

Marine Protection Rules

Part 102: Certificates of Insurance

MNZ Consolidation

1 November 2016

ISBN 978-0-947527-30-3

Published by

Maritime New Zealand, PO Box 25620, Wellington 6146, New Zealand

Maritime New Zealand Copyright 2016

Part objective

A principal objective of Part 102 is to give effect to the following:

- New Zealand obligations and privileges under the 1992 Protocol to the International Convention on Civil Liability for Oil Pollution Damage, 1969 by requiring owners of oil tankers carrying more than 2,000 tons of oil in bulk as cargo, (regulated oil tankers), to hold insurance or financial security to cover potential liability for oil pollution damage;
- New Zealand obligations and privileges under the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 by requiring owners of ships of 1,000 gross tonnage and above to hold insurance cover for potential liability for the costs of cleaning up oil pollution or oil pollution damage from bunker oil (oil used on board ships for propulsion and other on board operations);
- national requirements for owners of ships of 400 gross tonnage and less than 1,000 gross tonnage to hold insurance for potential liability for the costs of cleaning up oil pollution costs and oil pollution damage from bunker oil and oil carried as cargo;
- national requirements for owners of offshore installations in New Zealand continental waters to hold insurance for potential liability for the costs of cleaning up oil pollution and oil pollution damage.

The basis for Part 102 is found in sections 363, 363A, 385H, 386, 387, and 390 of the Maritime Transport Act 1994.

Marine protection rules are disallowable instruments under the Legislation Act 2012. 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 that Act.

Disclaimer:

This document is the current consolidated version of Maritime/Marine Protection Rules Part 102 produced by Maritime New Zealand, and serves as a reference only. It has been compiled from the official rules that have been signed into law by the Minister of Transport. Copies of the official rule and amendments as signed by the Minister of Transport may be downloaded from the Maritime New Zealand website. www.maritimenz.govt.nz

History of Part 102

Part 102 first came into force on 20 August 1998 and now incorporates the following amendments:

Amendment	Effective Date
Amendment 1	30 December 2004
Amendment 2	1 October 2014
Amendment 3	1 January 2015
Amendment 4	1 April 2015
Amendment 5	1 November 2016

Summary of Amendments

Amendment 1

Marine Protection Rules Part 102 Amendment 2004 102.2, 102.4(2)(d), 102.7, 102.8(2)(d),
102.10, 102.11, 102.12, Appendix 3

Amendment 2

Maritime Transport Amendment Act 2013 102.2, 102.3, 102.4(2)(b), 102.4(2)(d),
102.4(2)(e), 103.4(3), 102.5, 102.6A,
102.7, 102.10, 102.11, 102.12,
Appendix 1, Appendix 3, Appendix 4

Amendment 3

Marine Protection Rules Various Amendments 2014 Part objective, 102.2, 102.6(1),
102.8(2)(d), 102.8(2)(e), Appendix 1,
Appendix 2, Appendix 3

Amendment 4

Marine Protection Rules Various Amendments 2015 102.2, 102.6A, Appendix 3

Amendment 5

Marine Protection Rules Various Amendments 2016 Part objective

All signed rules can be found on our website:

<http://www.maritimenz.govt.nz/Rules/List-of-all-rules/Part102-marine-protection-rule.asp>

Contents

General

102.1	Entry into force	1
102.2	Definitions	1

Subpart 1—Ships

New Zealand ships and foreign ships registered in non-CLC states

102.3	Application	2
102.4	Application for and issue or recognition of certificate of insurance	3
102.5	Conditions on certificate of insurance	4

Foreign ships registered in CLC states

102.6	Acceptance of certificate of insurance	4
-------	--	---

Foreign ships registered in Bunker Oil Convention States

102.6A	Acceptance of certificates of insurance	4
--------	---	---

Subpart 2—Offshore installations

102.7	Application	5
102.8	Application for and issue or recognition of certificate of insurance	5
102.9	Conditions on certificate of insurance	6

