WELLINGTON NEW ZEALAND

PURSUANT to Section 36 of the Maritime Transport Act 1994

I, MARK JAMES GOSCHE, Minister of Transport,

HEREBY MAKE the following maritime rules.

SIGNED AT Wellington

This 18th day of December 2000

by MARK JAMES GOSCHE

Minister of Transport

Maritime Rules

PART 31B

CREWING AND WATCHKEEPING

OFFSHORE, COASTAL AND RESTRICTED (NON-FISHING VESSELS)
Maritime Rules

Part 31B

Crewing and Watchkeeping

Offshore, Coastal and Restricted
(Non-Fishing Vessels)
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Part Objective

Part 31B prescribes the minimum crew numbers and the crew qualifications required for New Zealand ships, other than fishing vessels, when operating within specified sea limits. It contains rules for minimum safe crewing assessments and Minimum Safe Crew Documents for specified ships. It also contains rules about fitness for duty, avoiding fatigue, and keeping a safe watch at sea.

Part 31B takes account of standards found in SOLAS, the International Convention for the Safety of Life at Sea, and STCW 95, the International Convention on Standards of Training, Certification and Watchkeeping 1995.

Part 31B will replace the Shipping (Manning of Restricted–Limit Ships) Regulations 1986.

Authority for making Part 31B is found in section 36(1)(b), (n), (o) and (p) of the Maritime Transport Act 1994.
Extent of Consultation

On 9 September 2000, the Maritime Safety Authority published in each of the daily newspapers in the four main centres of New Zealand a notice inviting comments on the proposed Part 31B. A notice was also published in the New Zealand Gazette on 7 September 2000. Copies of the draft Part 31B and the invitation to comment were then sent to interested parties. Comments on the Part were requested to be made by 1 November 2000 but were accepted until 4 December 2000.

Sixty eight submissions were received on Part 31B. All submissions were considered and, where appropriate, the proposed rules were amended to take account of the comments made.
Commencement

Part 31B as amended was referred to and signed by the Minister of Transport.

Part 31B will come into force on 1 February 2001.
Section 1 - General

31B.1 Entry into force

(1) Except as provided in rules 31B.1(2) to (4), Part 31B comes into force on 1 February 2001.

(2) The requirements in rule 31B.8(4) for medical training come into force on 1 February 2002.

(3) The requirements in Tables 2 to 8 for vessels of less than six metres in length overall come into force on 1 February 2003.

(4) The requirement in Table 4 for the carriage of deckhands comes into force on 1 February 2003.

31B.2 Definitions

In Part 31B –

“Ashore or under warranty” in respect of engine and system maintenance, means carried out with specialist shore support to a standard that the Director considers justifies a reduction of engineer qualification on the vessel for which such support is provided:¹

“Bareboat charter sailing vessel” means a sailing vessel that is let for hire or reward, without a skipper, including a sailing ship provided in conjunction with a holiday establishment or hotel for the use of guests or tenants, and that the hirer uses solely for pleasure:

“Coastal area” means within the coastal limits set out in Appendix 2 of Part 20:

“Commercial ship” means a ship that is not –

(a) a pleasure craft; or

(b) solely powered manually; or

(c) solely powered by sail:

¹ Guidance on this standard is provided in the Advisory Circular to Part 31B.
"Crew" means the persons employed or engaged in any capacity on board a vessel, including the master, but not including a pilot or any person temporarily employed on the vessel while it is in port:

"Director" means the Director of Maritime Safety as defined in the Maritime Transport Act 1994:

"Enclosed area" means the area within –

(a) the enclosed water limits set out in Appendix 1 of Part 20; and

(b) all New Zealand inland waters:

"Existing vessel" means a vessel that, on 1 February 2001, is entered in a Safe Ship Management system in accordance with Part 21 or a Safe Operating Plan under Part 40A, Part 40D or Part 80:

"Fishing vessel" means a vessel that is required to be registered under section 57 of the Fisheries Act 1983 or section 103 of the Fisheries Act 1996:

"High speed vessel" means a vessel to which Section 2 of Part 40A applies:

"Inshore area" means within –

(a) the inshore limits set out in Appendix 1 of Part 20; and

(b) any defined section of the coastal area not beyond the territorial sea of New Zealand which has been assigned to that vessel by a surveyor as an inshore limit in accordance with Part 20:

"Length" means length as defined in Part 40A:

"Length overall" means length overall as defined in Part 40A:

"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:

"Non-passenger vessel" means any commercial ship that is not a passenger vessel or a fishing vessel:

"Offshore area" means within the offshore limits defined in Part 20:
“**Offshore support vessel**” means any vessel engaged in mineral prospecting, exploration, or production operations, or maintenance in respect of any such operation:

“**Passenger**” means any person carried on a vessel, other than –

(a) the master and members of the crew, and any other person employed or engaged in any capacity on board the vessel on the business of the vessel; or

(b) a person on board the vessel either in pursuance of an obligation laid upon the master to carry shipwrecked, distressed, or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled; or

(c) a child under the age of 1 year:

“**Passenger vessel**” means any commercial ship that carries –

(a) more than 12 passengers outside the restricted area; or

(b) any passengers within the restricted area:

“**Pleasure craft**” means a vessel that is used exclusively for the owner’s pleasure or as the owner’s residence, and is not offered or used for hire or reward; but does not include a vessel that is:

(a) provided for transport or sport or recreation by or on behalf of any institution, hotel, motel, place of entertainment, or other establishment or business; or

(b) used on any voyage for pleasure if it is normally used as a fishing ship or for the carriage of passengers or cargo for hire or reward; or

(c) operated or provided by any club, incorporated society, trust, or business:

“**Restricted area**” means the inshore and enclosed areas:

“**Ship**” means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes –

(a) a barge, lighter, or other like vessel; and

(b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates; and

(c) a submarine or other submersible:
“System” means any system for which an engineer is responsible, other than the main propulsion machinery.

“Vessel” means ship.

31B.3 Abbreviations

In Part 31B –

“ADH” means Advanced Deck Hand:

“CFG” means Master Foreign Going:

“CLM” means Commercial Launchmaster (issued under the Masters, Mates, and Fishing Deckhands (Coastal, Fishing, and Restricted-Limit Ships) Qualification Regulations 1993):

“ECE” means Endorsed Chief Engineer:

“ILM” means Inshore Launch Master:

“LLO” means Local Launch Operator:

“MEC 1” means Marine Engineer Class 1:

“MEC 2” means Marine Engineer Class 2:

“MEC 3” means Marine Engineer Class 3:

“MEC 4” means Marine Engineer Class 4:

“MEC 5” means Marine Engineer Class 5:

“MEC 6” means Marine Engineer Class 6:

“NZOM” means New Zealand Offshore Master:

“NZOW” means New Zealand Offshore Watchkeeper:

“STCW” means meeting the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995:

“1MFG” means First Mate Foreign Going.
31B.4 Application

(1) Part 31B applies to any New Zealand ship that is a passenger or a non-passenger vessel, –

(a) within the restricted area; and

(b) if the vessel is less than 45 metres in length, within the coastal and offshore areas.

(2) Part 31B does not apply to –

(a) any pleasure craft; or

(b) any hire or drive boat to which section 3 of Part 40A applies; or

(c) any bareboat charter sailing vessel; or

(d) any vessel under tow.

31B.5 Equivalent Certificates

Where Part 31B requires a person who holds a specific certificate of competency to be carried on board a vessel –

(a) the Director will accept another certificate of competency issued in New Zealand that is specified in Table 1 as being equivalent to that certificate, subject to any applicable conditions specified in Table 1; and

(b) the Director may accept as equivalent to that certificate another certificate of competency not referred to in Table 1, if the Director is satisfied that the requirements to obtain the certificate are not less than those required to obtain the certificate required by this Part.

Table 1

<table>
<thead>
<tr>
<th>Certificate required</th>
<th>Equivalent certificates that are acceptable</th>
<th>Conditions under which equivalents are acceptable</th>
</tr>
</thead>
<tbody>
<tr>
<td>1MFG</td>
<td>CFG</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Class 1 Deck Officer</td>
<td></td>
</tr>
<tr>
<td>NZOM</td>
<td>1MFG or equivalent</td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>---------------------</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Class 2 Deck Officer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Second Mate Foreign Going</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Master Deep Sea Fishing Vessel</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Skipper Deep Sea Fishing Boat</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mate Deep Sea Fishing Vessel Must have previously held NZOM or New Zealand Coastal Master</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mate Deep Sea Fishing Boat</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Master Home Trade</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Skipper Coastal Fishing Boat Limited to within 100 miles of the coast</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Master Small Home Trade Ship</td>
<td></td>
</tr>
<tr>
<td></td>
<td>New Zealand Coastal Master</td>
<td></td>
</tr>
<tr>
<td>NZOW</td>
<td>NZOM or equivalent</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Master River Ship</td>
<td></td>
</tr>
<tr>
<td>ILM</td>
<td>NZOW or equivalent Must have a maritime engineering qualification issued by the Director, if no other engineer is carried</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Master Restricted Limit Launch Restricted to the limits specified for those certificates in the Shipping (Manning of Restricted- Limit Ships) Regulations 1986</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial Launch Master</td>
<td></td>
</tr>
<tr>
<td>LLO</td>
<td>ILM or equivalent</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Local Launchman’s Licence Limited as endorsed</td>
<td></td>
</tr>
<tr>
<td>Certificate Type</td>
<td>MEC 1</td>
<td>MEC 2</td>
</tr>
<tr>
<td>------------------</td>
<td>-------</td>
<td>-------</td>
</tr>
<tr>
<td>ADH</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>LLO or equivalent</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Advanced Deck Hand Fishing Endorsement</td>
<td></td>
</tr>
<tr>
<td></td>
<td>AB Certificate</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Integrated Rating</td>
<td></td>
</tr>
<tr>
<td>MEC 2</td>
<td>MEC 1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>First Class Engineer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Second Class Engineer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>MEC 2 ECE</td>
<td></td>
</tr>
<tr>
<td>MEC 4</td>
<td>MEC 2 or equivalent</td>
<td></td>
</tr>
<tr>
<td></td>
<td>First Class Coastal Motor</td>
<td></td>
</tr>
<tr>
<td></td>
<td>First Class Diesel Trawler Engineer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Chief Tug Engineer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Limited to ship handling harbour tugs</td>
<td></td>
</tr>
<tr>
<td>MEC 5</td>
<td>MEC 3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>MEC 4 or equivalent</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Marine Engineer Watchkeeper</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Second Class Coastal Motor</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Engineer Local Ship</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Engineer Local Motor Ship</td>
<td></td>
</tr>
<tr>
<td></td>
<td>River Engineer</td>
<td></td>
</tr>
<tr>
<td>MEC 6</td>
<td>MEC 5 or equivalent</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Second Class Diesel Trawler Engineer</td>
<td></td>
</tr>
</tbody>
</table>
Section 2 – Minimum Safe Crewing

31B.6 General Requirements

(1) Except as provided in rules 31B.6(2) and (7), the owner and the master of a vessel must not operate that vessel unless there is on board the number of crew necessary to operate the vessel safely, taking into account the requirements of rule 31B.8, and at least the minimum number of crew including seafarers holding the qualifications required by –

(a) the applicable tables and flow-charts in rules 31B.9 to 31B.15 inclusive; or

(b) a Minimum Safe Crewing Document issued by the Director in accordance with rule 31B.7(3).

(2) The owner and the master of any vessel of the following classes must comply with rule 31B.6(1)(b):

(a) a passenger vessel operating in the offshore or coastal areas:

(b) a passenger vessel carrying 50 or more passengers in the inshore area:

(c) a passenger vessel carrying 100 or more passengers in the enclosed area:

(d) a high speed vessel:

(e) an offshore support vessel:

(f) a ship handling harbour tug:

(g) a pilot vessel.

(3) No person may act in a crew position listed in the Minimum Safe Crewing Document unless that person holds the qualification which that document requires for the crew position.

(4) The owner and the master of a vessel must monitor, on an on-going basis, the effectiveness of the crewing carried to meet rule 31B.6(1) in order to ensure compliance with rule 31B.8.

(5) Where the tables in rules 31B.9, 31B.10 and 31B.12 to 31B.15 require engineer qualifications, those qualifications must be for steam or motor as appropriate.
(6) Where the tables in rules 31B.9, 31B.10 and 31B.12 to 31B.15 allow the master, mate or other seafarer to perform the duties of the engineer, the vessel must be fitted with means to allow the main engine to be controlled and monitored from the deck watchkeeping position.

(7) The owner and the master of an existing vessel in respect of which no current Minimum Safe Crewing Document is held may, despite rule 31B.6(1), operate that vessel until 1 February 2002, if they –

(a) comply with the requirements of the Shipping (Manning of Restricted-Limit Ships) Regulations 1986 that were applicable to that vessel on 31 January 2001; and

(b) carry on board the number of crew necessary to operate the vessel safely taking into account the requirements of rule 31B.8.

31B.7 Minimum Safe Crewing Document Requirements

(1) Where the owner of a vessel is required to comply with rule 31B.6(1)(b), the owner must prepare and submit to the Director a proposal for the minimum safe crewing level for the vessel in accordance with rule 31B.7(2) at the following times –

(a) on application for the Minimum Safe Crewing Document;

(b) before the document’s validation or revalidation has expired;

(c) if the vessel undergoes a change in trading area, construction, machinery, equipment, operation, or maintenance, which may affect the minimum safe crewing level;

(d) if monitoring conducted in accordance with rule 31B.6(4) indicates that a change is necessary.

(2) In preparing a proposal for the minimum safe crewing level, the owner of the vessel must apply the requirements in rule 31B.8 and –

(a) make an assessment of the crew’s tasks, duties and responsibilities that are necessary to operate the vessel safely, protect the marine environment, and deal with emergency situations; and

(b) make an assessment of the number and grades or capacities of the crew necessary to operate the vessel safely, protect the marine environment, and deal with emergency situations; and
(c) propose a minimum safe crewing level based on the assessment of the numbers and grades or capacities of the vessel’s crew, together with an explanation of how the vessel’s proposed crew will deal with emergency situations including, where necessary, the evacuation of passengers; and

(d) ensure that the minimum safe crewing level will be adequate at all times and in all respects, taking into account requirements for cargo operations in port or at sea, and including meeting the requirements of peak workload situations; and

(e) specify how the effectiveness of the proposed minimum safe crewing level will be monitored; and

(f) specify what consultation on that proposed minimum safe crewing level has taken place, and what the results of that consultation were.

(3) An applicant is entitled to a Minimum Safe Crewing Document in respect of a vessel if

(a) the applicant makes an application, including the proposal required by rule 31B.7(1), for a Minimum Safe Crewing Document in accordance with section 35 of the Maritime Transport Act 1994; and

(b) the Director is satisfied that the applicable requirements of this Part and section 41 of the Maritime Transport Act 1994 have been met in respect of that application.

(4) A Minimum Safe Crewing Document must specify the number of crew to be carried on the vessel to which it relates and the qualifications that they must hold depending on the different operating conditions for which the document is issued.

(5) A Minimum Safe Crewing Document is valid –

(a) for up to 5 years; or

(b) until the vessel undergoes a change in trading area, construction, machinery, equipment, operation or maintenance that may affect the minimum safe crewing level; or

(c) until the monitoring of the minimum safe crewing level under rule 31B.6(4) indicates that a change is necessary,

whichever is the lesser period of time.

(6) Where the owner of a vessel is required to comply with rule 31B.6(1)(b), the owner must ensure that the Minimum Safe Crewing Document is displayed on the vessel at
all times or, if that is not practicable, ensure that the document is available to the crew of the vessel for inspection at any reasonable time.

31B.8 Minimum Safe Crewing Assessment

(1) The minimum crew required by rule 31B.6(1) must include sufficient crew to –

(a) maintain safe navigational, engineering and radio watches in accordance with the requirements of this Part and maintain general surveillance of the vessel; and

(b) moor and unmoor the vessel safely; and

(c) manage the safety functions of the vessel when employed in a stationary or near-stationary mode at sea; and

(d) perform operations, as appropriate, for the prevention of damage to the marine environment; and

(e) maintain the safety arrangements and the cleanliness of all accessible spaces to minimise the risk of fire; and

(f) provide for medical care on board the vessel; and

(g) ensure safe carriage of passengers and cargo during transit; and

(h) conduct all stages of the vessel’s operation safely; and

(i) inspect and maintain, as appropriate, the structural integrity of the vessel; and

(j) operate all watertight closing arrangements and maintain them in effective condition and also deploy a competent damage control party; and

(k) operate all on-board fire-fighting and emergency equipment and life-saving appliances, carry out such maintenance of this equipment as is necessary at sea, and muster and disembark all persons on board; and

(l) operate the main propulsion and auxiliary machinery and maintain them in a safe condition to enable the vessel to overcome the foreseeable perils of the voyage; and

(m) supply provisions for and prepare nutritious meals on board the vessel.

