



## Maritime Transport Act 1994

### Maritime Rules

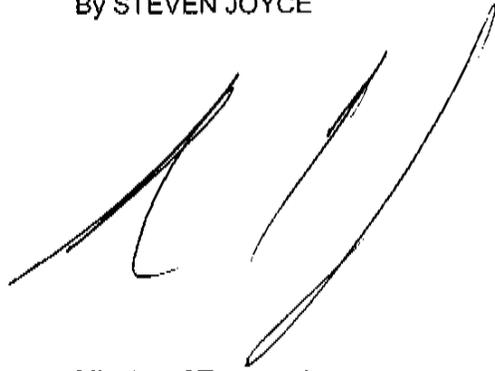
#### PART 90: PILOTAGE 2010

Pursuant to sections 34 and 36 of the Maritime Transport Act 1994 I, Steven Joyce, Minister of Transport, hereby make the following maritime rules.

Signed at Wellington

This 18<sup>th</sup> day of September 2010

By STEVEN JOYCE



Minster of Transport



## Part 90: Pilotage 2010

### Contents

|  |            |
|--|------------|
| <b>Part objective</b>  | <b>iii</b> |
| <b>Extent of consultation</b>  | <b>iii</b> |
| <b>Entry into force</b>  | <b>iv</b>  |
| <b>Subpart A – General</b>   |            |
| 90.1 Purpose   | 1          |
| 90.2 Application   | 1          |
| 90.3 Definitions and abbreviations   | 1          |
| <b>Subpart B – Pilotage requirements</b>   |            |
| 90.21 Requirement to hold pilot licence or pilotage exemption certificate (PEC)                                      | 3          |
| 90.22 Provision of pilotage services   | 3          |
| 90.23 Requirement to carry a pilot   | 3          |
| 90.24 Dispensation from requirement to carry a pilot   | 4          |
| 90.25 Reporting of ship's defects  | 5          |
| <b>Subpart C – Pilot licences</b>  |            |
| 90.41 Application for pilot licence  | 5          |
| 90.42 Issue of pilot licence   | 6          |
| 90.43 Privileges of pilot licence  | 6          |
| 90.44 General requirements   | 6          |
| 90.45 Currency requirements  | 6          |
| 90.46 Regaining medical fitness  | 7          |
| 90.47 Application for higher grade licence   | 7          |
| 90.48 Issue of higher grade licence  | 7          |
| 90.49 Renewal of pilot licence   | 7          |
| <b>Subpart D – Pilot exemption certificates (PEC)</b>  |            |
| 90.61 Application for PEC  | 8          |
| 90.62 Issue of PEC   | 8          |
| 90.63 Privileges of PEC  | 9          |
| 90.64 Restrictions on exercise of privileges of PEC  | 9          |
| 90.65 General requirements   | 9          |
| 90.66 Currency requirements  | 9          |
| 90.67 Regaining medical fitness  | 10         |
| 90.68 Endorsement for additional pilotage area or ship   | 10         |
| 90.69 Renewal of PEC   | 10         |
| <b>Subpart E – Recent experience requirements and maximum limits</b>   |            |
| 90.81 Setting of minimum recent experience requirements for pilot licences and PECs and maximum limits for PECs      | 11         |
| 90.82 Notification of minimum recent experience requirements for pilot licences and PECs and maximum limits for PECs | 12         |
| <b>Subpart F – Training, examinations and assessments</b>  |            |
| 90.101 Structured training programme or proficiency plan must be approved  | 12         |
| 90.102 Application for approval of structured training programme or proficiency plan                                 | 12         |
| 90.103 Approval of structured training programme or proficiency plan   | 12         |
| 90.104 Conditions of approval of structured training programmes and proficiency plans                                | 13         |
| 90.105 Amendment to approved structured training programme or proficiency plan                                       | 14         |
| 90.106 Requirements for structured training programme for pilot licence  | 14         |
| 90.107 Requirements for proficiency plan for pilots  | 16         |
| 90.108 Conduct of assessment for pilots  | 17         |
| 90.109 Requirements for structured training programme for PEC  | 17         |

## ***Maritime Rules***

|   |   |           |
|---|---|-----------|
| 90.110  | Requirements for proficiency plan for PEC holders             | 18        |
| 90.111  | Conduct of assessment for PEC holders                         | 19        |
| 90.112  | Conduct of examinations for issue of pilot licence            | 19        |
| 90.113  | Conduct of examinations for issue of PEC                      | 20        |
| 90.114  | Examiners and assessors                                       | 21        |
| 90.115  | Continuing professional education (CPE) programmes for pilots | 21        |
| <b>Subpart G – Revocation and transitional and savings provisions</b> |   | <b>21</b> |
| 90.121  | Revocation  | 21        |
| 90.122  | Activation of compulsory pilotage areas                       | 21        |
| 90.123  | Transitional and savings provisions                           | 21        |
| <b>Appendix 1: Pilotage areas and limits</b>                          |   | <b>24</b> |
| <b>Appendix 2: Pilotage areas for future activation</b>               |   | <b>29</b> |

## Part objective

The objective of this Part is to—

- maintain the contribution of pilotage to the safety of navigation, the protection of the marine environment and the efficiency of seaborne commerce
- set minimum national standards while enabling port-specific risks to be addressed
- provide a licensing regime for pilots and pilotage-exempt masters within the maritime document provisions of the Maritime Transport Act 1994
- recognise and support industry best practice
- ensure that the provision of pilotage services is sustainable and responsive to future demands, changes in technology and best practice.

The authority for Part 90 is found in Section 36(1)(i), (o), (q), (tb), (u), (v) and (za)(v) of the Maritime Transport Act 1994.

