

Obtaining information on the employee's workplace before a case is sent to the Appellate Body

1 Information to the employee and the employer regarding obtaining information on the workplace and work capacity

1.1 Individual assessment

Both the seafarer's doctor and the Appellate Body shall carry out a risk assessment regarding the safety risk on the person's health condition:

- The seafarer's doctor to assess whether the requirements of the Health Regulations¹ are satisfied
- The Appellate Body to make an individual assessment on whether the purpose clause in the Health Regulations is fulfilled, even if the individual health requirements in the Health Regulations and the Appendix are not

Risk assessment pursuant to the Health Regulations is equally based on an assessment of the workplace and the health condition. Section 11 of the Health Regulations describes what the seafarer's doctor should take into consideration when determining whether a limited medical certificate should be issued:

- a. the health of the person working on board;
- b. the tasks that follow the capacity of the person working on board;
- c. whether the person working on board, can function effectively in an emergency or casualty situation;
- d. whether the person working on board constitutes a risk to the health or safety of other persons working on board.

1.2 Involvement of the employer

The Health Regulations do not require the involvement of the employer, and the employee is not required to provide the employer with health information, it is nevertheless desirable that the workplace, including risk assessment, is well described, and that the employer and the employee agrees on the description. Such information will facilitate the Appellate Body a rapid and more accurate assessment of the safety-related consequences of any medical incident, including recommended risk-reducing measures.

1.3 Information about the workplace can be obtained in different ways, and each way can provide different information. Together they form a good overall picture:

1. Description of tasks
2. Self-assessment of work capacity
3. Employer's assessment of work capacity
4. Risk assessment by employee and employer together

¹ Regulations on the medical examination of employees on Norwegian ships and mobile offshore units, <https://www.sdir.no/contentassets/e5a8e7f6269149889d318d799fb8d762/5-june-2014-no.-805-medical-examination-of-employees-on-norwegian-ships-and-mobile-offshore-units.pdf>