(2) In applying the requirements of rule 31B.8(1), the owner and the master must take into account the requirements of the Act and any maritime rules covering –
(a) watchkeeping:

(b) fitness for duty:

(c) safety management:

(d) certification and licensing of seafarers:

(e) training of seafarers:

(f) occupational health, including hygiene:

(g) crew accommodation.

(3) In applying the requirements of rule 31B.8(1), the owner and the master must take into account the following on board responsibilities:

(a) on-going training requirements for all crew including the operation and use of fire-fighting and emergency equipment, life-saving appliances, and watertight closing arrangements:

(b) specialised training requirements for particular types of vessels; and

(c) provision of proper food and drinking water:

(d) the need to undertake emergency duties and responsibilities:

(e) the need to provide training opportunities for entrant seafarers to allow them to gain the knowledge and experience needed.

(4) In applying the requirements of rule 31B.8(1)(f), the owner and the master of a vessel must ensure that a sufficient number of seafarers hold first aid or medical training certificates to meet the needs of any reasonably foreseeable medical emergency on board.
Section 3 – Passenger Vessels

31B.9 Inshore Area

(1) Except as provided by rule 31B.6(1)(b), passenger vessels operating within the inshore area must carry –

(a) seafarers holding the minimum required qualifications specified in Table 2 and in the accompanying flow-chart; and

(b) at least the minimum crew specified in Table 2.

(2) If the master of a vessel operating within the inshore limits set out in Appendix 1 of Part 20 holds an LLO, the master must ensure that the vessel remains within the nominated parts of the inshore area endorsed on the master’s certificate.

(3) If the master of a vessel operating within any defined section of the coastal area not beyond the 12 mile territorial sea of New Zealand, which has been assigned to that vessel by a surveyor in accordance with Part 20, holds –

(a) an NZOW or an ILM, the master must ensure that the vessel remains within 30 miles of a safe haven that is specified in the vessel’s Safe Ship Management Certificate or Safe Operating Plan; and

(b) an LLO, the master must ensure that the vessel remains within –

(i) an area of operation endorsed on the master’s certificate; and

(ii) 15 miles of a safe haven nominated under rule 32.9(1)(g)(ii)(bb); and

(iii) 4 miles of the coast.
Table 2

<table>
<thead>
<tr>
<th>Passengers on board</th>
<th>Minimum Required Qualifications</th>
<th>Minimum Crew</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 to 49</td>
<td>Master – LLO up to 20 m in length overall and ILM if 20 m or more; Engineer – in accordance with the flow chart and may be the master</td>
<td>2</td>
</tr>
<tr>
<td>less than 20</td>
<td></td>
<td>1</td>
</tr>
</tbody>
</table>

31B.10 Enclosed Area

Except as provided by rule 31B.6(1)(b), passenger vessels operating in the enclosed area must carry at least –

(a) seafarers holding the minimum required qualifications specified in Table 3 and in the accompanying flow-chart; and

(b) the minimum crew specified in Table 3.
Table 3

<table>
<thead>
<tr>
<th>Vessel length overall</th>
<th>Passengers on board</th>
<th>Minimum Required Qualifications</th>
<th>Minimum Crew</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 m or more</td>
<td>50 to 99</td>
<td>Master – ILM</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Less than 50</td>
<td>Engineer – in accordance with the flow chart and may be the master</td>
<td></td>
</tr>
<tr>
<td>Less than 20 m</td>
<td>50 to 99</td>
<td>Master – LLO endorsed for the area</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Less than 50</td>
<td>Engineer – in accordance with the flow chart and may be the master</td>
<td></td>
</tr>
</tbody>
</table>

31B.11 High Speed Vessels

(1) The owner and the master of a high speed vessel carrying passengers must ensure that the master and all navigation watchkeepers on the vessel hold a high speed vessel endorsement issued under Part 32.

(2) The owner and the master of a high speed vessel carrying passengers must ensure that all crew hold a type rating certificate issued under rule 31B.11(3) in respect of the vessel type used and the routes to be operated and that is appropriate to their duties.

(3) The owner may issue a type rating certificate, valid for a period of up to 2 years, if the applicant has satisfactorily completed a type rating training programme approved by the Director under rule 31B.11(4).
(4) The Director may approve a type rating training programme if –

(a) the type rating training programme nominates a Type Rating Instructor who is responsible for the training programme, has experience in the operation of the vessel and of the intended route, and whom the Director considers acceptable for the purposes of providing instruction on the training programme; and

(b) the programme includes –

(i) a tour of the vessel by the Type Rating Instructor, paying particular attention to the systems appropriate to the intended duties of the trainee; and

(ii) on board training in all emergency duties intended to be allocated to the trainee; and

(iii) on board training in the vessel’s equipment appropriate to the intended duties of the trainee; and

(iv) a period of time for the trainee on the vessel while under the instruction of the Type Rating Instructor; and

(v) a period of time for the trainee on the vessel while under the supervision of the Type Rating Instructor.
Section 4 - Non-Passenger Vessels

31B.12 Offshore Area

Except as provided by rule 31B.6(1)(b), non-passenger vessels operating in the offshore area must carry at least –

(a) seafarers holding the minimum required qualifications specified in Table 4 and in the accompanying flow-chart; and

(b) the minimum crew specified in Table 4.

Table 4

<table>
<thead>
<tr>
<th>Vessel</th>
<th>Minimum Required Qualifications</th>
<th>Minimum Crew</th>
</tr>
</thead>
<tbody>
<tr>
<td>24 m or more length overall but less than 45 m in length</td>
<td>Master – NZOM with STCW endorsement Mate – NZOW Deckhand – ADH Chief Engineer – MEC 4 Second Engineer – in accordance with flow chart Engineers may be the mate or deckhand</td>
<td>4</td>
</tr>
<tr>
<td>Less than 24 m length overall</td>
<td>Master – NZOM with STCW endorsement Mate – NZOW Chief Engineer – MEC 4 and may be the master Second Engineer – in accordance with flow chart and may be the mate</td>
<td>3</td>
</tr>
</tbody>
</table>

![Flowchart](image)
31B.13 Coastal Area

Except as provided by rule 31B.6(1)(b), non-passenger vessels operating in the coastal area must carry at least –

(a) seafarers holding the minimum required qualifications specified in Table 5 and in the accompanying flow-chart; and

(b) the minimum crew specified in Table 5.

Table 5

<table>
<thead>
<tr>
<th>Vessel</th>
<th>Minimum Required Qualifications</th>
<th>Minimum crew</th>
</tr>
</thead>
</table>
| 24 m or more length overall but less than 45 m in length | Master – NZOM
Mate – NZOW
Engineer – in accordance with flow chart and may be the mate | 3             |
| Less than 24 m length overall               | Master – NZOW with command endorsement
Mate – ILM
Engineer – qualification in accordance with flow chart and may be the mate | 2             |

![Flow-chart](image)

31B.14 Inshore Area

(1) Except as provided by rule 31B.6(1)(b), non-passenger vessels operating within the inshore limits set out in Appendix 1 of Part 20 must carry at least –

(a) seafarers holding the minimum required qualifications specified in Table 6 and in the accompanying flow-chart; and

(b) the minimum crew specified in Table 6.
(2) If the master of a vessel operating within the inshore limits set out in Appendix 1 of Part 20 holds an LLO, the master must ensure that the vessel remains within the nominated parts of the inshore area endorsed on the master’s certificate.

Table 6

<table>
<thead>
<tr>
<th>Vessel length overall</th>
<th>Minimum Required Qualifications</th>
<th>Minimum crew</th>
</tr>
</thead>
</table>
| 24 m or more          | Master – NZOW with command endorsement  
 Mate – ILM  
 Engineer – in accordance with the flow chart and may be the mate  
 If operating within the Extended River Limits that were specified in the Shipping Restricted Limits Notice 1980:  
 Master – CLM  
 Engineer – in accordance with the flow chart and may be the master | 2 |
| 20 m or more but less than 24 m | Master – ILM  
 Engineer – in accordance with the flow chart and may be the master | |
| 6 m or more but less than 20 m | Master – LLO  
 Engineer – in accordance with the flow chart and may be the master | 1 |
| Less than 6 m; or operating within a marine farm | Master – LLO or  
 Industry specific training qualification issued under Part 35 | |

(3) Except as provided by rule 31B.6(1)(b), non-passenger vessels operating in any defined section of the coastal area not beyond the 12 mile territorial sea of New Zealand, which has been assigned to that vessel by a surveyor as an inshore limit in accordance with Part 20, must carry at least–

(a) seafarers holding the minimum required qualifications specified in Table 7 and in the accompanying flow-chart; and

(b) the minimum crew specified in Table 7.

(4) If the master of a vessel operating within any defined section of the coastal area not beyond the 12 mile territorial sea of New Zealand, which has been assigned to that vessel as an inshore limit by a surveyor in accordance with Part 20, holds –
Maritime Rules

(a) an NZOW or an ILM, the master must ensure that the vessel remains within 30 miles of a safe haven that is specified in the vessel’s Safe Ship Management Certificate or Safe Operating Plan; and

(b) an LLO, the master must ensure that the vessel remains within –
(i) an area of operation endorsed on the master’s certificate; and
(ii) 15 miles of a safe haven nominated under rule 32.9(1)(g)(ii)(bb); and
(iii) 4 miles of the coast.

Table 7

<table>
<thead>
<tr>
<th>Vessel length overall</th>
<th>Minimum Required Qualifications</th>
<th>Minimum crew</th>
</tr>
</thead>
<tbody>
<tr>
<td>24 m or more</td>
<td>Master – NZOW with command endorsement</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Mate – ILM</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Engineer – in accordance with the flow chart and may be the mate</td>
<td></td>
</tr>
<tr>
<td></td>
<td>If operating within the Extended River Limits that were specified in the Shipping Restricted Limits Notice 1980:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Master – CLM</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Engineer – in accordance with the flow chart and may be the master</td>
<td></td>
</tr>
<tr>
<td>20 m or more but less than 24 m</td>
<td>Master – ILM</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Engineer – in accordance with the flow chart and may be the master</td>
<td>1</td>
</tr>
<tr>
<td>6 m or more but less than 20 m</td>
<td>Master – LLO</td>
<td></td>
</tr>
<tr>
<td>Less than 6 m; or operating within a marine farm</td>
<td>Industry specific training qualification issued under Part 35</td>
<td></td>
</tr>
</tbody>
</table>
Part 31B  Crewing and Watchkeeping Offshore, Coastal and Restricted (Non-Fishing Vessels)

**Flowchart**

- **ENGINEER**
  - Is highest powered engine over 750 kW? (No)
    - Is vessel over 200 gross tons? (No)
      - Not required
    - Has vessel 4 or more systems? (Yes)
      - Is highest powered engine over 2000 kW? (Yes)
        - MEC 6
      - MEC 4
    - MEC 4
  - MEC 4
  - Is engine and system maintenance either carried out ashore or under warranty? (Yes)
    - MEC 5
  - MEC 5
31B.15 Enclosed Area

Except as provided by rule 31B.6(1)(b), non-passenger vessels operating in the enclosed area must carry at least –

(a) seafarers holding the minimum required qualifications specified in Table 8 and in the accompanying flow-chart; and

(b) the minimum crew specified in Table 8.

Table 8

<table>
<thead>
<tr>
<th>Vessel length overall or type</th>
<th>Minimum Required Qualifications</th>
<th>Minimum crew</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 m or more</td>
<td>Master – ILM Engineer – in accordance with the flow chart</td>
<td>2</td>
</tr>
<tr>
<td>6 m or more and less than 20 m</td>
<td>Master – LLO Engineer – in accordance with the flow chart and may be the master</td>
<td>1</td>
</tr>
<tr>
<td>Less than 6 m; or operating within a marine farm</td>
<td>Master – LLO or Industry specific training qualification issued under Part 35</td>
<td></td>
</tr>
</tbody>
</table>

![Flowchart Diagram](image-url)
Section 5 – Watchkeeping

31B.16 Fitness for Duty

(1) The owner and the master of a vessel must establish and implement procedures in respect of the vessel's crew, taking into account the requirement in 31B.17(1), to ensure that all crew are fit for duty when keeping a watch.

(2) The crew of a vessel must ensure, taking into account the requirement in rule 31B.17(2), that they are fit for duty at all times when keeping a watch.

31B.17 Fatigue

(1) When the owner and the master of a vessel establish and implement procedures for ensuring a seafarer’s fitness for duty, they must take into account that –

(a) the level of alertness of a person keeping a navigational or engine-room watch may be affected by fatigue; and

(b) whenever alertness is affected by fatigue, performance can be impaired.

(2) A seafarer on a vessel, when considering his or her fitness for duty, must take into account –

(a) the signs, symptoms, and effects of fatigue; and

(b) that fatigue affects alertness; and

(c) that the performance of any person whose alertness is affected by fatigue can be impaired.

31B.18 Watchkeeping Standards

(1) The owner and the master of a vessel must establish and implement watchkeeping procedures addressing –

---

2 Guidance on the effects and the signs and symptoms of fatigue is provided in the Advisory Circular to Part 31B.

3 Guidance on watchkeeping procedures is provided in the Advisory Circular to Part 31B.
(a) for navigational watchkeeping —

(i) the composition of the watch:

(ii) the fitness for duty of watchkeepers:

(iii) navigation planning and duties:

(iv) the use of navigational equipment:

(v) look-out duties:

(vi) the notification of the master of any change in weather conditions:

(vii) the protection of the marine environment:

(viii) navigation with pilot on board:

(ix) keeping an anchor watch:

(x) radio watchkeeping; and

(b) for engine-room watchkeeping —

(i) the composition of the watch:

(ii) taking over the watch:

(iii) performing the watch:

(iv) keeping the watch in restricted visibility:

(v) keeping the watch in congested waters:

(vi) keeping the watch at anchor.

(2) The crew of a vessel must comply with watchkeeping procedures established under rule 31B.18(1).
PART 31B CREWING AND WATCHKEEPING

OFFSHORE, COASTAL, AND RESTRICTED (NON-FISHING VESSELS)

Consultation Details
(This text does not form part of the rules contained in Part 31B. It provides details of the consultation undertaken before making the rules.)

Summary of Consultation

Note: rule references refer to the number of the rule in the ITC and this number may have changed in the final rule.

Sixty eight organisations and individuals provided written submissions on the draft of Part 31B. These were:

Assoc of Marine, Aviation and Power Engineers, Northland Port Corp branch
Patrick Atwood
The Aviation and Marine Engineers Association
The Aviation and Marine Engineers Association, Marine Engineers Division
Bay of Islands Charter Fishing Assoc (Inc)
Kim Borgstrom
Graham Brooks
CentrePort Wellington
William Corbet
D Couvee
Elaine Bay Aquaculture Ltd
Les Flower
Peter Frewin
Fiordland Travel Limited
Fullers Bay of Islands
Ian George
Maritime Rules

Paul Gruzelier
Gulfstream Consultants Limited
Captain Michael J Halloran
Happy Chaddy's Charters
Glencoe Marine Ltd
Gordon Hossack
John Hurst
Keith Ingram
Jeffery Ireland
Alexander Jack
R D James
Johnson's Barge Service Ltd
K Jukes
Steven Kerr
Ian Lancaster
Lyttelton Port Company Limited
Andrew McFarlane
I. McLeod
Maritime Management Services Limited
Marlborough Mussel Co
Marlborough Seafoods Ltd
Stephen Middleton
G Moore-Carter
A J Murphy
The New Zealand King Salmon Co Ltd
The New Zealand Marine Farming Association
The New Zealand Marine Transport Association
The New Zealand Merchant Service Guild
Northland Port Corporation (NZ) Ltd
Brett Nicholls
O'Donnell Park Barging Ltd
Ports of Auckland
Port Mussel Company Ltd
Port of Napier Limited
Port Nelson Limited
Port Otago Limited
Port of Tauranga
The Rail and Maritime Transport Union Inc
R A Riedl-Riedenstein
Sanford Havelock
Mike Selby
Peter Simpson
John Smallridge
South Port New Zealand Limited
Stewart Island Marine Services Limited
Talisker Charters
Gerard Trask
Tug Engineers, CentrePort Wellington
L Turner
Westgate Port Taranaki
Robert Williamson
Chris Wood

In addition, consultation meetings were held in

Auckland
Dunedin
Havelock
Nelson
Rotorua
Tauranga
Wellington

General:

The New Zealand Marine Transport Association made strong comments that the time frame for consultation was too short.