Maritime rules are subject to the Regulations (Disallowance) Act 1989. Under that Act, the rules are required to be tabled in the House of Representatives. The House of Representatives may, by resolution, disallow any rules. The Regulations Review Committee is the select committee responsible for considering rules under the Regulations (Disallowance) Act 1989.

## Extent of Consultation

### Public consultation

On 3 November 2007, Maritime New Zealand (MNZ) published in each of the daily newspapers in the four main centres of New Zealand a notice inviting comments on the proposed amendments to Maritime Rules Part 90, replacing the current rules. A notice was also published in the *New Zealand Gazette* on 1 November 2007, with electronic and hard copies being sent to around 130 interested parties. Comments on the draft Part were requested by 19 December 2007.

The closing date was extended into early 2008 to allow for late submissions. 58 submissions were received. In addition to those submissions, MNZ received other submissions related to various aspects of the pilotage regime during the course of 2008.

A separate summary of submissions made during the public consultation, and MNZ responses is available on request.

### Further targeted consultation

Following a review of the initial submissions and further informal consultation, and in the light of other issues with interpretation of the current rules that arose subsequently, the original draft of Part 90 was revisited.

MNZ hosted a one-day workshop in August 2008 attended by pilots and pilotage providers, harbourmasters and holders of pilotage exemption certificates (PEC) to review the requirements for training, assessment and examination of candidates for pilot licences and PECs.

A further round of targeted consultation was carried out in June 2009 (not a public consultation) with a revised draft and Invitation to Comment being issued to 95 interested parties, including all the original submitters.

36 submissions were received. Particular concern was raised by small commercial vessel operators in the Marlborough Sounds over the impact of reducing the pilotage thresholds for Tory Channel and the use of combined tonnage or length as the criteria for application of pilotage to tugs and tows. A revised tonnage limit has been included in the final draft Part 90, to reflect the outcome of these discussions.

### ***Maritime Rules***

On the basis of these submissions, and further extensive discussions with a number of submitters, this final draft of Part 90 has been prepared.

A separate summary of submissions made during the targeted consultation, and MNZ responses is available on request.

### **Entry into Force**

Part 90 comes into force on 1 April 2011.

## Subpart A – General

### 90.1 Purpose

The objective of this Part is to—

- (a) maintain the contribution of pilotage to the safety of navigation, the protection of the marine environment and the efficiency of seaborne commerce;
- (b) set minimum national standards while enabling port-specific risks to be addressed;
- (c) provide a licensing regime for pilots and pilotage-exempt masters within the maritime document provisions of the Maritime Transport Act 1994;
- (d) recognise and support industry best practice; and
- (e) ensure that the provision of pilotage services is sustainable and responsive to future demands, changes in technology and best practice.

### 90.2 Application

- (1) This Part applies to all ships within New Zealand waters except warships.
- (2) For the purposes of this Part, a tug and tow<sup>1</sup> shall be treated as a single ship<sup>2</sup> having—
  - (i) a gross tonnage equal to the sum of the gross tonnages of the tug and tow<sup>3</sup>; and
  - (ii) a length being the combined length of the tug and tow, excluding the tow line.

### 90.3 Definitions and abbreviations

In this Part, unless the context otherwise requires—

**Act** means the Maritime Transport Act 1994:

**advice** means pilotage advice given by a pilot to the Master of a ship navigating in a pilotage area:

**appropriate** means—

- (i) in relation to a pilot licence, of a grade appropriate to the size and type or category of ship, pilotage area and conditions to which the privileges of that licence apply:
- (b) in relation to a pilotage exemption certificate, appropriate to the size and type or category of ship (or to a specific ship or ships), pilotage area and conditions to which the privileges of that certificate apply:

---

<sup>1</sup> For the purposes of this rule, a tug and tow includes a tow on a tow line as well as a tow lashed alongside the tug.

<sup>2</sup> Subject to Note 3, where a gross tonnage only is specified in the appendices for a pilotage area, the combined tonnage should be the determining criteria for pilotage. Where a length limit is specified (either on its own or in addition to a gross tonnage), the combined length should be used.

<sup>3</sup> Where either the tug or the tow is less than 24 metres in register length, it may not require a tonnage certificate in accordance with Maritime Rules Part 48. When using combined tonnage of tug and tow to determine the requirement for pilotage, only those vessels 24 metres and over need to be considered. Where the tow is not a ship, and there is no length limit specified, then the prior approval of the Harbourmaster should be obtained before a movement within a pilotage area is conducted.

## **Maritime Rules**

**chemical tanker** means a ship constructed or adapted primarily for the carriage in bulk of any liquid product listed in Chapters 17 and 18 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (the IBC Code):

**current**, in respect of a certificate or licence, means that the document is valid, and that the document holder has satisfied all currency requirements for the exercise of the privileges of that document:

**First Mate** means the deck officer next in rank to the Master of a ship:

**gas carrier** means a cargo ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other products listed in Chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (the IGC Code):

**gross tonnage** means the gross tonnage of a ship determined under Maritime Rule 48.6 or the tonnage measurement rules contained in Annex 1 of the International Convention on Tonnage Measurements of Ships 1969, as the case may be:

**Harbourmaster** means a person appointed by a regional council as a harbourmaster under section 650B of the Local Government Act 1974 within that council's region which includes a specified pilotage area or areas:

