

Advisory Circular

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Part 19: Maritime Transport Operator – Certification and Responsibilities

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1. General

1.1 Purpose of advisory circulars

Maritime New Zealand (MNZ) advisory circulars are designed to provide assistance with and explanations about the standards and requirements set out in the Maritime Rules. However, the notes in advisory circulars should not be treated as a substitute for the Rules themselves, which are the law.

If an advisory circular sets out how a rule can be satisfied, then compliance with that advice ensures compliance with the rule. While other methods of complying with the rule may be possible, MNZ would first need to be satisfied that those alternative methods are of an equivalent standard to what is advised in the advisory circular. The advisory circular would then be amended to include those equivalents.

This advisory circular supports Maritime Rule Part 19 *Maritime Transport Operator – Certification and Responsibilities*, which came into effect on 1 April 2014. A number, such as rule or Maritime Rule 19.21, refers to a specific rule within Part 19.

1.2 Application of Rule Part 19

Maritime Rule Part 19 covers:

Every person running a maritime transport operation:

- in New Zealand waters
- on the New Zealand coast
- outside New Zealand waters if the ship is (or should be) licensed or registered in New Zealand under the Ship Registration Act 1992 or New Zealand fisheries law.

A maritime transport operation is defined in the Rule at Part 19.2. Not every ship (and its associated operation) is covered by Part 19. Part 19 does not apply to:

- commercial New Zealand ships that operate in line with Part 21
- commercial New Zealand ships operating under a safe operational plan or a safety case approved by the Director of MNZ
- a commercial New Zealand ship that is certified as an amusement device under the Machinery Act 1950
- a commercial New Zealand ship that operates in line with a specified limits operating plan under Part 20
- a commercial New Zealand ship that is a barge that does not carry anyone on board during the course of the voyage
- a commercial New Zealand ship that is used exclusively for eel fishing, holds a fishing permit under section 91 of the Fisheries Act 1996, is less than 6 metres in length and operates less than 2 nautical miles from the coast.

Unless operating in line with Part 21 or holding valid documents or certificates in line with section 4 of Part 46, the following ships are also within scope of Part 19:

- a foreign commercial ship that is used for fishing and must be licensed or registered under any applicable New Zealand fisheries law

- a foreign commercial ship, under 500 tons gross tonnage, that does not carry passengers
- a foreign commercial ship that carries 12 or fewer passengers.

1.3 Purpose of the Rule

Rule Part 19 requires maritime transport operators to develop, and operate according to, a safety system specific to their operation. Operators must document the safety system in a maritime transport operating plan (operator plan). They must submit the plan to the Director of MNZ, so the Director can issue a maritime transport operator certificate (MTOC). Rule Part 19 sets out what must be in the operator plan and the requirements and responsibilities of any person operating under an MTOC.

1.4 Objective of the Rule

The objective of Rule Part 19 (together with Rule Part 44) is to improve the safety record of those operating ships commercially in New Zealand, through requiring operators to document the details of their operation, and the procedures they will follow to address reasonably foreseeable hazards within it. Rule Part 19 seeks to reaffirm the responsibility operators must take for the safety of their operations and the vessels used within it.

2. Supporting guidance for the Rule

2.1 Operators need a maritime transport operator certificate

From 1 July 2014, operators must hold a current MTOC (issued by the Director of MNZ), to conduct a maritime transport operation. This requirement covers all maritime transport operations, unless they are specifically excluded by Part 19.12 (see section 1.2 'Application of Rule Part 19').

The transitional provisions in Part 19.81 allow any operator who holds a current safe ship management (SSM) certificate on 1 July 2014 to continue their operations until their SSM certificate expires. To operate commercially after their SSM certificate expires, they must hold an MTOC. For more detail about transitional arrangements, see section 5 'Transition and revocation'.

If an operator has multiple SSM certificates, they can only operate until the earliest expiry date among the certificates.

2.2 Maritime transport operator certificate application: Requirements, assessment and fees

Rule Part 19.21 sets out what an operator must submit to MNZ when applying for an MTOC.

An applicant must submit:

- a maritime transport operating plan (operator plan) (see section 2.7 below for more detail)
- a declaration (signed by the applicant) that the applicant will follow the procedures and policies set out in their operator plan
- any other information about the applicant that the Director requires
- a payment of the appropriate application fee.

