



**FEDERAL SUBSIDIARY LEGISLATION** MERCHANT SHIPPING ORDINANCE  
1952 [ORD. 70/52] P.U.(A) 151/99 MERCHANT SHIPPING (MEDICAL  
EXAMINATION) RULES 1999 Publication in the Gazette : 22nd April 1999 Date of coming into operation : 1st  
August 1998 except rules 11, 12, 13 and 14 which on 22nd April 1999

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## **P.U.(A) 151/99 MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES 1999**

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### **Preamble**

IN exercise of the powers conferred by section 71 of the Merchant Shipping Ordinance 1952 [Ord. 70/52], the Minister makes the following rules:

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## **P.U.(A) 151/99 MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES 1999**

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### **Rule 1. Citation and commencement.**

(1) These rules may be cited as the **Merchant Shipping (Medical Examination) Rules 1999**.

(2) These Rules shall be deemed to have come into operation on the 1 August 1998 except rules 11, 12, 13 and 14 which shall come into operation on a date of publication in the Gazette of these Rules.

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## **P.U.(A) 151/99 MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES 1999**

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### **Rule 2. Application.**

(1) Subject to subrules (2) and (3)-

(a) these Rules, except rule 12, shall apply to all seagoing Malaysian ships; and

(b) rules 2 and 12 shall apply to all seagoing ships of 200 GT and over-

(i) which are not Malaysian ships;

(ii) while they are within the Federation waters; and

(iii) if they have entered those waters in the normal course of business or for operational reasons.

(2) These Rules shall not apply to-

(a) fishing vessels;

(b) recreational vessels, which means any boats, vessels or any other descriptions of water crafts that are used exclusively for recreation and do not carry passengers or goods for hire, reward, remuneration or any object of profit; and

(c) vessels or any class of vessel exempted by the Minister.

(3) The Minister may grant exemptions from all or any of the provisions of these Rules for persons or classes of persons on such conditions, if any, as he thinks fit and may, subject to giving reasonable notice, alter or cancel any such exemption.

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### **Rule 3. Interpretation.**

(1) In these Rules, unless the context otherwise requires-

"applicant" means an applicant for a medical examination certificate;

"approved" means approved in writing by the Director;

"authorized person" means a Port officer, a surveyors of ships, an Inspector appointed under section 525 of the Ordinance or any person authorized under subsection 8(4) of the Ordinance;

"chemical tanker" means a ship constructed or adapted and used for the carriage in bulk of any liquid product listed in Chapter 17 of the International Bulk Chemical Code;

"company" includes an individual, and, in relation to a ship, means the owner of the ship or any other organisation or person who has assumed the duties and responsibilities imposed on the company by these Rules for the operation of the ship from the owner;

"crew" means all seamen employed on board a ship including the master;

"Director" means the Director of Marine as defined in the Ordinance:

"GT" means gross tonnage;

"International Labour Office" means the office of that name established by the International Labour Organisation;

"Malaysia Shipping Notice" means a Notice described as such and issued by the Director;

"medical examination certificate" means a certificate issued under rule 6, or a certificate treated as its equivalent under rule 5;

"medical practitioner" means any medical practitioner registered under the Medical Act 1971 [Act 50];

"medical referee" means a medical practitioner appointed by the Director under rule 9;

"seagoing ship" means a ship other than one which navigates exclusively within inland waters or in areas where port regulations apply;

"specified by the Director" means specified by the Director in the Malaysia Shipping Notice;

"valid medical examination certificate" means a medical certificate which is in force and covers the type of sea service being performed by the holder.

(2) Any approval given under to these Rules shall-

(a) be in writing; and

(b) specify-

- (i) the date on which it takes effect; and
  - (ii) the conditions, if any, to which it is subject.
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## **P.U.(A) 151/99 MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES 1999**

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### **Rule 4. Prohibition on employment.**

(1) Subject to subrule (3), no person shall employ a seaman on a ship unless that seaman is the holder of a valid medical examination certificate; however, a seaman who is the holder of a medical examination certificate which expires while he is in a place where medical examination in accordance with these Rules is impracticable may continue to be employed without such a certificate for a period not exceeding 3 months from the date of expiry of the certificate.

(2) Subject to subrule (3), no person shall employ a seaman on a ship, in a capacity or in a geographical area precluded by any restriction in the medical examination certificate of that seaman.