MSA response is that while longer consultation would have been preferable, the period was determined by the need to replace current regulations on 1 February 2001. Although the formal consultation period was only 7 weeks, submissions were accepted for another 5 weeks until 4 December, and with the co-operation of industry, in particular the NZMTA, the best possible use was made of the time available.

The New Zealand Marine Transport Association expressed concerns that some personnel or operating privileges could be lost under Part 31B.

Maritime Management Services Limited said “it was our understanding that most qualified CLM’s would not be affected significantly with the advent of this new rule. In its current draft form, several Masters would need to upskill” and that it was
therefore difficult to assess the impact of the rules without knowing what exactly was required in upskilling from CLM to NZOW.

**MSA response to the above 2 comments** is that it has continually assured industry that the intent of Part 31B is to replace the Shipping (Manning of Restricted-Limit Ships) Regulations 1986, which expire on 31 January 2001, by drawing together the provisions of the current Part 20 – Operating Limits, and the current Part 32 – Ships' Personnel Qualifications. It is not intended to impose additional requirements on those currently operating legally. Part 31B therefore contains equivalent tables, lead-in times, grand-parenting, and "fit for purpose" provisions. If anyone is still found to be disadvantaged, then the MSA will address that problem individually, either through the minimum safe crewing assessment process or, if necessary by exemption under section 47 of the Maritime Transport Act.

The New Zealand Marine Transport Association "submits that no thought seems to have been given to the costs for the industry to comply with the proposed rules in a time when the government is talking cost of compliance with business". They quoted one operator as requiring to invest $15,000 in retraining.

**MSA response** is that the primary focus is on ensuring that no one currently and legally operating has additional qualification obligations imposed upon them. The retraining quoted did not result from a new requirement in Part 31B. An indicative calculation of the potential cost of the loss of a 100 passengers in cold waters that kill any survivors within the hour is $250,000,000.

Northland Port Corporation (NZ) Ltd said "Overall this rule as presently proposed would impact quite severely on our Company both operationally and financially with no demonstrable increase in safety" and "We hope these comments and questions will be considered before the final draft of this rule 31B is completed".

**MSA response** is that we have worked through all the points raised and addressed them with explanations or amendments, including significant amendments to satisfy the core requests for flexibility in crewing.

The New Zealand Marine Transport Association said

- "It appears that some of the material in 31B is there because of the failure of some SSM companies to perform at the level expected by MSA. The NZMTA would observe that shifting the problem down stream to the operators is not an acceptable strategy.

- "If some SSM Companies are underachieving then MSA should be insisting on performance improvement."
• "The NZMTA suggest that for the MSA to remove the authority from one or two recalcitrant companies would get the system working as it should.

• ‘The NZMTA holds to the view and makes clear in its submission that much of the requirements for manning, operating areas and training upgrades are rightly the responsibility of the SSM Companies.

• "The Safe Ship Management Systems was sold to the industry as vessels being "Fit for Purpose” the best news for years.

• The NZMTA submits that the MSA must ensure uniformity for safe ship management companies in the way they interpret the rules”.

*MSA response is that while the SSM companies could certainly be asked by operators to assist in this area, the responsibilities for setting safe crewing levels remain those of the Director, and of the owner and the master, to whom these rules are primarily focussed.*

An individual said “I fully support the proposed standards as detailed in this draft. Many of my colleagues also express considerable satisfaction in seeing the end of regulations which permit the operation of small passenger craft with minimal and in some cases, untrained crew”.

*MSA response is to thank the individual for this support.*

The New Zealand Merchant Service Guild noted “that the term “personnel” has been changed to “crew””.

*MSA response is that this amendment was to achieve a term that was both nautical, and gender inclusive.*

Bay of Islands Charter Fishing Assoc (Inc) made several detailed comments and said “We are aware of the substance of NZMTA’s submission on these Rules and give them our unqualified support”.

*MSA response is that, as this submission was received well after the date specified for consultation, it has not been possible to record the individual detailed comments or MSA’s responses to them individually. However they have all been checked and it is felt that the significant points raised have already been addressed elsewhere during this consultation in the process of addressing the NZMTA’s concerns.*
31B.1 Entry into Force

An individual said “24 months lead in is fair so long as ample public notification is given”.

MSA response is to thank the individual for this support and to confirm that the implementation of these rules will include education and notification. Where possible either 12 or 24 months has been allowed.

31B.2 Definitions

The New Zealand Marine Transport Association commented on the definitions of “marine farming vessel” and of “sailing ship”.

MSA response is that due to developments in these rules, neither of those definitions are now required.

The New Zealand Marine Transport Association expressed concerns and said that “length overall 20 metres is an unacceptable conversion of old registered length”.

Glencoe Marine Ltd queried the effects on their non passenger work boat of registered length 19m and length overall 22m.

MSA response to the above 2 comments is that length overall has been used as a standard for crewing in Parts 31B and C as it is easier to determine for smaller vessels which may not all be registered. Allowance has been made in using it for the fact that length overall is longer. Consideration was given in each case as to whether to use 20 or 24 metres, and 20 metres was only used when it was relevant to the LLO certificate, for which 24 metres was considered too large a vessel. If any individual vessel is disadvantaged, MSA will work through the case under the Fitness for Purpose provision in rule 31B.6(1)(b).

The New Zealand Marine Transport Association commented that the use of the term “bareboat charter sailing ship”, to extend the exception of pleasure craft from Part 31B, did not give equivalent exception to similar motor vessels.

An individual said they “oppose the requirement for any bareboat charter vessel to comply with these regulations. ..... It is of our opinion that no distinction should be made between power and sail in this category. In my 15 years experience in this industry I have seen no incident in which a power driven bareboat vessel has been involved that would have been avoided had it been a sailing vessel. ..... We feel that further distinction must be made to exclude certain types of vessel. My reading of the definitions of “pleasure craft” leads me to believe that the sailing dinghies belonging to a yacht club, the dinghy we use to row out to our moored boats and the surf clubs
rescue boat all must be manned in accordance with these regulations. I trust this is not how the rule is intended!"

*MSA response is that the reference to section 3 of Part 40A covers hire and drive power boats and an amendment has been added to make this clear. A definition of "commercial ship" has been inserted to make it clear that Part 31B does not apply to vessels without engines.*

**Gulfstream Consultants Limited** said "there seems to be no logic in the premise that a private boat owned or operated by a trust is necessarily other than a pleasure boat. Our boats are owned by our family trust, and while our present boat is commercial, previous ones were not. They were pleasure boats. When we retire from running a commercial boat, we will buy a pleasure boat, and it will be owned by our trust. That will not make it anything other than a pleasure boat, and to call it anything else makes no sense".

*MSA response is that the definition of "pleasure craft" in Part 31 is not a new definition but is merely a repeat of that in the Maritime Transport Act 1994. MSA will consider this issue again when considering it in the context of amendments proposed for Part 21 Safe Ship Management Systems.*

**CentrePort Wellington** said of the definition of "ship" that "the rule description infers even a dinghy is covered under this definition. This is a nonsense in a rule relating to manning".

**South Port New Zealand Limited** said the definition of Ship "includes barges, lighters etc that in the past have not had to be manned when under tow, but now in the context of this rule it appears as if they have to be. Small dinghies and punts, which are used a lot for general maintenance around wharves and floating plant now appears to be included in this draft rule. ..... Using the above scenario of a small dingy, the person in charge of this craft requires a minimum qualification of LLO. A person carrying out repairs under a wharf or on the port company’s floating plant now has to have the same qualification".

**Westgate Port Taranaki** said "the definition of ship in the context of manning, including barges, whatever they may be doing at the time, seems something of a nonsense. Presently many barges are un-manned while under tow and safety is probably enhanced when this is so. The draft rule also appears to include small dinghies and punts when being used for maintenance duties around and under wharves and the port area as a whole."

*MSA response to the above 3 comments is that the definitions are merely a repeat, for the convenience of those reading Part 31B, of the definitions in the Maritime Transport Act 1994,*
under which the rules are made. The application provisions in Part 31B specify which ships
the rules apply to. A specific exclusion for vessels under tow has been inserted. In addition, a
definition of commercial ship has been inserted to clarify that Part 31B does not apply to a
vessel that has no engine.

Westgate Port Taranaki said of the definition of “Offshore Support Vessel” that “the
definition as presently drafted will affect Westgate vessels operating under an existing
5 year contract with Shell Todd Oil Services Limited in the Maui field and will mean
an increase in costs. Westgate has previously completed contracts for coastal towage
of offshore exploration rigs, which if covered by this definition would lead to an
increase in costs. Westgate has bid for contracts to provide small vessels in the
support of close to shore seismic surveys planned in Taranaki, which could be
adversely affected by the definition as presently drafted. A number of specialised
‘offshore’ operations using small local vessels have been undertaken in the past which
would be seriously affected by the definition as drafted”.

MSA response is that by having amended the rules to require the wide range of offshore
support vessels to submit their individual crewing assessments to the Director, rather than
having to comply with fixed tables, the necessary flexibility requested has been provided in rule
31B.6(1)(b).

31B.5 Equivalent Certificates

The Rail and Maritime Transport Union Inc said “If the Director accepts a certificate
other than those specified, that information should be made available to the industry
generally”.

MSA response is that this would probably be normal practice, but should be made clear, and
the Advisory Circular that will support Part 31B will be used for that purpose.

The Aviation and Marine Engineers Association Marine Engineers Division
suggested a numbering system from 1 to 6 to bring deck certificates into line with
engineering certificates and international practice”.

MSA response is that the certificate system is provided under Part 32, and Part 31B merely
uses those certificates that are available. The suggestion will therefore be carried forward to the
planned revision of Part 32, although the specific needs of New Zealand have meant that the
deck certificate structure has developed differently to other countries.

An individual queried why the “equivalent to NZOM does not include CFG. Is this ‘a
given’, left out accidentally, or on purpose”
MSA response is that the way the table has been written, each equivalent is meant to include the equivalents above it - but in this particular case it had been overlooked. MSA thanks the individual for noticing this and the amendment has been made.

Port of Tauranga said “An anomaly exists with equivalent certificates to ILM, all of which require a marine engineering component. If one then looks at the qualification required for a shiphandling harbour tug (ie ILM) an assumption can be made that CFG is no longer sufficient to be master of a tug as it does not have an engineering component to it. This is obviously incorrect as the tug carries an engineer.”

Ports of Auckland “submits that holders of certificates 1MFG, NZOM and NZOW or their equivalents, which are a higher certification than their ILM certificate, should not be subjected to a requirement that “they must have a marine engineering qualification issued by NZMSA. That requirement is excessive, when taking into account that vessels such as ship handling tugs already have a specific engineer, with the appropriate flow chart qualification, on board”.

MSA response to the above 2 comments is that the table has been amended to clarify that when other certificates are used instead of ILM, and the ILM is also being used as an engineering qualification, then either the higher certificate must be supported with some engineering qualification, or a separate engineer is required.

The New Zealand Marine Transport Association “suggest that the Master Rivership qualification be an equivalent to NZOW, with an appropriate engineering certificate, and no reference to 1986 regs (There are no restrictions placed on this certificate in 31C)”.

MSA response is that the equivalent tables in both Part 31B and Part 31C have been amended as suggested.

O’Donnell Park Barging Ltd wrote describing their operations “with “CLM qualified skippers and a general deck hand” and asking “Please confirm that the “CLM” qualification will be accepted as “Inshore Launch Master” qualification with the proposed changes”.

MSA response is to confirm that the CLM is acceptable as an equivalent to ILM and to add that, in addition, the necessary amendments have been made to preserve the privileges of the CLM in what were the old extended river limits.

Maritime Management Services Limited asked “Masters that currently hold a CLM ticket with an engineering endorsement – will they receive an ILM ticket PLUS a separate certificate for engineering i.e. MEC5?”
MSA response is that the current CLMs are accepted as equivalent to ILM within the limits currently specified for CLM, without having to, or being able to, actually exchange them for a new qualification.

The New Zealand Marine Transport Association submitted "that all personnel who have qualifications at a higher level than CLM or equivalent, who have not had practical experience in the handling and operations of Restricted Limits shipping must successfully complete a course equivalent to CLM. Additionally, they should also complete a minimum of 3 months practical sea time on Restricted Limits vessels".

MSA response is that it is unaware of any history of problems with those higher qualified persons who chose to work on smaller vessels, and believe that the normal selection processes of the employing operators will continue to provide an adequate safeguard.

The New Zealand Marine Transport Association asked that "where a currently qualified person is actively engaged in Restricted Limits Shipping they must have their qualifications and or licences renewed without penalty in cost or time to whatever corresponding new certification or qualification may be introduced under any new rule".

MSA response is that it has undertaken to ensure that no person loses any current privileges that they legally hold, through equivalent tables, grand-parenting, and fit-for purpose provisions, but the new rules are not intended as an opportunity to exchange existing qualifications and privileges for higher new qualifications and privileges.

CentrePort Wellington put a full case for NZQA credits in Tug Operations to be acceptable as an equivalent to ADH for tug crew.

Port of Napier Limited said "we believe NZQA Unit Standards should be adopted to allow in house training programmes to exist".

MSA response to the above two comments is that the specific requirements for tug and pilot boat crew have now been removed from the rule; and that the general requirements and supporting advisory circular will allow the NZQA option sought under rule 31B.6(1)(b).

An individual said "this is just a respectful reminder about units 6912 and 6913 that were in the Discussion document 5 and not in the draft document".

MSA response is to thank the individual for their support of unit standards but to say that those particular unit standards appear in Part 31A, where they are relevant to larger vessels under that Part.

An individual wrote a full case for the recognition of British AB certificates.
MSA response is that Part 31B does address the AB certificate in the table of equivalents but that the acceptance of British or other overseas qualifications is not a matter for this Part. General authority to accept overseas qualifications is contained in section 468 of the Maritime Transport Act and it is intended to develop a separate new Part 33 to support those provisions.

Two individuals submitted the 14 page results of a survey carried out at 10 New Zealand ports. One theme that emerged was that CLM, AB, and IR should be accepted in lieu of Advanced Deck Hand.

MSA response is that AB and IR are considered the equivalent of an ADH, but the CLM is not as it has a different focus. Rule 31B.6(1)(b) does nevertheless provide the requested flexibility.

The Association of Marine, Aviation and Power Engineers branch of the Northland Port Corporation said “it is noted that there is no mention of 1st Class tug engineer certificate being given an MEC 4 classification”.

The Aviation and Marine Engineers Association said ‘the absence of the Tug Certificate class 1 from this list is a concern. This certificate should be included in the equivalence for MEC 4’.

MSA response is that it agrees with the above 2 comments and that the requested amendment has been made to correct the oversight.

The Association of Marine, Aviation and Power Engineers branch of the Northland Port Corporation said “there should be provision in the rules for trade based engineering certificates to be a minimum of MEC 4 and that where skills exist to carry out or supervise maintenance onboard there is a similar status to the exemptions of shore maintenance provisions”.

The Aviation and Marine Engineers Association said “where operating engineers onboard are marine tradesman with certificates giving only a MEC 5 e.g. third marine or second coastal motor or steam there is no similar exemption for them carrying out or supervising maintenance or surveys. In many cases these engineers are responsible for all aspects of the mechanical operation of all vessels in the port but this rule gives no recognition or equivalent exclusion to this type of operation”.

MSA response to the above 2 comments is that these suggestions will be addressed in the Advisory Circular supporting Part 31B.

An individual put a case for the Second Class Coastal Motor and Third Marine certificates to be equivalent to MEC 4 instead of MEC 5 saying “It is not appropriate to
disenfranchise or disadvantage holders of certificates which until now have been valid certificates, legally obtained”.

An individual put a case “to submit that the equivalent Class 5 for the Second Class Coastal Motor and Third Class Motor tickets is not equitable or fair and that these tickets should be equivalent to at least a Class 4 if not Class 3”.

An individual put a case “the old Class 3 motor should at least be credited a new Class 4, or arguably be compared to a new Class 3 Certificate”.

An individual put a case “to submit that the 2nd Coastal Motor Certificate be grandfathered to at least MEC 4 and on studying the syllabus feel that it is nearer to Class 3”.

An individual said “along with several of my colleagues I am stunned that you see fit to cross credit a large group of Professional marine Engineers in possession of Class 3 Motor & Second Coastal Motor Certificate with a totally inadequate Class 5 certificate. ..... It is my belief a fair equivalent cross creditation would be the new proposed class 3 and at the very least proposed class 4 certificate. There are a lot of experienced marine engineers currently working in the local industry whose current employment and future prospects could be terminated at the stroke of a pen”.

