

Maritime Transport Act 1994

Maritime Rules

PART 32 (CERTIFICATED DECKHAND) AMENDMENT RULES 2006

Pursuant to section 36 of the Maritime Transport Act 1994
I, Harry James Duynhoven, Minister for Transport Safety,
hereby make the following maritime rules.

Signed at Wellington

this *22nd* day of *August* 2006

by HARRY JAMES DUYNHOVEN



Minister for Transport Safety

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Objective

The Part 32 (Certificated Deckhand) Amendment Rules will amend Part 32 of the Maritime Rules to provide for the Certificated Deckhand (CDH) qualification.

Part 32 (Ships' Personnel – Qualifications) was made and came into force in 1999. Among the new qualifications introduced by Part 32 was the Advanced Deckhand (ADH) certificate.

The ADH certificate was seen at the time as a desirable equivalent to the fishing industry's Qualified Fishing Deckhand certificate and Advanced Deckhand Fishing endorsement. However, there has been very little uptake of Advanced Deckhand certificates. The requirements for the ADH qualification appear to be too advanced for an entry-level qualification.

The Certificated Deckhand certificate is being introduced as an entry-level qualification, below the Advanced Deckhand certificate.

Rules subject to Regulations (Disallowance) Act 1989

Maritime rules are subject to the Regulations (Disallowance) Act 1989. Under that Act, the rules are required to be tabled in the House of Representatives. The House of Representatives may, by resolution, disallow any rules. The Regulations Review Committee is the select committee responsible for considering rules under the Regulations (Disallowance) Act 1989.

Extent of Consultation

On 3 December 2005, Maritime New Zealand published in each of the daily newspapers in the four main centres of New Zealand a notice inviting comments on the proposed Part 32 (Qualified Deckhand) Amendment Rules. A notice was also published in the New Zealand Gazette on 1 December 2005. The Authority then made its Invitation to Comment and draft amendment rules available to the public with approximately 260 copies being sent automatically to interested parties. Comments on the draft amendment rules were requested by 13 January 2006.

Nine organisations and three individuals provided written submissions on the draft. All submissions and any oral comments were considered, and where appropriate, the proposed rules were amended to take account of the comments made. As a result of the consultation, the amendment rules were renamed the Part 32 (Certificated Deckhand) Amendment Rules.

1 Entry into force

These amendment rules come into force on 21 September 2006.

2 Rule 32.2 Definitions

Rule 32.2 is amended by inserting the following definition in the appropriate place –

‘ “Unit standard” means a unit standard approved by the New Zealand Qualifications Authority.’

3 Rule 32.3A Certificated deckhand

Part 32 is amended by inserting the following rule, after the heading “Deck ratings” –

“32.3A Certificated deckhand

- (1) A candidate for the issue of a certificated deckhand certificate must –
 - (a) be at least 16 years of age; and
 - (b) provide evidence of having, in the last ten years, completed 3 months sea service as a deckhand or equivalent on commercial ships, including 2 months’ sea service on ships of over 6 metres in length; and
 - (c) provide evidence of having –
 - (i) passed an oral and a written examination that test the knowledge of a syllabus approved for this qualification by the Director; and
 - (ii) completed an approved training record book while performing duties as a deckhand; and
 - (d) provide evidence of being the holder of a VHF radio operator’s certificate acceptable to the Director; and
 - (e) provide evidence that she or he complies with any medical fitness requirements of Part 34 applicable to this qualification; and
 - (f) if over 65 years of age, provide evidence of medical fitness to the satisfaction of the Director; and
 - (g) provide evidence of having passed –
 - (i) within the last 12 months, the reduced eyesight test prescribed in the Appendix; and
 - (ii) the alternative colour vision test prescribed in the Appendix.
- (2) For the purpose of rule 32.3A(1)(b) –
 - (a) the total required sea service may be reduced by 15 days if the candidate has successfully completed –
 - (i) unit standard 6914 with a training provider approved, under maritime rules Part 35, to deliver and assess that unit standard; or
 - (ii) equivalent training acceptable to the Director; and

- (b) other sea service may be counted by the Director on its merits, having regard to the relevance of the sea service to the certificate.”

4 Consequential Amendments

- (1) Rule 31B.3 is amended by inserting the following abbreviation in the appropriate place –

‘ “CDH” means Certificated Deckhand.’