Appendices

Appendix 1	CLC Certificates for Regulated Oil Tankers	7
Appendix 2	Regulated Offshore Installations	8
Appendix 3	Civil Liability for Oil Pollution Damage Certificates for Regulated Ships	9
Appendix 4	Bunker Oil Convention Certificates	10

General

102.1 Entry into force

Part 102 entered into force on 20 August 1998 102.2 Definitions

In Part 102 —

Act means the Maritime Transport Act 1994:

Bunker Oil Convention has the meaning given to it in section 342 of the Act

Bunker Oil Convention State has the meaning given to it in section 342 of the Act

Civil Liability Convention means the International Convention on Civil Liability for Oil Pollution Damage, 1969; and includes any subsequent protocol or amendment to, or revision of, those conventions accepted or ratified by New Zealand:

CLC owner means, —

- (a) in the case of a registered CLC ship, the person registered as the owner of that ship; or
- (b) in the case of an unregistered CLC ship, the person who owns the ship; or
- (c) in the case of a CLC ship owned by a State and operated by a person registered as the ship's operator, the person registered as its operator:

CLC State means any State that is a party to the Civil Liability Convention:

Director means the person who is for the time being the Director of Maritime New Zealand under section 439 of the Maritime Transport Act 1994:

Foreign ship means any ship that is not a New Zealand ship:

In bulk means carried in the cargo or other spaces of a ship without any intermediate form of containment or packaging:

Insurance means public liability insurance:

internal waters of New Zealand has the meaning given to it in section 2(1) of the Act:

New Zealand continental waters has the meaning given to it in section 222(1) of the Act

New Zealand ship means a ship that is registered under the Ship Registration Act 1992; and includes a ship that is not registered under that Act but is required or entitled to be registered under that Act:

offshore installation has the meaning given to it in section 222(1) of the Act

Oil means any persistent oil including crude, fuel, heavy diesel, or lubricating oil:

Oil tanker means a ship carrying oil in bulk as cargo:

Owner

- (a) in relation to any ship includes —
 - (i) any person who is the legal or equitable owner, or both, of the ship; and
 - (ii) any person in possession of the ship; and
 - (iii) any charterer, manager, or operator of the ship, or any other person (other than a pilot) responsible for the navigation or management of the ship;

except that in rules 102.4(2)(b) and 102.4(2)(d) “owner” in relation to a New Zealand ship means the “CLC owner”:

- (b) in relation to an offshore installation includes —
 - (i) the person having any right, privilege, or licence to explore for or exploit minerals in connection with which the installation is being, has been, or is to be used; and
 - (ii) the manager, lessee, licensee, or operator of the installation; and
 - (iii) any agent or employee of the owner, manager, lessee, or licensee, or operator of the installation, or the person in charge of any operations connected with the installation:

Part means a group of rules made under the Maritime Transport Act 1994:

Rating means an assessment, represented by a letter or a symbol or a number or by a combination of any of them, together with a word or words or an expression indicating their meaning, of an insurer’s ability to pay —

- (a) claims that the insurer is liable to pay at the time of the assessment, including an estimate of unreported claims; and
- (b) claims likely to arise in the future at the time that they arise:

Rating agency means a person or organisation rating insurers:

Regulated foreign oil tanker means a regulated oil tanker that is not a New Zealand ship:

Regulated New Zealand oil tanker means a regulated oil tanker that is a New Zealand ship:

regulated offshore installation—

- (a) means an offshore installation within internal waters of New Zealand or New Zealand continental waters; and
- (b) includes any pipeline connected to that installation

Regulated oil tanker means an oil tanker, wherever registered and of whatever nationality, carrying a quantity of oil in bulk in excess of 2,000 tonnes or such other quantity as may be fixed for the purpose from time to time by the Governor-General by Order in Council:

regulated ship means a New Zealand or foreign ship of 400 gross tonnage or more other than a regulated oil tanker

Rules includes maritime rules and marine protection rules:

Unit of account means one special drawing right as defined by the International Monetary Fund, the calculation of which, in New Zealand currency, is in accordance with section 88 of the Act.