An individual said “Holders of 3rd Marine/Second Coastal Motor plus appropriate safety certificates should be graded MEC 4. Many people in the industry at present hold these certificates, most of whom have many years experience. After February, those with these certificates, which were standard until recently, would be excluded thus depriving them of their livelihood”.

CentrePort Wellington asked that “Second Class Coastal Motor or similar equivalent with Chief Tug Engineers Certificate endorsement” be listed as equivalent to MEC 4, saying “The removal of the Third Marine Engineers Certificate and other engineering certificates in the mid 1980s left a large divide between lower grade qualifications and foreign going qualifications. This divide proved difficult for marine engineering tradesmen to cross”.

An individual said “I must strongly object to the cross crediting of the Second Coastal Motor certificate in the proposed Engineering Equivalent Chart in Part 31B to a very low grade certificate, Class 5. The Class 5 certificate is an inadequate equivalent as it does not reflect either the academic or practical level of skill required to pass the Second Coastal Motor certificate. By imposing the suggested kilowatt level of 1500 kW on the Second Coastal ticket (which at present has an unlimited kilowatt level in coastal waters) you will have, in effect, put the engineers using this qualification in the
position of no longer being able to perform the duties required for their employment. In many cases, employment they have held for a number of years. The minimum cross-creditation should be a Class 4 ticket and in my opinion should in fact be a Class 3”.

The Aviation and Marine Engineers Association said “a time served engineer holding a third marine or second coastal motor certificate should after taking appropriate safety certificates be MEC 4”.

Ports of Auckland put a full case that “Second Class Coastal Motor and the Third Class Motor certificates should be ranked MEC 3, or at least a minimum of MEC 4”, making comparisons with the First Class Diesel Trawler Engineer.

The Aviation and Marine Engineers Association Marine Engineers Division put a case for Second Class Coastal Motor and Third Class Steam to be equivalent to MEC 4, making comparisons with both First Class Diesel Trawler Engineer and the level of engineer required on tugs.

MSA response to the above 11 comments is that Part 31 does not change the current requirements which have existed since 1986, and some of the individuals had already been advised of this. An increase in the limit for MEC 4 to 2000 kW has been made to ensure that individuals will be able to continue doing the job they are doing with their present certificate. MSA Seafarer Licensing also advised individuals of the upgrading options available.

CentrePort Wellington strongly supported “the maintenance of the 1994 Chief Tug Engineer endorsement and the concept of adding a Chief Tug Engineer endorsement to the base qualification of Second Coastal Motor or other listed equivalent qualifications to be the final equivalent of MEC 4 to enable the qualification holder to operate modern high powered harbour tugs”.

Tug Engineers, CentrePort Wellington submitted, regarding Chief Tug Engineer and Second Tug Engineer, “that these qualifications be retained and more actively promoted. It is further submitted that this qualification be established as a new stand alone certificate of competency. The certificate should include Second Class Coastal Motor with a Chief Engineer’s Certificate Endorsement “in conditions under which equivalents are acceptable. This Certificate of Competency will give a Trade-Trained Candidate the opportunity to enter a path into the industry as a career choice – either within the harbour or the coastal tug service”.

MSA response to the above 2 comments is that it is too late to reintroduce tug engineer certificates as these would need to be provided for in Part 32, but that the planned revision to Part 32 will give the opportunity to look at a restricted Class 4 for the restricted areas.
31B.6 Licences and Revalidations

An individual said "A lot of competent people leave sea going positions because of redundancy, promotion, family reasons, health reasons, maybe even women starting families. Circumstances do change and to say to these people 3 months sea service before being able to use their Certificate of Competency is tough and unfair. Most business would not want to wait for a person to validate his or her certificate before employing them. Five years is too short a time to be considered for this and seafarers who have used the certificate for a period of time would not lose their knowledge. 10 years would be more realistic".

Port Otago Limited asked of this requirement "which certificates does this pertain to and what would be the criteria for issue and maintenance of a seagoing licence?".

The New Zealand Marine Transport Association asked several questions of licences and revalidations and said "we submit that this should be set aside for a time to allow the whole concept to be properly thought through".

MSA response to the above 3 comments is that Part 31B has been amended to remove the requirements for licences and revalidations that are required for Part 31A. The MSA considers that an issue of such importance as this requires more consultation and analysis than time currently permits.

An individual said "as a holder of an NZ certificate requiring periodic revalidation I support the changes in 31B.6(1) offering us more ways of maintaining our certificates".

MSA response is to thank the individual for that comment but that the proposed requirement to revalidate certificates has now been removed from Part 31B.

Sanford Havelock said "there are some aspects of the 31B that may have merit that includes: Medical examinations requested by the employer if there is a health issue that may effect the skipper’s ability to safety perform their duties".

MSA response is to thank Sanford Havelock for their support, but the licencing requirement and the associated medical fitness requirement have been removed, pending further consultation on an amendment to Part 34.

31B.7 General Requirements

The New Zealand Marine Transport Association "submits that the notion that a master is not able to hold an engineers ticket has no justification for being changed."
This is a situation that has worked satisfactorily in the Restricted Limits Industry for many years”.

*MSA response is that this situation has not changed and the tables state where the option exists.*

The New Zealand Marine Transport Association “submits that when considering manning levels little regard has been given to the nature of Restricted Limits Shipping Operations. Our organisation submits that Restricted Limits Ships do not steam for days on end and carry out major maintenance or repair work while at sea. The nature of Restricted Limits Shipping is that its operations are dominated by short voyages, anchoring and return to port. Any major maintenance or repair work will be carried out in safe harbour”.

*MSA response is that this Summary of Consultation, for example in the fatigue section, and in other MTA comments, clearly shows the vast range of operations that are covered in the restricted area. The addition of the “fit for purpose” individual assessment option under rule 31B.6(1)(b) provides for those vessels for whom their operators feel the standard crewing tables are inappropriate.*

The New Zealand Merchant Service Guild said all ships carrying more than 12 passengers should require a Minimum Safe Crewing Document.

*MSA response is that while the proposal has merit it has been raised too late in the consultation process to be considered at this stage.*

The Aviation and Marine Engineers Association Marine Engineers Division asked what the basis of the numbers and qualifications of both deck and engine-room personnel were.

*MSA response is that the basis was in the old regulations which these rules replace, and which was then fine tuned by consultation to try and achieve a logical matrix. Using flow charts for engineers instead of tables was a concept that came out of an industry working group where the requirements increased logically with vessel size or power, number of passengers, and distance from shore.*

The New Zealand Merchant Service Guild pointed out that the minimum complements were often more than the minimum number of qualifications required.

*MSA response is that not all the total minimum crew were required to hold specified qualifications.*
Fullers Bay of Islands submitted a detailed description of their operations with a request for changes to detail in the inshore area, enclosed area, and high speed vessels requirements.

MSA response is that as the requests were for very specific operations and in each case were only marginally outside the tabulated requirements, it was not considered appropriate to amend those tabulated requirements generally. Instead, the draft rule has been amended to allow the option of individual assessments of cases such as this under rule 31B.6(1)(b) as an alternative to compliance with the crewing tables.

An individual queried “What is a system? On board P.O.T. tugs the propulsion systems have pressurised air to start; pressurised fuel to run; pressurised oil to drive and electrics to control. Also the tugs have a bilge system: a sewerage system: a ballast system; a power generation system to name a few”.

The New Zealand Marine Transport Association said “during discussions with MSA personnel at a recent meeting in Rotorua it became clear and was agreed that “Systems” needs to be better specified”.

The Aviation and Marine Engineers Association said “this requirement is confusing, with little to define the complexity of these systems”.

An individual said “I have heard that the MSA do not recognise some systems on tugs as systems to count in the flow chart. This becomes very confusing and surely comes down to personal interpretation” and gave some examples.

The Aviation and Marine Engineers Association Marine Engineers Division suggested seven further systems to be added to the list in the interests of vessel safety.

MSA response to the above 5 comments is that the systems criteria for assessing the complexity of a vessel’s engine-room was developed in consultation with industry. However for clarification a general definition has been inserted which will be supported by detailed guidance material in the Advisory Circular.

An individual said “the relevance of shore based maintenance is unclear as all vessels have some form of shore based maintenance. The quality of shore based maintenance varies greatly from superior to vastly inferior with apparently no form of regulation, whereas a tug engineer with 3rd Marine/Second Coastal Motor is more than adequately qualified to safely and competently carry out and /or supervise maintenance and surveys”.
The Aviation and Marine Engineers Association said 'the ability to reduce the certificate requirements from MEC 4 to MEC 5 based on the ability to have maintenance carried out ashore is inconsistent and unclear. All vessels will have some maintenance carried out ashore which may only be work such as welding or machining. Alternatively in a few cases it could be that all maintenance requirements are carried out ashore'.

An individual said "In my submission to you on Discussion Doc ..... I gave to you what I believe are very sound reasons why having maintenance carried out ashore, and whether engines are under warranty has no relevance to the engineering ticket carried on-board. THEY STILL STAND. The only way to be completely familiar with engines and systems on-board is to carry out your own maintenance. Also be responsible for any work carried out by shore staff as we are ..... Any move by employers to have maintenance carried out ashore which is not over-seen by the ships engineer, or rely on manufacturers warranty, is just an excuse to down-skill personnel on-board".

Port of Tauranga said "Clarification of engine and system maintenance carried out ashore is required. All our maintenance is carried out ashore with the tug berthed alongside. This maintenance is either carried out by tug engineers or contractors as the circumstance demands. This to my mind meets the requirement in the flow diagram".

Ports of Auckland "requests clarification of this question and submits the insertion of the words "planned" and "alongside" and deletion of "ashore" and "under warranty". The question should then read: "Is planned engine and system maintenance carried out alongside?". The words "under warranty" are an anomaly. A warranty exists for only 12 months, while a vessel's life is at least 25 years".

The Aviation and Marine Engineers Association Marine Engineers Division said "Shore based maintenance system is irrelevant to the safe operation of the vessel, by definition ashore based assistance is unavailable while the vessel is at sea.

MSA response to the above 6 comments is that a definition of shore based maintenance has been inserted in the rule which will be supported by detailed guidance in the Advisory Circular to Part 31B. The principle is that a higher grade engineer is required on board if regular shore based maintenance is not undertaken. The rationale is that the nature of the engineer's work likely to be required on board will differ if regular shore based maintenance is not undertaken."
The Aviation and Marine Engineers Association Marine Engineers Division pointed out that the engineer flow charts had secondary power triggers of 2000 Kw in some but the same trigger in others was 1500 Kw.

**MSA response** is that this had been based on operating areas but has now been amended to a standard 2000 kW.

The Aviation and Marine Engineers Association said “the maximum powers should be per vessel, not per engine, as per 1986 regulations and this should be indicative with the vessels length, of the complexity required in the relevant systems”.

**MSA response** is that basing the qualification required on individual engine power rather than total ship power recognises that multi engined vessels are inherently safer than single engined vessels. On the sizes of vessels in Part 31B, the engines tend to be self-contained so that all services are duplicated for each engine, thus — in general — if one part of one engine goes wrong it doesn’t affect the other engine(s). Hence a lower engine qualification is permitted on such vessels, despite the overall engine power for the vessel being higher than the rating specified.

The Aviation and Marine Engineers Association Marine Engineers Division said “With some rationalisation a single Engineering Personnel flow chart could easily be produced and then the anomalies would be eliminated” and provided a suggested points system with examples.

**MSA response** is to thank the Association for the detailed proposal and agree that all the flow charts could be amalgamated into one but does not consider this would be either as easy or as practical as suggested. However the suggestion has merit and will be carried forward to the Part 32 revision and considered further with industry.

Westgate Port Taranaki “submits that this Draft Rule undermines the concept of companies taking responsibility for the safety of their operations under the Safe Ship Management System, which was fostered by the introduction of the Maritime Transport Act, 1994”.

**MSA response** is that, in fact, the rule involves companies taking responsibility for the safety of their operation and gives the flexibility of a fit for purpose individual assessment under rule 31B.6(1)(b).
31B.8 Minimum Safe Personnel Document

The New Zealand Marine Transport Association submitted "that a blanket approach to rule making without flexibility to allow for market sector unique issues is fundamentally flawed".

*MSA response is that although a fit for purpose option was offered to Industry in the earlier Discussion Document, and not taken up, it has since been added as an option in rule 31B.6(1)(b) to address the very situations this comment refers to.

The New Zealand Marine Transport Association said "the Industry sector represented by the MZMTA has an excellent safety record over many years however, when considered in the bigger sense with the Commercial fishing industry a different picture emerges. It is unreasonable to have all personnel and operators penalised for the poor record of accomplishment of one industry sector".

*MSA response is that fishing has been separated out from non-fishing, in Part 31C, which has not been given the same "fit for purpose" option as non-fishing, in Part 31B. In addition, Part 31B is primarily drawing together existing requirements in Parts 20 and 32 rather than creating new requirements.

The New Zealand Marine Transport Association said "this area is properly the domain of the Safe Ship Management Companies" and "whenever the word Director appears, it should be changed to The Safe Ship Management Company".

*MSA response is that while the SSM companies could certainly be asked to assist in this area, the responsibilities for minimum safe crewing levels remain those of the owner and of the master and the Director as prescribed in the rule.

The New Zealand Marine Transport Association said "there should be a new clause that gives the Director the right to cancel a Safe Personnel Document and act as an Appeal Authority".

*MSA response is that the Minimum Safe Crewing Document will be a maritime document and the Director therefore has the necessary authority to suspend and revoke certificates under the Maritime Transport Act. There is no authority for the Director to act as an Appeal Authority. This function is carried out by the District Court.

The New Zealand Marine Transport Association said, of the rule that the Director may approve a proposal for a minimum safe personnel level for a ship "change may to MUST" and "ADD- within 5 working days of receiving the proposal, the Director must either communicate to the applicant the reason for the proposal being turned
down or issue the certificate. Failure to meet this deadline will result in a monetary penalty".

MSA response is that the rule is not intended as either a procedure for the Director to follow, or as a requirement on the Director, but as the authority for the approval.

The Aviation and Marine Engineers Association said "this document must be on display on each vessel to ensure the criteria claimed by the owner for manning is complied with. Over a five year period maintenance requirements will change and trading patterns invariably alter. Without knowledge of the original application being available to the crew it is unlikely a review would be initiated".

MSA response is to agree with the comment and the necessary amendment has been made.

Maritime Management Services Limited requested that small (passenger) boats operating close to shore in the "restricted coastal area", where they say there is no inshore area, be exempted from the requirement for a Minimum Safe Personnel Document.

MSA response is that these "restricted coastal limits" close to shore are in fact part (b) of the definition of the inshore area, and therefore do not require the Minimum Safe Crewing Document unless carrying 50 or more passengers.

31B.9 Document requirements

An individual asked if there was an option of "vessels being crewed down to the anticipated minimum passenger loading at any point within the elapsed time of the complete voyage".

MSA response is that while the option is available for vessels to be crewed to different levels according to the number of passengers carried, the crewing at any given time must be sufficient for the numbers of passengers on board at that time.

Sanford Havelock said "there are some aspects of the 31B that may have merit that includes:

- "Regular refresher safety training for skippers, including engineering"
- "First Aid training for crew"
- "An experienced deckhand on board”.

MSA response is to thank Sanford Havelock for that support."
The New Zealand Marine Transport Association said of the minimum crew that "the length of the voyage must be considered along with the number of passengers".

*MSA response is that the rule has been amended to include "other factors" which would include voyage length.*

*Port of Tauranga said "We see no reason to place a time restriction on the Minimum Safe Personnel document. We accept the other criteria as any changes do have a marked effect on the assessment of crewing numbers".*

*MSA response is that a 5 year time limitation is standard for most maritime documents. In this case it permits MSA to review the operation of the vessel, in case this has not been done on an on-going basis as required by Part 31B.*

### 31B.10 Minimum Safe Personnel Assessment

The Aviation and Marine Engineers Association Marine Engineers Division said "All crew required as 'minimum complement' should hold certificates of competency".

*MSA response is that the practical application of this philosophy is that Part 31B requires all crew positions specifically listed to hold certificates of competency (or service), but allows flexibility for the other positions making up the required minimum complement.*

The New Zealand Merchant Service Guild said "it is all very well providing proper food and water but there needs to be minimum manning that provides for a cook. Therefore we submit that a further paragraph should state: "Provide for the provisioning and preparation of food on board the ship"" as was done in Part 31A.

*MSA response is that the requested amendment has been made. We note that this provision may be satisfied without an actual cook being provided on board. The amendment recognises that crew levels ensuring provision of nutritious meals is the key criterion.*

Maritime Management Services Limited say "Inspect and maintain, as appropriate, the structural integrity of the vessel? We submit that to carry the minimum personnel required to ensure this, would require a boat builder or such like on board. Perhaps the wording could be changed to require the engineer or Master to 'inspect and maintain' in an emergency situation only".