The Appendix to Part 19 prescribes what matters an operator plan must cover.

MNZ has developed a template for operator plans for applicants to use. Applicants do not have to use the template but it is designed to make preparing the plans easier. The template is available online at: <http://www.maritimenz.govt.nz/Commercial/Safety-management-systems/MOSS/MOSS-for-operators/form-templates-guides.asp>

An operator can use someone else to prepare their operator plan but the operator must know it, understand it and be able to put it into action.

The declaration form is also available online at:
<http://www.maritimenz.govt.nz/Publications-and-forms/Commercial-operations/MOSS/Applying-for-an-MTOC-MNZ%20guideline.pdf>

Applicants can find guidance on applying for an MTOC and the application form on the MNZ website at: [maritimenz.govt.nz/Commercial/Safety-management-systems/MOSS/MOSS-for-operators/form-templates-guides.asp](http://www.maritimenz.govt.nz/Commercial/Safety-management-systems/MOSS/MOSS-for-operators/form-templates-guides.asp).

MNZ can ask for more information as part of the application assessment process.

2.2.1 Fees and timeframes

The Shipping (Charges) Regulations 2014 set out all fees relevant to work and services undertaken by MNZ for those operating under Rule Part 19. The regulations are available at NZ Legislation Online and the MNZ website links to them.

Anyone applying for an MTOC before 1 July 2016 must pay an initial fee of \$564 (GST inclusive). Between 1 July 2016 and 30 June 2019, the fee will be \$728. From 1 July 2019, it will be \$781.

The initial fee covers the elements of the application processing that are common to all applications in terms of the amount of time it takes Maritime New Zealand to complete them. This includes the administrative elements and one fit and proper person check (which is the minimum for any application). This has been calculated to take 3.25 hours.

Applicants will be charged at an hourly rate for other elements in the process that do not have a standard timeframe for completion. These are the desktop assessment of the application, the site visit, and any fit and proper person checks beyond the first (if necessary).

The hourly rate is prescribed in the Shipping (Charges) Regulation 2014. The hourly rates (including GST) for additional parts of the assessment done in an MNZ office will be:

- \$179 per hour from 1 April 2014–30 June 2016
- \$231 per hour between 1 July 2016 and 30 June 2018
- \$248 per hour from 1 July 2019.

Those parts of the assessment done at the site of the applicant's operation ('off-site' from MNZ's perspective) will incur an 'off-site' rate. This rate is calculated as an average of MNZ's total costs to do activities off site. Averaging the rate helps ensure operators in remote locations do not face much higher application fees than those operating closer to an MNZ office.

The off-site rate applies to the time spent at an MNZ office preparing for an off-site visit, the time spent on the visit and the time spent back at an MNZ office assessing the site visit findings. The actual cost of MNZ travelling to the site (such as fares, accommodation, meals) is not charged to the operator because the off-site rate reflects an averaging of those costs across all MNZ's off-site activities.

If a second off-site visit is needed to assess the application for an MTOC, the standard hourly rate applies and MNZ will charge the actual and reasonable costs for the visit. There is a different charging approach for second visits because most applicants will only need one visit and the 'averaged' cost of the off-site rate should not be applied in the few cases where a follow up is necessary.

MNZ has estimated that for single vessel operations (which make up 80% of operations) – where one fit and proper person check and one site visit is required – it will take between 4 and 11 hours (beyond the standard 3.25 hours covered by the initial fee). This is the time it will take for the assessment to be completed and the certificate issued (or a decision to decline the application made). Based on this, applicants can expect to pay between \$1,392 and \$2,842 in total (this includes the initial fee and hourly rates that apply up to 30 June 2016).

Where there is more than one vessel in an operation, the initial fee remains the same. MNZ has assessed that the variable assessments will require:

- 5–13 hours for two vessels
- 9.5–21.5 hours for up to 10 vessels
- 31–63 hours for up to 50 vessels.

The variance within each range reflects the complexity of larger operations (which will also be reflected in the operator plan being assessed) and the number of fit and proper person checks MNZ will have to do.

Applicants can find more information about the assessment process and guidance on the MNZ website.