- (2) Table 1 of rule 31B.5 is amended by –

- (a) substituting, in the heading to the second column, the word “**Certificates**” for the words “**Equivalent certificates**”;
- (b) substituting, for the rows relating to “ADH” certificates, the following –

| | | |
|------|---|--|
| “CDH | ADH | |
| | LLO or equivalent | |
| | Advanced Deck Hand Fishing Endorsement | |
| | AB Certificate | |
| | Integrated Rating” | |

- (3) Table 4 of rule 31B.12 is amended by substituting the abbreviation “CDH” for the abbreviation “ADH”.

Maritime Rules
Part 32 (Certificated Deckhand) Amendment Rules
CONSULTATION DETAILS

(This text does not form part of the amendment rules. It provides details of the consultation undertaken in making the rules.)

Summary of Consultation

Copies of the proposed Part 32 (Qualified Deckhand) Amendment Rules were circulated to approximately 260 interested parties.

The following nine organisations and three individuals made written submissions on the draft Amendment Rules:

Vern Wilson
Mahurangi Technical Institute
Keith Ingram (Editor, Professional Skipper Magazine)
Alan Moore
John F Smallridge
New Zealand Marine Transport Association
Maritime Training Otago
Ports of Auckland
Maritime Union of New Zealand
Waimarie Operating Trust
Fiordland Travel
New Zealand Defence Force

General

Mr Smallridge commented that the title of the certificate implies that the holder will be an experienced and competent seafarer after a mere three months at sea. Mr Smallridge also explained the qualification structure for deckhands/ABs in large merchant ships when he was at sea.

Maritime NZ response: Maritime NZ accepts the title of the certificate may be misleading and might imply that the holder is more experienced and knowledgeable than he or she really is. After consultation with the industry, Maritime NZ suggests that the qualification be renamed *Certificated Deckhand (CDH)*, which is seen as being a more appropriate title.

Ports of Auckland supported the amendment. Ports of Auckland felt that the proposed qualification is set at the right standard, as an entry-level qualification, for staff that intend to operate restricted limit vessels, such as the pilot boats, operated by Ports of Auckland. The Ports of Auckland stated that, until recently, it had called for the LLO or ADH as an entry level qualification but this had proved to be 'over-the-top'.

Maritime NZ response: Maritime NZ agrees that the ADH certificate is too advanced for an entry level qualification into the restricted limit vessel industry.

The **Maritime Union of New Zealand** opposed the amendment because it will, in their opinion, lower standards in the New Zealand industry. The union explained that the requirements for the current Integrated Rating/AB certificates are 36 months sea service and

contends that the proposed amendment will reduce that requirement. The union also suggested that New Zealand's excellent health and safety record, which is recognised worldwide, would be jeopardised by the amendment.

Maritime NZ response: It is hoped that the proposed name change to Certificated Deckhand will allay some of the Union's opposition to the amendment. Maritime NZ believes the change of title will more accurately reflect the standard of the qualification as an entry-level qualification for the restricted limit sector of the industry. Moreover, the crewing rules for other sectors of the industry are not being amended.

Waimarie Operating Trust congratulated Maritime NZ on the introduction of the Qualified (Certificated) Deckhand qualification. The trust commented that the ADH qualification was set at an inappropriately high level for the restricted limit industry. Waimarie Operating Trust suggested that a Boatmaster's certificate should be an equivalent entry level qualification to the QDH (CDH) qualifications. Its reasons for this suggestion were that the Boatmaster's certificate is suitable as an entry level qualification, the training is readily available in many areas and, in practice, the trust has found the Boatmaster's certificate entirely adequate as an entry level qualification in its operations.

Maritime NZ response: Maritime NZ believes the Certificated Deckhand qualification is more appropriate than the Boatmaster's certificate and would lead to a better start of a career path in the restricted limit industry.

Fiordland Travel supports the introduction of the Qualified (now Certificated) Deckhand qualification and its focus on on-the-job training. Fiordland Travel believes the qualification will lead to the retention of staff, which it considers to be a real problem with the ADH qualification, and should also provide incentives to make a career in the industry.

Maritime NZ response: Maritime NZ thanks Fiordland Travel for its comments.

Rule 32.3A(1)(b) – Sea Service Requirements

Maritime Training Otago suggested that 3 months sea service in the last ten years was inadequate; it proposed a minimum of 6 months in a deck capacity. To illustrate its point, Maritime Training Otago gave worst case scenarios, such as completing all of the sea service nine years earlier.

The **Maritime Union of New Zealand** thought the 3 months sea service requirement was insufficient and made the point that a person who had completed the required service nine years and nine months ago would be eligible.

