

NB: Unofficial translation, legally binding only in Finnish and Swedish

Act on Medical Fitness Examinations of Seafarers (1171/2010)

Section 1 – Purpose of the Act

The purpose of this Act is to enhance maritime safety by laying down provisions on the medical fitness examinations of seafarers.

Section 2 – Scope of application

- (1) This Act applies to seafarers serving on board Finnish ships.
- (2) This Act does not apply to persons serving on
- 1) vessels of the Defence Forces or the Border Guard, which, as a rule, are not used in general traffic for the carriage of passengers or cargo;
 - 2) recreational craft or pleasure yachts;
 - 3) charter boats;
 - 4) cable ferries;
 - 5) vessels of 10 m in length or less, used in distinctly separated basins of industrial establishments only;
 - 6) vessels of 10 m in length or less, not used in general traffic for the carriage of passengers, for the carriage of cargo on a regular basis, or for towage;
 - 7) vessels used non-commercially for voluntary search and rescue (SAR) operations and manned with a crew trained for SAR operations.
- (3) Likewise this Act does not apply to persons
- 1) working on board a ship only in port;
 - 2) working on board a ship performing inspection or service or other similar temporary duties;
 - 3) working on board a ship temporarily as performing artists.

Section 3 – Definitions

For the purposes of this Act:

- 1) *pre-sea examination* means a medical fitness examination of a seafarer performed for the first time;
- 2) *periodic examination* means any medical fitness examination of a seafarer performed after the pre-sea examination;
- 3) *recognized medical practitioner* means a physician, as referred to in the Act on Certifying Physicians as Recognized Medical Practitioners (47/2009);
- 4) *health centre for seafarers* means a health centre providing occupational health care, as referred to in section 14a (1)(2) of the Primary Health Care Act (66/1972);
- 5) *crew* and *owner* have the same meaning as in the Act on Ships' Crews and the Safety Management of Ships (1687/2009).

Section 4 – Medical fitness standards for seafarers

- (1) In order to be able to serve at sea seafarers shall meet the medical fitness standards required by their duties on board. The requirement for medical certificates ensures that seafarers are medically fit to serve at sea.
- (2) More detailed provisions on the eyesight and hearing standards, colour vision and other medical fitness standards required of seafarers may be issued by a decree of the Ministry of Social Affairs and Health. The Ministry of Social Affairs and Health shall request the opinion of the Advisory Committee for Seamen's Affairs before issuing the decree.

Section 5 – Owner's responsibilities

- (1) The owner shall ensure that seafarers engaged on board ship have valid medical certificates, as referred to in section 9, temporary permits, as referred to in section 10 (3) or dispensations, as referred to in section 13, and that seafarers surrender the documents for lodging on board.
- (2) If the owner serves on board, he/she must have a valid medical certificate, as referred to in section 9, a temporary permit, as referred to in section 10 (3), or a dispensation, as referred to in section 13.
- (3) The owner shall keep the documents mentioned in subsections (1) and (2) on board until the termination of the seafarer's engagement or employment contract or until the seafarer is transferred to another ship.
- (4) The provisions of the Act on the Protection of Privacy in Working Life (759/2004) apply to the processing of data concerning the health status of seafarers.

Section 6 – Medical fitness examinations of seafarers to be engaged on international voyages

- (1) Pre-sea examinations of seafarers to be engaged on international voyages shall be performed by a recognized medical practitioner in a health centre for seafarers. On substantial grounds, pre-sea examinations may also be performed by a recognized medical practitioner elsewhere. In such cases a new pre-sea examination shall be performed at a health centre for seafarers no more than three months after the pre-sea examination performed elsewhere.
- (2) Periodic examinations of seafarers engaged on international voyages shall be performed by recognized medical practitioners. On substantial grounds, periodic examinations may also be performed by other licensed doctors. In such cases a new periodic examination shall be performed within three months at the next port of call where a recognized medical practitioner is available.

Section 7 – Medical fitness examinations of seafarers to be engaged on domestic voyages

- (1) Pre-sea examinations of seafarers to be engaged on domestic voyages shall be performed by a recognized medical practitioner. For extraordinary reasons, pre-sea examinations may also be performed by other licensed doctors. In such cases a new pre-sea examination shall be performed by a recognized medical practitioner no more than three months after the pre-sea examination.
- (2) Periodic examinations of seafarers engaged on domestic voyages shall be performed by recognized medical practitioners or, for extraordinary reasons, by other licensed doctors.

- (3) More detailed provisions on the performance of the medical fitness examinations mentioned in subsections 1 and 2 and section 6 may be issued by a decree of the Ministry of Social Affairs and Health. The Ministry of Social Affairs and Health shall request the opinion of the Advisory Committee for Seamen's Affairs before issuing the decree.

Section 8 – Obligation to take part in a periodic examination in exceptional cases

If a seafarer's service at sea has been interrupted for a long period of time due to illness or injury, a periodic examination shall be performed before he/she resumes work.

Section 9 – Medical certificates for seafarers

- (1) Medical certificates for seafarers are issued in Finnish or Swedish and, at the seafarer's request, in English, if the seafarer is engaged on international voyages.
- (2) Medical certificates shall contain the following data on the examinee:
- 1) name and other identifying data and contact details;
 - 2) physical and mental fitness for the intended duties and confirmation that the person does not have an injury, a functional impairment or a disease that impairs or manifestly obstructs his/her work;
 - 3) whether his/her eyesight, hearing and colour vision conform with the requirements of the decree of the Ministry of Social Affairs and Health;
 - 4) a confirmation that the examinee does not have an illness which is likely to be aggravated by service at sea or endanger the health of others on board or put maritime safety at risk.
- (3) If a medical certificate is issued to a person under 18 years of age, it shall state that serving or continuing service on board is not detrimental to his/her health or development.
- (4) The Ministry of Social Affairs and Health confirms the form of the medical certificate having requested the opinion of the Advisory Committee for Seafarers' Affairs.
- (5) Provisions on the obligation of physicians to send a copy of medical certificates to the Finnish Institute of Occupational Health are contained in section 2 of the Act on the Register of Medical Fitness Examinations of Seafarers (25/1999).