2.3 Issue of maritime transport operator certificates

The Director must issue an MTOC if satisfied that the applicant meets the requirements under Rule 19.22 and under section 41 of the Maritime Transport Act 2004. The Director of MNZ must approve a certificate as soon as practicable, if satisfied that the applicant meets all relevant requirements and the applicant and anyone else who will, or is likely to, have control over the exercise of privileges under the document are fit and proper persons.

2.4 Privileges of a maritime transport operator certificate

Rule Part 19.23 allows anyone issued with an MTOC to run a maritime transport operation, subject to any conditions imposed.

In most cases there will be no conditions that are particular to an individual operator plan¹, but the Director has the authority to issue an MTOC with conditions, when needed, under section 34(3) of the Maritime Transport Act 2004. Examples of the types of conditions the Director can impose include only allowing parts of a multi-activity operation to be undertaken, or restricting an operation to a particular area or within internal waters.

Where the Director decides to impose a condition, the applicant will be notified and will have an opportunity to discuss the reason for the condition. If applicants tell MNZ that they do not want to operate under the Director's intended conditions, their application will be treated as having been withdrawn.

An operator must ensure the operation complies with any conditions imposed by the Director.

¹ There is a condition that applies to all maritime documents, which is that the people exercising privileges under the document must remain fit and proper

The final decision to impose conditions always rests with the Director, but under section 34 of the Maritime Transport Act the decision can be appealed to a District Court.

2.5 Duration of maritime transport operator certificate

Rule Part 19.24 says that an MTOC can be issued for up to 10 years. The Director can issue it for a shorter period but in the majority of cases, the MTOC will be issued for 10 years.

The assessment fee will be the same, irrespective of the period for which a certificate is issued.

Further, the application fee will not be affected by whether, for example, a maritime transport operation for which a certificate is issued is a full time business or a business that operates only a few weeks each year. This is because the application fee is a reflection of MNZ effort hours in assessing an application; which would not be affected by this distinction.

2.6 Display of maritime transport operator certificate

Every maritime transport operator must display their MTOC at their place of business or make a copy of the certificate available if someone asks to see it (Rule Part 19.25).

The rule does not define 'place of business' and it is recognised that for some operators this may be their vessel, while others will have business premises and offices. It is up to the certificate holder to decide their 'place of business' for displaying the certificate, noting, however, that this rule aims to make the MTOC visible to those most likely to be interested in it, such as prospective clients of an operation.

If operators choose not to display the certificate, or it is impractical for them to do so (because they run the business entirely from a small vessel or their main 'place of business' is their home), operators must make a copy of the certificate available on request.

MNZ suggests they keep a photocopy of the certificate and with everyday items, such as cash cards and driver licence.

To meet the requirement of having the MTOC available 'on request', an operator will have to make sure they keep note of where their certificate is stored and keep copies close to hand if a maritime officer asks to see it.

2.7 Maritime transport operator plan

The operator plan is a core element of the MOSS framework and is a critical document for any maritime transport operation. The Director must accept the operator plan before an operation can begin (or continue, if operating under a safe ship management (SSM) certificate at the time the MTOC application is made).

Maritime transport operators must make sure that their operator plan (Rule Part 19.41):

- documents the operator's safety system (see explanation under heading 2.8)
- includes the details, safe operating procedures and other procedures required by the Appendix to the Rule (see explanation under heading 2.9)
- has a copy of the current certificate of survey attached for each ship in the maritime transport operation (see explanation under heading 3)

- has a copy of the initial survey portfolio attached for any newly built ship in the maritime transport operation (see explanation under heading 3.1)
- has a copy of each subsequent survey report attached for each new ship in the maritime transport operation (see explanation under heading 3.2)
- has the approved survey plan, the maintenance plan, the safety equipment list and the spare parts list attached for each ship in the maritime transport operation (see explanation under heading 3.3)

2.8 Maritime transport operator safety system

All maritime transport operators must develop and document a maritime transport operator safety system as part of the operator plan (Rule Part 19.42). The operator can ask another person to prepare the plan, but it is the operator who is responsible for the safety system, and the operator who must understand it and who must put it into action.

The maritime transport operator safety system must:

- identify and manage the safety risks involved in the maritime transport operation
- be consistent with safety guidelines and other safety information provided by the Director of MNZ and best practice information in relevant industry codes of practice
- be designed to ensure that the maritime transport operation complies with all applicable maritime and marine protection rules.