The **Marine Transport Association** agreed with Maritime Training Otago that sea service should be in a deck capacity. However, it argued that 6 months sea service was excessive in this particular context. The Marine Transport Association maintained that the requirements for the new qualification will trade mere sea time for structured on-the-job training.

Maritime NZ response: The length of sea service was proposed after considerable consultation with the restricted limit industry for which this qualification is designed. Maritime NZ agrees that the required sea service should be served in a deck capacity and has amended the draft rule accordingly. However, Maritime NZ believes 3 months sea service is sufficient for this qualification when considered in conjunction with the requirement to complete an approved training record book. The matter of accepting sea service completed within the last ten years is consistent throughout Part 32, however, Maritime NZ believes the issue should be further considered when Part 32 is next reviewed.

New Zealand Defence Force noted that the Maritime Transport Act 1994 and the rules made under it do not apply to warships of the New Zealand Defence Force and that some service members seek employment in the merchant navy when they complete their military service. Noting that the draft rule 32.3A(1)(b) calls for three months sea service on commercial ships, the Defence Force suggested that Maritime NZ consider whether restricting eligibility to personnel with only commercial shipping experience restricted the pool of people who might qualify for this certificate. The Defence Force also considered that the same point may be made in respect of experience gained on other Government vessels, which are also not commercial vessels. The Defence Force suggested that the sea service requirements be reworded to read “completed three month’s sea service on commercial, naval or other government ships”.

***Maritime NZ response:** Maritime NZ accepts the Defence Force’s point in respect of service on warships and has amended the proposed rule to insert subrule (2)(b), which will allow the Director to accept any service on its merits that the Director considers to be relevant for the purpose of the Certificated Deckhand certificate. Service on other government ships, including naval vessels that are not for the time being warships, is already covered by the draft rule as the Merchant Shipping Act applies, generally, to New Zealand government ships that are not warships and rule 32.2 defines “commercial ships” as including “naval vessels” that are not for the time being warships.*

Rule 32.3A(1)(c)(i) Requirement for Oral and Written Examinations

Fiordland Travel stressed that the industry must be proactive in the area of examinations and that there must be enough Maritime NZ approved examiners available to conduct the examinations at the correct level. It went on to say that the industry does not, for example, want to have to fly candidates around the country for a 2 hour exam when an on-the-job assessment by an examiner may be more appropriate and beneficial. For the reasons given, Fiordland Travel thought it was important that the syllabus and the content of the task book (required in the paragraph (c)(ii) of the draft rule) are synonymous and that examiners are developed in tandem with these and not retrospectively.

***Maritime NZ response:** Maritime New Zealand accepts the views of Fiordland Travel in relation to the availability of and appropriateness of approved examiners. Through continuing liaison with the industry, Maritime NZ will endeavour to ensure that what Fiordland Travel fears does not transpire.*

Rule 32.3A(1)(c)(ii) Requirement for an Approved Training Book

Maritime Training Otago raised several issues regarding the completion of an approved training book such as who would approve it, who would sign it off, who would verify it and what were the safeguards against fraud? **Maritime Training Otago** doubted whether the training book could be completed in the month required to be served on a commercial vessel.

***Maritime NZ response:** Maritime NZ is aware of the pitfalls surrounding the completion of record books. Maritime NZ expects that the proposed training book will be developed in continuing cooperation with the industry and will be a real contribution to on-the-job training for certificated deckhands. The required sea service is a minimum requirement; a candidate can, if necessary, take longer to complete the training book.*

Rule 32.3A(1)(d) Requirement for a VHF Radio Operator's Certificate

Mr Wilson agreed that a Qualified (Certificated) Deckhand should hold a VHF radio operator's certificate. Mr. Wilson suggested that a Qualified (Certificated) Deckhand should also hold an elementary first aid certificate.

Maritime Training Otago thought there was little need for a Qualified (Certificated) Deckhand to hold a VHF radio operator's certificate. **Maritime Training Otago** argued that if a Qualified (Certificated) Deckhand was intended to operate a radio they should also hold a restricted radiotelephone operator licence but if it was intended that they only know how to operate the radio then it would be sufficient to include that skill in the syllabus.

The **Marine Transport Association** believes a Qualified (or Certificated) Deckhand should gain an independently issued radio certificate so that, in an emergency, if the deckhand was the only person who was able to use the radio, he could do so. The Association did not believe that there was need for a Certificated Deckhand to be a regular radio operator where a properly trained senior person was on board and able to do so. In response to the proposal for an elementary first aid certificate, the Marine Transport Association believed QDH requirements should not be confused with those for a Local Launch Operator or Inshore Launchmaster. The Association did not agree that if the Master falls ill, the deckhand must have the same first aid qualification, as restricted limit vessels are close to shore and help is always relatively close at hand when compared with, for example, offshore fishing vessels.

