

# Lifting appliances and working gear on fishing ships

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Maritime New Zealand Position Statement

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## Purpose of this position statement

This position statement sets out Maritime New Zealand's (Maritime NZ's) position on annual inspection by a competent person of lifting appliances and working gear on fishing ships. It has been developed to inform fishing ship operators and fishing ship surveyors.

## Vessels it applies to

This position statement applies to fishing ships registered under the Fisheries Acts of 1983 or 1996 where the lifting appliances on board are only used in fishing operations and the handling and discharge of the fish catch of that ship, or only used in fishing operations (eg pot hauler).

## Background

Maritime Rules Part 40D contains no requirement for ongoing inspection of lifting appliances and working gear used in fishing operations. This is inconsistent with the requirements in Part 49 for other types of ship, and potentially exposes people on fishing ships to a safety risk. Rule 49.6(1) states that "The owner or master of a ship must ensure that every lifting appliance on the ship and every item of loose cargo gear carried by the ship is thoroughly examined by a competent person at least once in every 12 months".

However, the general provisions of the Health and Safety at Work Act 2015 (HSWA) apply to all lifting appliances operated by businesses, and therefore requires that lifting appliances are safe and maintained. This position statement therefore makes recommendations for examination by a competent person at least once in every 12 months, proof load testing every five years, and retaining a record of the examination to help minimise the risks associated with lifting appliances and working gear on fishing ships.

## Definitions

<b>Competent person</b>	<p>A person who, in relation to ships' lifting appliances and loose cargo gear, is authorised to test, examine and issue certificates of test.</p> <p>A competent person may be authorised by:</p> <ul style="list-style-type: none"><li>the manufacturer of that equipment; or</li><li>a classification society in pursuance of a scheme of classification or certification of such equipment; or</li><li>a testing establishment recognised by—</li></ul>
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	<p>for a New Zealand ship or a foreign ship, the Director; and</p> <p>for a foreign ship, the Flag State Administration; or</p> <p>an international or national inspection agency approved by—</p> <p>for a New Zealand ship or a foreign ship, the Director; and</p> <p>for a foreign ship, the Flag State Administration; or</p> <p>a Flag State Administration.</p>
<b>Fishing ship</b>	A ship used for catching fish, whales, seals, or other living resources of the sea for profit.
<b>Lifting appliances</b>	Any stationary appliance, on board a ship, that is used for suspending, raising or lowering loads or moving loads from one position to another while they are suspended or supported. This includes any appliance or gear fitted in or carried by the ship, and used in the ship's machinery spaces, to lift any item associated with the operation, maintenance and servicing of such spaces.
<b>Working gear</b>	Rule 40D.67(12) refers to lifting appliances and “associated working gear”. ‘Working gear’ is not defined in the rule, but is taken to mean the same as ‘loose cargo gear’. Rule 49.2 defines loose cargo gear as an article of equipment by means of which a load can be attached to a lifting appliance but which does not form an integral part of the appliance or load. Loose cargo gear includes any steel wire rope, shackle, block, hook, clamp, tray, crate, tub, grab, or other receptacle used to convey any cargo, personnel cradle, pallet bar, connecting plate, swivel, ring, chain, beam sling, overhauling weight, lifting beam, spreader, lifting frame, magnetic lifting device, vacuum lifting device or any other similar device that is designed or used to facilitate loading or unloading of cargo; but does not include containers as defined by the International Convention for Safe Containers 1972 (CSC).

## Relevant legislation

### Maritime Rules Part 40D

Maritime Rules Part 40D sets the requirements for the design, construction and equipment on New Zealand fishing ships registered under the Fisheries Acts of 1983 or 1996.

Rule 40D.67 includes specific requirements where the lifting appliance and associated working gear is used ‘in loading or unloading the ship’.

Under Part 40D.67(12) the owner must ensure that a lifting appliance or its associated working gear is not used ‘in loading or unloading the ship’ unless:

- a. it is tested by a competent person before it is brought into service or after it has undergone any substantial repairs, and
- b. the proof load for such a test is 25% in excess of the safe working load of the lifting appliance, and
- c. the lifting appliance is clearly and permanently marked with its safe working load for each operating condition, and
- d. the safe working load is marked on each lifting appliance, to the satisfaction of a competent person, having regard to the design, strength, material of construction, and the proposed use of the lifting appliance.

## Maritime Rules Part 19

Maritime Rules Part 19 requires the operator to develop a maritime transport operator plan (operator plan).

In regard to lifting appliances and working gear, the operator plan should:

- identify and manage the safety risks (19.42)
- describe safe operating procedures (SOPs) to manage all reasonably foreseeable hazards (19.42(3) and Appendix 1.4)
- set out a maintenance plan (19.45)
- ensure the appliance operator is trained and competent to operate the appliance (19.42(4) and Appendix 1.5.2).

Ideally the requirements of Part 40D (for example equipment registers, rigging plans, and checks by a competent person) should be included in the operator plan.

## Health and Safety at Work Act 2015

The general provisions of the Health and Safety at Work Act 2015 (HSWA) apply to all lifting appliances operated by businesses.

Section 30 of HSWA requires duty holders to eliminate or minimise risks to health and safety, so far as is reasonably practicable.

Section 36(3)(b) requires the person conducting the business or undertaking (PCBU, who is likely to be the maritime operator) to ensure the lifting appliances are safe and maintained.

## Maritime NZ's position

The Maritime Rules may be considered as the minimum standard for maritime operators to achieve. It may be 'reasonably practicable' for an operator to achieve a higher standard than the standard specified in the Maritime Rules.

Maritime NZ strongly recommends that the owner or master of a fishing ship ensures that every lifting appliance on the ship and every item of associated working gear carried by the ship is thoroughly examined by a competent person at least once in every 12 months.

Maritime NZ also highly recommends that proof load testing is carried out on all lifting appliances on the vessel every five years to the specifications in Rule 40D67(12)(b) or to the manufacturers' recommendations, and that the owner or master retains a record of the examination with evidence that it occurred.

Maritime NZ considers that, under HSWA, such examination and proof load testing could be interpreted as a reasonably practicable step for an operator to take to help minimise the risks associated with lifting appliances and working gear on fishing ships.