**IMO** means the International Maritime Organization:

**ISPS Code** means the International Ship and Port Facility Security Code:

**length** means length overall

**length overall—**

- (a) means the length of a ship measured from the foreside of the head of the stem to the aftermost part of the transom or stern of the ship; and
- (b) includes structures (such as bulbous bows, deckhouses and free flooding bait tanks and buoyancy tubing) that project beyond those terminal points; but
- (c) does not include fittings (such as beltings, bowsprits, platforms, gantries, trim tabs, jet and outboard drive units that project beyond those terminal points):

**Master** means any person (except a pilot) having command or charge of any ship:

**mile** means nautical mile:

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

**pilot**, in relation to any ship, means any person, not being the Master or a member of the crew of the ship, who has the conduct of the ship:

**pilotage** means the conduct of a ship by a pilot and **to pilot a ship** has a corresponding meaning:

**pilotage area** means an area listed in Appendix 1 or Appendix 2 as a pilotage area:

**pilotage exemption certificate (PEC)** means a pilotage exemption certificate issued under section 41 of the Act in accordance with rule 90.62, and includes a renewed PEC issued in accordance with rule 90.69:

**pilot licence** means a pilot licence issued under Section 41 of the Act in accordance with rule 90.42 or 90.48 as applicable and includes a renewed licence issued in accordance with rule 90.49:

**register length**, in relation to any ship, means the length of the ship measured from the foreside of the head of the stem to the aft side of the head of the stern post or, in

the case of a ship not having a stern post, to the foreside of the rudder stock; provided that, in the case of a ship not having a stern post or rudder stock, the after terminal point shall be taken to be the aftermost part of the transom or stern of the ship:

**STCW** means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended.

## Subpart B - Pilotage Requirements

### 90.21 Requirement to hold pilot licence or pilotage exemption certificate (PEC)

- (1) Except as provided for in this Part, no person may act as a pilot of a ship within any pilotage area unless that person holds a current, appropriate pilot licence.
- (2) Except as provided for in this Part, no person may navigate a ship within a pilotage area if that ship meets or exceeds the limits specified for that pilotage area<sup>4</sup>, unless—
  - (a) a pilot is carried who holds a current, appropriate pilot licence; or
  - (b) that person holds a current, appropriate PEC, and has the conduct of the ship.

### 90.22 Provision of pilotage services

No person or organisation may provide the services of a pilot for a ship in any pilotage area unless—

- (a) that pilot holds a current, appropriate pilot licence; and
- (b) that person or organisation has a proficiency plan approved by the Director in accordance with rule 90.103 to ensure that the proficiency of the pilots providing those services is maintained<sup>5</sup>.

### 90.23 Requirement to carry a pilot

- (1) Except as provided in subrules (3), (4) and (6), the Master of an oil tanker, chemical tanker, or gas carrier must ensure that the ship, when navigating in any pilotage area either—
  - (a) carries a pilot who holds a current, appropriate pilot licence; or
  - (b) receives advice<sup>6</sup> from a pilot ashore or aboard another vessel, who holds a current appropriate pilot licence, in circumstances where the Master has been informed by the pilot that<sup>7</sup>—
    - (i) the pilot is unable to transfer to or from the ship safely; and
    - (ii) in the opinion of the pilot, the movement of the ship within the pilotage area can be completed safely, with the pilot's advice.

<sup>4</sup> Compulsory pilotage areas are listed in Appendix 1. Refer to rule 90.122 regarding the possible future activation of additional compulsory pilotage areas listed in Appendix 2.

<sup>5</sup> A proficiency plan may be part of an approved structured training programme. See subrule 90.102(3).

<sup>6</sup> Advice in such circumstances may be given via radio communication or shore signal.

<sup>7</sup> This situation should be covered by the pilotage provider's Standard Operating Procedures (SOPs), which must specify the circumstances in which 'leading in' or 'leading out' of ships by a pilot is permitted, and when the Harbourmaster should be consulted before proceeding. In some pilotage areas, leading in may be considered unsafe in any circumstances and will not be permitted.

## Maritime Rules

- (2) Except as provided in subrule (6) and rule 90.24, the Master of any ship, other than an oil tanker, chemical tanker or gas carrier, that meets or exceeds any limits specified for a pilotage area must ensure that the ship, when navigating in that pilotage area, either—
- (a) carries a pilot who holds a current, appropriate pilot licence; or
  - (b) receives advice from a pilot ashore or aboard another vessel, who holds a current appropriate pilot licence, in circumstances where the Master has been informed by the pilot that<sup>8</sup>—
    - (i) the pilot is unable to transfer to or from the ship safely; and
    - (ii) in the opinion of the pilot, the movement of the ship within the pilotage area can be completed safely, with the pilot's advice.
- (3) No exemption from this rule may be granted to a person under Section 47 of the Act in respect of an oil tanker, unless—
- (a) the primary operational function of that tanker is ship-to-ship bunkering within a pilotage area; and
  - (b) that tanker is not capable of carrying more than 5,000 tonnes of oil in total (including cargo and its own fuel).
- (4) No exemption from this rule may be granted to a person under Section 47 of the Act in respect of a chemical tanker, unless that tanker—
- (a) operates only within the pilotage area; and
  - (b) is not capable of carrying more than 1,500 tonnes of cargo.
- (5) No exemption from this rule may be granted to a person under Section 47 of the Act in respect of a gas carrier.
- (6) Subrules (1) and (2) do not apply where the ship is transiting between the perimeter of the pilotage area and a designated pilot boarding station or anchorage within that pilotage area<sup>9</sup> with the prior approval of a pilot<sup>10</sup>.

