



**Australian Government**  
**Australian Maritime Safety Authority**

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***Marine Order 9 (Health — medical fitness) 2010***

**in effect under the *Navigation Act 2012***

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This is a compilation of *Marine Order 9 (Health — medical fitness) 2010* prepared on 31 May 2013, taking into account modifications made by *Marine Order 4 (Transitional modifications) 2013*.

Subsection 343(2) of the *Navigation Act 2012* provides that the Marine Orders may provide for specified orders that were in force under the *Navigation Act 1912* immediately before its repeal to have effect, for the *Navigation Act 2012*, with the modifications made for it in the Marine Orders.

*Marine Order 4 (Transitional modifications) 2013* provides for this Order to have effect and makes modifications for it.

This compilation is not a compilation for the *Legislative Instruments Act 2003*, and so is not registered on the Federal Register of Legislative Instruments.

Prepared by the Office of Legislative Drafting, Australian Maritime Safety Authority.

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## 1A Name of Order

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

## 1 Purpose and power

### 1.1 Purpose

This Order:

- (a) for subsection 29(2) of the Navigation Act — prescribes matters relating to the health of persons performing, or intending to perform, the duties of a seafarer; and
- (b) for subsection 65(2) of the Navigation Act — provides for the medical examination of, and the issue of certificates of fitness to, seafarers and persons proposing to engage in employment as seafarers; and
- (c) for paragraph 164(2)(a) of the Navigation Act — provides for the medical fitness of licensed pilots; and
- (d) gives effect to regulation I/9 of the STCW Convention and section B-I/9 of the STCW Code.

### 1.2 Power

- 1.2.1 Paragraph 164(2)(a) of the Navigation Act provides for regulations to make provision for conditions, including conditions as to medical fitness, relating to the licensing of pilots under the Act.
- 1.2.2 Subsection 339(1) of the Navigation Act provides for regulations to be made prescribing matters required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.
- 1.2.3 Subsection 342(1) of the Navigation Act provides that AMSA may make orders with respect to any matter for or in relation to which provision may be made by regulation.

## 2 Definitions

In this Order:

***applicant*** means a person who is examined in accordance with subsection 8.2.

***Certificate of Medical Fitness*** means a Certificate of Medical Fitness issued in accordance with this Order and that contains at least the information mentioned in Schedule 2.

***holder***, of a Certificate of Medical Fitness, means the person identified as holder by the certificate.

***Medical Examination Guidelines*** means the *Guidelines for the medical examination of seafarers and licensed pilots*, obtainable from AMSA's website at <http://www.amsa.gov.au>.

***medical inspector*** means a person appointed as a medical inspector under section 8A.

***relevant vessel*** — see section 3.

**valid**, for a Certificate of Medical Fitness, means a certificate that is in force and that has not been cancelled.

*Note 1* Some terms used in this Order are defined in *Marine Order 1 (Administration) 2011*, including:

- General Manager, Ship Safety Division
- Manager, Ship Inspection and Registration
- Manager, Ship Operations and Qualifications
- Navigation Act
- SOLAS
- STCW Code.

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

- AMSA
- inspector
- licensed pilot
- master
- seafarer
- STCW Convention.

*Note 3* A sail trainee is a passenger — see *Marine Order 52 (Sailing vessels) 1999*.

### **3 Meaning of *relevant vessel***

For the Order, a ***relevant vessel*** is:

- (a) a regulated Australian vessel; or
- (b) a vessel that, but for paragraph 15(1)(c) of the Navigation Act, would be a regulated Australian vessel, for which most of the crew are residents of Australia and that is operated by any of the following (whether or not in association with anyone else):
  - (i) a person who is a resident of, or has his or her principal place of business in, Australia;
  - (ii) a company or association that is incorporated, or has its principal place of business, in Australia.

### **4 Application**

This Order applies to:

- (a) a person employed, or proposing to engage in employment, on a relevant vessel; and
- (b) a person performing, or intending to perform, the duties of a licensed pilot; and
- (c) a person who employs, or proposes to employ, a person mentioned in paragraph (a) or (b); and
- (d) an applicant for the issue or revalidation of a certificate under *Marine Order 3 (Seagoing qualifications) 2004*.

