



Australian Government

Australian Maritime Safety Authority

MARINE ORDERS

Part 9

Health – Medical Fitness

Issue 6

Order No. 1 of 2010

Pursuant to subsection 425(1AA) of the *Navigation Act 1912*, I hereby make this Order repealing Marine Orders Part 9, Issue 5 and substituting the attached Marine Orders, Part 9, Issue 6 to come into operation from 15 February 2010.

Graham Peachey
Chief Executive Officer
13 January 2010

Table of Contents

- 1 Purpose and power
- 2 Definitions of words and phrases used in this Part
- 3 Interpretation
- 4 Application
- 5 Review of decisions
- 6 Requirement to be medically fit
- 7 Evidence of medical fitness
- 8 Certificate of Medical Fitness
- 9 Aids to vision or hearing
- 10 Recognition of medical certificates issued overseas

Appendix 1 Medical certificate evidencing fitness for work in a sea-going vessel

Appendix 2 Information required in Certificate of Medical Fitness

Previous issues

Issue 1, Order No. 6 of 1983

Issue 2, Order No. 5 of 1985

Issue 3, Order No. 5 of 1988

Issue 4, Order No. 1 of 1993

—***Amended by Order No. 4 of 1993***

Issue 5, Order No. 22 of 1999

—***Amended by Order No. 5 of 2001***

—***Amended by Order No. 12 of 2006***

1 Purpose and power

1.1 Purpose

This Part:

- (a) for the purposes of subsection 15(2) of the Navigation Act, prescribes matters relating to the health of persons performing, or intending to perform, the duties of a qualified master, officer or seaman;
- (b) for the purposes of section 124 of the Navigation Act, makes provision for and in relation to the medical examination of, and the issue of certificates of fitness to, masters and seamen and persons proposing to engage in employment as masters or seamen;
- (c) for the purposes of section 134 of the Navigation Act, makes provision for and in relation to giving effect to the ILO Convention;
- (e) for the purposes of section 186C of the Navigation Act, makes provision for and in relation to the health and medical examination of coastal pilots; and
- (f) gives effect to regulation I/9 annexed to the STCW Convention and section B-I/9 of the STCW Code.

1.2 Power

- 1.2.1 Paragraph 186C of the Navigation Act provides for regulations to specify conditions, including conditions as to health, to be satisfied by a person in order to be a licensed pilot under the Act.
- 1.2.2 Subsection 425(1) of the Navigation Act provides for regulations to be made prescribing matters required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.
- 1.2.3 Subsection 425(1AA) of the Navigation Act provides that AMSA may make orders with respect to any matter for or in relation to which provision may be made by regulation.

2 Definitions of words and phrases used in this Part

AMSA means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*;

applicant means a person who seeks to be issued with a Certificate of Medical Fitness under 8.4;

Certificate of Medical Fitness means a Certificate of Medical Fitness issued in accordance with this Part and which contains at least the information set out in Appendix 2;

coastal pilot means a person who is performing, or intends to perform, the duties of a licensed pilot for the purposes of Part IIIA of the Navigation Act;

Deputy CEO means the Deputy Chief Executive Officer, Maritime Operations, in AMSA;

holder, in relation to a certificate, means the person identified as holder by that certificate;

Manager means the Manager, Ship Operations and Qualifications, in AMSA, or in respect of any particular function, a suitably qualified person appointed by the Manager, Ship Operations and Qualifications, to carry out that function;

Medical Examination Guidelines means the *Guidelines for the medical examination of seafarers and coastal pilots*, obtainable from AMSA's website at www.amsa.gov.au;

Medical Inspector of Seamen means a person appointed under section 123 of the Navigation Act;

Navigation Act means the *Navigation Act 1912*;

near coastal waters means the waters within the Australian Exclusive Economic Zone (EEZ);

penal provision means a penal provision for the purposes of Regulation 4 of the Navigation (Orders) Regulations 1980;