*MSA response is that these rules apply to a vast range of vessels, where maintenance can range from fully professional to deciding when to call in a shore boat builder. The key word is "appropriate" and it is this assessment of what is appropriate on any particular vessel that helps determine what crew is correspondingly appropriate.*

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31B.11 Offshore Area (Passenger Vessels)

The Aviation and Marine Engineers Association Marine Engineers Division asked "what about passenger vessels over 45 meters in length in offshore area".

*MSA response is that passenger vessels of 45 metres length or more in the offshore area are covered by Part 31A for larger vessels.*

The Aviation and Marine Engineers Association Marine Engineers Division said the crewing table "takes no account of passenger numbers or vessel operating profile, i.e. Length of voyage or length of working day.

*MSA response is that the table is only intended as a minimum, generally, and the crewing assessment and any document issued has to apply those tables taking account of the valid points raised.*

*MSA notes that this rule has been deleted as all passenger vessels operating in the offshore area must now do a minimum crew assessment. The content of the Table is transferred to the Advisory Circular for guidance material.*

31B.12 Coastal Area (Passenger Vessels)

The Aviation and Marine Engineers Association Marine Engineers Division asked "what about passenger vessels over 45 meters in length".

*MSA response is that passenger vessels of 45 metres length or more in the coastal area are covered by Part 31A for larger vessels.*

The New Zealand Marine Transport Association said "there needs to be a new box in the less than 20 metre section. This would cater for game fishing vessels and allow them to operate within an area determined by their SSM company with an ILM. This appears to be the purpose of "Restricted Coastal Limits" Rule 20. The Game fishing charter operators cannot operate successfully if they are confined to the inshore area. Because of the size of the boats and nature of their operation, they have a limited passenger number. They would of course have to be "Fit for Purpose". Similarly there needs to be provision made for Sailing Vessels passage making around the coast. They also cannot be restricted to the inshore area.. There would also need to be some relief from the requirement for an engineer".

*MSA response is that some of these vessels may well come under part (b) of the definition of inshore area, provided they are within 12 miles of the coast.*
MSA notes that this rule has been deleted as all passenger vessels operating in the coastal area must now do a minimum crew assessment. The content of the Table is transferred to the Advisory Circular for guidance material.

The New Zealand Marine Transport Association said “it seems that Restricted Coastal could be included with the requirement for Inshore area”.

MSA response is that any defined section of the coastal area within 12 miles of the coast that has been assigned to a vessel by a surveyor is included in the definition of inshore area as the NZMTA suggest.

Stewart Island Marine Services Limited said that for less than 24 m, the Master should be ILM not NZOM, if within 30 miles of a safe haven.

MSA response is that this is an overlap between the inshore and coastal requirements.

MSA notes that this rule has been deleted as all passenger vessels operating in the coastal area must now do a minimum crew assessment. The content of the Table is transferred to the Advisory Circular for guidance material.

Maritime Management Services Limited said “boats operating in Three Kings, Ranfurly Bank with less than 50 passengers, traditionally required 2 CLM’s – one with an engineering certificate. Now these Masters will be required to have NZOW endorsed command. Is this realistic or should we continue with status quo?”

An individual, supported by several similar telephoned comments, said the proposed rules did not allow them to operate across the Cook Strait, as they had done for many years.

MSA response to the above 2 comments is that providing those operations were legal the intention is that no current privileges are lost as a result of this Part. This rule has been deleted as all passenger vessels operating in the coastal area must now do a minimum crew assessment. The content of the Table is transferred to the Advisory Circular for guidance material.

The New Zealand Marine Transport Association said “we submit that the MEC 5 engineer needs to be regraded MEC 6 should an engineering qualification be necessary at all”.

MSA notes that this rule has been deleted as all passenger vessels operating in the coastal area must now do a minimum crew assessment. The content of the Table is transferred to the Advisory Circular for guidance material.
The New Zealand Marine Transport Association said “we consider that the length at which the changeover occurs should be raised to 24 metres”.

MSA notes that this rule has been deleted as all passenger vessels operating in the coastal area must now do a minimum crew assessment. The content of the Table is transferred to the Advisory Circular for guidance material.

An individual pointed out that “a lot of ships have their SSM certificates set to carry 50 passengers, therefore the owners would need to man the ship with a higher crew requirement or get a new certificate limiting passenger numbers to 49, and possibly reconfigure the ships LSA. I suggest that the tables are set to change manning requirements at “up to 50 passengers” and “51 or more” etc”.

MSA response is that the boundaries between different requirements, and what happens with the values on those boundaries, already vary for different purposes. Where possible Part 31 coordinates these requirements, however the primary purpose of the rule is set boundaries for the purpose of safe crewing. In this particular case, the crewing of the ship is only required to satisfy the number of passengers on board, and not those for which the ship is certified, and a flexibility has been drafted into rule 31B.6(1)(b) to meet the special cases where the standard tables are inappropriate.

31B.13 Inshore Area (Passenger Vessels)

The New Zealand Marine Transport Association discussed the drafted detail and said “the setting of limits of operation are a function of the Safe Ship management and are determined having in mind Fitness for Purpose, both of the vessel and the crew”.

MSA response is that while the operating limits of the vessel are an SSM company function, the privileges of crew qualifications are determined by Part 31.

The New Zealand Marine Transport Association said “many of the small craft likely to be in this group are capable of 30 plus Knots. Therefore 15 miles will only take a half hour of travel when required to return home from sea. Therefore the distance restriction is not warranted”.

MSA response is that, as other submissions illustrate, there is a wide range of vessels, fast and slow, power and sail, in this area. If any operator feels the tables, as amended in the final rules, are inappropriate for them then there is the option of an individual “Fit for Purpose” assessment under rule 31B.6(1)(b).

The New Zealand Marine Transport Association said “engineering qualifications are unnecessary beyond that already in place for CLM qualification. Should this
contention be overruled, we submit that the engineer MEC 4 be MEC 5 except for vessels with less than 20 passengers (such as Game-fishing or Fishing Parties) where there should be no need for a separate engineer providing the skipper has an ILO, LLO or a separate engineering qualification”.

**MSA response is that the flow chart already allows for a range of engineer qualification from no qualified engineer up to MEC 4 according to a number of factors.**

The New Zealand Marine Transport Association said “change the systems requirement to “More than 3 systems””.

**MSA response is that we agree and the amendment has been made as requested.**

Happy Chaddy’s Charters wrote that they operated a vessel surveyed for 30 passengers and that “under the proposed rule I would be forced to employ a third person which would make my business unviable as we often have only four or five passengers per day”.

**MSA response is that the table only requires a minimum of one person when passenger numbers are 12 or less. It is only when the actual passenger numbers exceed 12, and not when the number the boat is certified for exceeds 12, that a second person is required. This number was increased to “less than 20” later in the consultation. An amendment has been made to the rules to clarify that passenger numbers refer to passengers actually on board. Alternatively, the operator can request an individual fit for purpose assessment of the crewing requirements under rule 31B.6(1)(b).**

Maritime Management Services Limited said “several Masters will be required to upgrade from CLM to NZOW for carrying over 100 passengers with the introduction of this rule. This will affect most ferry operators in the upper North Island and without understanding the impact of what the upgrade involves, we can only ask that consideration be given to the reality of masters achieving this new qualification within the time periods allowed”.

**MSA response is that the rule already provides for owners of vessels carrying 50 or more passengers in the inshore area to submit their safe crewing assessment to the Director - and this gives them the opportunity to be assessed on a fitness for purpose basis under rule 31B.6(1)(b). In addition, if any new qualifications are required, either a 1 or a 2 year lead-in time is allowed.**

The New Zealand Marine Transport Association put a case asking that the requirements change at 20 passengers rather than at 12.
MSA response is that an amendment has been made to increase the boundary from "12 or less" to "less than 20".

31B.14 Enclosed Area (Passenger Vessels)

The New Zealand Marine Transport Association said "the engineering requirements are too high and should both be down one level".

MSA response is it agrees and that the amendment has been made as requested.

The New Zealand Marine Transport Association said "change the Systems Block to "More than 3 systems"".

MSA response is that the amendment has been made as requested.

The New Zealand Marine Transport Association suggested that the words maintenance "carried out ashore" be changed to "carried out by shore based personnel".

MSA response is that it agrees with the NZMTA and "ashore or under warranty" has been defined. Words similar to those proposed by the Association have been used in the definition. Further guidance material is provided in the supporting advisory circular to Part 31B.

Stewart Island Marine Services Limited said to "change 20 mtrs to 24 mtrs"

MSA response is that we consider 20 m is the largest vessel size that an LLO may operate, hence this becomes the boundary between ILM and LLO. The privileges of the ILM in the same area remain unaffected.

Fiordland Travel Limited asked for the flexibility to train their own crew to their "Vessel Type Rating system" rather than have to crew with ADH.

MSA response is that the fitness for purpose rule 31B.5(1)(b) now provides the flexibility sought.

31B.15 High Speed Vessels

The Aviation and Marine Engineers Association Marine Engineers Division said "the rule contains no requirement for engineering personnel".

MSA response is that the high speed vessel requirements are in addition to the crewing numbers and qualifications required for that size and operating area of the vessel. Hence if an engineer is required for a non-high speed vessel operating in an area, the engineer will be required for a high speed vessel. The rule includes the requirement for engineers, as part of the
crew, to "hold a type rating certificate in respect of the vessel type used and the routes to be operated on that is appropriate to their duties".

The New Zealand Marine Transport Association said "one hopes that the operators of HSV have been consulted on this".

MSA response is this rule has been transferred over from the existing rule in Part 32 and has then gone through the same consultation process as all the other rules including a meeting with a major high speed vessel operator.

The New Zealand Marine Transport Association suggested that the requirement to be under the supervision of a Type Rating Instructor could be extended to a Type rated Skipper.

MSA response is that there is no reason why any Master could not be the Type Rating Instructor which would serve the same purpose.

31B.16 Offshore Area (Non-Passenger Vessels)

The Aviation and Marine Engineers Association Marine Engineers Division said "non-passenger vessels over 45 metres in length in offshore area not covered".

MSA response is that non-passenger vessels of 45 metres length or more in the offshore area are covered by Part 31A for larger vessels.

The New Zealand Marine Transport Association said "to be consistent the engineer flow charts should read "Has the vessel more than 3 systems"."

MSA response is that it agrees and the amendment has been made as requested.

The New Zealand Marine Transport Association said "to be consistent the flow charts should read "Is the engine or system maintenance carried out by shore based personnel or under warranty"."

MSA response is that it agrees. A definition of shore based maintenance has been inserted in the rule which will be supported by detailed guidance in the Advisory Circular to Part 31B. The definition uses similar words to those suggested by the Association.

The New Zealand Marine Transport Association said "change the length to 24 metres" at which the crewing changes occur.

MSA response is that we agree and this amendment has been made.
31B.17 Coastal Area (Non-Passenger Vessels)

The Aviation and Marine Engineers Association Marine Engineers Division said "non-passenger vessels over 45 meters in length in coastal area not covered".

**MSA response** is that non-passenger vessels of 45 metres length or more in the coastal area are covered by Part 31A for larger vessels.

The New Zealand Marine Transport Association said “change the length to 24 metres” at which the crewing changes occur.

**MSA response** is that it agrees and this amendment has been made.

The New Zealand Marine Transport Association said “some flexibility should be built in so where a vessel is doing a set run, ie Stewart Island to Bluff, there is an ability to suit the manning to the task. Qualifications too high for some areas. SSM Company should consider experience and local knowledge. Vessel and crew should be fit for purpose”.

Talisker Charters described their operations in several areas and said “we would argue that the requirement for a certified mate be relaxed for vessels of less than 20 metres, voyages beyond Inshore Limits and when the voyage in question is of less than 24 hours. We believe that in these circumstances safety is not compromised by having unqualified watchkeepers as the voyage duration is sufficiently short as to allow the master to remain alert, while still supervising a less qualified watchkeeper. This is particularly so when the vessel is equipped with modern electronics and automatic pilots, which although not in any way negating the need for efficient and alert watchkeeping do help to minimise crew fatigue”.

**MSA response** to the above 2 comments is that a significant amendment has been made to give this flexibility by allowing individual vessels to be assessed against their own particular operating conditions. Operators can ask SSM companies for assistance in making those assessments, but they then have to be submitted to MSA.

Maritime Management Services Limited said “The qualifications are excessive for an over 20 metre ship operating in a restricted coastal area. Some allowance needs to be made for this. Consider NZOW and ILM”.

**MSA response** is that the length boundary in the coastal area has been amended to 24 metres; but that any defined section of the coastal area within 12 miles of the shore that has been assigned to a vessel by a surveyor is part (b) of the inshore area. In this area the NZOW and ILM are the required qualifications.
31B.18 Inshore Area (Non-Passenger Vessels)

The New Zealand Marine Transport Association said of the detail of the table "change to read "Within an area specified in the SSM Certificate but not more than 15 miles from a Safe Haven" and Table 8 Block 1. Change to 24 metres. Master ILM, Mate LLO, Change MEC 4 to MEC 5 and MEC 5 to MEC 6".

Elaine Bay Aquaculture Ltd said "it is noted that the 20m length specified will increase to 24m also alleviating some contention with the above rules".

Stewart Island Marine Services Limited said to "change 20 mtrs to 24 mtrs"

MSA response to the above 3 comments is that the detail of this table has been amended in light of several suggestions, and the boundary for ILM increased to 24 m while leaving the limit for LLO at 20m. We consider 20 m is the largest vessel size that an LLO may operate.

The New Zealand Marine Transport Association suggested a change to the marine farming vessel privileges.

Marlborough Mussel Co wrote "I don’t believe this change is justified for marine farming vessels in Inshore areas, and that a separate section dealing solely with the manning requirements for Marine Farming Vessels will make it easier to incorporate existing operators with the new proposals”.

An individual said "the mussel industry is totally different and should be treated as an industry not the fishing industry”.

An individual supported the above comment saying “the mussel industry has an excellent safety record compared to the fishing industry”.

MSA response to the above 4 comments is that marine farming is already being covered by Part 31B and not 31C, which is applicable to the fishing industry. However, when not actually working on marine farms, these vessels are no different to other non-fishing vessels, and the operating problem that was identified and resolved applied to both marine farming vessels and to other non-fishing vessels. It was therefore agreed with the New Zealand Marine Farming Association “there is no further need to specifically identify marine farming vessels in the rules apart from equating them to under 6 metre vessels when actually on a marine farm”.

An individual said “sea time done on any M.S.A. Registered Vessel should be counted”.

MSA response is that this is not a matter for Part 31 which only uses the qualifications issued under Part 32. However the comment has been recorded for a planned Part 32 revision.
Marlborough Seafoods Ltd put a case saying “at present most of Industries vessels are skippered to a CLM qualification and this should remain as there is no justification put forward for this propose change where vessel size becomes a criteria for an increased qualification.”

**MSA response** is that, while size is a well established criteria for crewing qualifications, the change requested to retain the privilege of the CLM has been made.

Johnson’s Barge Service Ltd said “we have been operating a Tug/Barge Service in the Marlborough Sound since 1916 through 3 generations” and put a case to retain the CLM privileges with one other crew, to what were the old extended river limits”.

The New Zealand King Salmon Co Ltd wrote in support of Johnson’s Barge Service Ltd; and said “existing operators should be grand-fathered into the new scheme without penalty”.

Sanford Havelock put a case “to maintain the status quo in that a CLM qualification is all that is required to operate a vessel over 20 metres within inshore limits. In addition ..... There should be no additional manning requirement for a Mate. There should be no requirement to have an Engineering Qualification”.

Elaine Bay Aquaculture Ltd made a full submission saying “It is acknowledged that you (MSA) are quite open to the concept of ‘grandfathering’ vessel operators with CLM certifications, which are the predominant qualifications within both EBA and PMC. This might include some restrictions to inshore limits if restrictions applied to the respective CLM qualification. If this concession is made then most issues relating to 31B.18 and 31B.19 will dissipate”.

Port Mussel Company Ltd supported the Elaine Bay Aquaculture Ltd submission.

Two individuals supported the Elaine Bay Aquaculture Ltd submission.

**MSA response to the above 7 comments is that, following discussion with the marine farmers representatives in Havelock, the requested amendment has been made so that the CLM will retain privileges to the old limits but those privileges will not extend to the full new inshore limits. The mate is not required, but whether an engineer is required depends upon the flow chart.**

The New Zealand King Salmon Co Ltd wrote “for our own purposes we agree there must be some standard in place for skippers of craft being used on our farms, we have small on farm boats and some boats over 6 m for commuting. Our proposal is for all marine farm craft to require a minimum Industry Agreed Qualification or
alternatively trained to LLO that would allow operation both within the farm confines and within the Marlborough Sounds up to a maximum of 30m. To set a limit on the size of craft able to be skippered within the Sounds is a bit arbitrary, the test should be that the person has the training sufficient for them to be able to handle the craft in terms of manoeuvrability etc not that they have the training in offshore watchkeeping or something similar”.