MNZ has prepared guidance to help people develop an operator plan, which includes tips on identifying safety risks and how they can be managed.

If an operator can identify a number of risks, this does not mean that the operation is 'unsafe'. On the other hand, if few safety risks can be identified it does not mean an operation is low risk. What is important is that the safety system documents how each risk will be managed. Even if a safety risk is obvious and so well managed it does not seem worth documenting, it is essential to record it.

MNZ will make safety guidelines and other safety information available on the MNZ website. When preparing or reviewing a safety system for a particular maritime transport operation, operators must check if there are guidelines or information relevant to that operation. Some maritime transport sectors have industry codes of practice. Where these exist and are relevant to the maritime transport operation, they need to be reflected in the plan.

There are a range of maritime and marine protection rules that will be applicable to any particular maritime transport operation. To find out which additional rules an operation must comply with, contact the ship's recognised surveyor, a maritime officer at one of MNZ's offices, or visit the website:

- maritimenz.govt.nz/rules
- maritimenz.govt.nz/contact-us

The surveyor can tell an operator about the relevant rules for vessels and equipment. The survey and maintenance plans need to follow these rules. Safe operating procedures should reflect that the required equipment is being carried and the vessel's operating limits.

Part 19.42(2) sets out what the operator must cover when developing their safety system. This includes:

- the full range of activities of the maritime transport operation
- the intended uses of all ships in the maritime transport operation, including any non-commercial uses
- all reasonably foreseeable hazards associated with the maritime transport operation
- the protection of the environment
- the conditions in which the maritime transport operation is conducted.

Non-commercial usage

Documenting 'non-commercial usage' ensures there is a clear distinction between when a commercial vessel is being used as a maritime transport operation (its normal usage) and when it is being put to a non-commercial type of use. The Rule limits 'non-commercial usage' to when the ship is used with no hire or reward, for relocation, sea trials or the owner's or operator's pleasure. A vessel operating under MOSS is considered commercial at all times, even when it is being used non-commercially. The operator plan still applies when the ship is used non-commercially.

Hazard management

Reasonably foreseeable hazards are those that could *reasonably* be anticipated as an actual or potential cause of harm, given the nature of the operation and how vessels are being used. A reasonably foreseeable hazard may be slippery decks and the potential risk they pose to crew or passengers.

Protecting the marine environment

Rules to protect the marine environment apply to most maritime transport operations; operators must be able to demonstrate how they follow these rules, avoid polluting the marine environment and how they dispose of waste.

Conditions in which the operation is conducted

The 'conditions in which the maritime transport operation is conducted' means the environmental conditions; for example, will the vessel operate only on calm waters, only on waters with less than a 1.5 metre swell, or in any sea state.

2.8.1 Operating safely

Rule Part 19.42(3) sets out the matters the maritime transport operator must address when developing processes and procedures in the maritime transport operator safety system. In this context, 'address' means consider and show evidence of having applied that consideration. Operators must demonstrate:

- how relevant and applicable any processes and procedures are to the maritime transport operation

This requirement reminds operators that it is not acceptable to include in the safety system any processes or procedures that have no place in day-to-day operations or have no meaningful application.

- that the processes and procedures are an effective way to manage reasonably foreseeable hazards

This requirement encourages operators to test the effectiveness of a process or procedure to be sure that what looks good in theory has practical value.

- that the processes and procedures are an effective way to prevent harm or respond to an emergency

This requirement also encourages operators to test the various elements of the safety system before submitting them to the Director as part of the MTOC application.

Maritime transport operators must explain the processes and procedures, in an understandable way, to anyone responsible for operating the vessel (Rule Part 19.42(4)). For the site visit that is part of the MTOC application, the operator will need to be able to explain, describe or demonstrate the elements of the safety system, if asked.

2.9 Details, safe operating procedures and other procedures required by the Appendix to the Rule

The MTOC must include the details, safe operating procedures and other procedures required by the Appendix to the Rule (Rule Part 19.41(b)).

The Appendix lists all of the information that must be in an operator plan. This is a straightforward list, which is reflected in the operator plan template available on the MNZ website. MNZ's guidance on developing an operator plan can help applicants work through the list.

3. Certificate of survey

Each vessel in the maritime transport operation must have a valid certificate of survey. The applicant is responsible for making sure a recognised surveyor undertakes a survey on each vessel in accordance with the approved survey plan. Rule Part 44 covers matters relating to survey and MNZ recommends operators read the advisory circular for that Rule at the same time as this circular.

