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**GENERAL NOTICE**

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**NOTICE 72 OF 2014****DEPARTMENT OF TRANSPORT****PUBLICATION FOR COMMENTS OF AMENDMENT OF THE MERCHANT SHIPPING (EYESIGHT AND MEDICAL EXAMINATION) REGULATIONS, 2014**

I Dipou Peters, Minister of Transport, in terms of section 356 of the Merchant Shipping Act 1951 (Act No. 57 of 1951) amends the Regulation in the schedule.

Interested persons are invited to submit written comments on the draft Regulations within 30 days from the date of publication in the *Gazette*.

Submission should be posted to the Director – General Department of Transport for the attention of Mr. Trevor Mphahlele or Bernard Maphalela

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## SCHEDULE

### Interpretation

1. In this Schedule “the Regulations” means the Merchant Shipping (Eyesight and Medical Examination) Regulations, 2004, published by Government Notice No. R. 1197 of 15 October 2004.

### Amendment of regulation 2 of Regulations

2. Regulation 2(d) of the Regulations is amended by the substitution for paragraph (d) of the following paragraph:

“(d) give effect to Regulation I/9 annexed to the STCW Convention as amended and Section A-I/9 and B-1/9 of the STCW Code referred to in that Convention, the Maritime Labour Convention, 2006 and Work in Fishing Convention 2007 (C188).”.

### Amendment of regulation 3 of Regulations

3. Regulation 3 of the Regulations is amended by the insertion after the definition of “approved” of the following definition:

“‘Code’ means the South African Maritime Qualifications Code;”.

### Amendment of regulation 6 of Regulations

4. Regulation 6 of the Regulations is amended by the substitution for regulation 6 of the following regulation:

“6. Subject to sections 101(5) and 111(4) (b) of the Act, a person to whom these regulations apply must not perform duties as a seafarer, or be taken into employment to perform duties as a seafarer, on a ship unless that person is medically fit to perform those duties. Standards of medical fitness are as published in

the Code.”.

#### **Amendment of regulation 10 of Regulations**

5. Regulation 10 of the Regulations is amended by the substitution for subregulation (1) of the following subregulation:

“10.(1) In determining an applicant's medical fitness, a medical examiner must have regard to the Guidance and the guidelines published in the Code in addition to applying normal medical fitness considerations.”.

#### **Amendment of regulation 11 of Regulations**

6. Regulation 11 of the Regulations is amended—

(a) by the substitution for the paragraph after paragraph (1) (b) of the following paragraph:

“(b) he or she must issue to the applicant a medical certificate substantially in accordance with the form of certificate set out in the Code.”.

(b) by the substitution for subregulation (2) of the following subregulation:

“(2) The medical examiner must set out in the medical certificate his or her assessment of the applicant's medical fitness as set out in the Code.”.

(c) by deleting paragraphs (2) (a), (b) and (c).

#### **Amendment of regulation 20 of Regulations**

7. Regulation 20 of the Regulations is amended by—

(a) substitution for regulation 20 of the following regulation:

“20. A person is required to pass the colour and form vision tests set out in the Code if that person's

intended duties as a seafarer include watchkeeping duties in the deck and engine department and that person—”.

(b) by deletion of the word and punctuation “; or” after the word “certificate” in subregulation (b) and replace it by the following punctuation “.”

(c) by deleting paragraph (c).

#### **Amendment of regulation 23 of Regulations**

8. Regulation 23 of the Regulations is amended by the substitution for subregulation (2) of the following subregulation:

“(2) An eyesight certificate is valid from the date of issue for a period of 12 months except that a lantern colour vision certificate is valid for a period of 6 years. A valid colour vision certificate shall be submitted for any new certification issue or re-validation of a certificate of competency or proficiency.”.

#### **Amendment of regulation 26 of Regulations**

9. Regulation 26 of the Regulations is deleted.

#### **Amendment of Annex 1 of Regulations**

10. Section 1 of Annex 1 of the Regulations is amended by the substitution for the Annexure 1 of the following Annexure:

## ANNEXURE I

### GUIDANCE ON MEDICAL EXAMINATION OF SEAFARERS

#### GENERAL INTRODUCTION

1. Seafaring is a potentially hazardous occupation which calls for a high standard of health and fitness in those entering or re-entering the industry. A satisfactory standard of continuing good health is necessary for serving seafarers throughout their career because of the high inherent risks of the occupation. It is better, therefore, at an initial examination, to exclude an applicant if there is any doubt about his or her continuing fitness. Flexibility should be exercised only during examinations for retention.
2. These medical and visual standards give guidance on health criteria to be met. Allowance should be made for the inevitable impairment of health that time and change bring, so that a reasonably fit seafarer can, if he or she wishes it, continue at sea until the approved age or retirement. Firm recommendations have been made to exclude those suffering from medical conditions considered to be incompatible with continued seafaring.
3. It is clearly impossible to encompass within the standards specific advice on every medical condition. However, as a general rule the medical examiner should be satisfied in each case that no disease or defect is present which could either be aggravated by working at sea or represent an unacceptable health risk to the individual seafarer, other crew members or the safety of the ship.