**MSA response** is that the qualification requirements for vessels within marine farms have been amended as requested. Once off the marine farms, industry representatives have agreed with MSA that marine farm vessels are no different to any other vessels. Size is a well established criteria for crewing qualifications, while training and assessment in handling ability is primarily an industry responsibility.

Johnson’s Barge Service Ltd pointed out an anomaly in the tables where non-passenger vessels over 20 m required higher qualifications than similar passenger vessels did.

**MSA response** is to thank the commentator for pointing out this anomaly which has been amended.

Westgate Port Taranaki said “this rule as drafted, requires a minimum qualification of LLO to be skipper of a 3m dinghy engaged in maintenance around and under wharves or a painting punt moving along the side of a ship with significant increases in cost and no improvements to safety”.

**MSA response** is that bringing under 6m vessels into the rules system was an industry initiative and is being facilitated by the granting of certificates of service to those with two years experience and by allowing a two year lead-in period. However vessels without engines have now been excluded from the application of these rules.

### 31B.19 Enclosed Area (Non-passenger Vessels)

Elaine Bay Aquaculture Ltd said “it is noted that the 20m length specified will increase to 24m also alleviating some contention with the above rules”.

The New Zealand Marine Transport Association said to change the detail of the table to “Table 9 Block 1. Change to 24 metres. Master ILM. No Mate”.

Stewart Island Marine Services Limited said to “change 20 mtrs to 24 mtrs”

An individual said “the LLO should be restricted to 20 m in fact some would say it should be restricted to 12m especially for those who have come out of small commercial craft of 6m”.
MSA response to the above 4 comments is that the detail of this table has been amended in light of several suggestions but that the boundary must remain at 20 metres here for LLO. We consider 20 m is the largest vessel size that an LLO may operate, hence this becomes the boundary between ILM and LLO. The privileges of the ILM in the same area remain unaffected.

Northland Port Corporation (NZ) Ltd said “The requirement of LLO or industry organisation qualification for vessels under 6m even in enclosed areas would severely restrict the operation. For example of slipway punts, dredge tenders, with significant costs”.

Westgate Port Taranaki said “this rule as drafted, requires a minimum qualification of LLO to be skipper of a 3m dinghy engaged in maintenance around and under wharves or a painting punt moving along the side of a ship with significant increases in cost and no improvements to safety”.

MSA response to the above 2 comments is that bringing under 6m vessels into the rules system was an industry initiative and is being facilitated by the granting of certificates of service to those with two years experience and by allowing a two year lead-in period. However vessels without engines have now been excluded from the application of these rules.

Elaine Bay Aquaculture Ltd said “most important I bring to your attention the manning requirement and qualifications needed in the passenger vessel operating in the Enclosed Areas needs less qualifications then a mussel harvester operating with a skipper with a CLM and 4 crew on board”.

Port Mussel Company Ltd supported the Elaine Bay Aquaculture Ltd submission.

MSA response to the above 2 comments is that the necessary amendment has been made.

Elaine Bay Aquaculture Ltd “acknowledges the engineering requirement, but would ask that the minimum be changed to anything under 1000 hp, an on board Engineer is not required. EBA has a Sounds based Maintenance Manager and maintenance program for all vessels”.

Port Mussel Company Ltd supported the Elaine Bay Aquaculture Ltd submission.

MSA response to the above 2 comments is that the drafted limit of 750 kW is already very close to 1000 hp and in addition the option exists of “fit for purpose” assessment.

The New Zealand Marine Transport Association said to remove the length limitation for Marine Farming Vessels.

MSA response is that it agrees and this amendment has been made.
Lyttelton Port Company Limited said “we consider that MEC 5 (and not MEC 4) should be the Engineer Qualification for Engines over 1,500 kW power”.

The New Zealand Marine Transport Association said to “Change MEC 4 to MEC 5 and MEC 5 to MEC 6”.

*MSA response to the above 2 comments is that this amendment has been made.*

An individual submitted an alternative flow chart with the requirement for engineer based on highest powered engine being over 450 kW or the combined kW rating being over 750 kW.

*MSA response is that twin-engined vessels are inherently safer than single engined. On the sizes of vessels in Part 31B, the engines tend to be self contained so that all services are duplicated for each engine, thus – in general – if one part of one engine goes wrong it doesn’t affect the other engine(s). Hence a lower engineer qualification is permitted on such vessels, despite the overall engine power for the vessel being higher than the rating specified.*

An individual submitted an alternative flow chart with the requirement for the lesser engineer qualification based on both lower engine power and shore maintenance.

*MSA response is that, having developed the flow charts with industry, they consider either lower engine power or shore maintenance to justify the lower engineer qualification.*

### 31B.20 Offshore Support Vessels

The Aviation and Marine Engineers Association Marine Engineers Division said “vessels over 45 meters not covered”.

*MSA response is that offshore support vessels of 45 metres length or more in the offshore and coastal areas are covered by Part 31A for larger vessels, while all offshore support vessels in the restricted area are covered by Part 31B. However the specific tables for offshore support vessels have now been removed and individual assessments are required to be submitted to the Director to allow for the necessary flexibility for the range of vessels involved.*

Westgate Port Taranaki put a case submitting “that the blanket requirement for manning of offshore support vessels in inappropriate and should be determined by the operator, taking into account the type of work to be undertaken, the vessel concerned, and general safe watch keeping requirements.”

*MSA response is that the rules have been amended to remove the blanket requirement and require a fit for purpose assessment as requested.*
31B.21 Ship Handling Harbour Tugs

Two individuals submitted the 14 page results of a survey carried out at 10 New Zealand ports. Some strong themes that emerged were:

- "There is strong support from Pilots and Tug Masters at all New Zealand ports for a Ship Handling Harbour Tug Endorsement based on NZOW" while recognising that suitably experienced CLMs do presently operate satisfactorily as Tug Master.

- "Crew numbers on New Zealand tugs are going to be lowered in the near future. Why would we want to lower our standards at the same time? Demanning is one issue, deskilling is another."

- "New Zealand ports have always self imposed high standards on their tug masters, tug engineers and pilots, often considerably in excess of minimum requirements. However competitive pressures are placing these high standards at risk."

- "A tug is often the last strand in the safety rope when a major accident is imminent. Let's make sure that strand is robust and up to the task."

- "There are very mixed views about two person tug operation throughout the ten ports surveyed."

- "In summary, if we need to accept Vancouver style crewing levels we should embrace Vancouver style skill levels, experience levels and certificate of competency levels."

- Separation of Tugmaster and Tug Engineer roles "is totally appropriate for ship handling harbour tugs and was emphatically supported by pilots and tug masters at the 10 ports surveyed."

- "Allowing dual certification will mean a rush of Tug Masters trying to get a minimal engineer's certification and a rush of Engineers trying to get a minimal Tug Master qualification."

- "Deckhand qualifications should be Advanced Deckhand."

- "Tug Masters have had untrained tug hand reliefs turn up on board at the last minute. Often the inbound Pilot is committed to the channel and then the Tug Master must accept the situation as the ship must have the tug."
MSA response is to thank Captains Selby and Wood for the initiative and effort that went into a survey of 10 ports, and to those who contributed to it. We have found that the survey reflected comments made by individuals and organisations on crewing of tugs that we have reported and responded to elsewhere in these Consultation Details.

The New Zealand Merchant Service Guild supported exemptions that would allow two person tug operations but would strongly object to any exemption for a tug which is not purpose built for two person operations.

The Rail and Maritime Transport Union Inc put a full case saying “our submission seeks rule 31B.21 to be amended to require the minimum manning of any vessel used as a harbour tug to be three crew or such greater number so as to guarantee two crew to be available at all times to undertake deck work and emergency response”.

The Rail and Maritime Transport Union Inc said (of the draft Appendix 1) “it states the navigation watch should never leave the wheelhouse unattended. It follows that on a harbour tug with two person manning that the Master cannot leave the wheelhouse if the deck hand is injured or worse because the probable circumstances will find the master in enclosed waters and possibly in very close proximity to a much larger vessel or the shore”.

An individual said “the 2 man tug design comes from Canada where the tugs operate in very sheltered waters, many miles from the open sea.” And compared it with adverse conditions in New Zealand concluding “I hope that more intense surveying and tests are trialed to render these vessels as being safe and sea worthy. Limits can be set by wave height and/or wind speed”.

An individual wrote a detailed argument against two person tugs.

An individual commented of a shipbuilder that “for reason of cost alone they are proudly advertising the minimal qualification and equipment level their vessels can get away with. I hope MSA take note of this”.

An individual wrote that a Port “has been given carte blanche to operate these tugs beyond the enclosed waters limit. Under no circumstances should these tugs be allowed to operate outside the enclosed waters limit with only two personnel on board. If required to go beyond the enclosed water limit the tug should be manned by a minimum of three personnel”.

CentrePort Wellington put a detailed case saying “minimum complement for high powered tugs above 20m in length to be 3 regardless with no exceptions” and “We believe that the concept of two man crewing on high powered harbour tugs is flawed
from a safety point of view. Our view is that some New Zealand tug operators who have described the manning levels as appropriate and safe have not fully thought through the implications of either an accident or an injury occurring while the tug is engaged in its work.” They summarised that if two person crewing was permitted then “the tug operates as part of a multi tug operation and where there is immediate assistance and shore support and transport available in the event of any malfunction or incident during the ship assist operation. This is to include medical support in the case of injury”.

**Port of Tauranga** said “We do not favour minimum manning levels as the environment and operational conditions should be the determining factor in assessing appropriate crewing numbers. We are therefore disappointed that the MSA has increased current manning levels from 2 to 3 for ship handling tugs. While the MSA has provided opportunity to exempt vessels which qualify for 2 man tug operations, it is apparent that the MSA sees this as an exception to the rule. We are concerned that this exception is confined to “tugs purpose built for two person operations” and believe that this exception may be designed to preclude modified tugs which meet all the other criteria listed in 31B.21..... We are opposed to eliminating the prospect of a modified 2 man tug and suggest such a move is illogical. The important criteria, surely is the risk analysis and assessment of the capacity of the crew to cope with the demands of the tug in its operating environment. The rationale for this proposed rule is not obvious other than expediency as a result of the various interest groups inputs”.

**Ports of Auckland** “strongly agree two man ship handling tug operations (over 20m) should only apply on purpose built harbour tugs” and “strongly agree that the owner of a harbour tug of more than 20m should have to apply for an exemption to reduce the minimum complement to two operators. Furthermore, exemption should be applied specifically to that vessel”.

The Aviation and Marine Engineers Association Marine Engineers Division said “The minimum personnel for any tug should be master, engineer and deck hand, this should be supplemented by an additional deckhand during bad weather and at all times on tugs over twenty metres length. The routine handling of lines while working ships and during berthing and letting go from the wharf requires an adequate number of hands to be carried out in safety”.

**MSA response to the above 11 comments is that minimum crewing levels for tugs have become too big a matter to be determined as a side-issue to drafting Part 31B under very tight time constraints. Tug crewing is obviously an issue in its own right. Part 31B has therefore created the mechanism to consider tug crewing, by requiring tug operators to make their assessment of crewing needs and then to submit that assessment to MSA. For guidance in that**
assessment, the significant points raised during this consultation are discussed in the Advisory Circular supporting Part 31B.

An individual said “a Tug Endorsement would be a good idea if it had some substance, but if that were the case why not raise the ticket required in the first place”.

**Port of Napier Limited** asked “will the harbour tug endorsement be grandfathered for ILM Masters? We believe it should be for tugmasters with 2 years or more experience. The endorsement should be available as an in house training standard by recognised employers”.

**Port Otago Limited** asked what is the “Ship Handling Tug Endorsement” and what is required in attaining the Endorsement?

**CentrePort Wellington** noted the tug “endorsement is presently undefined in content but submit that the ITO Unit Standard 11523 for the Certificate of Tug Operations (which has an NQF level of 4 with 20 credits) as being appropriate”. They added they needed “assurance however that the endorsement does not mean that Pilots or Marine Officer Pilots cannot operate tugs. Pilots play an increasingly important role as flexible employees able to fulfil any marine related role and this situation must be allowed to remain”.

**Northland Port Corporation (NZ) Ltd** asked “What is the intention as regards the “ship handling harbour tug endorsement” which is mentioned ..... What are the requirements to obtain this endorsement for present and future operators?”

**Port of Tauranga** said “ILM with ship handling harbour tug endorsement. We train our own Masters and sign them off when they have reached the required level. We would wish to retain control of this function”.

**Ports of Auckland** “disagrees that the master should require a general ship handling harbour tug endorsement qualification in the case of vessels of 20 metres or more. ..... a general industry qualification would not be relevant to Ports of Auckland Limited’s specialised ship handing harbour tug operations. Furthermore, the Company is not a member of the Stevedoring and Ports Industry organisation and has not had any input into the development of such a qualification”. And “in addition, deep sea experience is not relevant to ship handling harbour tugs. Tug masters require local knowledge and specific vessel training”.

**MSA response to the above 7 comments is that the ship handling harbour tug endorsement was intended to incorporate the New Zealand Qualifications Authority / Stevedoring Industry Training Organisation “National Certificate in Tug Operations” into Maritime Rule Part 32.**
Reference to it has now been transferred from Part 31B to the associated Advisory Circular as advisory material only. This is consistent with the decision described above to deal with crewing of tugs through a safety assessment process rather than prescribing crew requirements through mandatory tables.

An individual wrote “For some time now Maritime Rule 20, operating limits, has been passed and states quite clearly the limits to which vessels can legally proceed. During the submission and commenting stages of other Maritime rules eg: minimum qualification and minimum manning, the operational zones have been assumed to be as per rule 20. ..... Now with draft document 31B I read the words adjacent sheltered waters. What are sheltered waters and who decides if they are safe? ..... Part 31B.21 opens operational limits of such vessels to interpretation and in my view, promotes unsafe guidelines for vessel owners and operational staff in particular. I implore that in the genuine interests of maritime safety M.S.A. redrafts rule 31B.21 such that vessels of 20m or more with two person crews are limited to enclosed waters as is defined in part 20 with no exceptions or extensions to that limit. In respect to this I further ask that your most serious consideration is given to an attached document from Lloyd's Register which relates to maximum wave heights to which these vessels should be subjected and remind you that during any Northerly or North-Eastern gale the wave height during ebb tide in the adjacent sheltered areas is frequently measured to 7 meters with the highest recorded wave height this year exceeding 11 metres”.

The Rail and Maritime Transport Union Inc said they needed to comment on “the definition of enclosed waters and adjacent sheltered waters. The use of harbour tugs in such waters has usually required a vessel of sufficient size to handle the seas often encountered in such areas. Some of the most dangerous waters are at or adjacent to the harbour mouth”.

CentrePort Wellington asked for a definition of “sheltered waters” in the drafted conditions for two person crewing. They “proposed that the ‘sheltered waters’ definition should be based on a significant wave height – say 2 meters. This is not a new concept as already fast ferries use similar criteria as an operational safety measure”.

An individual said “As all New Zealand Ports, with the possible exception of Auckland, clearly do not have any ‘Adjacent Sheltered Waters’ this should be deleted ..... certainly the harbour entrance in Tauranga (No 2 Reach) can experience conditions as rough or even rougher (with an ebb tide) as those outside. In fact the Pilot Launch crew have, before now, considered it safer to travel the 20 miles to Mayor Island to seek shelter rather than risk coming back in through the entrance”.

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The New Zealand Merchant Service Guild said “Some Guild members have expressed concern at the use of the term “adjacent sheltered waters”.

Tug Engineers, CentrePort Wellington said “a tug operating with only two persons within ‘sheltered waters’ may operate unsafely – depending on the actual weather conditions being experienced. The term ‘sheltered waters’ should therefore be more accurately defined so as to ensure that sea staff are not placed in unsafe sea conditions”.

The Association of Marine, Aviation and Power Engineers branch of the Northland Port Corporation said “there is no mention in the proposed new rules of “sheltered waters”. However there is no definition of this and it is contended that this term should carry with it full definition”.

The Aviation and Marine Engineers Association said Sheltered Waters “requires clear standards as many areas included in enclosed waters would be totally unsuitable for the two man tug operation. An example would be Wellington where enclosed waters are often subject to high winds and swell. This definition should clearly specify maximum wind and swell levels suitable for the two man tug operation”.

