

MARITIME TRANSPORT ACT, No.5 OF 2006.

SEAFARERS MEDICAL EXAMINATION REGULATIONS 2018

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THE MARITIME TRANSPORT ACT, 2006

SEAFARERS MEDICAL EXAMINATION REGULATIONS

[Made under section 117]

IN EXERCISE of the powers conferred upon me under section 117 of the Maritime Transport Act, No.5 of 2006, **I, Dr. SIRA UBWA MAMBOYA**, Minister responsible for Maritime Transport affairs, do hereby make Regulations on Seafarers' Medical Examination as follows:

PART ONE PRELIMINARY PROVISIONS

Short title and commencement 1. These Regulations may be cited as the Seafarers Medical Examination Regulations of 2018 and shall come into operation on such date as published in the Official Gazette.

Interpretation 2.(1) In these regulations, unless the context otherwise requires -
" Act" means the Maritime Transport Act No. 5 of 2006;

“Authority” means the Zanzibar Maritime Authority as established under section 3 of the Zanzibar Maritime Authority Act, No. 3 of 2006 ;

“authorized officer” means a person appointed by the competent authority;

"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 as amended from times to times;

"medical certificate" means a medical certificate issued under regulation 6 of these

regulations;

“medical examination” means a medical examination of seafarers conducted by medical practitioners in accordance of provisions of these regulations;

"medical practitioner" means any person professing to practice medicine or surgery or holding himself out as ready and willing to give medical or surgical treatment to patients;

“medical standards” means the guidelines for medical examination of seafarers, adopted by the International Labour Organization and the International Maritime Organization ILO/IMO/JMS/2011/12;

“Minister” means minister for time being responsible for Maritime Transport Affairs;

“seafarer” means a person, including the master, who is employed, engaged or works in any capacity on board a ship to which the Convention applies;

“Registrar of Ships” means a Registrar of Ships appointed under sect.7 (2) of the Act.

“shipowner” includes an actual owner or organization or a person such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship;

(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 United Republic of Tanzania

Application

3. These regulations shall apply to—

(a) Tanzania Zanzibar sea going ship engaged in commercial activities,

6 Except:

(i) ships engaged in fishing,

(ii) warships or naval ships, or

(iii) any other ship as determined by the Minister;

(b) All persons serving onboard who are required be trained and certified in accordance with STCW and IMO Resolution A. 891 (21) and the High Speed Craft Code, except the categories of persons determined by the

Registrar of Ships from times to times; or

- (c) Seafarer recruitment and placement services registered and licensed in Zanzibar.
- (d) regulations 14 and 15 of these regulations apply to seagoing ships other than ships registered in when they are in any port in Zanzibar or the territorial waters thereof being ships which are of 500 GRT or over, including sea-going tugs, other than fishing vessels, pleasure craft, and oil rigs and drilling platform whilst on their working stations.

PART TWO
PROVISIONS RELATING TO SEAFARERS MEDICAL EXAMINATIONS

Prohibition on employment

4. (1) Subject to Sub-Regulation (4) of this regulation, a person shall not be employed as a seafarer in a ship unless that seafarer is the holder of a valid medical fitness certificate.

Provided that:

(a) any seafarer who has served at sea at any time during the two years immediately preceding the date on which these regulations come into operation may continue his sea-going employment without such a medical fitness certificate for a period of two years from that date;

(b) any seafarer, the validity of whose certificate expires while he is in a location where medical examination in accordance with these regulations is impracticable, may continue to be employed without such a certificate for a period not exceeding three months from the date of expiry of such medical certificate.

(c) in emergence cases the Authority or recognized organization may permit a seafarer to work on board ship without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that:

- (i) the period of such permission does not exceed three months; and
- (ii) the seafarer concerned is in possession of medical certificate expired not more than six months;.

(2) Subject to Sub regulation (4) of this regulation, a person shall not be employed as a seafarer in a ship in a capacity or in a geographical area precluded by any restriction in that seafarer's medical fitness certificate.