Section 10 – Validity of medical certificates for seafarers

- (1) Medical certificates for seafarers are valid for a period of two years from the date of issue of the certificate. Medical certificates issued to seafarers under 18 years of age are valid for one year. The examination of the seafarer's colour vision is valid for a period of six years.
- (2) If the validity of a seafarer's medical certificate expires during a voyage, the examination shall be conducted in accordance with section 6 or 7 at the first port of call, however, no more than three months after the expiry of the certificate.
- (3) The Finnish Transport Safety Agency may, for compelling reasons, grant a seafarer a permit to temporarily serve on board without a valid medical certificate, if the medical certificate has expired recently. The permit is valid until the next port of call where an examination can be performed in accordance with section 6 or 7, however, for no longer than three months.

Section 11 – Medical declaration

- (1) If the continuous on-board service of a seafarer has been interrupted for reasons other than illness or injury, the seafarer shall, upon request, give the owner a written confirmation (*medical declaration*) to the effect that there has been no change in his/her status of health since the previous medical fitness examination.

- (2) The Ministry of Social Affairs and Health confirms the form of the medical declaration having requested the opinion of the Advisory Committee for Seafarers' Affairs.

Section 12 – Disclosing information on a seafarer's status of health

- (1) Seafarers applying for a medical certificate shall present to the examining physician appropriate identity documentation to establish their identity and confirm an account of their medical history (anamnesis) by signature.
- (2) The examining physician, the Finnish Institute of Occupational Health and the Finnish Transport Safety Agency have, with the seafarer's consent, the right to receive the necessary information, free of charge, concerning the seafarer's medical history from physicians, hospitals and other institutions who have previously given the seafarer medical care, in order to perform the duties provided in this Act.

Section 13 – Dispensation

- (1) The Finnish Transport Safety Agency may
- 1) on substantial grounds, grant a dispensation to engage a seafarer on board a ship although the seafarer has not been considered fit for service at sea at a pre-sea examination;
 - 2) for extraordinary reasons, grant a seafarer a dispensation to continue service on board although the seafarer has not been considered fit for service at sea at a periodic examination.
- (2) The Finnish Transport Safety Agency shall, before taking a decision on dispensation, request the opinion of the Finnish Institute of Occupational Health on the applicant's health status. The Agency may grant a dispensation for no more than two years at a time and, if necessary, add limitations or conditions concerning the period of validity, trading area or duties to be performed by the seafarer. Dispensations concerning colour vision may, however, be granted for no more than six years at a time.
- (3) A decision on dispensation taken by the Finnish Transport Safety Agency may be appealed, as provided in the Administrative Judicial Procedure Act (586/1996).

Section 14 – Ordering a new medical fitness examination

- (1) Notwithstanding that a seafarer has been considered fit for service at sea at a pre-sea examination or a periodic examination or that he/she has been granted a dispensation under section 13, the Finnish Transport Safety Agency may order the seafarer to undergo a new medical fitness examination without delay, if it is evident that the seafarer, due to deteriorating health, does not meet the requirements set out in section 9(2) or fulfil the conditions for being granted a dispensation under section 13.
- (2) The Finnish Transport Safety Agency shall, without delay, notify the seafarer and the operator who employs the seafarer of its decision, as referred to in subsection 1. After receipt of the notice, the seafarer is not allowed to continue his/her service at sea until considered medically fit for service at sea.
- (3) The Finnish Transport Safety Agency's decision, as referred to in subsection 1, may not be appealed.

Section 15 – Display

This Act and the provisions issued under it shall be displayed on board or in another place assigned by the owner, if, on vessels engaged on domestic voyages, this is not feasible with regard to the size of the vessel.

Section 16 – Monitoring

Compliance with this Act shall be monitored by the Finnish Transport Safety Agency, the health care authorities and the occupational health and safety authorities.

Section 17 – Medical fitness examination offences

Anyone who intentionally

- 1) infringes the obligation under section 5 to make sure that a seafarer to be engaged on board ship surrenders a medical certificate, as referred to in section 9, or a temporary permit, as referred to under section 10(3), or a dispensation, as referred to under section 13,
- 2) infringes the obligation under section 5(3) to keep a medical certificate, as referred to in section 9, or a temporary permit, as referred to in section 10(3) or a dispensation, as referred to in section 13, during the time the seafarer serves on board, or
- 3) gives an untruthful medical declaration or confirms an untruthful account of his/her medical history, as referred to in section 12(1),

shall be sentenced to pay a fine for *a medical fitness examination offence*, unless more severe punishment is provided for elsewhere by law.

Section 18 – Transitional provisions and entry into force

- (1) This Act enters into force on 1 January 2011.
- (2) This Act repeals the Decree on Medical Fitness Examinations of Seafarers (476/1980).
- (3) Medical certificates, temporary permits and dispensations granted under previous legislation remain valid until their date of expiry.
- (4) Any references in other acts or decrees to the Decree on Medical Fitness Examinations for Seafarers valid at the time of the entry into force of this Act shall be taken to refer to this Act.
- (5) Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.