Subpart 1—Ships

102.3 Application

- (1) This subpart applies to ships that are required by section 363 or 363A of the Act to have a certificate of insurance.
- (2) The owner of a ship may apply under rule 102.4 for the issue or recognition of a certificate of insurance in respect of the owner’s liability under the Civil Liability Convention or the Bunker Oil Convention.

- (3) The owner of a CLC ship may apply under rule 102.6 for acceptance of a certificate of insurance in respect of the owner's liability under the Civil Liability Convention.
- (4) The owner of a Bunker Oil Convention ship may apply under rule 102.6A for acceptance of a certificate of insurance in respect of the owner's liability under the Bunker Oil Convention.

102.4 Application for and issue or recognition of certificate of insurance

- (1) The owner of a ship to which this rule applies must ensure that every application for the issue or recognition of a certificate of insurance for that ship is —
 - (a) submitted to the Director in accordance with section 269 of the Act; and
 - (b) accompanied by:
 - (i) such evidence of the existence of the contract of insurance or other financial security as the Director specifies; and
 - (ii) a translation into English if the language of the certificate of insurance for which recognition is sought is not English.
- (2) The Director must issue or recognise a certificate of insurance for a ship to which this rule applies where he or she is satisfied that —
 - (a) the requirements of section 270 of the Act are met; and
 - (b) the contract of insurance or other financial security in respect of the ship provides public liability coverage of a kind and scope suitable to meet the owner's potential liability under Part XXV of the Act, and is for a sum not less than the maximum liability of the owner of that ship as calculated in accordance with Part 7 or section 347 of the Act, as the case may be; and
 - (c) the contract of insurance or other financial security will be in force in respect of the ship throughout the period for which the certificate is to be issued or recognised; and
 - (d) the insurer or guarantor named in the application is financially capable of meeting the potential maximum liability of the owner of the ship as calculated in accordance with Part 7 or section 347 of the Act, as the case may be taking into account the rating, if any, of that insurer or guarantor under the Insurance (Prudential Supervision) Act 2010; and
 - (e) the insurer party to the contract of insurance complies with any provisions of the Insurance (Prudential Supervision) Act 2010 applicable to that insurer.
- (3) Every certificate of insurance issued by the Director for a ship must—
 - (a) contain the following particulars—
 - (i) the name of the ship, the ship's distinctive number or letters, and the ship's port of registry; and
 - (ii) the name of the owner of the ship and the principal place of business of that owner; and
 - (iii) the ship's IMO ship identification number; and
 - (iv) the nature of the contract of insurance or other financial security; and
 - (v) the name and principal place of business of the insurer or other person giving security and the place of business where the insurance or security is established; and

- (vi) the period of validity of the insurance or other financial security; and
- (vii) the period of validity of the certificate, which must not exceed the period of validity of the insurance or other financial security; and
- (b) in the case of a regulated oil tanker, be in the form specified in—
 - (i) Appendix 1, in respect of liability under the Civil Liability Convention;
 - (ii) Appendix 4, in respect of liability under the Bunker Oil Convention;
- (c) in the case of a regulated ship of 1 000 gross tonnage or more, be in the form specified in Appendix 4 in respect of liability under the Bunker Oil Convention;
- (d) in the case of a regulated ship of less than 1 000 gross tonnage, be in the form specified in Appendix 3 in respect of civil liability for oil pollution damage.

102.5 Conditions on certificate of insurance

Every certificate of insurance issued or recognised by the Director under section 270 of the Act for a ship to which this rule applies is subject to the following conditions —

- (a) any modification of or variation to the contract of insurance or other financial security must be notified to the Director as soon as possible; and
- (b) the owner must obtain additional financial security to the satisfaction of the Director in the event of:
 - (i) any modification of or variation to the contract of insurance or other financial security; or
 - (ii) any change in circumstances affecting the financial capability of the insurer or guarantor;

which the Director considers likely to result in the owner being unable to meet the potential maximum liability calculated in accordance with Part 7 or section 347 of the Act, as the case may be.

