



MINISTRY of TRANSPORT
Te MANATŪ WAKA

WELLINGTON NEW ZEALAND

PURSUANT to Section 36 of the Maritime Transport Act 1994

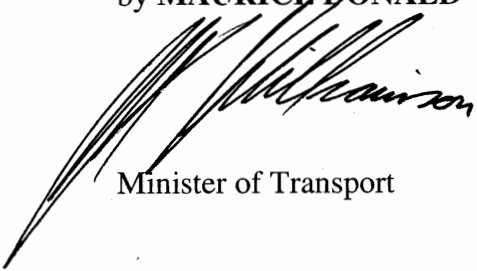
I, MAURICE DONALD WILLIAMSON, Minister of Transport,

HEREBY MAKE the following maritime rules.

SIGNED AT Wellington

This 28 day of June 1998

by MAURICE DONALD WILLIAMSON


Minister of Transport

Maritime Rules

Part 31A

Minimum Personnel and Watchkeeping (Fitness for Duty)
Foreign Going and Coastal

Maritime Transport Act 1994

Maritime Rules

PART 31A

**MINIMUM PERSONNEL AND WATCHKEEPING (FITNESS FOR
DUTY)—FOREIGN GOING AND COASTAL**

PART 31A

MINIMUM PERSONNEL AND WATCHKEEPING (FITNESS FOR DUTY)—FOREIGN GOING AND COASTAL

PART OBJECTIVE, EXTENT OF CONSULTATION AND COMMENCEMENT

Objective

Part 31A establishes minimum rest hours for watch-keeping officers and ratings on New Zealand ships which are SOLAS ships (foreign going passenger ships, non-passenger ships of 500 tons gross tonnage or more, and other New Zealand ships of 45 metres or more in length which proceed beyond restricted limits). The requirements apply to navigation and engineering watches.

Part 31A implements New Zealand's obligations under Section A-VIII/1 (Fitness for duty) of the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended in 1995 (STCW Convention).

In addition to prescribing minimum rest hours, Part 31A places an obligation on the owner and the master of a ship to which this Part applies (except for ships that do not operate in the unlimited area) to post watch schedules where they are easily accessible and retain the schedules on board for a period of three years. For ships not operating in the unlimited area, the owner and master are required to keep daily watch records.

The authority for making Part 31A is found in sections 36(b) and (p) of the Maritime Transport Act 1994.

Extent of Consultation

On 9 May 1998 the Maritime Safety Authority published in each of the daily newspapers in the four main centres of New Zealand a notice inviting comments on the proposed Part 31A. A notice was also published in the *New Zealand Gazette* on 7 May 1998. Two hundred and sixty seven copies of the draft Part 31A, the invitation to comment, and the accompanying advisory circular were then sent automatically to interested parties. Comments on the Part were requested to be made by 8 June 1998.

Six submissions were received on Part 31A. All submissions were considered and, where appropriate, the proposed rules were amended to take account of the comments made.

Commencement

Part 31A as amended was referred to and signed by the Minister of Transport.

Part 31A will come into force on 1 August 1998.

MARITIME RULES

PART 31A

MINIMUM PERSONNEL AND WATCHKEEPING (FITNESS FOR DUTY)—FOREIGN GOING AND COASTAL

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31A.1 Entry into force

Part 31A comes into force on 1 August 1998.

