a current certificate of medical fitness if the Director is satisfied that—

“(a) The situation is urgent; and

“(b) The safety of the ship will not be compromised.

“(4) Permission given under subclause (3) must be given before the voyage commences, be in writing, and must include—

“(a) The name of the seafarer to whom it applies; and

“(b) A description of the voyage to which it applies; and

“(c) An explanation of why the situation is urgent.

“2B. Currency of medical certificate—(1) For the purpose of satisfying the requirements of regulation 2A (1), a certificate of medical fitness issued under these regulations is current for 2 years from its date of issue.

“(2) Subclause (1) does not affect the currency of a certificate of medical fitness for the purpose of complying with regulations relating to obtaining, holding, or renewing a certificate or licence.”

4. Examination of seafarers for certificate of medical fitness—(1) Regulation 3 of the principal regulations is amended by revoking subclause (2), and substituting the following subclause:

“(2) The medical examination must enable the registered medical practitioner to determine whether or not the seafarer is fit to carry out the duties—

“(a) To which the certificate or licence (if any) relates; and

“(b) Which the seafarer is likely to perform while employed on a ship.”

(2) Regulation 3 (3) of the principal regulations is amended by revoking paragraph (d), and substituting the following paragraph:

“(d) The nature of the duties—

“(i) To which the certificate or licence (if any) relates; and

“(ii) Which the seafarer is likely to perform while employed on a ship.”

5. Issue of certificate of medical fitness—Regulation 4 (1) of the principal regulations is amended by revoking paragraph (c), and substituting the following paragraph:

“(c) The seafarer is fit to carry out the duties—

“(i) To which the certificate or licence (if any) relates; and

“(ii) Which the seafarer is likely to perform while employed on a ship,—”.

6. Seafarer may apply for further examination—Regulation 6 of the principal regulations is amended by revoking subclause (1), and substituting the following subclause:

“(1) If a registered medical practitioner has refused to issue a certificate of medical fitness, the seafarer may apply to the Director for a further examination to be conducted by a registered medical practitioner nominated by the Director.”

7. Equivalent certificates—(1) Regulation 7 of the principal regulations is amended by omitting the words “during any period for which the certificate is expressed to remain in force”.

(2) Regulation 7 of the principal regulations is amended by adding the following subclause:

“(2) A certificate referred to in subclause (1) is current until—

“(a) The date on which the certificate ceases to be in force; or

“(b) Two years from its date of issue,—

whichever is sooner.”

8. Transitional provision relating to certificates of medical fitness—(1) Despite regulations 2A and 2B of the principal regulations, until the end of the transition period an employer may employ as a seafarer on board a specified ship a person who does not have a current certificate of medical fitness if the person—

(a) Holds a certificate of medical fitness on 9 March 1998; or

(b) Does not hold a certificate of medical fitness on 9 March 1998, but was either—

(i) Employed on board a specified ship on 9 March 1998; or

- (ii) Not employed on board a specified ship on 9 March 1998, and satisfies the Director that he or she had been employed on such a ship for a total of 12 months out of the 24 months preceding that date.
- (3) In respect of any seafarer, the end of the transition period is—
- (a) The close of 9 March 2000; or
- (b) The completion of the voyage on which the seafarer is employed on 9 March 2000.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 9 March 1998, amend the Shipping (Medical Examination of Seafarers) Regulations 1986.

The primary effect of these regulations is to impose a requirement that, subject to a two-year transitional regime, all seafarers employed on board specified ships must hold a current certificate of medical fitness. A specified ship is defined as a New Zealand ship of 200 tons gross or more that is a foreign-going ship or a coastal ship. This requirement will enable New Zealand to comply with the ILO Medical Examination (Seafarers) Convention 1946 (No. 73).

Regulation 2 inserts definitions of “Coastal ship”, “Director”, “Employ”, “Foreign ship”, “Specified ship”, and “Voyage”, and replaces the definition of “Seafarer”.

Regulation 3 inserts *new regulations 2A and 2B*.

New regulation 2A imposes an obligation on employers to ensure that every seafarer employed on a specified ship holds a current certificate of medical fitness issued under the principal regulations. It is irrelevant what purpose the certificate was issued for. This means that a certificate of medical fitness that was issued for, say, the purpose of obtaining a certificate of competence can be used to satisfy the more general requirement to hold a certificate of medical fitness.

The Director may permit an employer to engage, for a single voyage, a seafarer who does not hold a current certificate of medical fitness, if the Director is satisfied that the situation is urgent, and the safety of the ship will not be compromised. The purpose of this provision is to comply with Article 6 of the ILO Convention.

New regulation 2B provides that, if a certificate of medical fitness is to be used for the purpose of satisfying the requirement in *new regulation 2A*, it is current for 2 years from its date of issue. For any other purpose, such as obtaining a certificate of competency or obtaining a sea-going licence, the certificate remains current for as long as the relevant regulations specify.

Regulations 4, 5, and 7 make consequential amendments to regulations 3, 4, and 7 of the principal regulations, which deal with medical examinations, the issue of certificates, and equivalent certificates.

Regulation 6 restates the current regulation 6 (1), relating to further examination, using terminology more consistent with that used in the Maritime Transport Act 1994.

Regulation 8 is a transitional provision. It provides, in effect, that employers may continue, for a period of 2 years after these regulations come into force, to employ seafarers who do not have current certificates of medical fitness, if the seafarers satisfy certain specified criteria.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 5 February 1998.

These regulations are administered in the Ministry of Transport.