The cost of a vessel survey is set by the surveyor and is not part of the regulated fee structure.

3.1 Initial survey portfolio

Applicants must attach the initial survey portfolio to the operator plan for each new vessel in an operation (Rule Part 19.41(d)). In this context 'new' means newly built and not previously used, as opposed to a vessel that is newly brought in to an operation. Appendix 1 of Rule Part 44 sets out what the initial survey portfolio must cover and the form it must take. The advisory circular for Part 44 gives the detail on this matter.

3.2 Subsequent survey reports

For each new ship in the operation, applicants must attach a copy of each subsequent survey report to the operating plan. The 'subsequent survey report' is the report of the first survey undertaken of a new ship. It too must be completed by a recognised surveyor. See the advisory circular for Rule Part 44 for more information on subsequent survey reports.

3.3 Survey plan, maintenance plan, safety equipment list and spare parts list

For each vessel in the maritime transport operation, the applicant must attach to the operating plan:

- an approved survey plan

- a maintenance plan
- a safety equipment list
- a spare parts list.

3.3.1 Survey plan

Rule Part 19.43 says the operator must ensure each vessel has a survey plan approved by a recognised surveyor and that the plan is applied. The survey plan must be in a form acceptable to the Director and must include how often the vessel has to be surveyed.

Unless there are alternative survey arrangements in place (see below), the vessel must be surveyed at least twice during the lifetime of the certificate of survey (between 24 and 36 months from issue and within six months of expiry) or more often if a surveyor specifies.

Under Rule Part 19.43(3)(a), operators must amend their approved plan if a surveyor requires them to. Rule Part 19.43(3)(b) lets operators change the survey plan themselves but only with written approval from a surveyor.

Operators must have a copy of the survey plan available at any time because the Director, or the maritime transport operator's surveyor, can ask to see it (Rule Part 19.43(4)).

The Rules reflect the operator's responsibility to make sure that survey plans are developed and applied. In terms of the requirement under Rule Part 19.43(4), only the Director or the surveyor engaged by the operator can require that an operator makes their survey plan available for inspection.

When applying for an MTOC, the applicant must attach to the operator plan a copy of the approved survey plan for each vessel in the maritime transport operation, as described in section 2.7 of this circular.

Multi vessel operators transitioning into MOSS from SSM are only required to attach the survey plan for the first vessel which has triggered entry into MOSS. Your surveyor will send the survey plans for subsequent vessels as they come into the MOSS survey regime.

The operator does not need to tell MNZ if any changes are made to the survey plan after it is submitted.

Alternative survey requirements

Rule Part 19.44 enables the Director to approve a survey plan with alternative survey requirements (including the survey cycle), to those set out in Rule Part 19.63 (a) or those in the approved survey plan. The alternate arrangements are provided for in 19.63(2).

3.3.2 Maintenance plan

The maintenance plan, submitted as part of an application for an MTOC, must meet the requirements set out in Rule Part 19.45. The operator must develop and apply a maintenance plan for each ship in the maritime transport operation. If there are multiple vessels in an operation with the same classification, design, equipment and machinery, the maintenance plan can apply to all vessels. However, each vessel must have its own copy of the maintenance plan and it must be filled out for each vessel.

Operators must use the maintenance plan template available on MNZ's website. MNZ also has guidance to help prepare a maintenance plan available online. A maintenance plan must describe the policies and procedures for the ship's maintenance – including the maintenance of the hull, decks, superstructure, machinery, equipment and critical shipboard systems.

While the maintenance plan does not need to be approved, it is considered by the Director as part of an application for an MTOC. If the Director is not satisfied that the maintenance plan is appropriate or capable (when applied) of keeping a ship fit for purpose, the operator may need to change the plan before an MTOC will be issued.

Operators can amend the plan as they see fit but must sign and date any changes to the plan. The Rule does not specify the circumstances in which the plan can or should be amended – that is up to the operator. As a general guide however, any amendment should ensure the plan remains current and appropriate in the face of major repairs or modifications, changes to a vessel's scope of certification, or significant changes in passenger capacity or frequency of vessel usage.