(3) Subrules (1) and (2) shall not apply to the employment of-

(a) a pilot, unless he is a member of the ship's 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;

(ii) the exploration of the sea-bed or sub-soil or the exploitation of its 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 telegraph cable;

(v) pipeline works, including the assembly, inspection, testing, maintenance, adjustment, repair, alteration, renewal, or change of position of, or dismantling a pipeline; or

(iv) the provision of goods, personal services or entertainment on board,

unless the person is engaged in the normal working of the ship or has responsibilities in relation to ensuring safety if there is an emergency on board the ship; or

(c) a person employed only while the ship is in port and who is not ordinarily employed at sea.

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### **Rule 5. Certificate equivalent to a medical examination certificate.**

(1) A medical examination certificate issued to a seaman in accordance with the provisions of the Medical Examinations (Seaman) Convention 1946 (International Labour Convention 73 of 1946) or of the

Merchant shipping (Minimum Standards) Convention 1976 (International Labour Convention 147 of 1976)-

(a) by an authority empowered in that behalf by the laws of a country outside Malaysia which has ratified either of those Conventions; or

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

shall be treated for the purposes of these Rules as equivalent to a medical examination certificate issued under rule 6.

(2) A certificate treated under subrule (1) as equivalent to a medical examination certificate issued under rule 6 shall continue to be so treated until the expiration of the period of validity specified in the certificate; however, the certificate issued to a seaman serving on a Malaysian ship shall not be so treated for any longer period than would be permitted under rule 8 in the case of a medical examination certificate issued under rule 6 to that seaman.

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### **Rule 6. Issuance of certificate.**

(1) Every applicant for a medical examination certificate shall be medically examined by an approved medical practitioner and if the practitioner considers that the applicant is fit for sea service, having regard to the medical and visual standards for serving seamen as specified by the Director, he shall issue the applicant with a medical examination certificate in an approved form.

(2) A medical certificate issued under this rule may be restricted to such type of ship, capacity or geographical area as the approved medical practitioner thinks fit.

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### **Rule 7. Period of validity of a certificate.**

An approved medical practitioner who issues a medical examination certificate under rule 6 shall specify the period, commencing with the date of the medical examination, for which the certificate shall remain valid, subject to the following, maximum periods:

(a) in respect of a seaman of under 18 years of age, 1 year;

(b) in respect of a seaman of 18 years and under 40 years of age, 5 years; and

(c) in respect of a seaman of 40 years of age and over, 2 years.

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### **Rule 8. Suspension or cancellation.**

(1) If an approved medical practitioner has reasonable grounds for believing that-

(a) there has been a significant change in the medical fitness of a seaman during the period of validity of his medical certificate;

(b) when the medical examination certificate was issued an approved medical practitioner, had he been in possession of the full details of the seaman's condition, could not reasonably have considered that the seaman was fit, having regard to the medical standards referred to in rule 6; or

(c) the medical examination certificate was issued otherwise than in accordance with these Rules,

he shall notify the seaman concerned and may-

(aa) suspend the validity of that certificate until the seaman has undergone a further medical examination;

(bb) suspend the certificate for such period as he considers the seaman will remain unfit to go to sea; or

(cc) cancel the certificate if he considers that the seaman is likely to remain permanently unfit to go to sea.

(2) If an approved medical practitioner suspends a medical examination certificate under paragraph (1)(aa) or (bb) or cancels a certificate under paragraph (1)(cc), he shall notify the Director in writing as soon as is reasonably practicable.

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## **P.U.(A) 151/99 MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES 1999**

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### **Rule 9. Application for a review.**

(1) A seaman who is aggrieved by-

(a) the refusal of an approved medical practitioner to issue him with a medical examination certificate;

(b) the imposition of a restriction on a certificate under subrule 6(2);

(c) the suspension of a certificate for more than 3 months under paragraph 8(1)(aa) or (bb); or

(d) the cancellation of a certificate under paragraph 8(1)(cc),

may apply to the Director for the decision to be reviewed by a single medical referee appointed by the Director.

(2) An application under this rule shall-

(a) be lodged with the Director within 1 month of the date on which the seaman is given notice of the decision which is the subject of the application for review, or, where delay is caused by the seaman's employment on board a ship away from Malaysia, within 1 month of the seaman's return to Malaysia; and

(b) state the name and address of the approved medical practitioner whose decision is the subject of the application for review.

(3) The Director shall refer to the medical referee any application lodged with him pursuant to subrule (2) as soon as is reasonably practicable.

