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- A: 16 specially authorised employment
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- OFF: Offshore companies / OIM / operators
- Hov: Main organisations
- H.i: Bodies or agencies for their comments
- Other
s:

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Reference to: Regulations of 5 June 2014 No. 805 on the medical examination of employees on Norwegian ships and mobile offshore units

The Circular should be entered into a special diagram or as appropriate in the latest editions of relevant NMA publications and kept until the next editions.

Amendments to section 4 of the Regulations on the medical examination of employees on Norwegian ships and mobile offshore units due to Directive 2019/1159/EU on amendments to 2008/106/EC

The Norwegian Maritime Authority (NMA) has laid down amendments to the Regulations of 5 June 2014 No. 805 on the medical examination of employees on Norwegian ships and mobile offshore units (Health Regulations). These amendments enter into force on 1 August 2021.

1. Introduction

The EU has adopted Directive 2019/1159 of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States.

Directive 2019/1159 shall enter into force on 1 August 2021 in the EEA. Article 5b(3) of the amending Directive creates a need for amendments to the Health Regulations section 4 second paragraph. The NMA has found no need to make further amendments following the implementation of 2019/1159/EC.

2. Consultation

A proposal for amendments to the Health Regulations was circulated for comments on 7 May 2021 with deadline for comments on 30 June 2021. The deadline for comments was shorter than usual. The reason for this is that the amending Directive will enter into force on 1 August 2021. To meet Norway's obligations under the EEA Agreement, a shorter response time was considered necessary for the regulatory amendments which will implement the Directive into Norwegian legislation. A shortened response period for the consultation was considered to be in accordance with the Instructions for Official studies and Reports. The proposal was circulated for comments internally and externally at the same time.

Ten consultative statements came in. No comments were received from the Directorate of Fisheries, the Norwegian Pelagic Association, the Ministry of Justice and Public Security, the Norwegian armed forces or the Ministry of Defence. The Norwegian Coastal Administration only had one comment: that the shipping companies must be able to understand the language in which the medical certificates are issued. Maritime Competence Center South-Eastern Norway commented that one of their member companies had objections to the proposal.

The company wanted to continue the current arrangement. DNV AS had no comments to the actual change, however they pointed to the fact that “DMLC Part I”, point “2 – Medical certification” must be updated in line with the regulatory amendment.

Two of the consultative bodies had comments to the proposed amendments:

The Norwegian Association of Maritime Medicine expressed their understanding of the fact that there will be no discrimination among doctors or nations within the agreement area. Nevertheless, they claimed that the health requirements that must be documented by forms showing that the health condition has been assessed and recorded must be the same for all seafarers and seafarer's doctors within the EEA.

The Norwegian Union of Marine Engineers expressed their concern about whether the proposed amendments would be in line with Norway's obligations pursuant STWC. They pointed to the fact that the Norwegian State may not fail to comply with the minimum standards laid down by the IMO. The union was particularly concerned with the second sentence of the proposed amendments. Nevertheless, the Norwegian Union of Marine Engineers is of the opinion that the NMA must ensure that a quality monitoring system is introduced before the implementation of the regulatory amendments.

3. Further details on the regulatory amendments and the NMA's assessment of the consultative comments

Following a new assessment of the legislation, the NMA has chosen to take into account the comments received from the Norwegian Association of Maritime Medicine and parts of the proposal from the Norwegian Union of Marine Engineers in the Regulations.

Pursuant to the previous wording of section 4 second paragraph, medical certificates issued in accordance with the medical certificate requirements of any EEA country would satisfy the requirement of medical certificate pursuant to when the medical certificate was issued in the home country or most recent country of residence of the person working on board. If the home country or country of residence did not have any requirements for a special medical examination for persons working on board, a declaration from the country's competent authority should be accepted as a valid medical certificate if the competent authority had attested compliance with the requirements of these Regulations. This provision was added to the Regulations on medical examination of employees on ships etc. (1986) by Regulation of 27 January 2000 No. 66. The provision implemented Article 10 (2) second paragraph of the now repealed Directive 92/51/EEC. The NMA has laid down new and stricter requirements for and monitoring of seafarer's doctors with Norwegian approval. However, by an inadvertence, Article 10 (2) of the repealed Directive 92/51/EEC has been continued in previous amendments of section 4 second paragraph of the Health Regulations.

It is set out in Article 5b (3) that medical certificates issued by other Member States in accordance with Article 11 must be accepted by the Member States. Article 11 (1) states that Member States shall establish standards of medical fitness for seafarers, particularly regarding

eyesight and hearing. This means that all EEA countries must have these standards for seafarers, and that Member States are only required to accept medical certificates issued in accordance with Article 11. The provision implemented Article 10 (2) of 92/51/EEC, which has been continued in section 4 second paragraph second sentence of the Health Regulations and in the proposed amendments which were circulated for review on 7 May 2021 is therefore no longer relevant.

Please note that “medical certificates” are medical certificates issued according to certain standards for seafarers, cf. Directive 2008/106/EC new Article 5b, cf. Article 11. It is a precondition in the Regulations, corresponding to current administrative practice, that it is the special medical certificate for persons working on board ships which is accepted.

The required approval of other Member States’ medical certificates will hereafter follow Directive 2008/106/EC new Article 5b, cf. Article 11. In the NMA's opinion, section 4 second paragraph of the Health Regulations, as specified, is sufficient for the implementation of new Article 5b. Furthermore, the NMA considers that the set wording provides a response to the comments from the Norwegian Union of Marine Engineers and the Norwegian Association of Maritime Medicine.

The Norwegian Maritime Authority finds that Norway fulfils the obligations arising from the STCW Convention.

4. Economic and administrative consequences

These amendments primarily affect seafarers' doctors. The purpose of the proposed amendments is to improve and make all current rules more efficient, and the proposal is not expected to have any financial or administrative consequences.

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