### **5 Review of decisions**

A decision under this Order is taken to be a reviewable decision for section 18 of *Marine Order 1 (Administration) 2011*.

## 6 Requirement to be medically fit

- 6.1 A person may perform duties as a seafarer on a relevant vessel only if person is medically fit to perform the duties.  
Penalty: 50 penalty units.
- 6.2 An offence against subsection 6.1 is a strict liability offence.
- 6.3 A person is liable to a civil penalty if the person contravenes subsection 6.1.  
Civil penalty: 50 penalty units.
- 6.4 The owner of a relevant vessel may take a person into employment to perform duties as a seafarer only if the person is medically fit to perform the duties.  
Penalty: 50 penalty units.
- 6.5 An offence against subsection 6.4 is a strict liability offence.
- 6.6 A person is liable to a civil penalty if the person contravenes subsection 6.4.  
Civil penalty: 50 penalty units.
- 6.7 A person may perform the duties of a licensed pilot only if the person is medically fit to perform the duties.  
Penalty: 50 penalty units.
- 6.8 An offence against subsection 6.7 is a strict liability offence.
- 6.9 A person is liable to a civil penalty if the person contravenes subsection 6.7.  
Civil penalty: 50 penalty units.

## 7 Evidence of medical fitness

For section 6, a person is medically fit to perform duties if:

- (a) the person has a valid Certificate of Medical Fitness; and
- (b) there is no evidence that his or her medical condition has altered since the Certificate of Medical Fitness was issued to an extent that would make him or her unfit to perform the duties.

## 8 Certificate of Medical Fitness

### 8.1 Eligibility for Certificate of Medical Fitness

A person is eligible to be issued with a Certificate of Medical Fitness if a medical inspector determines that the person is medically fit to perform the intended duties as a seafarer or as a licensed pilot on a vessel.

*Note* Detailed instructions on how to apply for a Certificate of Medical Fitness are on AMSA's website: [www.amsa.gov.au](http://www.amsa.gov.au).

### 8.2 Medical examination

A medical inspector is to conduct such examinations, tests and interviews and make such enquires in relation to an applicant as are appropriate to determine whether the applicant is medically fit to perform the intended duties as a seafarer or as a licensed pilot on a vessel.

### 8.3 Determination of fitness

In determining if an applicant is medically fit, a medical inspector must, in addition to applying normal medical fitness considerations:

- (a) give full consideration to the Medical Examination Guidelines; and

- (b) be satisfied that the applicant at least meets the minimum standards specified in the Medical Examination Guidelines as applicable to the intended duties.

*Note* If an owner of a vessel has additional fitness requirements for particular duties or voyages (eg for the handling of specific cargoes or voyages to the Antarctic), the owner should advise the medical inspector of those requirements and request a supplementary report against them.

#### 8.4 Issue of Certificate of Medical Fitness

##### 8.4.1 If a medical inspector:

- (a) is satisfied as to the identity of an applicant;
- (b) is able to attest to the true state of the applicant's health; and
- (c) determines that the applicant is medically fit to perform the proposed duties,

he or she is to issue to the applicant a Certificate of Medical Fitness.

##### 8.4.2 If a medical inspector:

- (a) is satisfied as to the identity of an applicant;
- (b) is able to attest to the true state of the applicant's health; and
- (c) determines that the applicant is medically fit to perform duties other than those proposed,

he or she may issue to the applicant a Certificate of Medical Fitness, endorsed to indicate the duty or duties for which the applicant is medically fit.

#### 8.5 Further examination

##### 8.5.1 A person who has been declared unfit for the proposed duties at sea may apply for a second examination.

##### 8.5.2 If, after a second examination, the person is again declared unfit for the proposed duties at sea, he or she may arrange to be examined by an independent panel meeting the following requirements:

- (a) the panel must consist of three medical practitioners, one an occupational physician, one a specialist physician/surgeon from the appropriate specialty, and one a medical inspector;
- (b) the constitution of the panel must be approved by the Manager, Ship Operations and Qualifications.

##### 8.5.3 A person seeking to be examined by an independent panel is responsible for:

- (a) making any necessary arrangements for convening the panel; and
- (b) meeting all costs incurred.

