

# Advisory Circular – Part 102 Certificates of Insurance

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## 1 General

Maritime New Zealand advisory circulars are designed to give you assistance and explanations about standards and requirements set out in the rules. However, the notes contained in advisory circulars should not be treated as a substitute for the rules themselves, which are the law.

## 2 Purpose of Part 102

Part 102 is one element of the New Zealand liability and insurance regime intended to ensure that persons who suffer damage or loss as the result of an oil pollution incident involving ships or offshore installations are assured of prompt and full settlement of claims. This regime also ensures that the costs incurred by public agencies in dealing with an oil spill, including preventive measures, are readily recoverable.

## 3 Scope of Part 102

Part 102 details requirements for public liability insurance for:

- oil tankers carrying oil in bulk in excess of 2,000 tonnes;
- offshore installations;
- all ships of 400 gross tons or more, including small tankers carrying oil in bulk of 2,000 tonnes or less.

Part 102, as made by the Minister of Transport in June 1998, applied to oil tankers and offshore installations. An amendment to the rules in 2004 extended their application to all ships of 400 gross tons or more, including small tankers carrying oil in bulk of 2,000 tonnes or less.

## 4 Relationship of Part 102 to Other Legislation

Part 102 must be read in conjunction with the relevant sections of the Maritime Transport Act 1994 and the Maritime Transport (Certificates of Insurance) Regulations 2005. The relevant provisions are detailed below:

- s.363 requires certain ships (both New Zealand and foreign) to have certificates of insurance before entering or leaving any port in New Zealand or offshore terminal under New Zealand jurisdiction; the section also requires New Zealand ships operating outside New Zealand to have such insurance;
- s.364 requires regulated offshore installations to hold certificates of insurance;
- s.365 requires certificates of insurance to be produced to specified officers;
- s.366 establishes the rights of third parties in respect of liability insurers;
- s.367 creates offences for breaches of the requirement to have certificates of insurance.

Other relevant provisions include:

- the scheme of liability for oil pollution damage in Part 25 of the Act for regulated oil tankers and regulated offshore installations;
- the scheme of liability for maritime claims, including oil pollution damage, in Part 7 for ships not liable under Part 25;
- ss.270, 272 and 273 concerning the issue, recognition and acceptance of marine protection documents (certificates of insurance are such documents);
- Maritime Transport (Certificates of Insurance) Regulations 2005, which defines the terms “regulated ship” and “regulated offshore installation.”

## 5 Regulated ships

The carriage of an original or certificated copy of a normal P&I Club Certificate of Entry may meet the certificate of insurance requirements for regulated ships. The Director will accept such certificates where they meet the requirements of the rules.

If a regulated ship has no P&I cover, the owner will need to purchase a policy of insurance or obtain financial security to satisfy the requirements of Part 102. Cover must be sufficient to meet the limits of liability under Part 7 of the Act, as described below. Once the appropriate arrangements have been made, the owner must apply to the Director for a certificate of insurance. The form of insurance is specified in Appendix 3 to the rules.

## 6 Regulated oil tankers

The insurance requirements for regulated oil tankers give effect to the provisions of the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1971. The form of certificate specified in Appendix 1 of Part 102 is drawn from this international instrument.

## 7 Regulated offshore installations

The owner of a regulated offshore installation is required to hold public liability insurance sufficient to meet liabilities under Part 25 of the Act, and for a sum of not less than 14 million units of account. A certificate of insurance must evidence this cover.

## 8 Calculation of limits of liability

The unit of account used to express the limits of liability for oil pollution damage is one special drawing right (SDR) of the International Monetary Fund. The value of an SDR is posted daily on the IMF's website [www.imf.org](http://www.imf.org). As at the date of this advisory circular, one SDR was equivalent to NZ\$ 2.1143.

The limits specified in section 347 apply to CLC ships (regulated oil tankers). The limits applied to ships other than regulated oil tankers are found in section 87 of the Maritime Transport Act.

## 9 Ratings by rating agencies

The Director, in issuing and recognising a certificate of insurance, must be satisfied that the insurer is financially capable of meeting any claims under Part 25 of the Maritime Transport Act. In determining this, Part 102 requires the Director to consider the rating

given to that insurer by a rating agency. Generally, the Director would expect a minimum rating of “A” from Standard & Poor’s or “B+” from AM Best.

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