An individual put a full case with supporting documents saying “adjacent sheltered waters are open to interpretation, this cannot be allowed to happen in a maritime rule. ..... These tugs have an extremely low wheelhouse and therefore low engine room air intake levels, therefore should only be allowed to operate in enclosed waters. The purpose built two man tugs now operating in Auckland harbour have been experiencing sea water ingress into engine rooms in strong wind conditions on the harbour, and have since had to retrofit .....The notion of individually assessing each decision to sail past ‘C’ buoy is an unfair one on the tug master at the time. If a vessel is in distress outside ‘C’ buoy, the tug will be expected to respond immediately as we do now. (there will be no time to man the tug up to three)”.

Ports of Auckland said “Current practice at Ports of Auckland has shown that purpose-built two-person ship handling harbour tugs can operate safely with two crew to harbour limits. Therefore it is unnecessarily confining to limit these two-crew purpose-built vessels to “enclosed waters and adjacent sheltered waters. Furthermore, Ports of Auckland seeks clarification from the MSA of the term “enclosed waters”.

Port of Tauranga said “Reference to “adjacent sheltered waters” requires clarification. We would prefer the following words: “and waters adjacent to the harbour within which the tug is required to operate as part of the ship handling function””
MSA response to the above 11 comments is that the term sheltered waters was never intended as another operating limit but merely as a description of sea conditions. The minimum crew requirements for tugs are now dealt with through a fitness for purpose assessment under rule 31B.6 and guidance on the relevance of the sheltered water concept to that assessment has been provided in the Advisory Circular.

An individual said “There should definitely be no relaxation in your proposed ruling that the tug Master and Engineer be separate positions on board. .... I have never met a Pilot yet who would appreciate being told, as he is approaching the berth “hang on will you for a few minutes, I’ve just got to go down below to fix something””.

MSA response is that like all vessels, tugs require their operators to assess the safe crewing required and then, like other identified vessels, that assessment must be submitted to the Director.

Port Otago Limited said “The master is required to have ILM or equivalent. This means that a CFG would require a “maritime engineering qualification”. We do not believe this is necessary if these is a dedicated engineer on board. Port Otago Limited operations use pilots as tugmaster. To impose at this late stage a requirement of engineering qualification on these CFG’s would not enhance the quality of the operation.

Port of Napier Limited asked “why is an engineering qualification required for qualifications higher than ILM when an engineer is carried?”

MSA response to the above 2 comments is that the table of equivalents has been amended to clarify that when an equivalent to an ILM is used as master, the need for the equivalent to have an engineering qualification is only intended for those cases where no other engineer is carried and the ILM was specified for the position on smaller vessels on account of their combined deck/engineering qualification.

CentrePort Wellington said “750 kW for highest powered engine is too high a criteria and criteria should be 750 kW total engine power per tug” “Because a modern tug plays a very important part in manoeuvring a large vessel in confined waters, we would like to understand the reasoning behind the indicated 750 kW per engine threshold. Not all Port Companies have the luxury of an extensive shore support base and the tug engineer is often both the operator and the maintenance person. Not only is the modern harbour tug likely to be equipped with a high speed and high powered engine, but it is important for operators to be able to pick up engine anomalies and implement an appropriate fix in timely fashion. We support the minimum qualification being an MEC 4 qualification. We also support lowering the threshold
power rating to ensure an MEC 4 engineer operates a modern harbour tug – particularly when immediate shore support is minimal or lacking entirely”.

Tug Engineers, CentrePort Wellington said “tugs are required to provide from 0% to 110% of their designated engine output rating in the performance of their ship handling duties. . . . It is our view, therefore, that the use of a mere 50% of the potential engine output as a guide to deciding appropriate Engineering Qualifications is unsatisfactory. Such Qualifications should be based on the total power output – particularly as “Bollard Pull” is the required criteria for the safe operation on the tug for towing a given vessel size or tonnage, and bollard pull is delivered by the total power output rather than half of it. It is also our view that the minimum engineering qualification for tugs with a total power output of 750 kW and above should be MEC 4”.

An individual said “the kW rating in your flow chart (11) is obviously a mistake by your typist. 750 kW would rule out more than three quarters of the tug in NZ for requiring an engineer. Also this kW figure should read for total propulsion kWs, not per engine as written. I would challenge anyone to say that a tug like the “Kaimai” @ 740 kW per engine is not the domain of a competent Marine Engineer. Therefore a more realistic figure of 800-1000 kW total propulsion power is required”.

An individual said “maximum power should be expressed per vessel rather than per engine as a multi-engine vessel, eg diesel electric or multiple engines geared to one shaft, would represent a relatively sophisticated power plant”.

The Association of Marine, Aviation and Power Engineers branch of the Northland Port Corporation said that, in all six operating areas, “it is our contention that the minimum for any engineering certificate should be 750 kW per vessel not per engine”.

Northland Port Corporation (NZ) Ltd said “The requirement of a vessel to carry an engineer is now linked to the “highest powered engine” not the total propulsion power of the vessel. This gives the impression that multi engined vessels, no matter how many systems it has, do not require an engineer if each individual engine is under 750 kW. If this is a correct reading of the flow diagram surely this is contrary to the move to increase safety?”

An individual put a case saying “Minimum kW rating in flow chart of 750 kW (highest powered engine) before requiring an engineer. Is this a mis-print, and should read “combined engine power of 750 kW”. If the minimum kW rating had to be 750
kW before requiring an engineer, 75% of the tugs on the NZ coast would not require an engineer*.

The Aviation and Marine Engineers Association Marine Engineers Division said “Engineering personnel should be based on total installed power not maximum engine power. This system takes no account of multi engine installations with large aggregate power”.

**MSA response to the above 8 comments is that multi-engined vessels are inherently safer than single engined and this needs to be recognised. On the sizes of vessels in Part 31B, the engines tend to be self-contained so that all services are duplicated for each engine, thus – in general – if one part of one engine goes wrong it doesn’t affect the other engine(s). Hence a lower engineer qualification is permitted on such vessels, despite the overall engine power for the vessel being higher than the rating specified. In the case of tugs, the flow charts are no longer requirements as minimum crewing is now dealt with through a fitness for purpose assessment under rule 31B.6(1)(b).**

**Port of Tauranga** said “It appears illogical that MSA have used a threshold of 1500 Kw for engine power on harbour tugs to determine the competency level of an engineer when 2000 Kw has been used on all other passenger and non passenger vessels. It seems to us more than coincidental that 1500 Kw is just below the engine power range of the two man tugs presently being built in New Zealand. We suspect politics have influenced you on this issue and we are disappointed as a consequence. In addition, it seems to us illogical that you have taken this stance and recommend 2000 Kw be the standard for all vessels”.

**MSA response is that in the draft 750 kW was used seven times, 1500 kW was used three times, and 2000 was used twice, in a consistent pattern according to operating areas. However the rules have been amended to standardise on 750 kW and 2000 kW.**

**Ports of Auckland** “applaud the intent of the MSA to amend the 1500 kW restriction for engineer MEC 5 to 2000 kW for harbour tugs.

**MSA response is that this amendment has been made.**

**Ports of Auckland** “would also like to signal reservations about the limit of 2000 Kw. While this may be sufficient for current circumstances, technology is advancing rapidly and this requirement will need to be reviewed in the future. Current international trends are already for new generation tugs of over 2000 kW”.
MSA response is that although qualifications should reflect engine power, rather than the other way round, in this particular case MEC 5 has already been assessed as the highest qualification required on tugs in enclosed areas.

Port Otago Limited said the engineer qualification flow chart "does not allow sufficient flexibility. Assuming the vessel has less than three systems there is no provision for reduced engineering qualifications relating to having the main engines maintained ashore. If main engines are maintained ashore we believe MEC 6 would suffice. MEC 5 seems a bit of an over kill if all mechanical back up is based within the port. Provided adequate shore based engineering support is available we believe a compliment of master and deckhand with MEC 6 would suffice".

Port of Tauranga said "we believe in all circumstances a MEC 5 qualified engineer is more than adequate to crew a ship handling harbour tug which always operates close to home base where professional engineering and other assistance is readily available. As one of my colleagues at another port put it, "the most complicated engineering function may be picking up the cellphone and calling for shore based engineering support".

Lyttelton Port Company Limited said "we consider that MEC 5 should be the qualification for tugs with engine power over 1,500 kW".

Port Otago Limited said "we believe MEC 6 is acceptable for a shore based supported system".

MSA response to the above 4 comments is that it agrees and the amendments have been made as requested.

South Port New Zealand Limited said "The draft flow chart for engineers has raised some interesting issues. The smaller more powerful tugs being introduced these days, with reduced manning, infers that a dedicated engineer is required aboard. Assistance if required, is within radio range or cellphone range and repairs made immediately. It would also appear that a small high-powered tug, with less than three systems, requires a ticket of MEC 4. Whereas a high-powered tug with three or more systems requires a certificate of lesser value (i.e. MEC 5) even though the systems could be more complex".

MSA response is that the flow chart is no longer strictly applicable to harbour tugs as their minimum crew requirements are now dealt with through a fitness for purpose assessment under rule 31B.6(1)(b).
Lyttelton Port Company Limited said the ADH “qualification is not needed and would be a duplication of the Industry Training Organisation Deckhand Certificate”.

Port Otago Limited said “ADH should be available as an in house training standard by recognised employers” and “the ADH qualification is not spelled out in the draft rule. What is involved and can the qualification be port specific i.e. based around existing training regimes”.

Northland Port Corporation (NZ) Ltd put a case saying “This draft rule as written would cause widespread difficulties for NPC as regards manning of its harbour craft including tugs, pilot boat and barges. Our present staff have been largely trained in-house and have considerable experience on these craft. Any requirement for deckhands to have a minimum of ADH would severely restrict our ability to use our pool labour as at present and limit the potential operational staff”.

South Port New Zealand Limited submitted “that the requirement to have a deckhand with the qualification ‘ADH’ is both unnecessary and will incur extra cost to tug operations.” Explaining that “the tugs used by South Port have not been permanently manned for over ten years. The manning of these tugs is from the company’s permanent workforce and the remainder from a pool of what we call R.T.R’s (Regular Temporary Relievers). These are regular personnel who have been on South Port’s payroll over the years assisting in all areas of the port and not just on tugs”.

Port Nelson Limited put a case for recognising their in-house training and assessment of deckhands and supported a move towards SITO unit standards, for standardisation and portability, saying “Port Nelson Ltd. is strongly opposed at the requirement to carry Tug and Launch deck hands with an ADH qualification”.

Westgate Port Taranaki put a case submitting “that the requirement for a tug deckhand to hold ADH Certificate is unnecessary and will add to operational costs. The requirements for a ‘Certificate of ADH’ is not clear and as a general purpose certificate is not necessarily suitable for working as a deckhand on a Harbour tug in Port Taranaki or for that matter in the offshore industry”.

Port of Tauranga “note reference to a Deckhand qualification (ADH). We have no knowledge of this qualification. At Port of Tauranga Limited we train our own deckhands up to the required standard and trust that the ADH qualification does not compromise our existing arrangements”.

Ports of Auckland put a case saying it “does not support the introduction of a new Advanced Deck Hand (ADH) qualification” and “submits that our own specific
training programmes tailored to company specific vessels and operations more fully covers our needs and requirements”.

Ports of Auckland “emphasises that the engineer can be adequately trained for deckhand duties with an appropriate, specialised in-house training programme to be a deckhand on a harbour tug. This is current practice at Ports of Auckland Limited”.

The Aviation and Marine Engineers Association Marine Engineers Division said “In the event that only one deckhand is required the advanced deckhand qualification should be required, additional deckhands could have the basis level qualification. This will ensure that a reasonable basic understanding of safe operation is available to the deck hands who will be working largely unsupervised”.

MSA response to the above 11 comments is that Part 31 does not in itself detail what is required to obtain each qualification but merely requires the qualifications that are described and issued under Part 32 - Ships’ Personnel - Qualifications. However, the rule has now been amended to remove the detailed requirement for an ADH on tugs and allow the flexibility requested.

Port Otago Limited said “The rule should make provision at all Manning levels for grandfathering. The draft rule does not follow the principles of Safe Ship Management ie the local operator taking responsibility for training issues which can then be endorsed by the Safe Ship Manager. Such blanket provisions which at the extreme would see a row boat manned with LLM is contrary to reasonable cost issues and will not deliver a higher standard of safety. We submit that MSA enter comprehensive discussion with the industry to establish the basis for safe Manning of harbour tugs and pilot boats. The Draft Rule does not acknowledge the operational realities of the industry.

MSA response is that:

- provision for grandfathering has been made with the equivalents table, lead-in times, and the addition of flexibility to the crewing tables.

- The rule addresses qualifications, as well as training, which go beyond the responsibilities of SSM companies.

- The draft rule was written on the basis of considerable discussion and correspondence with a number of Port Authorities.

- The requirements for special purpose vessels such as harbour tugs and pilot vessels have been combined with other non-passenger vessels operating in the same areas. The
combination of the responsibility on operators to ensure safe crewing levels plus the
flexibility of being able to made special cases will address the operational realities of the
industry.

South Port New Zealand Limited submitted “that the type of operation undertaken
by its vessels should be manned as appropriate, as covered under the Safe Ship
Management Manual”.

South Port New Zealand Limited submitted “that Draft Rule 31B does not enhance
the issue of safety to vessels already covered under the Safe Ship Management System
implemented by South Port.

Westgate Port Taranaki put a case submitting “that the blanket requirement for
manning of harbour tugs is inappropriate and should be determined by the operator,
taking into account the type of work to be undertaken, the vessel concerned, and
general safe watch keeping requirements ..... This should be covered by the
appropriate consideration in the Safe Ship Management Manual”.

MSA response to the above 3 comments is that the rules have been amended to allow the
operator to submit their crewing assessment, developed as part of their Safe Ship Management
programme, to the Director for his assessment.

31B.22 Pilot Vessels

Two individuals submitted the 14 page results of a survey carried out at 10 New
Zealand ports. They said “at present Pilot Launches in New Zealand are crewed by
two persons. The primary function of the deck hand is to assist the pilot to safely
embark and disembark from the pilot ladder. In the unfortunate event of a pilot
falling into the sea, either directly or after hitting the pilot boat on the way down, the
deck hand has a vital role to play in the safe recovery of the pilot and possible CPR,
hypothermia treatment etc while heading back to port. Boarding accidents tend to
happen in bad weather, at night, in rain etc. precisely when the conditions are against
you. There are well documented studies done by the International Marine Pilots
Association (I.M.P.A.) which show that the stress levels in a pilot are very high just
before boarding a vessel in difficult circumstances. The very last thing a pilot needs is
the added stress of having to cope on the foredeck of a pilot boat without the well
timed push up the ladder or the welcome clutch when disembarking. Pilot Launches
are not legally required to have two persons – they should and they should both be
certificated with CLM for the skipper and Advanced Deck Hand for the crewman as
minimum.”
Lyttelton Port Company Limited said “Master Qualification should be LLO (Local Launch Operator). Reason being that we have operated our Pilot Launch with LLO qualifications satisfactorily”.

MSA response to the above 2 comments is that pilot vessels have been transferred from being specifically identified in the crewing tables to being listed as requiring their minimum safe crewing assessment to be submitted to MSA. This will ensure that they are safely crewed yet allow operators flexibility in achieving that objective.

An individual wrote “I have read through the Flow Charts and on the face of it they are well worked out. But one thing puzzles me, on some vessels the minimum complement is 2, ie Pilot Vessels. If for instance a Pilot Vessel was required to stand by, how would you set a safe watch and comply with (the watch-keeping rules). I realise that the figures are for a minimum complement, but believe me, if an employer could get away with this in relation to complement he would”. He concluded “I feel that the rule should make it clear that the complement carried should fit the voyage or the use that the vessel is being used for”.

MSA response is to confirm that regardless of the minimum numbers in the tables when they apply, or the minimum number of crew and qualifications required by the Minimum Safe Personnel Document, as is required for a pilot boat, there is the over-riding requirement in 31B.6 to have enough qualified personnel on board to operate the vessel safely taking full account of the voyage and the vessel’s operations.

CentrePort Wellington put a full case for NZQA recognised industry training and assessment to be acceptable instead of ADH for pilot vessel crew. They also “support prescribing the minimum manning of a Pilot Launch to be two persons”.

Lyttelton Port Company Limited said “as our deckhands achieve Industry Training Organisation levels of competency we consider the Advanced Deckhand Qualification to be a duplication”.