An operator does not need to tell MNZ if the maintenance plan is amended. However, if the Director (or a surveyor engaged by the operator) asks for a copy of the plan, they must be given a copy of the version held by the operator.

3.3.3 Safety equipment list and spare parts list

Operators must develop, in a form acceptable to the Director, a safety equipment list and a spare parts list for each ship in the maritime transport operation, as required by Rule Part 19.46. A spare parts list details essential spares that could be required in an emergency situation.

For a multi-vessel operation, each ship must have its own safety equipment and spare parts lists. If ships in an operation are mostly the same in design and age, it may be possible to have a single spare parts list and safety equipment list that is duplicated for each vessel. Otherwise, there must be a list that is specific to each vessel.

Where practical, each ship in the operation must carry the spare parts and equipment lists at all times. MNZ recognises that this is not always practical because of the size or design of a ship or the activities undertaken in and from the vessel. This requirement aims in part to ensure that an operator keeps these documents close to hand to refer to as needed and so the operator can become familiar with them. Where operators cannot keep the documents on the ship or ships in the operation, MNZ suggests they are kept on shore in a safe and easily accessible place.

If the Director (or a surveyor engaged by the operator) asks, an operator must make copy of the safety equipment and spare parts lists available. The safety equipment and spare parts lists do not need to be approved, but they must be attached to the operator plan when applying for an MTOC. Operators are responsible for ensuring the lists are developed, but they do not have to develop the lists themselves. A surveyor may be able to help.

3.4 Operating requirements

Rule Part 19.61 sets out the operator's responsibilities in respect to the operator plan and maritime transport safety system. What the operator plan and the safety system are required to include and cover are explained in sections 2.7 and 2.8 above.

An operator must ensure that the operation is based on the plan and reflects it in every regard. The plan must continue to reflect the safety system and meet the requirements prescribed in the Appendix to the Rule. The operator is responsible for ensuring that the safety system stays appropriate to the operation. This means that the safety system needs to be revised to reflect any changes to the operation (such as new vessels being added or old vessels replaced, or the operation starts to include carrying dangerous goods).

While the plan is submitted to the Director as part of an MTOC application, the operator needs to keep a copy because it is their day-to-day operational guide. As the plan can be

revised without notifying the Director, the copy held by MNZ may not, over time, align entirely with the plan the operator is using.

The Director can ask the operator for a copy of the plan at any time and, under Rule Part 19.61(c), the operator must make it available to the Director for inspection.

While most of the plan can be revised at the discretion of the operator (as long as the operator signs and dates any amendments), the parts of the plan prescribed in 1.1 of the Appendix to the Rule may only be amended with the explicit approval of the Director.

Part 1.1 of the Appendix to the Rule covers:

- the operator's full name
- the names of those responsible for each part of the maritime transport operation
- the harbours and ports the operation works from
- the categories and activities of the operation.

The rest of the plan (such as personnel details, safe operating procedures and information management procedures) can be updated by the operator without notifying the Director, but all amendments must be signed and dated.

The Director can tell the operator to change the plan, see Rule Part 19.61(f). Section 43 of the Maritime Transport Act gives the Director the power to suspend a maritime document or put conditions on it. An operator plan is not a maritime document, but the MTOC is, and as such the Director can say that, for an operator to keep their MTOC, they must amend their operator plan. For example, if an operator plan does not adequately address safety and pollution prevention matters.

The operator must carry the safety equipment and spare parts listed in the safety equipment and spare parts lists, see Rule Part 19.61(g). This means operators must have these items in their possession, whether kept in storage on shore or carried on a vessel, as appropriate to the item.

The operator must keep on shore a copy of the operator plan and the safe operating procedures for each ship in the operation. Where the same safe operating procedures have been developed for more than one ship, only one copy is needed.

3.5 Maritime transport operator responsible for safe ships

Rule Part 19.62 sets out the requirements and responsibilities of an operator for the safety of the ships in their maritime transport operation. A ship can only be used in an operation if it has a valid certificate of survey (issued under Rule Part 44) and any other valid certificates required by other maritime or marine protection rules.

The maritime transport operator is responsible for ensuring that ships in the operation continue to meet the requirements of Part 19, Part 44 (which covers survey, certification and maintenance of ships in maritime transport operations), and any other applicable maritime or marine protection rules.

