

February 2017

## Maritime Labour Convention, 2006 Declaration of Maritime Labour Compliance – Part I

*(Note: This Declaration must be attached to the ship's Maritime Labour Certificate)*

Issued under the authority of the Director of Maritime New Zealand.

With respect to the provisions of the Maritime Labour Convention, 2006, the following referenced ship:

Name of ship	IMO number	Gross tonnage

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that:

- a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;
- b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;
- c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided in the section provided for this purpose below;
- d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and
- e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

### Application to New Zealand ships

*In accordance with Article II (6) of the Maritime Labour Convention, New Zealand applies the Convention to all commercial New Zealand ships of 200 gross tonnage or more that operate outside restricted limits as defined in Maritime Rules Part 20. The convention does not apply to fishing vessels of any size*

*In accordance with the Convention, New Zealand requires all commercial New Zealand ships of 500 gross tonnage or more that undertake an international voyage, to carry a Maritime Labour Certificate.*

### 1. Minimum age (Regulation 1.1)

- *The Maritime Transport Act section 26(2) provides that no person shall employ any person on any New Zealand ship of an age that requires that person to be enrolled at school.*
- *The Education Act section 20 requires every person to be enrolled at a registered school at all times during the period beginning on the person's sixth birthday and ending on the person's 16th birthday.*
- *Specific working arrangements for the protection of seafarers under the age of 18 are outlined in Maritime Transport Act section 26(2). Section 26(4) provides that nothing in subsection (2) applies*

to the employment of a person to carry out work on a training ship if the carrying out of such work by a person of that age is approved by the Director.

- Maritime Rule 52.41 provides that each seafarer under the age of 18 must not perform any duty at night. A definition of night is included in Maritime Rules Part 52 that is consistent with that in the Maritime Labour Convention. Exceptions may be made where it is reasonably required to train the seafarer, it is in accordance with an approved training programme, and where the training will be significantly less effective if conducted other than at night.
- Maritime Rule Part 52.81 sets the minimum age of 18 years for a ship's cook.
- The Health and Safety at Work Act 2015 section 36 places a primary duty of care on Persons Conducting a Business or Undertaking (PCBU) to ensure the health and safety of all their workers. While there are no specific restrictions in New Zealand employment legislation regarding the type or nature of work carried out by those under 18 years of age, section 36 sets a clear expectation that PCBUs will take into account the potential and actual health and safety implications of such persons undertaking work that this is likely to jeopardise their health and safety.

## **2. Medical certification (Regulation 1.2)**

- Maritime Rules Part 34.4 Subpart A requires all seafarers under the age of 18 to undergo a medical examination prior to employment on a ship and sets out requirements for the medical examination of young persons. Certificates of medical fitness for such persons are valid for 12 months.
- Maritime Rules Part 34 Subpart B sets the requirements for other seafarers in relation to medical certificates. Certificates of medical fitness for those seafarers are valid for 24 months.
- The prescribed standards in Part 34 for certificates of medical fitness are aligned with the STCW medical standards and so meet the required Maritime Labour Convention standard.

## **3. Qualifications of seafarers (Regulation 1.3)**

- Maritime Rules Part 31 Subpart B sets the minimum standards for the crew qualifications that must be held by crew operating on ships to which the Maritime Labour Convention applies.
- Maritime Rules Part 32 sets out the requirements for seafarer certificates. This includes national certificates as well as STCW certificates.

## **4. Seafarers' employment agreements (Regulation 2.1)**

- The Employment Relations Act 2000 Parts 5 and 6 set out the requirements for what must be included in collective and individual employment agreements.
- Maritime Rule 52.61 sets out items for inclusion in an employment agreement not otherwise required in the Employment Relations Act 2000.
- Maritime Rule 52.61 also sets out additional requirements in relation to employment agreements which aligns with Maritime Labour Convention requirements. This includes a requirement that each seafarer on the ship be provided with a signed original of the seafarer's employment agreement and that copy of the agreement be kept on board the ship.

## **5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)**

- If a ship owner recruits seafarers directly, this section does not apply.
- The Maritime Labour Convention requires that owners of New Zealand flagged ships who use seafarer recruitment and placement services based in New Zealand or other countries or territories in which the convention applies, shall ensure that those services meet the requirements of Standard A 1.4 of the Convention.
- Owners of New Zealand flagged ships who use seafarer recruitment and placement services based in countries or territories in which the Convention does not apply, shall ensure, as far as practicable, that those services meet the requirements of Standard A 1.4.5 and Standard A 1.4.9 of the Convention.