31A.2 Definitions

In Part 31A—

“Crew” means the persons employed or engaged in any capacity on board a ship (except a master, a pilot, or a person temporarily employed on the ship while it is in port):

“Director” means the person who is for the time being the Director of Maritime Safety under section 439 of the Maritime Transport Act 1994:

“Drill” means an abandon ship drill or fire drill that is required by Part 23 of the Maritime Rules or a drill of the shipboard marine oil spill contingency plan required by Part 130A of the Marine Protection Rules. It does not mean the maintenance of abandon ship or fire or oil spill equipment:

“Enclosed limits” has the same meaning as in Part 20:

“Fishing ship” means a ship used for catching fish, whales, seals, or other living resources of the sea for profit; and includes a ship that is recognised by the Director as being engaged in fisheries research:

“Foreign ship” means any ship that is not a New Zealand ship:

“Inshore limits” has the same meaning as in Part 20:

“Internal waters of New Zealand” means the internal waters of New Zealand as defined by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977:

“International voyage” means a voyage from New Zealand to a port outside New Zealand or conversely:

“Length” means 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the top of the keel, or the length from the fore side of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured is to be parallel to the designed waterline:

“Master” means any person (except a pilot) having command or charge of any ship:

“New Zealand ship” means a ship that is registered under the Ship Registration Act 1992; and includes a ship that is not registered under the Act but is required or entitled to be registered under the Act:

“New Zealand waters” means—

- (a) the territorial sea of New Zealand; and

- (b) the internal waters of New Zealand; and
- (c) all rivers and other inland waters of New Zealand:

"Non-passenger ship" means any ship that is not a passenger ship or a fishing ship or a pleasure craft:

"Officer in charge of a navigational watch" includes the master if the master is in charge of a navigational watch:

"Overriding operational conditions" means essential shipboard work which cannot be delayed for safety or environmental reasons and which could not reasonably have been anticipated at the commencement of the voyage:

"Part" means a group of rules made under the Maritime Transport Act 1994:

"Passenger" means any person carried on a ship, other than—

- (a) the master and members of the crew, and any other person employed or engaged in any capacity on board the ship on the business of the ship; or
- (b) a person on board the ship either in pursuance of an obligation laid upon the master to carry shipwrecked, distressed, or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled; or
- (c) a child under the age of 1 year:

"Passenger Ship" means a ship that carries more than 12 passengers:

"Pleasure craft" means a ship that is used exclusively for the owner's pleasure or as the owner's residence, and is not offered or used for hire or reward; but does not include:

- (a) a ship that is provided for transport or sport or recreation by or on behalf of any institution, hotel, motel, place of entertainment, or other establishment or business; or
- (b) a ship that is used on any voyage for pleasure if it is normally used as a fishing ship or for the carriage of passengers or cargo for hire or reward; or
- (c) a ship that is operated or provided by any club, incorporated society, trust, or business:

"Restricted limits" means—

- (a) enclosed water limits; and
- (b) inshore limits:

"Rules" includes maritime rules and marine protection rules:

"Ship" means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes—

- (a) a barge, lighter, or other like vessel; and

- (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates; and
- (c) a submarine or other submersible:

"Territorial sea of New Zealand" means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977:

"Unlimited area" means the sea area outside the offshore limits defined in Part 20:

"Voyage" means a journey by water from one port:

- (a) to another port; or
- (b) back to the same port without calling at any other port:

"Watch schedule" means a schedule outlining the hours of rest of every—

- (a) officer in charge of a navigational watch; and
- (b) officer in charge of an engineering watch; and
- (c) rating forming part of a navigational watch; and
- (d) rating forming part of an engineering watch.

31A.3 Application

- (1) Subject to rule 31A.3(2), this Part applies to—
 - (a) a New Zealand passenger ship engaged on an international voyage; and
 - (b) a New Zealand non-passenger ship of 500 tons gross tonnage or more engaged on an international voyage; and
 - (c) a New Zealand ship of 45 metres or more in length which proceeds on a voyage outside restricted limits; and
 - (d) a foreign passenger ship in New Zealand waters; and
 - (e) a foreign non-passenger ship of 500 tons gross tonnage or more in New Zealand waters.
- (2) Nothing in this Part applies to pleasure craft.