(3) Subject to Sub-regulation (4) of this regulation, a person shall not be employed as a seafarer in a ship carrying chemicals in bulk unless that seafarer is the holder of a valid medical fitness certificate issued in respect of a medical examination undertaken not more than 12 months previously, notwithstanding that the period of validity specified in the medical fitness certificate may exceed 12 months.

(4) Sub regulations (1), (2) and (3) of this regulation shall not apply to the employment of—

- (a) a pilot (who is not a member of the crew);
- (b) a person employed on a ship solely in connection with-
 - (i) the construction, alteration, repair or testing of the ship, its machinery or equipment, and not engaged in navigation of the ship;
 - (ii) the exploration of the sea-bed or sub-soil or the exploitation of their natural resources;
 - (iii) the storage of gas in or under the sea-bed or the recovery of gas so stored;
 - (iv) the laying, inspection, testing, repair, alteration, renewal or removal of any submarine cable;
 - (v) pipeline works, including assembling, inspecting, testing, maintaining, adjusting, repairing, altering, renewing, changing the position of, or dismantling a pipeline or length of pipeline; or
 - (vi) the provision of goods, personal services or entertainment on board, unless such person is engaged in the normal working of the ship or has safety responsibilities in the event of an emergency on board ship; or
- (c) a person employed only while the ship is in port and who is not ordinarily employed at sea; and.
- (d) a member of the Armed Forces or Police force of Tanzania, or Zanzibar special departments, or Customs department, and others when acting as such a member.

examination a complete physical examination and shall have regard to the ILO/WHO Guidelines for Conducting Pre-Sea and Periodic Medical Fitness Examination for Seafarers, 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 of Ship.

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

Application and Issue of medical fitness certificate 6.(1) Every seafarer who applies for a medical fitness certificate shall, on payment of the fees as may be determined by the Authority, be given a medical examination form as prescribed in these Regulations.

(2) Every applicant for a medical fitness certificate shall be medically examined by an approved medical practitioner and, subject to regulation 5 of these regulations, if the practitioner considers that the applicant is fit, having regard to medical standards, he shall issue to the applicant with a medical fitness certificate as prescribed in the First Schedule to these regulations; and such certificate may be restricted to such capacity of sea service or geographical areas as the practitioner considers appropriate.

(3) The medical fitness certificate issued under preceding sub-regulation shall be effective after being endorsed by authorized officer of the Authority.

(4) The medical certificate shall attest that-

(a) 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 color vision, are all satisfactory; and

(b) that the seafarer is not suffering from any medical condition that may
(i) be affected by sea service;
(ii) render the seafarer unfit for sea service; or
(iii) endanger the health of persons on board the ship

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 as prescribed in the Second Schedule.

(5) A person who is refused a medical fitness certificate may make a second application.

(6) A seafarer who is the holder of a valid medical fitness certificate may at any time be required by the owner or master of a ship, or the Registrar of ships, to obtain a new certificate in case of a result of illness, injury or other causes if it is believed that seafarer may no longer meet the standards specified in the Regulations.

Period of validity of medical examination

7.(1) Subject to sub-regulations (2) and (3) of this regulation, an approved medical practitioner who issues a medical certificate under regulation 6 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 9 of these regulations and subject to sub-regulation (3), 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, an approved medical practitioner may issue a medical certificate valid for such shorter period as may be specified in the certificate.

Provided that if a person applied for medical examination is:

- (a) less than eighteen years of age; or
- (b) fifty five years of age or more

the medical certificate issued to him or her shall be valid from the date of issue for a period of one year.

(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

8. 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 5 of these regulations as soon as practicable after diagnosis.

Change in conditions relating to medical certificate

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

- (i) there has been a significant change in the medical fitness of a seafarer during the period of validity of his medical fitness 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 of these regulation , 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 approved medical practitioner shall notify the person concerned and the Authority , 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

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

- (a) the refusal of an approved medical practitioner to issue a person with a medical certificate, or
- (c) any restriction imposed on such certificate, or
- (d) the suspension for a period of more than three months or cancellation of that certificate by a approved medical practitioner pursuant to regulation 9 of these regulations,

may apply to the Registrar of Ship for the matter to be reviewed by a single medical referee appointed by the Registrar of Ships.