Foreign ships registered in CLC states

102.6 Acceptance of certificate of insurance

For the purpose of sections 271 and 363A of the Act, a certificate of insurance for a regulated foreign oil tanker registered in a CLC state means —

- (a) a valid certificate evidencing a contract of insurance or other financial security issued by or under the authority of the government of that state in compliance with the Civil Liability Convention; or
- (b) in the case of a state-owned ship used for a commercial purpose for which insurance or other financial security is not maintained, a valid certificate issued by or under the authority of the government of that state in compliance with the Civil Liability Convention requirements for such ships.

Foreign ships registered in Bunker Oil Convention States

102.6A Acceptance of certificates of insurance

For the purpose of sections 271 and 363 of the Act, a certificate of insurance for a foreign ship registered in a Bunker Oil Convention State means—

- (a) a valid certificate evidencing a contract of insurance or other financial security issued, or recognised, by or under the authority of the Bunker Oil Convention State in accordance with the Bunker Oil Convention; or

- (b) in the case of a State-owned ship used for a commercial purpose for which insurance or other financial security is not maintained, a valid certificate issued by or under the authority of the government of that State stating liability for pollution damage within the meaning of Article 1 of the Bunker Oil Convention is covered up to the limits determined in accordance with Part 7 of the Act.

Subpart 2—Offshore installations

102.7 Application

Rules 102.8 and 102.9 apply to every regulated offshore installation that is required by section 385H of the Act to have a current certificate of insurance in force issued or recognised by the Director under section 270 of the Act.

102.8 Application for and issue or recognition of certificate of insurance

- (1) The owner of a regulated offshore installation to which this rule applies must ensure that every application for the issue or recognition of a certificate of insurance for that regulated offshore installation is —
 - (a) submitted to the Director in accordance with section 269 of the Act; and
 - (b) accompanied by:
 - (i) such evidence of the existence of the contract of insurance or other financial security as the Director specifies; and
 - (ii) a translation into English if the language of the certificate of insurance for which recognition is sought is not English.
- (2) The Director must issue or recognise a certificate of insurance for a regulated offshore installation to which this rule applies where he or she is satisfied that —
 - (a) the requirements of section 270 of the Act are met; and
 - (b) the contract of insurance or other financial security in respect of the regulated offshore installation provides public liability coverage of a kind and scope suitable to meet the owner's potential liability under Part XXV of the Act, and is for a sum not less than 14 million International Monetary Fund Units of Account; and
 - (c) the contract of insurance or other financial security will be in force in respect of the regulated offshore installation throughout the period for which the certificate is to be issued or recognised; and
 - (d) the insurer or guarantor named in the application is financially capable of meeting a claim for the full amount specified in the contract of insurance or other financial security taking into account the rating, if any, of that insurer or guarantor under the Insurance (Prudential Supervision) Act 2010; and
 - (e) the insurer party to the contract of insurance complies with any provisions of the Insurance (Prudential Supervision) Act 2010 applicable to that insurer.
- (3) Every certificate issued by the Director for a regulated offshore installation to which this rule applies must be in the form specified in Appendix 2 and must contain the following particulars —
 - (a) the name of the owner of the regulated offshore installation and the principal place of business of that owner; and
 - (b) the nature of the contract of insurance or other financial security for the regulated offshore installation; and

Marine Protection Rules

- (c) the name and principal place of business of the insurer or other person giving security for the regulated offshore installation and the place of business where the insurance or security is established; and
- (d) the period of validity of the insurance or other financial security in respect of the regulated offshore installation; and
- (e) the period of validity of the certificate of insurance, which shall be for:
 - (i) a maximum period of 12 months; or
 - (ii) the period of validity of the insurance or other financial security;whichever is the shorter period.

