



**Australian Government**

**Australian Maritime Safety Authority**

AMSA MO 2017/8

**Marine Order 76 (Health — medical fitness) 2017**

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I, Gary Prosser, Acting Chief Executive Officer of the Australian Maritime Safety Authority, make this Order under subsection 342(1) of the *Navigation Act 2012*.

11 December 2017

**Gary Prosser**

Acting Chief Executive Officer

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## Division 1 Preliminary

### 1 Name of Order

This Order is *Marine Order 76 (Health — medical fitness) 2017*.

### 1A Commencement

This Order commences on 1 January 2018.

### 1B Repeal of *Marine Order 9 (Health — medical fitness) 2010*

*Marine Order 9 (Health — medical fitness) 2010* is repealed.

### 2 Purpose

This Order:

- (a) sets out the requirement for seafarers and licensed pilots to hold a certificate of medical fitness; and
- (b) deals with the duration of certificates of medical fitness; and
- (c) provides for the appointment of medical inspectors; and
- (d) gives effect to:
  - (i) regulation I/9 of the STCW Convention; and
  - (ii) sections A-I/9 and B-I/9 of the STCW Code; and
  - (iii) regulation 1.2 of the Maritime Labour Convention.

### 3 Power

- (1) The following provisions of the Navigation Act provide for this Order to be made:
  - (a) section 65 which provides that regulations may be made about the health of seafarers;
  - (b) paragraph 164(2)(a) which provides that the regulations may provide for the medical fitness of pilots;
  - (c) paragraph 340(1)(h) which provides that regulations may provide for giving effect to the STCW Convention;
  - (d) paragraph 340(1)(i) which provides that regulations may provide for giving effect to the Maritime Labour Convention;
  - (e) subsection 341(1) which provides that the regulations may provide for the imposition of penalties for a contravention of a provision of the regulations.
- (2) Subsection 339(1) of the Navigation Act provides for regulations to be made prescribing matters required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to the Act.
- (3) Subsection 342(1) of the Navigation Act provides that AMSA may make a Marine Order about matters that can be provided for by regulation.

### 4 Definitions

In this Order:

***certificate of medical fitness*** means a certificate of medical fitness that is issued by:

- (a) a medical inspector or expert panel in accordance with section 13 or 14; or

(b) a medical practitioner in accordance with section 15.

**medical inspector** means a person appointed in accordance with section 12.

*Note 1* The term *STCW Code* used in this Order is defined in *Marine Order 1 (Administration) 2013*.

*Note 2* Some terms used in this Order are defined in the Navigation Act, including:

- licensed pilot
- Maritime Labour Convention
- master
- pilotage provider
- seafarer
- STCW Convention.

*Note 3* For delegation of AMSA's powers under this Order — see the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

*Note 4* Information on obtaining copies of any IMO Resolution, IMO document or other document that is mentioned in this Order is available from the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

## 5 Application

This Order applies to:

- (a) seafarers performing duties on, and owners of, regulated Australian vessels; and
- (b) licensed pilots; and
- (c) pilotage providers.

## 6 Review of decision

A decision under section 17 is a reviewable decision for section 17 of *Marine Order 1 (Administration) 2013*.

## Division 2 Requirements — medical fitness

### 7 Requirement to hold a certificate — seafarer

- (1) A person may perform duties as a seafarer on a regulated Australian vessel only if:
  - (a) the person holds a certificate of medical fitness; and
  - (b) the certificate of medical fitness evidences that the person is medically fit for the particular duties performed.Penalty: 50 penalty units.
- (2) The owner of a regulated Australian vessel must not take the vessel to sea if any seafarer on board does not hold a certificate of medical fitness evidencing that the seafarer is medically fit for the particular duties to be, or being, performed.  
Penalty: 50 penalty units.
- (3) An offence against subsection (1) or (2) is a strict liability offence.
- (4) A person is liable to a civil penalty if the person contravenes subsection (1) or (2).

Civil penalty: 50 penalty units.

**8 Requirement to hold a certificate of medical fitness — licensed pilot**

- (1) A person may perform duties as a licensed pilot only if:
  - (a) the person holds a certificate of medical fitness; and
  - (b) the certificate of medical fitness evidences that the person is medically fit for the particular duties performed.

Penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

**9 Aids to vision or hearing**

- (1) A seafarer or licensed pilot, whose certificate of medical fitness states that an aid to vision or an aid to hearing was used for the purpose of being found medically fit, must when performing duties on a vessel:
  - (a) use the aid; and
  - (b) if the aid is an aid to vision — have a spare aid to vision available; and
  - (c) if the aid is an aid to hearing — have spare batteries for the aid to hearing available.

Penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

**10 Evidence of being medically unfit**

- (1) A seafarer must not perform duties as a seafarer on a regulated Australian vessel if the seafarer has a change in medical condition that would make the seafarer unfit.

Penalty: 50 penalty units.

- (2) A licensed pilot must not perform duties as a licensed pilot if the licensed pilot has a change in medical condition that would make the licensed pilot unfit.

Penalty: 50 penalty units.