(4) Where an application is referred under subrule (3), the medical referee shall-

(a) if practicable, obtain a written report from the approved medical practitioner whose decision is the subject of the application for review;

(b) medically examine the applicant;

(c) if the applicant so requests, disclose to the applicant the written report of the approved medical practitioner and any other evidence not produced by the applicant himself, unless the medical referee considers that such disclosure would be harmful to the applicant's health; and

(d) have regard to any relevant medical evidence produced to him, whether or not such evidence is disclosed to the applicant under paragraph (c).

(5) In the light of his medical examination of the applicant and of all other medical evidence before him, the medical referee shall-

(a) where the decision which was the subject of the application for review was a refusal to issue a medical certificate, or the cancellation of a certificate or the suspension of a certificate for more than 3 months, and if he considers that the applicant is fit, having regard to the medical and visual standards specified by the Director, issue to the applicant a medical certificate in the approved form, with or without restriction as to the capacity or geographical area, and valid for such period as he shall specify, subject to rule 7;

(b) where the decision which was the subject of the application for review was the imposition of a restriction as to type of ship, capacity or geographical area, and if he considers that restrictions other than those imposed on the medical examination certificate issued to the applicant should be imposed, or that any restrictions so imposed should be deleted or varied, issue to the applicant a medical examination certificate expressed accordingly and valid for such period as he shall specify, subject to rule 7;

(c) in a case other than those referred to in paragraphs (a) and (b), notify the applicant of his decision; and

(d) in every case, notify the Director in writing of the result of the review.

(6) Any action under subrule (5) shall be taken not later than 2 months from the date on which the application for review is lodged with the Director, or within such longer period as the Director may determine in any particular case.

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## **P.U.(A) 151/99 MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES 1999**

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### **Rule 10. Records and annual returns.**

(1) An approved medical practitioner who conducts a medical examination under these Rules shall-

(a) make a record in an approved form of every such medical examination and retain it for 3 years; and

(b) send an annual return of all such medical examinations to the Director in a form approved by him;

(2) The forms referred to in paragraphs (1)(a) and (b), so far as the Director considers practicable, shall not include medical information which can be identified as applying to a particular person.

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## **P.U.(A) 151/99 MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES 1999**

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### **Rule 11. Inspection and detention of Malaysian ships.**

(1) The Director or an authorized person may inspect a ship and, if satisfied-

(a) that any seaman on board whose company is required by these Rules to ensure that he is the holder of a valid medical examination certificate is unable to produce such a certificate; and

(b) that the state of the seaman's health is such that the ship could sail but with serious risk to the safety or health of others on board,

may detain the ship.

(2) The Director or an authorized person shall not, in the exercise of his powers under this rule, unreasonably delay or detain a ship.

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## **P.U.(A) 151/99 MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES 1999**

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### **Rule 12. Inspection and detention of ships which are not Malaysian ships.**

(1) The Director or an authorized person may inspect a ship and, if satisfied that any seaman employed on board is unable to produce a valid medical examination certificate, may-

(a) send a report to the government of the country in which the ship is registered, with a copy of it to the Director General of the International Labour Office;

(b) where, in his opinion, the conditions on board are clearly hazardous to the safety or health of others on board, order the master to take such measures as are necessary to rectify those conditions and, if the measures are not taken in a reasonable time, detain the ship.

(2) Where the Director or an authorized person exercises any of his powers under paragraph (1)(a) or (b) in respect of a ship, he shall notify that he has done so to the nearest consular or diplomatic representative of the country in which the ship is registered.

(3) The Director or an authorized person shall not, in the exercise of his powers under this rule, unreasonably delay or detain a ship.

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## **P.U.(A) 151/99 MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES 1999**

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### **Rule 13. Keeping of Rules.**

The master of a ship shall keep on board a copy of these Rules and make a copy temporarily available



to any seaman who so requests, and the company shall ensure that the ship carries a copy of these Rules.

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## **P.U.(A) 151/99 MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES 1999**

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### **Rule 14. Offences and penalties.**

(1) Any company who contravenes rule 4 commits an offence and is liable, on conviction, to a fine not exceeding ten thousand ringgit.

(2) Any company or master who contravenes rule 13 commits an offence and is liable, on conviction, to a fine not exceeding ten thousand ringgit.

(3) In any proceedings for an offence under these Rules it shall be a defence to show that all reasonable steps were taken to ensure compliance with these Rules.

Made 10 February 1999.  
[KP/BM/JL/0.279; PN(PU<sup>2</sup>) 199/XV]

DATO' SERI DR. LING LIONG SIK  
*Minister of Transport*

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