***Maritime NZ response:** Maritime NZ does not believe that a first aid certificate is necessary at the Certificated Deckhand level. A first aid certificate is not, for example, a requirement for the higher level Advanced Deckhand or Advanced Deckhand Fishing Endorsement certificates. Maritime Training Otago's suggestion that radio skills could be covered in the Certificated Deckhand syllabus, were fairly received. However, the restricted limit industry believes that gaining the VHF radio operator's certificate bears merit and, on balance, Maritime NZ agrees.*

Rule 32.3A(1)(f) Medical Fitness if over the age of 65

Maritime Training Otago suggested that paragraph (f), as drafted, appeared to suggest that only persons over 65 needed to comply with the next paragraph (g) requiring an eyesight test. Maritime Training Otago suggested that paragraph (f) be re-written as "provide evidence of medical fitness if over 65 years of age; and"

***Maritime NZ response:** Maritime NZ thanks Maritime Training Otago for its suggestion. However, the amendment as drafted uses a standard format. The two requirements are in separate paragraphs. Paragraph (g) is not a subparagraph of paragraph (f) and the words "if over 65 years of age" would have to appear in paragraph (g) to apply to paragraph (g).*

Rule 32.3A(2) Unit Standard 6914

Mahurangi Technical Institute suggested that unit standard 4117 would be more appropriate than unit standard 6914. The institute thought unit standard 4117 had a technical content suitable for the QDH (CDH) qualification because it was designed for commercial vessel operation. The unit standard forms part of the National Certificate in Maritime (Commercial Inshore Vessel Operations) and the institute considered it would be a more suitable step in a 'career path'. The institute thought unit standard 6914 was inappropriate in that it was designed for recreational craft operation and was at an inadequate technical level for the qualification.

Mr Ingram believes unit standard 4117 is set at the Inshore Launchmaster/Local Launch Operator level and should not be considered at the QDH (CDH) level. He maintained that unit standard 6914 is the appropriate unit for pre-sea training at the QDH (CDH) level. Mr Ingram also noted that unit standard 6914 is readily available through a variety of training providers, including the Coastguard. He thought this would ensure a competitive delivery and quality standard.

Mr Moore thought Maritime NZ recommended Boatmaster (unit standard 6914) to reduce sea time for a QDH (CDH) candidate; that it was never intended as a pre-requisite and shouldn't be. Mr Moore supported the unit standard 6914 because it is readily available and not a Polytechnic required course. Mr Moore thought the proposed course is also a way of acquiring some prior skill, which on-the-job training could build on.

Maritime Training Otago suggested that the requirement to hold unit standard 6914, in order to gain a reduction in sea service, was redundant if, any training, acceptable to the Director, is acceptable. Maritime Training Otago also suggested that a unit standard 6914 intended for 'recreational craft' seems to be inappropriate.

The **Marine Transport Association** supported unit standard 6914 rather than unit standard 4117 for the same reasons given by Mr. Ingram. The Association commented that unit standard 6914 was proposed after close consultation between the industry and Maritime New Zealand. The Association commented further that unit standard 6914 is readily available at many training facilities and is not a pre-requisite for the QDH (CDH) qualification.

Maritime NZ response: Maritime NZ considers unit standard 6914 (which covers the Coastguard Boatmaster certificate syllabus) appropriate for sea service remission at this level of qualification. Maritime NZ believes it should be stressed that QDH (CDH) candidates are not required to hold this unit but if they do they will be eligible for some sea service remission.

Consequential Amendments to Rule 31B.5

The **Maritime Union of New Zealand** submitted that Qualified Deckhand should not be included in Table 1 of rule 31B.5 (table of equivalent certificates). The union suggested also that a separate section for Advanced Deckhand should include only Local Launch Operator and Advanced Deckhand Fishing Endorsement. The union proposed a separate section for AB/Integrated Rating certificates, with no equivalents, to protect the need for fully qualified skilled seafarers.

Maritime NZ response: The proposed amendments do not provide for the QDH (CDH) qualification to be recognised or considered as an equivalent to higher qualifications such as ABs or Integrated Ratings, nor for a holder of a QDH (CDH) certificate to carry out the duties of these higher positions. Table 1 of rule 31B.5 is a table of certificates that may be accepted in substitute for required certificates, it is not strictly a table of "equivalents". Maritime NZ has amended the relevant table heading to clarify this.