### 90.24 Dispensation from requirement to carry a pilot

Unless the Master of a ship referred to in rule 90.23(2) is directed to carry a pilot by the Harbourmaster or the Director under Section 60A(2) of the Act<sup>11</sup>, that Master is not required to ensure the ship carries a pilot when navigating in any pilotage area if—

- (a) the Master holds a current, appropriate PEC and has the conduct of the ship; or

---

<sup>8</sup> See Note 7 above

<sup>9</sup> A designated pilot boarding station or anchorage at a location specified in the pilotage provider's or port operator's SOPs and identified on nautical charts.

<sup>10</sup> Such approvals must only be given in accordance with the pilotage provider's SOPs and may not be appropriate in all pilotage areas or circumstances. Where adopted, such arrangements must be agreed between the pilotage provider and the Harbourmaster. Approvals may be relayed to a ship by an appropriately qualified person, other than a pilot, who is designated to do so in the accordance with those SOPs.

<sup>11</sup> Under Section 60A(2), the Director may direct that a pilot be taken on board a ship, when satisfied, due to weather conditions or other circumstances, that this is in the interests of navigation safety or marine environmental protection. This power has been delegated to Harbourmasters around the country.

- (b) the Master and the First Mate both hold a current, appropriate PEC and the First Mate has the conduct of the ship<sup>12</sup>.

### 90.25 Reporting of ship's defects

In addition to any other legal requirements for reporting, where a ship has defective propulsion, manoeuvring or communications equipment, or any other condition which may adversely affect its operational capability, the Master must—

- (a) where rule 90.23 applies, report the defect to and consult with the pilot before the ship is navigated within the pilotage area<sup>13</sup>; or
- (b) where rule 90.24 applies, report the defect to and consult with the Harbourmaster before navigating the ship within the pilotage area<sup>14</sup>.

## Subpart C – Pilot Licences

### 90.41 Application for pilot licence

- (1) An applicant for the issue of a pilot licence must make an application in accordance with Section 35 of the Act, and—
  - (a) include the information requested on the form required by the Director; and
  - (b) either—
    - (i) hold a Master of a Foreign Going Ship (Master Mariner) certificate issued under Part 32; or
    - (ii) hold an equivalent certificate to that referred to in subparagraph (b)(i) recognised or accepted by the Director under the Act; or
    - (iii) provide evidence of experience, qualifications and competencies equivalent to those required in subparagraphs (b)(i) or (b)(ii), or otherwise relevant to pilotage, that are acceptable to the Director<sup>15</sup>; and
  - (c) hold a current certificate of medical fitness of category A or B issued under Part 34; and
  - (d) provide evidence, satisfactory to the Director, of having successfully completed a structured training programme, approved by the Director<sup>16</sup>, for the issue of a pilot licence for the pilotage area for which the licence is sought<sup>17</sup>.
- (2) Every application must be submitted to the Director, with payment of the fee prescribed by regulations made under the Act.

<sup>12</sup> The relevant provisions of rules 31A.24 to 31A.27 (where applicable to the ship) regarding hours of rest and watch schedules must be complied with in these circumstances.

<sup>13</sup> Such situations should be covered by the pilotage provider's SOPs, which should also specify those circumstances in which the Harbourmaster should be consulted before proceeding.

<sup>14</sup> The Harbourmaster should establish protocols for the pilotage area for the reporting of defects and consultation by PEC holders in such situations. For example, reporting may be to the local harbour control service initially who will contact the Harbourmaster, and reporting of defects to the port operator or pilotage provider may be stipulated as well.

<sup>15</sup> This provision permits the Director to consider candidates who have completed an alternative training scheme and obtained the necessary experience, qualifications and competence to train as a pilot in New Zealand. This will include consideration of candidates holding pilot qualifications issued by another administration. The Director will assess candidates against an accepted standard for competency of trainee marine pilots.

<sup>16</sup> See rule 90.103 regarding approval of structured training programmes.

<sup>17</sup> Successful completion of an approved structured training programme includes having been assessed as meeting the required standards in that programme and having passed the requisite examinations.

#### **90.42 Issue of pilot licence**

- (1) Subject to subrules (2) and (3), the Director must issue a pilot licence if satisfied that the applicant meets the requirements of Section 41 of the Act.
- (2) The Director may issue a pilot licence for a period of no more than five years.
- (3) The Director must endorse a pilot licence issued in accordance with this rule or rule 90.48, or renewed in accordance with rule 90.49, with—
  - (a) the pilotage area<sup>18</sup> in which the holder may exercise the privileges of the licence;
  - (b) the grade of licence<sup>19</sup>, or size and type or category of ship as specified by the Director, in respect of which the holder may exercise the privileges of the licence;
  - (c) the recent experience requirements for the licence determined by the Director in accordance with rule 90.81; and
  - (d) any other conditions the Director considers appropriate in the interests of maritime safety.
- (4) In determining appropriate conditions in accordance with subrule (3)(d), the Director must have regard to any recommendations of the examination panel conducting the examination for the licence, and any risk assessment for the pilotage area<sup>20</sup> that the Director considers relevant.

#### **90.43 Privileges of pilot licence**

A current pilot licence entitles the holder to pilot ships of the size and type or category specified or in accordance with the grade of licence held, in the pilotage area specified by the Director, subject to the conditions endorsed on that licence.

#### **90.44 General requirements**

The holder of a pilot licence must maintain, in a format acceptable to the Director, a record of all pilotage that he or she has carried out within that pilotage area.

#### **90.45 Currency requirements**

- (1) The holder of a pilot licence must not exercise the privileges of that licence unless he or she—
  - (a) maintains a level of medical fitness of category A or B, in accordance with Part 34;
  - (b) continues to meet the recent experience requirements for the pilotage area endorsed on that licence; and
  - (c) has satisfactorily completed an annual assessment of proficiency in accordance with rule 90.108 within the previous 12 months.
- (2) Where the holder of a pilot licence has not met the requirements of subrules (1)(b) or (1)(c), he or she must, before exercising the privileges of that licence, demonstrate continued proficiency and competence in pilotage in accordance with rule 90.107(c).