Note Subregulation 4 (1) of the Navigation (Orders) Regulations provides that a person who fails to comply with a provision of an order made under subsection 425(1AA) of the Navigation Act that is expressed to be a penal provision is guilty of an offence and is punishable by a fine not exceeding 50 penalty units. The maximum penalty that a court may impose on a body corporate that fails to comply with a penal provision is 250 penalty units.

seafarer means a person serving or intending to serve on a ship to which Part II of the Navigation Act applies and includes a master, officer or seaman but does not include a pilot, a person who is not a member of the crew of the ship, a supernumerary, or special personnel as defined in section 283 of the Navigation Act;

sea-going vessel, for the purposes of the ILO Convention, means:

- (a) a trading ship on an overseas or interstate voyage; or
- (b) a trading ship of 500 tons gross tonnage or more on a voyage:
 - (i) that is not an overseas or interstate voyage; and
 - (ii) in the course of which it is not at all times capable, at normal operating speed, of returning to its port of departure in 6 hours or less or reaching its intended next port of call in 6 hours or less;

seaman includes a person engaged on a ship in a trainee capacity, other than a sail trainee as defined in Marine Orders, Part 52;

STCW Code means the Seafarers' Training, Certification and Watchkeeping (STCW) Code as adopted by the 1995 Conference of Parties to the Convention as Resolution 2;

STCW Convention has the same meaning as in the Navigation Act;

surveyor means a person appointed to be a surveyor under s.190 of the Navigation Act;

the ILO Convention means the Medical Examination (Seafarers) Convention 1946 adopted by the General Conference of the International Labour Organization on 29 June 1946; and

valid, in relation to a certificate, means a certificate that is current and that has not been cancelled.

3 Interpretation

In this Part:

- (a) headings and sub-headings are part of the Part;
- (b) each Appendix is part of the Part; and
- (c) a note included in the text and printed in italics is not part of the Part, but may provide additional information or guidance in applying the Part.

4 Application

This Part applies to:

- (a) a person employed, or proposing to engage in employment, on a ship to which Part II of the Navigation Act applies;
- (b) a person performing, or intending to perform, the duties of a coastal pilot;
- (c) a person employed, or proposing to engage in employment, on a sea-going vessel registered in Australia:
 - (i) that is not a ship to which Part II of the Navigation Act applies; and
 - (ii) in respect of which a law of a State or of the Northern Territory does not give effect to the ILO Convention; and
- (d) an applicant for the issue or revalidation of certificates under Marine Orders, Part 3.

5 Review of decisions

5.1 Internal review

- 5.1.1 If the Manager makes a decision under this Part, a person affected by the decision may, within 3 months of the date of notification of the decision or such longer period as determined by the Deputy CEO, apply to the Deputy CEO for review of that decision.
- 5.1.2 An application for internal review under 5.1.1 must be made in writing to the Deputy CEO and must be accompanied by such information as the Deputy CEO requires to enable the decision to be properly reviewed.
- 5.1.3 The Deputy CEO may:
 - (a) affirm the original decision by the Manager; or
 - (b) make any decision that could be made by the Manager in accordance with this Part.
- 5.1.4 The Deputy CEO must give his or her decision in writing within 28 days of receiving the application for internal review.

5.2 Review by the AAT

- 5.2.1 Application may be made to the Administrative Appeals Tribunal for review of a decision by the Deputy CEO under 5.1.3.

- 5.2.2** The notice of a decision by the Deputy CEO under 5.1.3 must include:
- (a) a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Administrative Appeals Tribunal for review of the decision; and
 - (b) a statement that the person may request a statement under section 28 of that Act.
- 5.2.3** Failure to comply with 5.2.2 in relation to a decision does not affect the validity of that decision.

6 Requirement to be medically fit

- 6.1** A person must not perform duties as a seafarer, or be taken into employment to perform duties as a seafarer, on a ship to which Part II of the Navigation Act applies unless that person is medically fit to perform those duties.

This is a penal provision

- 6.2** A person must not perform the duties of a coastal pilot unless that person is medically fit to perform those duties.

