

Secondary Legislation



TE MANATŪ WAKA
MINISTRY OF TRANSPORT

MARITIME TRANSPORT ACT 1994

MARITIME RULES

PARTS 23 AND 53 AMENDMENT 2022

Pursuant to section 36 of the Maritime Transport Act 1994 I, Kieran McAnulty, Associate Minister of Transport, having had regard to the criteria for making Maritime Rules in section 39(2) of the Maritime Transport Act 1994, hereby make the following Maritime Rules.

Signed at Wellington

This

18th

day of

November

2022

By Hon KIERAN MCANULTY

Associate Minister of Transport

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Objective

The objective of the Maritime Transport Rules (Parts 23 and 53) Amendment 2022 is to update Maritime Transport Rules Parts 23 (Operating Procedures and Training) and 53 (Pilot Transfer Arrangements and Ship–Helicopter Pilot Transfers) to:

- reduce complexity and clarify the rules;
- make a number of other changes to improve safety and consistency with the international maritime framework.

Maritime Rules (rules) are secondary legislation under the Legislation Act 2019. Under that Act, the rules are required to be tabled in the House of Representatives. The House of Representatives may, by resolution, disallow any rule. The Regulations Review Committee is the select committee responsible for considering the rules under that Act.

Extent of consultation

In August–October 2022, Maritime New Zealand consulted with the public on the proposed amendments to Parts 23 and 53 of the maritime rules in accordance with the Act, including the expected costs and benefits. A notice regarding this consultation was placed in the *New Zealand Gazette* on 22 August 2022. The deadline for making a submission was 3 October 2022.

5 submissions were received in respect of the proposed amendments to the maritime rules. A summary of submissions is provided at the end of these rules.

Entry into force

The Maritime Rules (Parts 23 and 53) Amendment 2022 rules comes into force on 22 December 2022.

Amendments to Part 23: Operating Procedures and Training

1 Part 23 Part objective

In Part 23, amend the Part objective as follows:

- (a) in the second to last paragraph, replace “sections 36(b), (g) and (h)” with “sections 36(1)(b), (g), and (h)”:
- (b) replace the last paragraph with the following:

“Maritime Rules (rules) are secondary legislation under the Legislation Act 2019. Under that Act, the rules are required to be tabled in the House of Representatives. The House of Representatives may, by resolution, disallow any rule. The Regulations Review Committee is the select committee responsible for considering the rules under that Act.”.

2 Rule 23.9 Emergency training and drills

- (1) In rule 23.9, in subrule (7), replace subrule (7)(a) with the following:

“(a) except as provided in rule 23.9(8), each lifeboat must be launched, and manoeuvred in the water by its assigned operating crew, at least once every 3 months during an abandon ship drill^{7A}; and”.
- (2) On the same page as “ship drill^{7A}” appears in rule 23.9(7)(a), insert the following footnote:

^{7A} Refer to IMO clarification titled “Clarification Of SOLAS Regulation III/19”, and IMO guideline titled “Guidelines On Safety During Abandon Ship Drills Using Lifeboats” and MNZ guidance on lifeboat launching required under subrule (7)(a).”.

3 Rule 23.21 Emergency training and drills

- (1) In rule 23.21(7), replace subrule (7)(a) with the following:

“(a) except as provided in rule 23.21(8), each lifeboat must be launched, and manoeuvred in the water by its assigned operating crew, at least once every 3 months during an abandon ship drill^{13A}; and”.
- (2) On the same page as “ship drill^{13A}” appears in rule 23.21(7)(a), insert the following footnote:

^{13A} Refer to IMO clarification titled “Clarification Of SOLAS Regulation III/19”, and IMO guideline titled “Guidelines On Safety During Abandon Ship Drills Using Lifeboats” and MNZ guidance on lifeboat launching required under subrule (7)(a).”.

4 Rule 23.48 Distress signals

In rule 23.48, in subrule (6)(b), in the three subrules under it “(a)”, “(b)”, and “(c)”, make the following amendments:

- (a) replace “(a)” with “(i)”:
- (b) replace “(b)” with “(ii)”:
- (c) replace “(c)” with “(iii)”.

Amendments to Part 53: Pilot Transfer Arrangements and Ship-Helicopter Pilot Transfers

5 Part 53 Part objective

In Part 53, amend the Part objective as follows:

- (a) in the second to last paragraph, replace “section 36(1)(b), (1)(f), (1)(g), (1)(k), and (1)(u)(ii)” with “sections 36(1)(b), (f), (g), (k), and (u)(ii)”:
- (b) replace the last paragraph with the following:

“Maritime Rules (rules) are secondary legislation under the Legislation Act 2019. Under that Act, the rules are required to be tabled in the House of Representatives. The House of Representatives may, by resolution, disallow any rule. The Regulations Review Committee is the select committee responsible for considering the rules under that Act.”

6 Rule 53.4 Duties in respect of pilot transfer arrangement

(1) In rule 53.4, in subrule (2), make the following amendments, in the following order:

- (a) delete subrule (a):
- (b) replace the subrule number “(b)” with “(a)”:
- (c) replace the subrule number “(c)” with “(b)”.

(2) On the same page as rule 53.4(1)(b), in footnote “1”, delete “and efficient”.

7 Rule 53.5 Approval of equivalent pilot transfer arrangement and ship-helicopter transfer

In rule 53.5, in subrule (1)(c), delete “and efficient”.

8 Rule 53.7 Construction – ropes

In rule 53.7, in subrule (1)(c)(i), replace “20 mm” with “18 mm”.