*Note* The seafarer may bring further evidence of fitness for the proposed duties at sea, including medical reports from treating medical practitioners, for consideration by the independent panel.

##### 8.5.4 A seafarer who is the holder of a valid Certificate of Medical Fitness may at any time be required by the owner or master of a vessel, or by the Manager, Ship Operations and Qualifications by notice in writing, to obtain a new certificate where as a result of illness, injury or other cause it is believed the seafarer may no longer meet the standards specified in this Order.

##### 8.5.5 A licensed pilot who is the holder of a valid Certificate of Medical Fitness may at any time be required by the Manager, Ship Operations and Qualifications by notice in writing to obtain a new certificate where as a result of illness, injury or

other cause it is believed the licensed pilot may no longer meet the standards specified in this Order.

## 8.6 Period of validity of Certificate of Medical Fitness

8.6.1 Except as provided in subsections 8.6.2, 8.6.3, 8.6.4, and 8.6.5, and subject to subsection 8.7, a Certificate of Medical Fitness is valid from the date of issue for a period of 2 years.

8.6.2 Except as provided in subsection 8.6.3, and subject to subsection 8.7, a Certificate of Medical Fitness in respect of a person who on the date of issue was:

- (a) less than 18 years of age; or
- (b) 55 years of age or more,

is valid from the date of issue for a period of one year.

8.6.3 A Certificate of Medical Fitness may be issued for less than the full period if the medical inspector considers it appropriate.

*Note* An example might be where a medical inspector considers that a person, although fit at the time of the examination, needs to be re-examined to determine the continued efficacy of treatment for a condition.

8.6.4 An expired Certificate of Medical Fitness may be extended by the Manager, Ship Operations and Qualifications for a period not exceeding 3 months from the date of its expiry if the holder is to be employed on a vessel and;

- (a) the holder is unable to be issued with a new Certificate of Medical Fitness in accordance with this Order prior to the vessel being taken to sea; and
- (b) the expired Certificate of Medical Fitness has not already been extended by virtue of this provision.

8.6.5 A Certificate of Medical Fitness extended under subsection 8.6.4 is not valid for use by a licensed pilot.

8.6.6 If the period of validity of a Certificate of Medical Fitness expires during the course of a voyage, the Certificate of Medical Fitness continues to be valid until the next port of call, except for use by a licensed pilot.

## 8.7 Cancellation

8.7.1 If, after considering advice from a medical inspector, the Manager, Ship Operations and Qualifications is satisfied that the holder of a Certificate of Medical Fitness is, through illness, injury or any other cause, no longer fit for duty at sea, the Manager, Ship Operations and Qualifications may cancel that person's Certificate of Medical Fitness.

8.7.2 If the Manager, Ship Operations and Qualifications cancels a Certificate of Medical Fitness under subsection 8.7.1:

- (a) the Manager, Ship Operations and Qualifications must cause to be given to the holder notice in writing of that decision; and
- (b) the decision has effect from:
  - (i) the date on which the notice in (a) would be delivered to the holder in the normal course of post; or
  - (ii) the date on which the holder is personally informed that the notice in (a) has been sent to him or her,

whichever is the earlier.

- 8.7.3 In addition to cancellation by the Manager, Ship Operations and Qualifications under subsection 8.7.1, a Certificate of Medical Fitness is deemed to be cancelled when:
- (a) the holder is issued with a subsequent Certificate of Medical Fitness; or
  - (b) the holder is required in accordance with subsection 8.5.4 or 8.5.5 to obtain a further Certificate of Medical Fitness and a medical inspector determines that the holder is no longer fit for duty at sea.

## 8.8 Showing Certificate of Medical Fitness

- 8.8.1 A person required by any provision of a Marine Order to be the holder of a valid Certificate of Medical Fitness must show the certificate on demand to the owner or master of a vessel on which the person serves or intends to serve, or to an inspector.

Penalty: 50 penalty units.

- 8.8.2 An offence against subsection 8.8.1 is a strict liability offence.

- 8.8.3 A person is liable to a civil penalty if the person contravenes subsection 8.8.1.

Civil penalty: 50 penalty units.