---

<sup>18</sup> A pilot licence will in most cases only be issued for a single pilotage area.

<sup>19</sup> Grade of licence means a pilot licence applicable to specified sizes and types or categories of ships, operating conditions and areas within a particular pilotage area. The grades of licence for a pilotage area will be described in the structured training programme for that area, approved by the Director under rule 90.103.

<sup>20</sup> A risk assessment dealing with navigation safety in the pilotage area or harbour, prepared by or on behalf of the Regional Council, the port operator or other parties.

#### **90.46 Regaining medical fitness**

The holder of a pilot licence who fails to meet the medical fitness conditions specified in rule 90.45(1)(a) must—

- (a) prior to performing any supervised or unsupervised pilotage, obtain a current certificate of medical fitness of category A or B, in accordance with Part 34; and
- (b) within one month of having obtained that current certificate of medical fitness, provide a copy of the certificate to the Director.

#### **90.47 Application for higher grade licence**

- (1) Every holder of a pilot licence may apply to the Director in accordance with subrule (2) for a higher grade of licence.
- (2) Every person making an application under subrule (1) must—
  - (a) hold a current pilot licence for the pilotage area for which the higher grade of licence is sought;
  - (b) provide the information requested on the form required by the Director;
  - (c) provide evidence satisfactory to the Director of having successfully completed the additional pilot training specified in the approved structured training programme for that pilotage area and grade of pilot licence sought; and
  - (d) submit the information required in paragraphs (b) and (c) to the Director, with payment of the fee prescribed by regulations made under the Act.

#### **90.48 Issue of higher grade licence<sup>21</sup>**

- (1) The Director must issue a higher grade of licence if satisfied that—
  - (a) the application has been made in accordance with Section 35 of the Act; and
  - (b) the applicant meets the requirements of Section 41 of the Act.
- (2) The Director may issue a higher grade licence for no more than five years.

#### **90.49 Renewal of pilot licence**

The Director must renew a pilot licence if –

- (a) an application to renew the licence is made on the prescribed form in accordance with Section 35 of the Act, with payment of the fee prescribed by regulations made under the Act, before the expiry of the existing licence;
- (b) in accordance with Section 41 of the Act, the Director is satisfied that the applicant continues to meet the requirements in rules 90.41(1)(b) and 90.41(1)(c), for the issue of a pilot licence;
- (c) the applicant has, within the last five years, completed a programme of Continuing Professional Education (CPE) for pilots that meets the requirements of rule 90.115; and
- (d) the Director is satisfied that the applicant's existing pilot licence is current in accordance with rule 90.45.

---

<sup>21</sup> The Director will issue a new licence for the higher grade, replacing the existing licence.

## Subpart D – Pilotage Exemption Certificates (PEC)

### 90.61 Application for PEC

- (1) An applicant for the issue of a PEC must make an application in accordance with Section 35 of the Act and—
  - (a) include the information requested on the form required by the Director;
  - (b) hold either—
    - (i) a current New Zealand certificate of competency; or
    - (ii) a current certificate of competency recognised or accepted by the Director under the Act;  
  
that permits that person to be the Master of the ship or ships, or size and type or category of ships as applicable, for which the PEC is sought;
  - (c) hold a current certificate of medical fitness of category A or B issued in accordance with Part 34; and
  - (d) provide evidence satisfactory to the Director of having successfully completed a structured training programme, approved by the Director, for the issue of a PEC and its endorsement for the pilotage area and for the ship or ships, or size and type or category of ship, for which the PEC is sought<sup>22</sup>.
- (2) Every application must be submitted to the Director with payment of the fee prescribed by regulations made under the Act.

### 90.62 Issue of PEC

- (1) Subject to subrules (2) and (3), the Director must issue a PEC if satisfied that the applicant meets the requirements of Section 41 of the Act.
- (2) The Director may issue a PEC for a period of no more than five years.
- (3) The Director must not issue a PEC in respect of a pilotage area for a ship or ships, or size and type or category of ship, which exceeds any maximum limits for a PEC that the Director may have specified for that pilotage area in accordance with rule 90.81(2).
- (4) The Director must endorse a PEC issued in accordance with this rule or renewed in accordance with rule 90.69, with—
  - (a) the pilotage area or areas in which the holder may exercise the privileges of the PEC;
  - (b) the name of the ship or ships, or size and type or category of ship as specified by the Director, in respect of which the holder may exercise the privileges of the PEC within that area;
  - (c) the recent experience requirements for the PEC for each relevant pilotage area as determined by the Director in accordance with rule 90.81; and
  - (d) any other conditions the Director considers appropriate in the interests of maritime safety.
- (5) In determining appropriate conditions in accordance with subrule (4)(d), the Director must have regard to any recommendations of the examination panel conducting the examination for the PEC, and any relevant risk assessment for the pilotage area.

---

<sup>22</sup> Successful completion of an approved structured training programme includes having been assessed as meeting the required standards in that programme and having passed the requisite examinations.

### 90.63 Privileges of PEC

A current PEC entitles the holder to navigate a named ship or ships, or size and type or category of ship, as specified by the Director, in the pilotage areas specified, without a pilot, while being the Master or First Mate of that ship, subject to rule 90.24 and any conditions endorsed on the PEC.

### 90.64 Restrictions on exercise of privileges of PEC

The holder of a PEC must not exercise the privileges of that certificate in respect of any of the following:

- (a) a ship to which rule 90.23(1) applies; or
- (b) a ship directed to take a pilot by the Harbourmaster or the Director<sup>23</sup>.