Ships must always carry a copy of the relevant safe operating procedures, as required by Rule Part 19.62(2)(c). The Appendix to the Rule sets out what the safe operating procedures must cover. This includes the safe operation of machinery or equipment, emergency procedures in response to mechanical failure or a stricken vessel.

A maritime transport operator must notify the Director of MNZ, as soon as is practical, whenever a ship enters or exits the maritime transport operation (Rule Part 19.62). The Appendix to the Rule says that an MTOC must include the names and MSA/MNZ numbers

of all ships in the maritime transport operation. If a ship enters or leaves the operation the operator must amend the MTOP to reflect the change in fleet.

MNZ needs to keep up-to-date records on which ships are in the maritime transport sector and within each maritime transport operation, so notifying MNZ quickly is important. Operators do not need the Director's approval before adding or removing a ship from an operation but they must tell the Director about any changes.

International voyages

Rule Part 19.62(3)(c) sets out the requirements for a ship that is in a maritime transport operation and that the operator intends to take on an international voyage. The requirements only apply if the ship is

- less than 500 tons gross tonnage
- less than 45 metres in length
- carrying 12 or fewer passengers on the voyage.

In such circumstances, the operator must apply to the Director of MNZ for a certificate (for international voyage) and must provide the Director with the following: a copy of the ship's Certificate of Survey (which must reflect that the survey was conducted in light of the ship's intended use and operating limits); and any further information the Director considers relevant to the application, and that he or she may request. In terms of the Director making a request for further information, this can practically only occur after the application is first made, and must be complied with.

A ship which has been surveyed for unlimited operating limits does not need an additional survey before undertaking an international voyage. This certificate of survey can be attached to your application for a certificate for an international voyage.

A ship which has been surveyed for less than unlimited operating limits will be required to be surveyed for the international voyage and a new certificate of survey issued (and submitted with the international voyage certificate application). For such ships the Director will issue a certificate of international for the period of the voyage (from and back to New Zealand).

4. Survey requirements

Under Rule Part 19.63(1)(a), an operator must ensure a surveyor completes surveys for each ship in the operation (including any barge that carries people), between two years (24 months) and three years (36 months) after the initial certificate of survey was issued. A survey must also be done in the six months before the certificate of survey expires. However, if the approved survey plan has survey intervals other than those set out in Rule Part 19.63(a), the surveys must be done in line with the survey plan.

As explained in section 3.4 of this circular, under Rule Part 19.63(2) the Director can approve an alternative survey cycle (that is a cycle that lengthens or shortens the period between surveys) to that which is set out in the approved survey plan. If the Director has approved an alternative survey cycle, the operator is responsible for ensuring a surveyor completes surveys according to the approved cycle.

4.1 Validity of certificate of survey

For a certificate of survey to remain valid, the maritime transport operator must:

- a) apply the approved survey plan and maintenance plan for the ship

- b) have any major repairs or modification to the ship approved by a surveyor
- c) have any change to a ship's scope of certification approved by a surveyor
- d) fix any deficiencies the surveyor raises with the ship, any part of the ship, or any equipment, to the satisfaction of the surveyor
- e) operate the ship within the scope of certification listed on its certificate of survey.

These requirements are prescribed in Rule Part 19.64.

If the operator fails to do any of the above, the certificate of survey becomes invalid. A ship cannot be used in a maritime transport operation without a valid certificate of survey.

4.2 Display of certificate of survey

The requirements to display a certificate of survey differ depending on the length of the ship, and are set out in Rule Part 19.65.

Where a ship is six metres or more in length, the certificate must be displayed in a prominent position on the ship at all times. The certificate should be protected or displayed where it will not be damaged, which would defeat the purpose of displaying it.

Even though a certificate of survey is not a maritime document (it is issued by a surveyor not by MNZ), MNZ has prepared a template for the certificate to help surveyors ensure the certificate includes all details required under rule part 44.42.

Displaying the certificate is required so passengers can see the certificate for peace of mind. It also means those working on the ship are given a daily reminder of any conditions on the certificate and when it expires. Displaying a certificate of survey is just like displaying the warrant of fitness on a car.

Where a ship is less than six metres in length, the certificate does not need to be displayed on the ship but must be made available for inspection if the Director, or a surveyor engaged by the operator, asks to see it. Operators can display the certificate on the ship if they choose or they can store it in a safe place on a vessel for ease of access (for example, in the same place as the ships operating procedures).