102.9 Conditions on certificate of insurance

Every certificate of insurance issued or recognised by the Director under section 270 of the Act for an offshore installation to which this rule applies is subject to the following conditions —

- (a) any modification of or variation to the contract of insurance or other financial security must be notified to the Director as soon as possible; and
- (b) the owner must obtain additional financial security to the satisfaction of the Director in the event of:
 - (i) any modification of or variation to the contract of insurance or other financial security; or
 - (ii) any change in circumstances affecting the financial capability of the insurer or guarantor;

which the Director considers likely to result in the contract of insurance or other financial security not providing assured cover for the full amount specified in the contract of insurance or other financial security.

Rules 102.10 to 102.12 inclusive were revoked on 1 October 2014.

Appendix 1 CLC Certificates for Regulated Oil Tankers

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE FROM A SHIP

Issued in accordance with the provisions of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Name of ship	Distinctive number or letters	Port of registry	Name and address of owner

This is to certify that there is in force in respect of the above-mentioned ship a policy of insurance or other financial security satisfying the requirements of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Type of security

Duration of security:
 From.....
 To.....

Name and address of the insurer(s) and/or guarantor(s)
 Name

This certificate is valid until

Issued and certified on behalf of the Government of New Zealand

At
 On
 Director of Maritime New Zealand

1. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
2. If security is furnished in several forms, these should be enumerated.
3. The entry "Duration of Security" must stipulate the date on which such security takes effect.

Appendix 2 Regulated Offshore Installations

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE FROM A REGULATED OFFSHORE INSTALLATION

Name of regulated offshore installation (if applicable)	Distinctive number or letters (if applicable)	Location of regulated offshore installation	Name and address of owner

This is to certify that there is in force in respect of the above-mentioned regulated offshore installation a policy of insurance or other financial security satisfying the Director of Maritime New Zealand and in accordance with the requirements of the Maritime Transport Act 1994 and Part 102 of the marine protection rules.

Type of security

Duration of security:

From

To

Name and address of the insurer(s) and/or guarantor(s)

Name

Address

This certificate is valid until

Issued and certified on behalf of the Government of New Zealand

At

On

.....

Director of Maritime New Zealand

1. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
2. If security is furnished in several forms, these should be enumerated.
3. The entry "Duration of Security" must stipulate the date on which such security takes effect.

Appendix 3 Civil Liability for Oil Pollution Damage Certificates for Regulated Ships

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE FROM A REGULATED SHIP

Issued in accordance with the provisions of section 363 of the Maritime Transport Act 1994.

Name of ship	Distinctive number or letters	Port of registry	Name and address of owner

This is to certify that there is in force in respect of the above-mentioned ship a policy of insurance or other financial security that provides public liability cover to meet the owner’s potential liability under Part 25 of the Maritime Transport Act 1994.

Type of security

Duration of security:

From

To

Name and address of the insurer(s) and/or guarantor(s)

Name

Address

This certificate is valid until

.....
 Director of Maritime New Zealand

1. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
2. If security is furnished in several forms, these should be enumerated.
3. The entry “Duration of Security” must stipulate the date on which such security takes effect.

Appendix 4 Bunker Oil Convention Certificates

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF CIVIL LIABILITY FOR BUNKER OIL POLLUTION DAMAGE

Issued in accordance with the provisions of Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001.

Name of ship	Distinctive number or letters	IMO ship identification number	Port of registry	Name and full address of the principal place of business of the registered owner

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001.

Type of security:

Duration of security:

From:

To:

Name and address of the insurer(s) and/or guarantor(s):

Name:

Address:

This certificate is valid until:

Issued and certified on behalf of the Government of New Zealand

at:

on:

Signature:

(Director of Maritime New Zealand)

Explanatory Notes:

- 1 If desired, the designation of the State may include a reference to the competent public authority of the country where the Certificate is issued.
- 2 If the total amount of security has been furnished by more than one source, the amount furnished by each source should be indicated.
- 3 If security is furnished in several forms, these should be enumerated.
- 4 The entry 'Duration of security' must stipulate the date on which such security takes effect.
- 5 The entry 'Address' of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.