### 90.65 General requirements

- (1) The holder of a PEC must not exercise the privileges of that certificate in a particular pilotage area unless he or she has that pilotage area endorsed on that certificate in accordance with rule 90.62(4)(a).
- (2) The holder of a PEC must—
  - (a) maintain, in a format acceptable to the Director, a record of all ship movements that he or she has conducted as a PEC holder within that pilotage area;
  - (b) comply with all limitations placed on that holder's certificate of competency;
  - (c) prior to entering into or navigating within that pilotage area, contact the local harbour control<sup>24</sup>; and—
    - (i) advise their name, the name of the Master<sup>25</sup> and the name of the ship;
    - (ii) report any defects to the Harbourmaster as required by rule 90.25; and
  - (d) if required by the Harbourmaster—
    - (i) give the number of their PEC; and
    - (ii) confirm that their PEC is current.

### 90.66 Currency requirements

- (1) The holder of a PEC must not exercise the privileges of that PEC in a pilotage area unless he or she—
  - (a) maintains a level of medical fitness of category A or B, in accordance with Part 34;
  - (b) continues to meet the recent experience requirements for that pilotage area endorsed on that PEC;
  - (c) has satisfactorily completed an annual assessment of proficiency for that pilotage area in accordance with rule 90.111 within the previous 12 months;

---

<sup>23</sup> See Note 11.

<sup>24</sup> The local harbour control service (usually harbour radio) will vary from one pilotage area to another. Local protocols for reporting by PEC holders in accordance with subrules 90.65(c) and 90.65(d) should be established by the Harbourmaster for each pilotage area. For example, contact by telephone or by email may be considered an acceptable alternative to radio communication in some locations or circumstances.

<sup>25</sup> Where the PEC holder having the conduct of the ship is the First Mate, the Master's name should also be given.

## **Maritime Rules**

- (d) continues to hold a current certificate of competency in accordance with rule 90.61(1)(b) that permits the holder to be the Master of the ship or ships, or size and type or category of ship endorsed on the PEC; and
  - (e) complies with all limitations placed on that certificate of competency.
- (2) Where the holder of a PEC has not met the requirements of subrules (1)(b) or (1)(c), he or she must, before exercising the privileges of that PEC, demonstrate continued proficiency and competence as a PEC holder for that pilotage area in accordance with rule 90.110(c).

### **90.67 Regaining medical fitness**

The holder of a PEC who fails to meet the medical fitness conditions specified in rule 90.66(1)(a) must—

- (a) prior to exercising that PEC, obtain a certificate of medical fitness of category A or B, in accordance with Part 34; and
- (b) within one month of having obtained that certificate of medical fitness, provide a copy of the certificate to the Director.

### **90.68 Endorsement for additional pilotage area or ship**

- (1) The Director must endorse an existing PEC with an additional pilotage area and ship or ships, or size and type or category of ship, if—
- (a) the holder applies for such an endorsement in accordance with subrule (2); and
  - (b) the Director is satisfied that—
    - (i) the application meets the requirements of subrule (2); and
    - (ii) it is not contrary to the interests of maritime safety.
- (2) An applicant for an endorsement in accordance with subrule (1) must—
- (a) include the information requested on the form required by the Director;
  - (b) provide evidence of having successfully completed an approved structured training programme approved by the Director for the purposes of an endorsement for that pilotage area and the ship or ships, or size and type or category of ship for which the endorsement is sought; and
  - (c) submit the information required in paragraphs (a) and (b) to the Director, with payment of the fee prescribed by regulations under the Act.

### **90.69 Renewal of PEC**

The Director must renew a PEC if—

- (a) an application to renew the PEC is made on the prescribed form in accordance with Section 35 of the Act, with payment of the fee prescribed by regulations made under the Act, before the expiry of the existing PEC;
- (b) in accordance with Section 41 of the Act, the Director is satisfied that the applicant continues to meet the requirements in rules 90.61(1)(b) and 90.61(1)(c), for the issue of a PEC; and
- (c) the Director is satisfied that the applicant's existing PEC is current in accordance with rule 90.66.

## Subpart E – Recent Experience Requirements and Maximum Limits

### 90.81 Setting of minimum recent experience requirements for pilot licences and PECs, and maximum limits for PECs

- (1) The Director must specify the minimum recent experience requirements for each pilotage area, including the minimum number of pilotages to be undertaken as a pilot, or movements conducted as a PEC holder, under specified operating conditions, within a defined period of time.
- (2) The Director may, in addition, specify a maximum gross tonnage, length or other limitation for ships, or categories of ships, in respect of which a PEC can be issued for a pilotage area.
- (3) In determining the recent experience requirements in subrule (1) or the maximum limits in subrule (2), the Director must—
  - (a) have regard to the specific operational and environmental conditions of the pilotage area, including the following matters, as applicable—
    - (i) the complexity of navigation;
    - (ii) the traffic density;
    - (iii) any factors which may aggravate the consequences of an accident, including the sensitivity of the environment, the density of adjacent populations and the proximity of significant commercial and recreational interests;
    - (iv) the size and type or category of ship, as applicable; and
    - (v) the location of berths; and
  - (b) seek the views of—
    - (i) any provider of pilotage services in the pilotage area;
    - (ii) the Harbourmaster or Regional Council as appropriate;
    - (iii) the port operator<sup>26</sup>;
    - (iv) any other affected owner of significant port assets, as determined necessary by the Director; and
  - (c) have regard to any risk assessment relevant to navigation in the pilotage area or harbour.
- (4) The Director may approve training undertaken on a ship simulator by the holder of a pilot licence or a PEC, specific to the pilotage area, in partial fulfilment of the requirements of subrule (1), where the Director is satisfied that it is impractical otherwise to meet those minimum recent experience requirements<sup>27</sup>.