(2) Any such application shall:

- (a) be lodged with the Registrar of Ships within 30 days 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 Ship Registrar may determine if delay is caused by the person's employment on board a ship); and
- (b) include a consent to the approved 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 of Ships may obtain a report from the approved medical practitioner by whom the applicant was examined and may examine the medical condition of the applicant.

(4) 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 and 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.

(5) 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.

(6) 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 and in any other case the medical referee shall notify the applicant of his decision.

Provided that 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 (which date shall be notified to the medical referee by him) or within such longer period as the Registrar of Ships may determine.

Certificates
equivalent to
medical fitness
certificate

11.(1) Any certificate of medical and visual fitness issued by an approved medical practitioner authorized by the Registrar of Ships to a seafarer in respect of a medical examination conducted before the date on which these regulations come into operation shall be deemed for the purposes of these regulations to be equivalent to a medical fitness certificate issued under these regulations.

Provided that any such certificate issued by any such practitioner shall remain valid from the date of the medical examination only for the appropriate maximum period prescribed in regulation 7.

(2) Any medical fitness certificate issued to a seafarer in accordance with the provisions of the Medical Examination (Seafarers) Convention 1946 (International Labour Organisation Convention 73 of 1946) (International Labour Organisation Convention 147 of 1976) and other relevant international

conventions relating to medical examinations:

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

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

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

Provided that any 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.

Production of a medical Fitness certificate

12. (1) No person required by these regulations to be the holder of a valid medical fitness certificate shall 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.

(2) If a seafarer on a foreign ship, who is required to hold a medical fitness certificate in a Zanzibar port, cannot produce a valid medical fitness certificate and the conditions on board that ship are clearly hazardous to safety or health, appropriate measures, including detention of the ship, may be taken to rectify those conditions.

Records and annual returns

13. Any approved medical practitioner who conducts a medical examination in accordance with these regulations shall:-

(a) make and retain for six years a record in an approved form of each medical examination which he carries out pursuant to these regulations; and

(b) send to the Authority a return of all such examinations in the form approved by the Authority.

Inspection and detention of a Tanzania Zanzibar ship

14. Any person duly authorized by the Registrar of Ships may inspect any Tanzania Zanzibar ship to which these regulations apply and if he is satisfied that any seafarer, whose employer is required by regulation 4 of these regulations to ensure that he is the holder of a medical fitness certificate, is unable to produce a certificate which meets the requirements of that regulation, and the state of his health is such that the ship could not sail without serious risk to the safety and health of those on board, he may detain the ship, but shall not

in the exercise of these powers detain or delay the ship unreasonably.

Inspection,
detention and
other measures

15 (1) Any person duly authorized by the Registrar of Ships may inspect any ship to which these regulations apply other than a Tanzania Zanzibar ship when the ship is in a Tanzania Zanzibar port, and if he is satisfied that any seafarer is unable to produce a valid medical fitness certificate he 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;

(ii) detain the ship:

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

(2) If the authorized person takes either of the measures specified in Sub-regulation (1)(b), the person duly authorized shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag State of the ship.

(3) The person duly authorized shall not in the exercise of his powers under this regulation unreasonably detain or delay the ship.

Penalties

16 (1) Any employer who contravenes regulation 4 of these regulations shall be an offence and upon conviction he shall be liable to a fine not less than the equivalent of five thousand Dollars in Shillings or imprisonment of a term not less than six months.

(2) In any proceedings for an offence under these regulations it shall be a defense for the employer to show that all reasonable steps had been taken by him to ensure compliance with the regulations.



SIGNED this 12 day of February, 2019

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DR. SIRA UBWA MAMBOYA

MINISTER FOR INFRASTRUCTURE AND COMMUNICATIONS

ZANZIBAR