## 8.9 Delivery of cancelled Certificate of Medical Fitness

- 8.9.1 A person whose Certificate of Medical Fitness is cancelled under subsection 8.7.1, or deemed to be cancelled under subsection 8.7.3 must deliver the Certificate of Medical Fitness to the Manager, Ship Operations and Qualifications on demand.

Penalty: 50 penalty units.

- 8.9.2 An offence against subsection 8.9.1 is a strict liability offence.

- 8.9.3 A person is liable to a civil penalty if the person contravenes subsection 8.9.1.

Civil penalty: 50 penalty units.

## 8A Appointment of medical inspectors

- 8A.1 AMSA may appoint a person as a medical inspector.

- 8A.2 The person must be registered as a medical practitioner in a State or Territory of Australia.

*Note 1* In appointing a medical inspector, preference is given to a person who either has a Fellowship of the Australasian Faculty of Occupational Medicine (AFOM) or is a trainee of AFOM and works under the direct supervision of a Fellow.

*Note 2* Under section 33 of the *Acts Interpretation Act 1901*, AMSA may remove or suspend any person appointed and appoint another person temporarily in the place of any person so suspended.

## 9 Aids to vision or hearing

- 9.1 A seafarer or licensed pilot whose Certificate of Medical Fitness shows that an aid to vision or hearing was used for the purpose of being found medically fit must, at all times when on duty on a vessel:

- (a) use the aid; and
- (b) for an aid to vision — keep a spare aid to vision available.

Penalty: 50 penalty units.

- 9.2 An offence against subsection 9.1 is a strict liability offence.
- 9.3 A person is liable to a civil penalty if the person contravenes subsection 9.1.  
Civil penalty: 50 penalty units.

**10 Recognition of medical certificates issued overseas**

A certificate is a recognised certificate of medical fitness for the purposes of the revalidation of a certificate of competency or a certificate of recognition under *Marine Order 3 (Seagoing qualifications) 2004* if it:

- (a) is issued by a medical practitioner in accordance with the requirements of the Flag State administration of a country with which Australia has an agreement under which AMSA can issue a Certificate of Recognition for a certificate issued by that Flag State; and
- (b) contains at least the information set out in Schedule 2.

## **Schedule 2 Information to be contained in Certificate of Medical Fitness**

(section 2, definition of *Certificate of Medical Fitness*)

- (a) Name
- (b) Date of birth
- (c) Sex
- (d) PIN (AMSA Identification Number)
- (e) Home address
- (f) Proof of identity (driver's licence or passport number)
- (g) Department for which found fit
- (h) Whether the applicant used aids to vision
- (i) Result of colour vision test (if applicable)
- (j) Whether the applicant used aids to hearing
- (k) Any restrictions imposed (e.g. specific position, type of vessel, trade area)
- (l) Prescribed medications taken regularly
- (m) Date of expiry of certificate
- (n) Date and place of examination
- (o) Signature of medical inspector or examining medical practitioner
- (p) Signature of applicant

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## Notes to *Marine Order 9 (Health — medical fitness) 2010*

### Note 1

*Marine Order 9 (Health — medical fitness) 2010* (in effect under subsection 343(2) of the *Navigation Act 2012*) as shown in this compilation comprises *Marine Order 9 (Health — medical fitness) 2010* modified as indicated in the following tables.

#### Table of Orders

Year and number	Registration date	FRLI number	Commencement date	Application, saving or transitional provisions
<i>Marine Orders Part 9, issue 6</i> (MO 2010/1)	15 Jan 2010	F2010L00116	13 January 2010	—
<i>Marine Order 4 (Transitional modifications) 2013</i> (MO 2013/3)	30 May 2013	F2013L00871	1 July 2013	Section 3 and Schedules 1–42

#### Table of amendments

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted   mod. = modified

Provision affected	How affected
1A .....	mod. 2013/3
1.....	mod. 2013/3
2.....	mod. 2013/3
3.....	mod. 2013/3
4.....	mod. 2013/3
5.....	mod. 2013/3
6.....	mod. 2013/3
7.....	mod. 2013/3
8.....	mod. 2013/3
8A .....	mod. 2013/3
9.....	mod. 2013/3
10.....	mod. 2013/3
Appendix 1 .....	mod. 2013/3
Schedule 2.....	mod. 2013/3

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