This is a penal provision

- 6.3** A person must not perform duties as a seafarer, or be taken into employment to perform duties as a seafarer, on a sea-going vessel registered in Australia:

- (a) that is not a ship to which Part II of the Navigation Act applies; and
- (b) in respect of which a law of a State or of the Northern Territory does not give effect to the ILO Convention;

unless that person is medically fit for that employment.

This is a penal provision

Note The ILO Convention requires that any person who is employed on a sea-going vessel must be medically examined at two yearly intervals. Provision 6.3 applies only to persons serving on vessels under State/NT jurisdiction when the applicable State/NT law does not adequately give effect to the Convention.

7 Evidence of medical fitness

- 7.1** A person is medically fit for the purposes of 6.1 or 6.2 if that person:
- (a) has a valid Certificate of Medical Fitness; and
 - (b) there is no evidence that his or her medical condition has altered since the previous medical examination to an extent that would make him or her unfit for the duties to be performed.

- 7.2** A person is medically fit for the purposes of 6.1 if that person:
- (a) is performing deck duties on a ship of less than 24 metres in length wholly operating in near coastal waters; or
 - (b) is performing engineering duties on a ship of less than 500 KW propulsion power wholly operating in near coastal waters,
- and:

- (c) has:
 - (i) a valid Certificate of Medical Fitness; or
 - (ii) a valid certificate or certificates relating to medical fitness and eyesight acceptable to the marine authority in the person's State or Territory of residence for performance of the intended duties; and
- (d) there is no evidence that his or her medical condition has altered since the previous medical examination to an extent that would make him or her unfit for the duties to be performed.

7.3 A person is medically fit for the purposes of 6.3 if that person:

- (a) has a valid:
 - (i) Certificate of Medical Fitness; or
 - (ii) certificate issued by a qualified medical practitioner in accordance with Appendix 1; and
- (b) there is no evidence that his or her medical condition has altered since the previous medical examination to an extent that would make him or her unfit for the duties to be performed.

8 Certificate of Medical Fitness

8.1 Eligibility for Certificate of Medical Fitness

A person is eligible to be issued with a Certificate of Medical Fitness if a Medical Inspector of Seamen determines that the person is medically fit to perform the intended duties as a seafarer or as a coastal pilot on a ship.

Note Under s.123 of the Navigation Act, Medical Inspectors of Seamen are appointed by AMSA. No person will be appointed unless he or she is registered as a medical practitioner in a State or Territory of Australia. Preference is given to a person who either has a Fellowship of the Australasian Faculty of Occupational Medicine (AFOM), or is a trainee of AFOM and works under the direct supervision of a Fellow. By virtue of section 33 of the Acts Interpretation Act 1901, AMSA is empowered to remove or suspend any person appointed and to appoint another person temporarily in the place of any person so suspended.

Note 2 Detailed instructions on how to apply for a Certificate of Medical Fitness are on AMSA's website: www.amsa.gov.au.

8.2 Medical examination

A Medical Inspector of Seamen is to conduct such examinations, tests and interviews and make such enquires in relation to an applicant as are appropriate to determine whether the applicant is medically fit to perform the intended duties as a seafarer or as a coastal pilot on a ship.

8.3 Determination of fitness

In determining if an applicant is medically fit, a Medical Inspector of Seamen must, in addition to applying normal medical fitness considerations:

- (a) give full consideration to the Medical Examination Guidelines; and

- (b) be satisfied that the applicant at least meets the minimum standards specified in the Medical Examination Guidelines as applicable to the intended duties.

Note Where an employer has additional fitness requirements for particular duties or voyages (such as for the handling of specific cargoes or voyages to the Antarctic), the employer should advise the Medical Inspector of Seamen of those requirements and request a supplementary report against them.

8.4 Issue of Certificate of Medical Fitness

8.4.1 If a Medical Inspector of Seamen:

- (a) is satisfied as to the identity of an applicant;
 - (b) is able to attest to the true state of the applicant's health; and
 - (c) determines that the applicant is medically fit to perform the proposed duties,
- he or she is to issue to the applicant a Certificate of Medical Fitness.