## 6. Hours of work or rest (Regulation 2.3)

- *Maritime Rule 31.30 requires seafarers to which STCW applies (those with watchkeeping and specified duties) to comply with the hours of rest requirements set in section A-VIII/1 of the STCW Code.*
- *Maritime Rule 52.64 requires the owner and master of a ship to establish and enforce rest periods for seafarers working on the ship to which section A-VIII/1 of the STCW Code does not apply. These must be posted with the shipboard working arrangements. These must be in accordance with Standard A2.3 of the Maritime Labour Convention.*
- *Maritime NZ requires that for the purposes of both STCW and the Maritime Labour Convention, working arrangements set minimum hours of rest and records are maintained of hours of rest taken.*

## 7. Manning levels for the ship (Regulation 2.7)

- *Maritime Rule 31.42 provides that the owner and master of a ship must not operate that ship unless there are on board at least the minimum number of crew including seafarers holding or demonstrating certificates, prescribed endorsements or ancillary proficiencies as required by the Minimum Safe Crewing Document, and Part 31.*
- *Maritime Rule 31.20 requires the owner and master of a ship to monitor the effectiveness of the crew carried, ensure that the total crew onboard meets the requirements of the minimum safe crewing assessment, and complies with the Minimum Safe Crewing Document.*
- *Maritime Rule 31.21 sets the minimum safe crewing requirements. This includes having sufficient crew and sufficiently qualified crew to perform certain tasks. When complying with these requirements the owner and master must take into account the requirements of the Maritime Transport Act and the Maritime Rules.*
- *Maritime Rule 31.24 requires the owner to ensure that the Minimum Safe Crewing Document is displayed on the ship at all times. If this is not practicable, the owner must ensure that the document is available for inspection at any reasonable time by the crew or any other person entitled to inspect it.*

## 8. Accommodation (Regulation 3.1)

- *Maritime Rules Part 51 prescribes the crew accommodation standards for New Zealand commercial ships. It covers all areas of a ship that crew occupy or use outside the ship's workspaces, including sleeping rooms, recreation rooms, galleys, laundries, sanitary accommodation, drying rooms and store rooms. It also sets minimum standards for heating, ventilation and sound insulation of bulkheads and decks.*
- *Subpart B of Part 51 sets the standards for ships subject to the Maritime Labour Convention. The new requirements under the Convention in respect of crew accommodation standards in Part 51 will only apply to ships with a date of construction of 9 March 2017 or later. Ships constructed prior to that date will be required to meet the previous ILO standards in Part 51 Subpart A.*

## 9. On-board recreational facilities (Regulation 3.1)

- *Maritime Rule 51.99 requires that recreation spaces be provided on board the ship. These must be conveniently situated, appropriately furnished and separate from mess rooms (except where the ship is under 3,000 GT). At a minimum, furnishings must include facilities for reading, writing, and games. Where the ship is over 3,000 GT recreation spaces must have easy chairs or settees sufficient to accommodate at least one third of the crew using the space at any one time. Ships over 8,000 GT must have facilities for watching films, videos and television, a hobby or games room.*

## 10. Food and catering (Regulation 3.2)

- *The Maritime Transport Act section 23(1)(a) requires every employer of seafarers to provide food and water which, having regard to the size of the crew and duration and nature of the voyage, are suitable in respect of quantity, nutritive value, quality and variety.*