- (3) AMSA, the owner or master of a vessel may direct a seafarer to be assessed by a medical inspector for a replacement certificate of medical fitness if there is evidence that the seafarer has an injury or illness or has experienced a change in medical condition.
- (4) AMSA or a pilotage provider may direct a licensed pilot to be assessed by a medical inspector for a replacement certificate of medical fitness if there is evidence that the licensed pilot has an injury or illness or has experienced a change in medical condition.
- (5) An offence against subsection (1) or (2) is a strict liability offence.
- (6) A person is liable to a civil penalty if the person contravenes subsection (1) or (2).

Civil penalty: 50 penalty units.

## 11 Certificates to be made available

A seafarer or licensed pilot who performs or proposes to perform duties on a vessel must make available for inspection at all reasonable times a copy of his or her certificate of medical fitness if asked by:

- (a) the owner or master of the vessel; or
- (b) an inspector.

## Division 3 Medical inspectors and assessments

### 12 Appointment of medical inspectors

- (1) AMSA may appoint a person as a medical inspector.
- (2) The person must be registered as a medical practitioner in a State or Territory of Australia.

### 13 Assessment by medical inspector

- (1) A medical inspector may issue a certificate of medical fitness.

*Note* An approved form for a certificate of medical fitness that may be used by the medical inspector is available on AMSA's website at <http://www.amsa.gov.au>.

- (2) For the issue of a certificate of medical fitness, a medical inspector must:
  - (a) assess whether the person is medically fit to perform the duties of a seafarer or licensed pilot in accordance with the latest edition of the *Standards for the Medical Examination of Seafarers and Coastal Pilots*, published by AMSA; and
  - (b) complete a medical examination report in the approved form.

*Note for paragraph (a)* The AMSA publication *Standards for the Medical Examination of Seafarers and Coastal Pilots* is available on the AMSA website at <http://www.amsa.gov.au>.

*Note for paragraph (b)* An approved form for a medical examination report is available on AMSA's website at <http://www.amsa.gov.au>.

### 14 Assessment by expert panel

- (1) A person who has been assessed by a medical inspector as medically unfit, or medically fit for particular duties only, in consecutive assessments may arrange to be assessed by an expert panel consisting of:
  - (a) an occupational physician; and
  - (b) a specialist physician or surgeon; and
  - (c) a medical inspector.

*Note* The person may bring evidence of fitness for the intended duties, including medical reports from treating medical practitioners.

- (2) The expert panel may issue a certificate of medical fitness.
- (3) For the issue of a certificate of medical fitness, the expert panel must:
  - (a) assess whether the person is medically fit to perform the duties of a seafarer or licensed pilot in accordance with the latest edition of the *Standards for the Medical Examination of Seafarers and Coastal Pilots*, published by AMSA; and
  - (b) complete a medical examination report.
- (4) The expert panel must be approved by AMSA.

- (5) A person making arrangements to be assessed by an expert panel is responsible for the related costs.

## **15 Assessment by medical practitioner in an overseas country**

- (1) A medical practitioner in a country other than Australia may issue a certificate of medical fitness in accordance with subsection 13(2).
- (2) For subsection (1), a medical practitioner must be a medical practitioner who:
- (a) is in a country whose administration has an agreement with Australia for AMSA to recognise its certificates of competency; and
  - (b) has been appointed by the administration in accordance with regulation I/9.2 of the STCW Convention and section A-1/9.3 of the STCW Code.

*Note* A seafarer may hold a certificate of medical fitness issued by a medical practitioner in an overseas country for the purpose of renewal and revalidation of a seafarer certificate or certificate of recognition or for the issue of a restricted certificate of recognition — see *Marine Order 54 (Coastal pilotage) 2014* and the seafarer certification series of Marine Orders 70, 71, 72, 73 and 74.

## **Division 4 Duration of certificate of medical fitness**

### **16 Duration of certificate of medical fitness**

- (1) A certificate of medical fitness mentioned in sections 13, 14 or 15 may be issued for:
- (a) up to 2 years; and
  - (b) up to 1 year if at the date of assessment the person is:
    - (i) not more than 18 years old; or
    - (ii) at least 55 years old.

*Note* The certificate may be issued for a shorter period if a further examination is required to assess the continued efficacy of treatment for a condition.

- (2) However, if a certificate of medical fitness expires during the course of a voyage, the duration of the certificate continues until the earlier of:
- (a) the next port of destination where a medical inspector or medical practitioner is available to undertake assessment of the person; or
  - (b) the day that is 3 months after the expiry of the certificate.
- (3) Also, a certificate of medical fitness expires if a further certificate of medical fitness is issued.

### **17 Revocation of certificate of medical fitness**

- (1) AMSA may revoke a certificate of medical fitness if:
- (a) for a certificate for a seafarer — the person fails to comply with a direction under subsection 10(3); and
  - (b) for a certificate for a licensed pilot — the person fails to comply with a direction under subsection 10(4).
- (2) AMSA may only revoke a certificate of medical fitness if the failure was not reasonable in the circumstances.

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**Note**

All legislative instruments and compilations of legislative instruments are registered on the Federal Register of Legislation under the *Legislation Act 2003*. See <https://www.legislation.gov.au>.