8.4.2 If a Medical Inspector of Seamen:

- (a) is satisfied as to the identity of an applicant;
- (b) is able to attest to the true state of the applicant's health; and
- (c) determines that the applicant is medically fit to perform duties other than those proposed,

he or she may issue to the applicant a Certificate of Medical Fitness, endorsed to indicate the duty or duties for which the applicant is medically fit.

8.5 Further examination

8.5.1 A person who has been declared unfit for the proposed duties at sea may apply for a second examination.

8.5.2 If, after a second examination, the person is again declared unfit for the proposed duties at sea, he or she may arrange to be examined by an independent panel meeting the following requirements:

- (a) the panel must consist of three medical practitioners, one an occupational physician, one a specialist physician/surgeon from the appropriate specialty, and one a Medical Inspector of Seamen;
- (b) the constitution of the panel must be approved by the Manager.

8.5.3 A person seeking to be examined by an independent panel is responsible for:

- (a) making any necessary arrangements for convening the panel; and
- (b) meeting all costs incurred.

Note The seafarer may bring further evidence of fitness for the proposed duties at sea, including medical reports from treating medical practitioners, for consideration by the independent panel.

8.5.4 A seafarer who is the holder of a valid Certificate of Medical Fitness may at any time be required by the owner or master of a ship, or by the Manager by notice in writing, to obtain a new certificate where as a result of illness, injury or other cause it is believed the seafarer may no longer meet the standards specified in this Part.

8.5.5 A coastal pilot who is the holder of a valid Certificate of Medical Fitness may at any time be required by the Manager by notice in writing to obtain a new certificate where as a result of illness, injury or other cause it is believed the coastal pilot may no longer meet the standards specified in this Part.

8.6 Period of validity of Certificate of Medical Fitness

8.6.1 Except as provided in 8.6.2, 8.6.3, 8.6.4, and 8.6.5, and subject to 8.7, a Certificate of Medical Fitness is valid from the date of issue for a period of 2 years.

8.6.2 Except as provided in 8.6.3, and subject to 8.7, a Certificate of Medical Fitness in respect of a person who on the date of issue was:

- (a) less than 18 years of age; or
- (b) 55 years of age or more,

is valid from the date of issue for a period of one year.

8.6.3 A Certificate of Medical Fitness may be issued for less than the full period if the Medical Inspector of Seamen considers it appropriate.

Note An example might be where a Medical Inspector of Seamen considers that a person, although fit at the time of the examination, needs to be re-examined to determine the continued efficacy of treatment for a condition.

8.6.4 An expired Certificate of Medical Fitness may be extended by the Manager for a period not exceeding 3 months from the date of its expiry if the holder is to be employed on a ship and;

- (a) the holder is unable to be issued with a new Certificate of Medical Fitness in accordance with this Part prior to the ship being taken to sea; and
- (b) the expired Certificate of Medical Fitness has not already been extended by virtue of this provision.

8.6.5 A Certificate of Medical Fitness extended under 8.6.4 is not valid for use by a coastal pilot.

8.6.6 If the period of validity of a Certificate of Medical Fitness expires during the course of a voyage, the Certificate of Medical Fitness continues to be valid until the next port of call, except for use by a coastal pilot.

8.7 Cancellation

8.7.1 If, after considering advice from a Medical Inspector of Seamen, the Manager is satisfied that the holder of a Certificate of Medical Fitness is, through illness, injury or any other cause, no longer fit for duty at sea, the Manager may cancel that person's Certificate of Medical Fitness.

8.7.2 If the Manager cancels a Certificate of Medical Fitness under 8.7.1:

- (a) the Manager must cause to be given to the holder notice in writing of that decision; and
- (b) the decision has effect from:
 - (i) the date on which the notice in (a) would be delivered to the holder in the normal course of post; or

- (ii) the date on which the holder is personally informed that the notice in (a) has been sent to him or her,
whichever is the earlier.

8.7.3 In addition to cancellation by the Manager under 8.7.1, a Certificate of Medical Fitness is deemed to be cancelled when:

- (a) the holder is issued with a subsequent Certificate of Medical Fitness; or
- (b) the holder is required in accordance with 8.5.4 or 8.5.5 to obtain a further Certificate of Medical Fitness and a Medical Inspector of Seamen determines that the holder is no longer fit for duty at sea.