Northland Port Corporation (NZ) Ltd put a case saying “This draft rule as written would cause widespread difficulties for NPC as regards manning of its harbour craft including tugs, pilot boat and barges. Our present staff have been largely trained in-house and have considerable experience on these craft. Any requirement for deckhands to have a minimum of ADH would severely restrict our ability to use our pool labour as at present and limit the potential operational staff”.

South Port New Zealand Limited put a case submitting “that the requirement for a launch deckhand to have the qualification ‘ADH’ is unnecessary. The “Certificate of
ADH" is unclear whereas South Port's manning requirements as per SSM are more than adequate”.

**Port Nelson Limited** put a case for recognising their in-house training and assessment of deckhands and supported a move towards SITO unit standards, for standardisation and portability, saying “Port Nelson Ltd. is strongly opposed at the requirement to carry Tug and Launch deck hands with an ADH qualification”.

**Westgate Port Taranaki** put a case submitting “that the requirement for a deckhand to hold an ADH Certificate is unnecessary and will add to the cost of operating its pilot launches. The requirements for a ‘Certificate of ADH’ is not clear and as a general purpose certificate is not necessarily suitable for the specialised work as a deckhand on a pilot vessel in Port Taranaki”.

**Port of Tauranga** “note reference to a Deckhand qualification (ADH). We have no knowledge of this qualification. At Port of Tauranga Limited we train our own deckhands up to the required standard and trust that the ADH qualification does not compromise our existing arrangements”.

**Ports of Auckland** put a case that “the deckhand qualification should be amended to allow in-house training programmes”.

**MSA response** to the above 8 comments is that “the identification of pilot vessels as requiring special consideration has been transferred from the tables to the requirement for a Minimum Safe Crewing Document. This will require adequate crew but will also allow the flexibility sought.”

**CentrePort Wellington** asked that the reference to pilot vessels in the enclosed area be changed to in their approved operating areas.

**Port of Tauranga** said the requirements for pilot boats should apply to “Pilot vessels engaged in pilot duties and operating within those areas necessary to affect a safe transfer of the pilot in the course of the normal operations of the port”.

**MSA response** to the above 2 comments is that “the tables have been devised for Part 20 operating areas, and then list vessels within those areas. Outside the enclosed area the pilot vessel would be in the inshore area. However, pilot vessels are no longer specially identified in the tables but are listed amongst those vessels requiring a Minimum Safe Crewing Document. This will require adequate crew but will also allow the flexibility sought. This flexibility will also address when the vessels are not on pilotage duties.”
Westgate Port Taranaki put a case submitting “that the blanket requirement for manning of pilot vessels is inappropriate and should be determined by the operator, taking into account the type of work to be undertaken, the vessel concerned, and general safe watch keeping requirements .... This should be covered by the appropriate consideration in the Safe Ship Management Manual”.

**MSA response** is that the rules have been amended to give this flexibility by removing the specific tables for pilot vessels and requiring the operator to submit their crewing assessment to the Director.

### 31B.23 Fitness for Duty

The New Zealand Marine Transport Association said “The NZMTA agrees”.

**MSA response** is to thank the NZMTA for their support of the Fitness for Duty rules.

The New Zealand Merchant Service Guild put a full case, with examples, saying “we are very disturbed that there are no minimum rest periods prescribed .... It should not be left to this union to force employers to have adequate manning levels and appropriate rosters to combat fatigue. A number of Guild members have voiced their concern in a very uncomplimentary manner towards the Maritime Safety Authority. It is with disbelief that they have read this section in both Part 31B and Part 31C”. However they did recognise that MSA “have tightened up hours of rest and watch schedules in 31A following submissions from this organisation and others by adding the words “in accordance with the standard quality assurance practice, the proposal for a minimum safe crewing level must include how the owner will monitor the effectiveness of that crewing level and, if that monitoring indicates that a change is necessary, then the proposal must be resubmitted to the Director””.

**MSA response** is that in the vast range of maritime operations covered by Part 31B, the most effective means that are actually available in practice to ensure fitness for duty is through provisions such as the monitoring of the effectiveness of minimum crew levels quoted by the Guild and by the complementary initiatives on fatigue.

The MSA responses to comments on rule 31B.24 are also relevant.

### 31B.24 Fatigue

The New Zealand Marine Transport Association said “The NZMTA agrees”.

**MSA response** is to thank the NZMTA for their support of the Fatigue rules.
CentrePort Wellington "believes that the section on watchkeeping and fatigue is most important and as such is best addressed in a separate document. We suggest that a Marine Notice for the information of all mariners would be suitable, rather than be included as an addendum to a prescriptive rule for particular craft."

Westgate Port Taranaki said "the subject of fatigue, while an important one, is an inappropriate subject to be covered by rule other than is done in the Appendix 1 of Draft Rule 31B. Westgate submits that Draft Rule 31B.24 be deleted and in addition that the guidelines set out in it be incorporated in a Marine Notice and published by the Maritime Safety Authority for all mariners".

Port of Tauranga said "We believe the section on fatigue is more appropriately placed in a marine notice as guidelines for the application of the rule".

MSA response to the above 3 comments is that the rule on fatigue is retained to ensure that the issue is addressed. Further guidance material on fatigue is provided in the Advisory Circular and it is expected that the on-going MSA fatigue project will result in refinements in future to the fatigue rules in the 31 series.

The requirements for procedures regarding watchkeeping have been retained under specified headings but the detail of the Appendices has largely been converted into guidance material in the Advisory Circular to this Part.

The Rail and Maritime Transport Union Inc said "employers are requiring longer periods of continual availability for marine crew. An example is Pilot Launch requirements. 48 hour availability coverage for the job is an increasing trend. Comply with this type of demand or lose your job to contractors is the basis of a threat made to workers in one port last year. Fatigue is an increasing issue in all work areas but in this specific case the need to specify roster limits should be a priority of the MSA. It is not good enough to just alert owners in particular to symptoms. Most owners are not "on the job" where the actual day to day operations take place so as to make such an observation themselves. This is so especially at night. Workers should be protected by set standards, not weasel words".

An individual wrote "the signs and symptoms of fatigue are very commendable. However, the practicality of finding a replacement or relief Crew member after the voyage has commenced presents problems for small Operators. In a perfect world, anyone showing signs of fatigue should be replaced before the commencement of the shift or voyage. However, these symptoms may not be readily evident in someone reporting for duty that has had a few hours of sleep, following an extended period of duty before that. It is my belief that one way of combating fatigue is to ensure that
breaks are built into duty periods and minimum off duty periods are mandatory before commencing a fresh shift or watch.” The individual continued by suggesting that the Aviation Industry rules regarding duty time before mandatory rest periods come into effect should also apply to the Maritime Industry, where “12-hour shifts on duty without a break aboard a vessel are fairly common, and these are sometimes extended to 18 hours” and “the competence of anyone working long periods without a break is questionable”.

MSA response is that they are working on fatigue issues, including monitoring the aviation industry situation, and have a separate project currently looking at fatigue. These rules in Part 31 are a start towards addressing the problem. It is envisaged that the fatigue project will lead to further refinement of the provisions in Part 31B.

An individual asked “could you please explain the difference in rest periods required for the watchkeepers that are covered in Part 31A, and watchkeepers that are covered in the parts 31B and 31C. How in your view, does one need rest where the other does not?”.

Three individuals wrote “I understand that the fatigue and rest provisions in Part 31A of the proposed rules will not apply to Offshore, Coastal, and Restricted vessels. I find that this is most unusual and should be changed to include these provisions as the shorter the voyages, the more the fatigue has to be monitored. This ship passes the refinery wharf at Marsden Point more than two hundred times per year and the ramifications of a serious incident involving this ship and a tanker with the attendant pollution problems would be immense, and I feel the press and public would find it hard to believe that there is one set of criteria for one ship on international voyages and another more lax for another ship on coastal voyages where the risk of coastal pollution is far greater.” and “The point of this is that seafarers tend to get fatigued more on short trips than on long ones where they can settle into a routine. and any ship can have an accident or an incident caused by fatigue no matter what trade it is involved in. Therefore for the safety of the coastal seafarers and their ships it is imperative that the fatigue and minimum rest provisions in Part 31A apply to Part 31B and 31C”.

An individual enclosed a copy of a 1998 letter they had written to MSA and said “I was astounded to learn that the Hours of Rest noted in clause 31A.10 was not going to be carried through to Marine Rules 31B and 31C. If you refer to my letter Re Comments on Seafarer Fatigue, you will note that I very much believe that this requirement, set for seafarers working on unlimited, offshore and coastal vessels, should apply to ALL commercial vessels. Seafarers, regardless of the type of vessel on which they work, will experience the same fatigue phenomenon. I would even go so far as to suggest
that because when working on small vessel the seafarer is likely to be tossed around considerably more than on bigger vessels, and in addition will be more exposed to the elements, (s)he is in all probability likely to suffer from fatigue much quicker. If safety at sea is the prime objective of the Marine Rule, it would be inconceivable that the aforementioned requirement is not applied to all seafarers”.

An individual wrote “it has been brought to my attention that the prescribed rest periods in Maritime Rules Part 31A are to be excluded from Part 31B & 31C. As a serving shipmaster with 48 years continuous seetime I pray that you accept with the greatest possible respect, the opinion of the writer, that such an omission ignores the increasing number of serious groundings & accidents, totally ignores submissions & the glaring reality of ship board fatigue so abundant today aboard today’s undermanned and fatigue ridden vessels, & indeed makes a mockery of the title Maritime Safety Authority. Accordingly I ..... Master Foreign Going 2418 demand in the interests of safety that the prescribed rest periods in Maritime Rules Part 31A be included, in toto, in Parts 31B and 31C. The writer further prays that no subsequent loss of life due to fatigue would necessitate these pleadings to be repeated in another venue. Thus ends this plea; thus spake the writer. I remain, Yours fraternal”.

Port Otago Limited said “in the case of harbour duties it is felt that since the master and crew are essentially working from home stronger wording should be used to ensure fitness for duty. Harbour Duties in our opinion are not watchkeeping and there is no definition to say that is the case. Because the workload is variable as opposed to a fixed watch-keeping situation Port Companies need to have their own internal procedures in place, as does Napier”.

An individual said “Rest periods with quality rest time are rare these days. While working cargo (6 on/6 off) it is impossible to sleep in a cheaply produced cabin with no sound insulation, with a container slamming onto the deck or a two tonne spreader slamming onto a container just a few meters away from ones pillow. It is similar to trying to sleep in a forty four gallon drum that is being pelted by stones during target practice. As a watchkeeper I have gone on the bridge or back on deck after NO sleep but instead had 5 hours in my bunk listening to thunderous banging throughout. This noise would not be tolerated by people trying to sleep ashore but because we are seafarers, we are expected to put up with it. On some Aussie ships, the wharfies told us, on the midnight shift, no containers are to be worked within a prescribed distance of the accommodation. That is OK for some but not much use for the 2/O who is on deck during that period and when it is his turn to sleep the noise resumes next to the accommodation. Basically, What I am saying is that giving prescribed rest periods are not much use unless the rest periods can be used for rest. With the above mentioned situation, you produce watchkeepers on the bridge who are not fit to be
there. I don’t know what the solution is except building cabins with sufficient insulation. But seafarers going on watch who are tired should not be happening. Rest period provisions of Part 31A surely must apply to Part 31B and 31C and these rules must allow for rest periods etc with quality sleeping possible. Seafarers, like other earthlings, need sleep or else they are accidents waiting to happen. Thanking you for your time”.

**MSA response** to the above 8 comments is to thank the writers for their support for addressing the fatigue problem. MSA currently has a dedicated project actively looking at this fatigue matter and these submissions have been copied to that project for consideration there too. Meanwhile, in Part 31B, the rules remain, but detailed guidance material relating to the required procedures will be contained in the Advisory Circular to the rule. This approach will be most effective across the large range of vessels operated under this part, from offshore supply vessels and fast harbour ferries to one-person owner operators.

There is a clear link between fatigue and crewing levels and for higher risk vessels Part 31B requires the same submission of the safe crewing assessment to MSA from operators as required in Part 31A. An amendment has been made to require the owner and the master to monitor the effectiveness of the crewing required.

**An individual wrote** “In the draft rule you have left out S.T.C.W-95 section A-V111/1 fitness for duty. That was in discussion document 5, why have you left this out and gone for something else that has been watered down and put back on the master to decide if a crew member is fatigued or not. You as a safety authority make the rules so you should enforce them and stop trying to relinquish your obligations as Maritime Safety Authority”.

**MSA response** is that STCW 95 does not directly apply to Part 31B vessels and that it is not practical or appropriate to apply the STCW standards to the broad variety of vessels and types of operation covered by Part 31B. The MSA has instead used more general rules supported by detailed guidance material in the Advisory Circular for Part 31B.

**31B.25 Duties of Master, Chief Engineer, and Watchkeepers**

The New Zealand Marine Transport Association recommended “in the case of smaller vessels, where the owner, Master and the engineer may be the same person, the duties specified in appendices 1 and 2 apply and must be complied with as far as is possible taking into account the size and operation of the vessel”.

**MSA response** is that the rule has been amended to remove the need for the suggested addition.
Appendix 1  Duties of Master and Navigational Watchkeepers

The New Zealand Marine Transport Association said the appendices “are frighteningly comprehensive. The NZMTA would seek some simplification”.

MSA response is that the detail in the appendices has now been transferred to the Advisory Circular to Part 31B as guidance material. Procedures are now required addressing watchkeeping requirements specified in the rules. This approach reduces the detail in the rule and allows flexibility in the procedures as appropriate to the size of vessel and its type of operation.

CentrePort Wellington suggested that the term ‘wheelhouse’ be extended to include ‘control position’.

Westgate Port Taranaki said “Considering this rule covers rowing boats, dinghies, painting punts and pontoons it is not appropriate to refer to ‘the wheelhouse’ as the only place a watch can be kept from” and submitted that the wording be amended or the definition of ship revised.

MSA response to the above 2 comments is that a definition of commercial ship has been inserted to clarify that Part 31B does not apply to vessels without an engine. The detailed watchkeeping material has been revised as guidance material in the Advisory circular.

An individual wrote a 4 page submission on Navigation with a pilot on board saying “this is an area where there is need for immediate and effective change in Law, relating to who holds the ultimate responsibility for the navigation and safety of a vessel within the Pilotage Limits and under the control of the Pilot”. His paper proposes that the pilot has both full authority and full responsibility while on board, and “absolve the Master of all responsibility while in the jurisdiction of the controlled pilotage limits”.

MSA response is that this is not a matter for Part 31 but that the paper will be referred to the Pilotage Working Group for the development of Part 90 which will address pilotage issues.

An individual wrote “I feel MSA has to further define Watchkeeper, throughout the Part 31” and “the distinction must be made between the Watchkeeper in the general sense and the Watchkeeper in the qualified sense”.

MSA response is that most of the detail that referred to watchkeeping has now been transferred as guidance material to the Advisory Circular supporting Part 31B where it has been checked and the necessary amendments made to distinguish between watchkeepers in general and specific watchkeeping officers. The guidance material recognises that in smaller
ships the master and/or chief engineer could be watchkeepers themselves or even the only people on board.

Appendix 2  Duties of Chief Engineer and Engine-room Watchkeepers

An individual suggested that the congested waters requirements should require the minimum compressed air pressure for starting engines to be highlighted.

MSA response is that, while this is very important for those engines which have to be stopped and restarted to change direction, it would be taking the watchkeeping rules into more detail than was intended. However, these rules have now been deleted and their content transferred to advisory circulars. This suggestion will be considered there.

Summary

The New Zealand Marine Farming Association thanked MSA for holding a forum on marine farming issues in Havelock.

Talisken Charters said “Thank you for the opportunity to comment on these rules”.

Elaine Bay Aquaculture Ltd said “We thank you for the opportunity to submit”.

Fullers Bay of Islands said “Thank you for the invitation to comment on Part 31B of the maritime Rules”.

Lyttelton Port Company Limited said “Thank you for the opportunity to comment on the above draft rule”.

An individual said “I thank you for taking the time to read my comments”.

An individual said “Thanking you in advance for consideration of my submission”.

South Port New Zealand Limited said “I thank you for the opportunity to respond”.

Ports of Auckland Limited “thanks the Maritime Safety Authority of New Zealand (MSA) for the opportunity to submit a response to the Draft Maritime Rue Part 31B”.

Stewart Island Marine said they “would like to thank you for taking the time to listen to our problems and suggestions these have been very positive discussions”.

The New Zealand Marine Transport Association said “the MSA should be congratulated on a fine job done under great pressure”.
MSA response to the above 11 commentators, and to the rest of the 68 organisations and individuals who responded, is to thank them for their contributions towards developing Part 31B.

In particular MSA thanks the New Zealand Marine Transport Association who have worked closely with MSA in developing the final draft of Part 31B.