

Secondary Legislation



MARITIME TRANSPORT ACT 1994

MARINE PROTECTION RULES PART 199 AMENDMENT 2023

Pursuant to sections 386, 387, 388, and 390 of the Maritime Transport Act 1994 I, Simeon Brown, Minister of Transport, having had regard to the criteria for making Marine Protection Rules in section 392 of the Maritime Transport Act 1994, hereby make the following Marine Protection Rules.

Signed at Wellington

This *13th* day of *December* 2023

By Hon SIMEON BROWN



Minister of Transport

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Objective

The objective of the Marine Protection Rules Part 199 Amendment 2023 is to update Marine Protection Rules Part 199 to address known workability and efficiency issues with survey certificates and surveyor recognitions, and to provide clarifications for EIAPP certificates and engine compliance dates.

The authority for making Marine Protection Rules Part 199 Amendment 2023 is found in sections 386(1) and 387(1) and (2), and sections 388(1)(o) and 451(4) of the Maritime Transport Act 1994.

Marine Protection Rules (rules) are secondary legislation under the Legislation Act 2019. Under that Act, the rules are required to be presented to the House of Representatives. The House may, by resolution, disallow any rule. The Regulations Review Committee is the select committee responsible for examining all secondary legislation and may consider any matter relating to secondary legislation and report on it to the House. Anyone can make a complaint to the Regulations Review Committee about the operation of secondary legislation.

Extent of consultation

Formal consultation on the proposed Marine Protection Rules Part 199 Amendment 2023 (included as part of the consultation document *Maritime Rules and Marine Protection Rules Various Amendments 2023*) began on 22 August 2023 and concluded on 19 September 2023. Maritime New Zealand received 8 submissions during this period. The public were invited to comment on the draft rules via notification on the Maritime New Zealand website. Copies of the draft rules were made publicly available during the consultation. A summary of submissions is provided at the end of these rules.

Entry into force

These rules come into force 28 days after notice is given in the *New Zealand Gazette* of the making of the Marine Protection Rules Part 199 Amendment 2023.

Amendments to Part 199: Prevention of air pollution from ships

1 199.55 Requirement for Annex VI endorsement

In rule 199.55, replace the rule under the heading with the following subrules (1) and (2):

- “(1) Except as provided in subrule (2), the owner and the master of a ship must ensure a valid Certificate of Survey, New Zealand Barge Safety Certificate, or certificate of fitness under Part 40G for the ship is held that is endorsed by a holder of a Certificate of Surveyor Recognition issued under rule 44.22 verifying that the requirements in rule 199.57 are complied with (this is an Annex VI endorsement).
- (2) An Annex VI endorsement referred to in subrule (1) may be undertaken by the Director in respect of a valid New Zealand Barge Safety Certificate, instead of a holder of a Certificate of Surveyor Recognition issued under rule 44.22, provided the Director has verified that the requirements in rule 199.57 are complied with.”.

2 199.57 Annex VI endorsement requirements

In rule 199.57, amend subrule (3) as follows:

- (a) in the first sentence, after “displayed or”, insert “otherwise”:
- (b) replace subrules (a) and (b) with the following:
 - “(a) for a ship for which a Certificate of Survey is required to be displayed under rule 19.65—
 - (i) the Annex VI endorsement is listed, including the date of endorsement, on the Certificate of Survey; and
 - (ii) the record of the Annex VI endorsement, signed by the endorser, is made available for inspection by the Director, if requested:
 - (b) for a ship for which a New Zealand Barge Safety Certificate is required to be held and retained under rule 46.24—
 - (i) the Annex VI endorsement is listed on the New Zealand Barge Safety Certificate; or
 - (ii) the record of the Annex VI endorsement, signed by the endorser, is made available for inspection by the Director, if requested.”.

3 199.341 Compliance with Subpart C must be certified

Amend rule 199.341 as follows:

- (a) in subrule (1)(b), before the words “in respect of”, insert “except as provided in subrule (1A),”:
- (b) before subrule (2), insert the following subrule (1A):
 - “(1A) An Annex VI endorsement referred to in subrule (1)(b) may be undertaken by the Director in respect of a valid New Zealand Barge Safety Certificate, instead of a holder of a Certificate of Surveyor Recognition issued under rule 44.22, provided the Director has verified that the requirements in rule 199.342 are complied with.”:
- (c) in subrule (2)(d)(ii), replace the full stop (“.”) with “; and”:
- (d) in subrule (2), after subrule (2)(d), insert the following subrule (2)(e):
 - “(e) where a requirement in rule 199.387(2) applies to a ship referred to in subrule (2)(c), the EIAPP certificate associated with the IAPP certificate must assure compliance with that requirement.”:

- (e) in subrule (4)(a)(i), replace “Schedule 1.2.2(1)” with “Schedules 1.2.2(1), (3), and (4) for the IAPP certificate and its associated Approved Technical File and EIAPP certificate, and Schedule 1.2.2(2) for the IEE certificate (if applicable)”.

4 199.342 Annex VI endorsement requirements

Amend rule 199.342 as follows:

- (a) in subrule (1), after “which rule 199.341(1)(b)”, insert “or rule 199.341(1A)”:
- (b) in subrule (3), in the first sentence, after “displayed or”, insert “otherwise”:
- (c) in subrule (3), replace subrules (a) and (b) with the following:
 - “(a) for a ship for which a Certificate of Survey is required to be displayed under rule 19.65—
 - (i) the Annex VI endorsement is listed, including the date of endorsement, on the Certificate of Survey; and
 - (ii) the record of the Annex VI endorsement, signed by the endorser, is made available for inspection by the Director, if requested:
 - (b) for a ship for which a New Zealand Barge Safety Certificate is required to be held and retained under rule 46.24—
 - (i) the Annex VI endorsement is listed on the New Zealand Barge Safety Certificate; or
 - (ii) the record of the Annex VI endorsement, signed by the endorser, is made available for inspection by the Director, if requested.”.

Consultation details

This text does not form part of the rules, but provides details of the consultation undertaken in making the rules.

Marine Protection Rules Part 199 Amendment 2023

Summary of public consultation

Formal consultation on the proposed Marine Protection Rules Part 199 Amendment 2023 (included as part of the consultation document *Maritime Rules and Marine Protection Rules Various Amendments 2023*) began on 22 August 2023 and concluded on 19 September 2023.

By the close of the consultation period, 8 submissions were received representing a wide range of stakeholders and industry. Two of these submissions were received from iwi and Māori, providing feedback on matters unrelated to the subject of the proposed rules changes.

All submitters supported the Part 199 rule changes while noting some concerns over the financial impacts to operators of compliance with Annex VI requirements (particularly for domestic ships over 400GT).

In relation to the feedback on the financial impacts from Annex VI, Maritime NZ notes that Annex VI is now fully implemented in New Zealand, therefore compliance costs associated with Part 199 are already in effect. The proposed changes are not expected to increase these costs.

Some submitters also requested clarifications about the proposals. These included whether there would be extra and unreasonable surveyor costs associated with the amendments to Part 199.

Maritime NZ considers that there will be no additional surveyor costs for implementing Part 199 changes, particularly as the amendments are designed to improve efficiencies for surveyors.

Overall, no changes to the proposed amendments were identified from the results of the consultation. Some minor refinements were made to improve the clarity and readability of the rules during the final drafting and review stages.