8.8 Production of Certificate of Medical Fitness

A person required by any Part of Marine Orders to be the holder of a valid Certificate of Medical Fitness must not fail, except with reasonable excuse, to produce the certificate on demand to the owner or master of a ship on which the person serves or intends to serve, or to a surveyor.

This is a penal provision

8.9 Delivery of cancelled Certificate of Medical Fitness

A person whose Certificate of Medical Fitness is cancelled under 8.7.1, or deemed to be cancelled under 8.7.3 must deliver the Certificate of Medical Fitness to the Manager on demand.

This is a penal provision

9 Aids to vision or hearing

A seafarer or coastal pilot whose Certificate of Medical Fitness indicates that an aid to vision or hearing was used for the purpose of being found medically fit must at all times when on duty on a ship use such aid or aids and, in the case of an aid to vision, keep a spare aid to vision available.

This is a penal provision

10 Recognition of medical certificates issued overseas

A certificate is a recognised certificate of medical fitness for the purposes of the revalidation of a certificate of competency or a certificate of recognition under Marine Orders, Part 3 (Seagoing qualifications) if it:

- (a) is issued by a medical practitioner in accordance with the requirements of the Flag State administration of a country with which Australia has an agreement under which AMSA can issue a Certificate of Recognition for a certificate issued by that Flag State; and
- (b) contains at least the information set out in Appendix 2.

* * * * *

Appendix 1

Medical certificate evidencing fitness for work in a sea-going vessel to which Part II of the Navigation Act does not apply

1. A medical certificate in respect of a person may only be issued by a duly qualified medical practitioner who, being satisfied after conducting such examinations, tests and interviews and making such enquires in relation to the person as appear appropriate, is satisfied that the person is medically fit to serve on a ship.
2. In deciding on fitness for service, the medical practitioner is, in addition to normal medical fitness considerations, to have regard to the age of the person and the nature of the duties to be performed.
3. A medical certificate is to attest:
 - (a) that the hearing and sight of the person and, in the case of a person to be employed in the deck department, colour vision, are all satisfactory;
 - (b) that the person is not suffering from any disease likely to be aggravated by, or to render the person unfit for, service at sea or likely to endanger the health of other persons on board.
4. A medical certificate is to remain in force for a period not exceeding 2 years (1 year for a person under the age of 18 or over the age of 55) from the date on which it was granted.
5. Colour vision needs to be examined only every 6 years.
6. If the period of validity of a medical certificate expires in the course of a voyage, the certificate is to continue in force until the next port of call.
7. A person who has been refused a medical certificate is entitled to a second examination by a medical practitioner who is independent of any shipowner or of any organisation of shipowners or seafarers.
8. A person who is the holder of a valid medical certificate may at any time be required by the owner or master of a ship to obtain a new certificate where as a result of illness, injury or other cause it is believed the person may no longer meet appropriate minimum standards.
9. A medical certificate is deemed to be cancelled when:
 - (a) the holder is issued with a subsequent medical certificate; or
 - (b) the holder is required in accordance with 8 to obtain a further medical certificate and a medical practitioner determines that the holder is no longer fit for duty at sea.

* * * * *

Appendix 2

Information to be contained in Certificate of Medical Fitness

- (a) Name
- (b) Date of birth
- (c) Sex
- (d) PIN (AMSA Identification Number)
- (e) Home address
- (f) Proof of identity (driver's licence or passport number)
- (g) Department for which found fit
- (h) Whether the applicant used aids to vision
- (i) Result of colour vision test (if applicable)
- (j) Whether the applicant used aids to hearing
- (k) Any restrictions imposed (e.g. specific position, type of ship, trade area)
- (l) Prescribed medications taken regularly
- (m) Date of expiry of certificate
- (n) Date and place of examination
- (o) Signature of Medical Inspector of Seamen or examining medical practitioner
- (p) Signature of applicant

* * * * *