<sup>26</sup> Port operator means the organisation with overall responsibility for port marine operations within the pilotage area and includes port companies as defined in the Port Companies Act 1988. Not all port operators may be Port Companies in terms of that Act.

<sup>27</sup> The use of a ship simulator in lieu of actual pilotages or passages aboard a ship should be described in the applicable proficiency plan, approved by the Director under rule 90.103, and will be at the Director's discretion. In making such a determination, the Director will take into consideration factors including the difficulty of the actual passage or movement through the pilotage area, the effectiveness of the simulator in creating a realistic environment for the holder of the pilot licence or PEC conducting the passage and the specific navigation tasks to be conducted on the simulator. Typically, the number of pilotages or passages required in a given period to meet the specified

- (5) Any training undertaken in accordance with subrule (4) must be supervised by a person holding a current appropriate pilot licence or PEC, who is approved by the Director for the purpose of supervising such training as part of an approved proficiency plan.

### **90.82 Notification of minimum recent experience requirements for pilot licences and PECs and maximum limits for PECs**

The Director must, as soon as practicable, notify all recent experience requirements for pilot licences and PECs, and maximum limits for PECs specified by the Director in accordance with rules 90.81(1) and 90.81(2)<sup>28</sup>.

## **Subpart F – Training, Examinations and Assessments**

### **90.101 Structured training programme or proficiency plan must be approved<sup>29</sup>**

- (1) No person or organisation may provide training for the purpose of obtaining a pilot licence or a PEC unless that person or organisation has a structured training programme approved in writing by the Director in accordance with rule 90.103.
- (2) No person or organisation may carry out assessments for the purposes of meeting the requirements of a pilot licence or a PEC in rules 90.45 or 90.66 unless—
- (a) that person or organisation has a proficiency plan approved in writing by the Director in accordance with rule 90.103; and
  - (b) the person conducting the assessment complies with the requirements of rule 90.108 or 90.111 as applicable.

### **90.102 Application for approval of structured training programme or proficiency plan**

- (1) A person seeking approval of a structured training programme or proficiency plan must include—
- (a) the information requested on the form required by the Director;
  - (b) a copy of the structured training programme or proficiency plan, that complies with rules 90.106, 90.107, 90.109 or 90.110, as applicable; and
  - (c) confirmation that the Harbourmaster, and, as applicable, the port operator, pilotage provider, and any other interested parties have been consulted in the preparation of the structured training programme or proficiency plan.
- (2) Every application for approval of a structured training programme or proficiency plan must be submitted to the Director, with payment of the fee prescribed by regulations made under the Act.
- (3) Where the provider of pilotage services also carries out the training of pilots, a proficiency plan as required under rule 90.101(2) may be part of an approved structured training programme for pilots.

### **90.103 Approval of structured training programme or proficiency plan**

- (1) The Director may approve any structured training programme or proficiency plan if satisfied that—

---

minimum recent experience requirements will be reduced by no more than 25% in recognition of simulator training.

<sup>28</sup> Requirements will be notified on the Maritime New Zealand website [www.maritimenz.govt.nz](http://www.maritimenz.govt.nz)

<sup>29</sup> In most cases a structured training programme and proficiency plan can be combined into a single approval, but the rule makes provision for them to be developed and approved separately.

- (a) the structured training programme or proficiency plan meets the requirements of rules 90.106, 90.107, 90.109 or 90.110 as applicable, and is sufficient in content to achieve its stated purpose;
  - (b) the structured training programme or proficiency plan has been submitted to the Harbourmaster, and, as applicable, the port operator, pilotage provider and other interested parties for comment; and
  - (c) it is in the interests of maritime safety to approve the structured training programme or proficiency plan.
- (2) Every approval given by the Director in accordance with this rule must—
- (a) be in writing;
  - (b) specify the person or organisation for which the structured training programme or proficiency plan is approved; and
  - (c) specify the pilotage area or areas, and the grade of licence, or the size and type or category of ship, or name of ship or ships, for which the structured training programme or proficiency plan is approved.
- (3) The Director may approve a structured training programme or proficiency plan for a period of no more than five years, and may amend or withdraw that approval as he or she considers appropriate, in the interests of maritime safety.
- (4) For the avoidance of doubt, any approval in writing issued by the Director under this rule is not a maritime document for the purposes of the Act.

#### **90.104 Conditions of approval of structured training programmes and proficiency plans**

- (1) It is a condition of every approval granted under rule 90.103 that—
- (a) all training and assessments are carried out in accordance with the approved structured training programme or proficiency plan as applicable;
  - (b) copies of the approved training programme and proficiency plan are lodged with the Harbourmaster, and where applicable, with the port operator and pilotage provider;
  - (c) all examinations for the issue of pilot licences and PECs are conducted in accordance with the procedures in the approved structured training programme;
  - (d) complete records of all training and examinations carried out under paragraph (c) are maintained for every person undertaking training in accordance with the structured training programme;
  - (e) all annual assessments required by rules 90.45 and 90.66 (currency requirements) and assessments for the purposes of verifying the continued proficiency and competence of holders of pilot licences or PECs are conducted in accordance with the procedures in the approved proficiency plan; and
  - (f) complete records of all assessments completed under paragraph (e) are maintained for every person assessed.
- (2) The holder of an approval must make available to the Director, upon his or her request, records required by subrules (1)(d) and (1)(f).