It is recognised that by not requiring smaller vessels to display the certificate, the purpose of the rule is not achieved. However, it is often impractical to display it on ships without a cabin or area protected from the elements.

4.3 Documentation requirements

Rule Part 19.66 sets out the requirements of the maritime transport operator with respect to keeping records of employees and maintaining the ship log.

Employees

The maritime transport operator must keep records on the training and qualifications of all employees or other people who undertake any duties requiring a certificate under Rule Part 31 (Crewing and Watchkeeping) or Rule Part 32 (Seafarer Certification):

If an employee or other person working for the operator needs a certificate under either of these rules (Part 31 or Part 32), the operator must keep a record of them for one full year from the date at which they cease doing the certificated duties. This could be because the person left the employ of the operation or is doing different duties.

Ship log

Rule Part 19.66(c) sets out the requirements for a ship's log. Recreational bareboat charter operations do not need a ship log because the vessel is not used by the operator (who hires out the vessels) – it is rented out to recreational users.

For all other maritime transport operators, each ship must maintain a ship log and carry it in a readily accessible place at all times. The log must include the details of any non-commercial use. Non-commercial use means use by the operator or owner for pleasure and use when not being used for hire or reward.

Transition and revocation

4.4 Transition arrangements

Rule Part 19.81 sets out the transitioning arrangements for maritime transport operators who are operating under a safe ship management (SSM) certificate on 1 July 2014.

Part 19 allows applications for an MTOC from 1 April 2014 but no-one is able to operate under an MTOC until 1 July 2014. The three month 'gap' enables those wishing to commence operations on 1 July 2014 – whether as a new operator or as an existing operator who has chosen to make an MTOC application (in spite of having a current SSM certificate) – to make the application on 1 April 2014.

Operators with a current SSM certificate on 1 July 2014 will be deemed to be operating under an MTOC until the SSM certificate expires. Where a maritime transport operator is operating multiple vessels and has multiple current SSM certificates on 1 July 2014, the deeming period expires on the earliest expiry date of the SSM certificates.

A maritime transport operator who is operating under a current SSM certificate (deemed MTOC) does not have to comply with subparts B and C of Rule Part 19, which cover the operator plan, the maritime transport operator safety system and operating requirements.

As long as all vessels operating under an SSM certificate have a fit for purpose certificate (issued under Rule Part 46) or a deemed certificate of survey, they can be used as part of the maritime transport operation after 1 July 2014.

A ship has a 'deemed certificate of survey' if it has a fit for purpose certificate and a current SSM certificate. The deemed certificate of survey remains valid until the earliest of the following dates: the expiry of the fit for purpose certificate or the next inspection date for that ship, as set out in its approved maintenance plan (under section 2 of Rule Part 21). This is detailed in the Rule Part 44.81 which covers the transitional provisions for existing ships.

A surveyor can issue a certificate of survey to a ship that has a fit for purpose certificate but did not have a current New Zealand SSM certificate before 1 July 2014. The surveyor must assess any risks associated with the ship's design, construction, equipment, and survey and maintenance planning.

See the advisory circular for Rule Part 44 for more information.

While Rule Parts 21 and 46 are partially revoked by Rule Parts 19 and 44 (to reflect that the MOSS system replaces the SSM system), section 2 of Part 21 and sections 2 and 5 of Part 46 continue apply to maritime transport operators who are operating under an SSM certificate after 1 July 2014 (and whose vessels are being operated under a deemed certificate of survey) until the SSM certificate expires.

The Director can extend the expiry period of a deemed MTOC for up to 12 months if he or she is satisfied that the extension is appropriate, under Rule Part 19.81(5). The Director must be sure that each ship in the operation can be operated safely either:

- throughout the extension period
- through the requirements associated with the SSM certificate, or
- through any conditions the Director imposes on the deemed certificate.

The Director may also add, remove or change conditions on a deemed MTOC that has been extended if he or she considers it appropriate to do so. The Director must be satisfied that the maritime transport operation can be operated safely (in line with the safe ship responsibilities of the operator under Rule Part 19.62) for the remainder of the extension period.

5. Appendix to the Rule: Maritime transport operator plan – Details and procedures

The Appendix to Rule Part 19 sets out the details and the procedures that must be included in the operator plan.

6. General enquiries

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