31A.4 Fitness for duty

- (1) Subject to rules 31A.4(3) and (4), the owner and the master of a ship to which this rule applies must ensure that all persons who are assigned duty as—
 - (a) officer in charge of a navigational watch; or
 - (b) officer in charge of an engineering watch; or

- (c) a rating forming part of a navigational watch; or
 - (d) a rating forming part of an engineering watch;
- are provided with a minimum of 10 hours of rest¹ in any 24 hour period.
- (2) The owner and the master of a ship to which this rule applies must ensure that the hours of rest required by rule 31A.4(1) are divided into no more than two periods, one of which is six hours or more in length.
 - (3) The rest period requirements prescribed by rules 31A.4(1) and (2) need not be maintained in the case of emergency or in other overriding operational conditions or in the case of a drill.
 - (4) The 10 hours of rest required by rule 31A.4(1) may be reduced to not less than six consecutive hours provided that—
 - (a) any such reduction does not extend beyond two days; and
 - (b) not less than 70 hours of rest are provided in each seven-day period.

31A.5 Watch schedules

- (1) Subject to 31A.5(4), the owner and the master of a ship to which this rule applies must ensure that a watch schedule is—
 - (a) posted where it is easily accessible to the crew; and
 - (b) available for inspection at all reasonable times by:
 - (i) the Director; and
 - (ii) any person delegated powers of inspection by the Director.
- (2) The master of a ship to which this rule applies must ensure that any actual deviation from the planned watch schedule is recorded on the watch schedule that is retained on board under 31A.5(3).
- (3) The owner and the master of a ship to which this rule applies must ensure that watch schedules are retained on board and made available to the Director for a period of three years from the date of the schedule.
- (4) The owner and the master of a ship to which this rule applies that does not operate in the unlimited area must—
 - (a) comply with the requirements of 31A.5(1); or
 - (b) keep a daily record of actual watchkeeping hours of all watchkeeping crew². This record must be retained on board and made available to the Director for a period of three years.

¹ Minimum rest periods should not be interpreted as implying that all other hours are to be devoted to watchkeeping or other duties.

² This record may be kept in the official logbook or deck and engine-room logbooks.

Maritime Rules

PART 31A

MINIMUM PERSONNEL AND WATCHKEEPING (FITNESS FOR DUTY)—FOREIGN GOING AND COASTAL

Consultation Details

(This text does not form part of the rules contained in Part 31A. It provides details of the consultation undertaken in making the rules.)

Summary of Submissions

Six submissions were received on Part 31A. These were from the Master and officers of the D.E.V. Union Rotoiti, Otago Regional Council, The New Zealand Merchant Service Guild, the New Zealand Shipping Federation, Tranz Rail Limited and two Master Mariners.

31A.2 Definitions

C. Barradale suggested that 'Rating forming part of a navigational watch', 'Officer forming part of an engineering watch' and 'Rating forming part of an engineering watch' should be defined. He doubted that ratings "would be assigned any watchkeeping duties in the engineroom."

'Officer in charge of a navigational watch' is only defined to ensure that the master is included by this term. The master is not legally a part of the crew and therefore it may have been arguable that this rule did not apply to the master's hours of rest.

The terms 'Officer in charge of a navigational watch', 'Rating forming part of a navigational watch', and 'Rating forming part of an engineering watch' are considered to be self explanatory.

The term 'Officer forming part of an engineering watch' will be the subject of consultation with the maritime industry in Discussion Document 5 to determine the status of duty engineers, in particular when on call and not actually in the engine-room.

The MSA is aware that, although it is not common on New Zealand ships, ratings do form part of an engineering watch on many vessels.

31A.3 Application

- (1)(a) The New Zealand Merchant Service Guild suggested that the rule be expanded to cover all New Zealand passenger ships. "It is common knowledge in the tourist industry that a single master on tourist ships working within restricted limits, exceeds 14 hours on duty on a regular basis. In the height of the season there is no opportunity to obtain a minimum of ten hours rest. Some of the ships are exceeding 500 gross tonnage and plying congested waters. Some of the ships are carrying up to 800 plus passengers."