4. Apart from the purely medical aspects, the occupational background should be considered especially in cases where there is doubt. It is necessary to emphasise that a ship is not only a place of work requiring attention throughout the day and night, but also a temporary home in which the crew must eat, sleep and find recreation. Most important of all is the need to adjust to each other, often for long periods, during a voyage. Although much is done to ameliorate living and working conditions, certain inherent characteristics remain. A crew is a closed community living in a ship that is seldom quiet or still, individual eating habits and tastes cannot easily be met; facilities for physical exercise are limited; forced ventilation systems are used; the tedium of routine can easily become oppressive in the absence of normal diversion enjoyed by those ashore. An inability to fit in, or unwillingness to take responsibility, or to accept a reasonable measure of necessary discipline, could impair the safe and efficient working of the ship.
5. Very few merchant ships carry doctors. Acute illness or injury is dealt with by designated ship's officers whose training is limited to first aid or medical aid treatment. It should be borne in mind that a crew complement is carefully adjusted in terms of its size. Sickness can burden other crew members or even impair the efficient working of a ship. The examining doctor should therefore be satisfied that no condition is present which is likely to cause trouble during a voyage and no treatment is being followed which might cause worrying side effects. It would be an unsafe practice to allow seafaring with any known medical condition where the possibility of serious exacerbation requiring expert treatment could occur as a calculated risk.

6. The absence of doctors in most ships means that seafarers will not be able readily to consult a doctor or obtain special treatment until the next port call. Ship turnaround in ports is often very rapid allowing no time for necessary investigation subsequent to consultation with a doctor. The standard of medical practice abroad varies and facilities, which we in this country would regard as necessary, may not be available at smaller remote ports. It is doubtful that it is even wise to permit seafaring if the loss of a necessary medicament could precipitate the rapid deterioration of a condition.
7. It should be remembered that some trades will require that seafarers spend lengthy periods in tropical climates. Furthermore, most seafarers will need to join and leave ships by air travel. They should, therefore, be free from any condition which precludes air travel, e.g. Pneumothorax and conditions which predispose to barotrauma.
8. Where medication is acceptable for serving seafarers, arrangements should be made for a reserve stock of the prescribed drugs to be held in a safe place, with the agreement of the ship's master.
9. Article 4 of ILO Convention No. 73 as amended states that "when prescribing the nature of the examination, due regard shall be had to the age of the person to be examined and the nature of the duties to be performed". In addition, Article 3 of the Convention, as amended, states that a serving seafarer should have a medical certificate "attesting to his fitness for the work for which he is to be employed at sea". In reaching a conclusion, the attending doctor should therefore consider any medical conditions present, the age and experience of the seafarer, the specific work on which he or she will be

employed and the trade in which he or she will be engaged (where known). If a seafarer is found to be unfit to continue in his or her present capacity because he or she does not meet the full unrestricted sea service category, a restricted service certificate may be issued stating the restrictions applicable.

- 10 The standards are framed to provide the maximum flexibility in their interpretation compatible with the paramount importance of maintaining the safety of vessels at sea, the safe performance of the serving seafarer's duties while, at the same time, protecting his or her health. Conditions not specified in the standards, which interfere with job requirements, should be assessed in the light of the general principle outlined above.
- 11 It may be necessary on occasion and, with the seafarer's consent, for the doctor to consult the general practitioner. When it is necessary to consult with other doctors the usual ethical considerations will apply, but it should be clearly understood that the decision on fitness in accordance with the required medical standard, rests with the initial examining doctor, subject to the medical appeal process.
- 12 Full clinical notes should be kept of any detailed medical examination and be retained for at least six years.

N.B. Reference should be made to the ILO and IMO Guidelines on the medical examinations of seafarers as published in the Code.”

### **Amendment of Section 2 and 3 of Annexure 1, Appendix and Annexure 2 of Regulations**

11. Section 2 and 3 and Appendix of Annexure 1 and Annexure 2 are deleted.



## **12. Short Title and commencement**

The Regulations are called the amendment of the Merchant Shipping (Eyesight and Medical Examination) Regulations, 2014 and come into operation on the date of publication in the Gazette.

## EXPLANATORY NOTE

*(This note is not part of the regulations)*

These amendment regulations have been established to amend the Merchant Shipping (Eyesight and Medical Examination) Regulations of 2004 to meet the requirements of the 2010 Manila Amendments to the STCW Convention and Code 1978 as amended and to meet the requirements of the newly ratified Maritime Labour Convention 2006 and the Work in Fishing Convention 2007 (C188).

A decision has been taken to remove from the Regulations, all standards with respect to eyesight and medical fitness and consolidate these in a code, called the Maritime Medical Standards Code, which resides within the South African Maritime Qualifications Code.

A large proportion of the amendments address the issues arising from the above and the balance of the amendments address consequential changes brought about by the changes in the Merchant Shipping (Safe Manning, Training and Certification) Regulations 2013.

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