9 Rule 53.8 Position, reach and securing arrangement

In rule 53.8, in subrule (6), delete “20 mm or”.

10 Rule 53.9 Shiplside doors and ports

In rule 53.9, in subrule (3), delete “20 mm or”.

11 Rule 53.11 Position and reach

In rule 53.11, in subrule (3), replace “55°” with “45°”.

Summary of submissions – Maritime Rules (Parts 23 and 53) Amendment 2022

Maritime NZ published a notice of the Minister's intention to make rules in the New Zealand Gazette on 22 August 2022 (2022-au3538). Publication coincided with the commencement of the consultation process. An Invitation to Comment document was posted on the Maritime NZ website for a six week period. Information was also posted on the Government consultation website and a press release was published on 8 September 2022. Consultation closed on 3 October 2022.

Five submissions were received from one individual, one professional association, an industry body, a port company and an operator. Submissions were supportive of all the proposed amendments and noted that :

- it was important to be aligned with international conventions; and
- there would be few impacts from implementing the rules.

Responses to questions in Invitation to Comment

Waiving the 28-day rule

Two submitters commented on this proposal and supported waiving the 28-day rule. Additionally:

- One submitter noted that there was no reason not to waive the 28-day rule. None of the proposals would require domestic coastal ship operators to upgrade or replace equipment, so time to source and replace equipment is not needed.

Maritime NZ's response

Maritime NZ noted submitters' comments. Following further consideration, a waiver of the 28-day rule is not sought. This is to ensure that appropriate guidance and support for stakeholders is available when the amended rule comes into force.

Amending Rule 53.4(2)(a)

Two submitters commented on this proposal and supported revoking Rule 53.4(2)(a) and not remake the exemption. Additionally:

- One submitter noted that an exemption was not required given that pilots, their employers, and ports will still be required to comply with, and will be protected by, the Maritime Rules and the Health and Safety at Work Act 2015. Pilots should not be exposed to risk of prosecution in circumstances where they cannot, realistically, have any knowledge or insight that an issue exists that could expose them to liability.

Maritime NZ's response

Maritime NZ notes the comments of submitters and intends to revoke Rule 53.4(2)(a) and not remake the exemption.

Clarifying requirements for approving equivalent pilot transfer arrangements

Two submitters supported this proposal. Of these submitters:

- One submitter noted that safety should be the only consideration.
- One submitter noted that New Zealand's regulations and rules should comply or align with international rules and regulation unless there was a reason not to do so. No such reason exists here, given the proposal simply gives effect to recent standards for pilot transfer arrangements as set out in Regulation 23 of SOLAS, and IMO Assembly resolution A.1045(27).

Maritime NZ's response

Maritime NZ notes the comments of submitters in support. No changes to rules are proposed.

Aligning the rules for accommodation ladders used in conjunction with pilot ladders with international requirements

Three submitters commented on this proposal. Two submitters supported the proposal and stated that Maritime Rules should align with SOLAS and IMO resolutions. One submitter was neutral. Of these submitters:

- One submitter stated that all rules should align with SOLAS and IMO resolutions to prevent confusion and conflict. They considered that the proposal should not have a financial impact, as all foreign vessels are already required to comply with SOLAS and IMO regulations.
- One submitter stated that as a matter of principle, New Zealand's domestic regulations should align with IMO rules unless there is good reason not to. No such reason exists here.
- One submitter noted that they did not use combination boarding arrangements (Rope ladder to accommodation ladder).

Maritime NZ's response

Maritime NZ notes the comments of submitters in support of the proposal. Maritime NZ is proposing no changes to rules.

Aligning the rules for the thickness of side ropes on pilot ladders with the international maritime framework

Two submitters supported the proposal and noted that Maritime Rules should align with SOLAS and IMO resolutions. Specifically:

- One submitter stated that all rules should align with SOLAS and IMO resolutions to prevent confusion and conflict. They did not consider that the proposal should have a financial impact as all foreign vessels are already required to comply with SOLAS and IMO regulations.
- One submitter stated that as a matter of principle New Zealand's domestic regulations should align with IMO rules unless there was good reason not to. No such reason exists here.

Maritime NZ's response

Maritime NZ notes submitters' comments and NZ agrees that consistency with IMO and SOLAS regulations is important wherever possible. Maritime NZ is proposing no changes to rules.

Amendments to requirements for lifeboat drills under Part 23

Four submitters supported this proposal. Of those submitters:

- One submitter stated that consistency with IMO and SOLAS regulations was important and the proposal provided significant clarification and safety benefits.
- One submitter noted that it was not essential to be inside the boat and that use of fall prevention devices should be highlighted and a debate around when and how to use them should follow. They also commented that:
 - Unless there is a craft / sheet door available so lifeboat crew can reach lifeboats for manoeuvring it in the water, crew might find they will have to be lowered in a rescue boat instead. This might shift the risk from one craft to another, and the core issue of going over the side and dropping down an extensive height is not addressed. The submitter suggested that someone should operate any outside davits without crew prior to boarding people and function test the device first.

- One submitter considered that New Zealand should be aligned with the international maritime framework, unless there is good reason not to be. There is no reason to not be aligned.
- One submitter noted that the amendments aligned with their existing practices, which did not forbid or restrict any method of lowering. They also noted that there were no crew inside during lowering or lifting up of lifeboats.

Maritime NZ's response

Maritime NZ response notes submitters' comments in support and agrees that consistency with IMO and SOLAS regulations is important wherever possible. Maritime NZ is proposing no changes to the rules.