- *Maritime Rule 31.21(3)(c) requires the owner and master of a ship to take into account the provision of proper food and drinking water when making a minimum safe crewing assessment.*
- *Section 28(3) of the Human Rights Act 1993 states that where a religious or ethical belief requires its adherents to follow a particular practice, an employer must accommodate the practice so long as any adjustment of the employer's activities required to accommodate the practice does not unreasonably disrupt the employer's activities. The New Zealand Human Rights Commission (HRC) has produced a Statement on Religious Diversity. That statement includes the principle that in staff canteens and catering facilities employers should try to provide alternative food and drink, such as vegetarian and/or vegan options, so that employees can follow their religious or ethical norms.*
- *The Food Act 2014 applies to food for sale in New Zealand which includes New Zealand-flagged ships in New Zealand waters. Food for sale includes food provided to employees in accordance with an employment agreement and so includes seafarers on ships. The Food Act is administered by New Zealand territorial authorities who require 'food businesses' to have registered Food Control Plans which the authorities audit on a regular basis. The Food Act deals primarily with food safety – facilities for storage, preparation and handling, and training of those who prepare and handle food, so the Act complements requirements in Maritime Rules in meeting the requirements of the Maritime Labour Convention.*
- *Maritime Rule 31.43(1)(c) requires ships of more than 1000 GT operating in the unlimited area to carry a cook holding a New Zealand Certificate in Cookery (Level 3) or an equivalent. New Zealand legislation does not currently apply the threshold of 10 or more crew (including the master) to have a qualified ship's cook, but in practice any New Zealand ship of this complement will carry one.*
- *Maritime NZ will issue a letter of confirmation to a ships' cook that the above New Zealand cooking qualifications meet the training and qualification requirements of MLC Standard A3.2.*
- *Where a ship is not required to have a ship's cook, but crew members prepare food for crew or others in the galley as part of their work duties, then Maritime NZ requires those crew members to hold minimum food handling qualifications. A food handling supervisor must hold New Zealand Unit Standard NZQA 168 or equivalent, and other on-board food handlers must hold New Zealand Unit Standard NZQA 167 or equivalent. Equivalent company training as part of an approved programme is an accepted alternative in both cases. [NZQA 167: Practise food safety methods in a food business under supervision].*
- *Maritime Rule 51.107 requires the owner of a ship to ensure that the ship is equipped with a galley for the preparation of food for seafarers.*
- *Maritime Rule 51.108 sets the standards for dry provisions store rooms.*
- *Maritime Rule 51.109 sets the requirements for cold stores and refrigerating equipment and for the storage of perishable provisions for seafarers.*
- *Maritime Rule Part 52.81 requires that no person under the age of 18 years is employed or otherwise engaged as a cook on board the ship.*

## **11. Health and safety and accident prevention (Regulation 4.3)**

- *The Health and Safety at Work Act and supporting regulations provide the regulatory framework for health and safety in New Zealand workplaces including for those living and working onboard ships. Maritime NZ is the designated agency for health and safety aboard New Zealand ships and enforces the Act on those ships.*

## **12. On-board medical care (Regulation 4.1)**

- *The Maritime Transport Act section 23(1)(b) requires every employer of seafarers on a New Zealand ship to ensure that any seafarer requiring medical attention while overseas receives all necessary medical attention at the employer's expense.*
- *Maritime Rule Part 50 prescribes the medical stores and medical guides that must be carried on board New Zealand ships. This includes medicines and medical equipment on survival craft and rescue craft. Medicines, equipment and medical guides must be suitable for first aid and the medical care of seafarers onboard who become ill or suffer injury. Ships carrying more than 100 persons beyond the Exclusive Economic Zone of New Zealand must carry a registered medical practitioner.*

- *Maritime Rule 51.110 requires the owner of any ship operating in the unlimited area with more than 15 seafarers onboard engaged on a voyage of more than 72 hours duration to ensure that the ship is equipped with a permanent hospital for the treatment of ill and injured seafarers.*

### **13. On-board complaint procedures (Regulation 5.1.5)**

- *The Employment Relations Act sections 54(3)(a)(iii) and 65(2)(a)(vi) requires that all employment agreements include a plain language explanation of the services available for the resolution of employment relationship problems, including a reference to the period of 90 days in section 114 within which a personal grievance must be raised.*

### **14. Payment of wages (Regulation 2.2)**

- *The Wages Protection Act section 4 requires employers when any wages become payable to a worker to pay the entire amount of those wages to that worker without deduction except in certain circumstances set out in section 5.*
- *Wages Protection Act Section 5 includes the following provisions:*

#### ***Deductions with worker's consent***

*(1) An employer may, for a lawful purpose, make deductions from wages payable to a worker—*

*(a) with the written consent of the worker (including consent in a general deductions clause in the worker's employment agreement); or*

*(b) on the written request of the worker.*

*(1A) An employer must not make a specific deduction in accordance with a general deductions clause in a worker's employment agreement without first consulting the worker.*