The MSA released a discussion document in May this year discussing the issue of seafarer fatigue and how best to address it. Following input from this paper other papers will be released discussing personnel issues, in particular minimum safe crew numbers. This will cover 'minimum hours of rest' provisions for restricted limit craft if they are considered appropriate. The MSA is not able to make the requested change to Part 31A as the issue has not been adequately consulted on at this time.

On the basis of this submission MSA is making inquiries to verify the hours of work quoted by the Guild.

J.P. Briand suggested that the application be altered to refer to vessels "engaged on coastal or an international voyage". "There is an implication that NZ flagged vessels engaged on coastal trading patterns do not need to comply with section 31A."

The term 'coastal vessel' is no longer used as suggested by J.P. Briand.

The application applies the Part to vessels proceeding on voyages 'outside restricted limits'. Outside 'restricted limits' covers vessels operating in the Coastal and Offshore limits. This is the same as what was in the past known as a 'coastal vessel'. The suggested change is therefore not appropriate.

31A.4 Fitness for duty

- (1) Tranz Rail were concerned about the footnote stating that 'Minimum rest periods should not be interpreted as implying that all other hours are to be devoted to watchkeeping or other duties'. "We can see nowhere in the STCW Convention where this is mentioned and believe that the note should be removed."

The footnote originates from Section B-VIII/1.3.1 of the STCW-95 Convention. Section B of the Convention provides guidance to the statutory obligations, which is why the text is placed as a footnote.

C E Corkill, Otago Regional Council Harbourmaster, was concerned about the term 'overriding operational conditions'. "Provision should be made for the Watchkeepers having the first full watch on duty after leaving port to have at least 4 hours off duty in the 6 hours preceding the ship's departure time. This is to remove the possibility of a Watchkeeper completing a full day on duty in port and being faced with a full navigating or engineering watch immediately after departure."

It is not intended at this time to set out in legislation how a ship should arrange work hours to ensure watchkeepers fulfill minimum rest hour requirements. The MSA presently has a discussion document out on seafarer fatigue which may be a more appropriate forum to address

the issue of introducing this type of specific legislation. This submission will be copied to the Seafarer Fatigue Discussion Document submissions.

31A.5 Watch schedules

The Master and officers of the D.E.V. Union Rotoiti questioned the purpose of this requirement. "No crew member in our experience has ever been unaware of what watch he/she has been allocated". "The officers continually vary their hours to meet the constantly changing circumstances of modern shipping, but this by its nature cannot be predicted for a schedule. Therefore from the point of view of the ship, a Watch Schedule would be of no value. The later part of 31A.5 suggests that the schedule would be of value for policing compliance with the rule.... the entries in the Deck and Engine Room Logs already cover all the required information and can easily be inspected if necessary."

They were further concerned that "at sea, with ISM etc. We are developing... 'operational paralysis from a thousand forms/checklists'."

New Zealand is required to enforce all the provisions of the STCW-95 Convention. The requirement to post watchkeeping schedules comes from Paragraph 5, Chapter VIII Section A-VIII/1 of the Convention. The MSA expects that from 1 August this year this provision will be enforced by Port and Flag State Officers around the world.

The MSA appreciates that it is difficult to predict the exact nature of duties for personnel, especially when the vessel is in port. The reasons for the requirement to have the schedule are—

- *for seafarers to know in advance their watchkeeping requirements and easily monitor their adherence to required rest periods; and*
- *for authorities to be able to easily check compliance with rest period requirements by:*
 - *checking that the hours listed are within the stated maximums:*
 - *ensuring that the schedule is being followed by reference to log books and by noting whether the actual duty officer is the same as the stated duty officer.*

The rule has been altered to allow vessels operating on the New Zealand coast to keep a record of watchkeeping hours instead of posting a watch schedule.

The MSA will monitor the effectiveness of the two options. A submission to the IMO to alter paragraph 5, Chapter VIII, will be made if appropriate.