*(2) A worker may vary or withdraw a consent given or request made by that worker for the making of deductions from that worker's wages, by giving the employer written notice to that effect; and in that case, that employer shall—*

*(a) within 2 weeks of receiving that notice, if practicable; and*

*(b) as soon as is practicable, in every other case,—*

- *The Wages Protection Act section 7 requires that wages be paid in money only.*
- *Maritime Rule 52.62 requires the owner and master to ensure that seafarers are paid in full the wages due at no greater than monthly intervals.*
- *Maritime Rule 52.63(1) requires the owner and master of a ship to provide each seafarer working on the ship with the option and means to transmit all or part of their wages to a nominated person. Maritime Rules Part 52 defines the term 'nominated person' which is broadly limited to the seafarer's family, current or former spouses or partners, dependants and legal beneficiaries of the seafarer.*
- *Maritime Rule 52.63(2)(a) provides that where the seafarer opts to transmit all or part of his or her wages the owner must ensure that the proportion transmitted is remitted to the nominated person at the intervals requested and by bank transfer or similar means directly to the nominated person.*
- *Maritime Rule 52.63(2)(b) provides that any charge for this service must be reasonable, and where the currency transmitted is to be exchanged, the rate of currency exchange, unless otherwise agreed must be the prevailing market rate or official published rate and not unfavourable to the seafarer.*

### **15. Financial security for repatriation (Regulation 2.5)**

- *Maritime Rule 52.65 requires the owner and master of a ship to make provision for repatriation. This extends the requirement under sections 22 of the Maritime Transport Act setting out the duties of employers in relations to seafarers on New Zealand ships on voyages outside New Zealand.*

- *Ship owners must provide a certificate or documentary evidence of financial security from a third party provider that meets the requirements of Standard A2.5.2 of the Convention.*

**16. Financial security relating to ship owner’s liability (Regulation 4.2)**

- *This provision relates to financial security to assure compensation in the event of the death or long-term disability of a seafarer due to an occupational injury, illness or hazard.*
- *The New Zealand Accident Compensation Corporation (ACC) provides comprehensive, no-fault personal injury cover for all New Zealand residents and visitors to New Zealand. However, this scheme may not provide complete cover for all the situations specified in Standard 4.2, or cover all seafarers on New Zealand flagged ships as required by the Convention.*
- *Ship owners must provide a certificate or documentary evidence of financial security from a third party provider that meets the requirements of Standard A4.2 of the Convention.*

Name: .....

Title: Director of Maritime New Zealand

Signature: .....

Place: .....

Date: .....



## Substantial equivalencies

### Cadets

*Cadets on New Zealand ships are considered to be seafarers for the purposes of the Maritime Labour Convention.*

*In New Zealand, placements of cadets on ships are usually arranged between the training provider and the ship owner.*

*Where cadets are not in paid employment, they may not have a Seafarer Employment Agreement (SEA) including holiday provisions. Instead Maritime NZ requires there to be a written agreement between the cadet and the training provider which provides for protection of living and working conditions, and a written agreement between the ship owner and the training provider with which they are enrolled specific to the individual cadet regarding their training, welfare and responsibilities while on the ship.*

*The agreements should reflect the fact that while cadets are not in paid employment, the ship owner is still obligated to ensure minimum standards are met in each of the above matters covered by the Maritime Labour Convention, and also the role of the Master in relation to the conduct and management of the ship.*

*A copy of the agreements must be held on board and the cadet must hold a copy of their own agreement with the training provider.*

*Accommodation should meet the minimum requirements of the Maritime Labour Convention for seafarers on the ship. Agreements should cover termination, repatriation and cadets should have access to the on-board complaints procedure. They are also subject to and required to comply with the Health and Safety at Work Act when on board the ship.*

*New Zealand considers the above provisions in respect of cadets constitute a substantial equivalence to the requirements of the Maritime Labour Convention.*

Name: .....

Title: Director of Maritime New Zealand

Signature: .....

Place: .....

Date: .....

**Exemptions**

*(Note: Strike out the statement which is not applicable)*

*The following exemptions granted by the competent authority as provided in Title 3 of the Convention are noted:*

.....  
.....

*No exemption has been granted.*

Name: .....

Title: Director of Maritime New Zealand

Signature: .....

Place: .....

Date: .....

SAMPLE