### **90.105 Amendment to approved structured training programme or proficiency plan**

- (1) No person may amend, change or alter an approved structured training programme or proficiency plan, other than amendments of a minor nature<sup>30</sup>, unless that amendment, change or alteration has first been approved in writing by the Director in accordance with this rule.
- (2) Any proposed amendment, change or alteration must be submitted to the Director with—
  - (a) details of why the amendment, change or alteration is proposed;
  - (b) details of the effect the proposed amendment, change or alteration will have on the approved structured training programme or proficiency plan; and
  - (c) confirmation that the Harbourmaster, and, as applicable, the port operator, pilotage provider and any other interested parties have been consulted on the proposed amendment, change or alteration.
- (3) Where a previously approved structured training programme or proficiency plan has been amended to cater for a particular individual or circumstances, and that programme differs materially from the previously approved one, a separate approval must be obtained from the Director<sup>31</sup>.
- (4) The Director may approve an amendment, change or alteration to a previously approved structured training programme or proficiency plan, if satisfied that it is in the interests of maritime safety to do so.

### **90.106 Requirements for structured training programme for pilot licence**

- (1) A structured training programme for the issue of a pilot licence or the issue of a higher grade of licence must include—
  - (a) a statement setting out the purpose and objectives of the structured training programme;
  - (b) a syllabus that incorporates the knowledge areas specified in subrule (2), specific to the pilotage area to which the structured training programme applies, and subrule (3);
  - (c) details of the process by which the trainee pilot will acquire the necessary knowledge of and proficiency in pilotage and navigation in the pilotage area to enable him or her to competently exercise the privileges of the pilot licence;
  - (d) details of the knowledge required to be obtained, the tasks to be performed and the standards required to be achieved to successfully complete the structured training programme;
  - (e) a description of the grades of licence applicable to the pilotage area, including the privileges of each grade of licence, to which the structured training programme applies;
  - (f) details of the processes to be followed when assessing a trainee's previous experience and knowledge, for the purposes of determining what modifications

---

<sup>30</sup> For example, changes to format, contact details or administrative arrangements, would be considered to be of a minor nature and not require approval. Changes to the grades of licences, or material changes to the number and nature of tasks to be completed as part of a structured training programme would require approval.

<sup>31</sup> A structured training programme may be tailored for a particular individual or circumstances to reflect, for example, relevant previous experience. In that case, the training programme for that individual will require a separate approval from the Director if it differs materially from a previously approved programme.

may be made to a previously approved structured training programme in respect of a particular trainee;

- (g) details of the processes for assessment of the trainee's pilotage skills and knowledge during training to measure the trainee's development and progress; and
  - (h) subject to rule 90.112, details of the examination processes and procedures to be used, including the make up of examination panels, to verify that a trainee has acquired the requisite knowledge.
- (2) The knowledge areas incorporated into the syllabus required in subrule (1)(b) must include—
- (a) limits of local pilotage areas;
  - (b) the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS) as amended, and also such other maritime and marine protection rules or bylaws that may apply to the area;
  - (c) systems of buoyage in the area;
  - (d) characteristics of the lights and their angles of visibility and the fog signals, racons and radio beacons and other electronic aids in use in the area;
  - (e) names and positions and characteristics of the light vessels, buoys, beacons, structures and other marks in the area;
  - (f) names and characteristics of the channels, shoals, headlands and points in the area;
  - (g) bridge and similar obstruction limitations including air draughts;
  - (h) depths of water throughout the pilotage area and adjacent waters, including tidal effects and similar factors;
  - (i) general set, rate, rise and duration of the tides and use of the tide tables and any real-time and current data systems, if available, for the area;
  - (j) proper courses and distances in the area including (as applicable) alteration points and parallel index distances;
  - (k) anchorages in the area;
  - (l) ship handling for piloting, anchoring, berthing and unberthing, manoeuvring with and without tugs, and emergency situations;
  - (m) communications and availability of navigational information;
  - (n) systems of radio navigational warning broadcasts in the area and type of information likely to be included in any such warning;
  - (o) traffic separation schemes, vessel traffic services and similar vessel management systems in the area;
  - (p) bridge equipment and navigational aids;
  - (q) use of radar and other electronic devices; their limitations and capabilities as navigation and collision avoidance aids;
  - (r) manoeuvring behaviour of the types of ships expected to be piloted and the limitations imposed by particular propulsion and steering systems;
  - (s) factors affecting ship performance such as wind, current, tide, channel configuration, water depth, bottom, bank and ship interaction including squat;

## **Maritime Rules**

- (t) weather and environmental conditions of the area which may affect safe navigation;
  - (u) use and limitation of various types of tugs;
  - (v) English language to a standard adequate to enable the pilot to express communications clearly;
  - (w) IMO Standard Marine Communications Phrases (SMCP);
  - (x) IMO Code for the investigation of marine casualties and incidents;
  - (y) master-pilot relationship, pilot card, operational procedures;
  - (z) pollution prevention;
  - (aa) emergency and contingency plans for the area;
  - (bb) safe embarking and disembarking procedures;
  - (cc) any harbour safety management systems and risk assessments applicable to navigation in the pilotage area or harbour prepared by or on behalf of the Regional Council, the port operator or other relevant parties;
  - (dd) knowledge of any local bylaws or other regulations relevant to navigation in the pilotage area;
  - (ee) knowledge of the ISPS Code as it affects any port within the pilotage area;
  - (ff) knowledge of the port infrastructure;
  - (gg) any additional areas of knowledge relevant to pilot training, not included above, as recommended from time to time by the IMO; and
  - (hh) any other relevant knowledge in respect of the pilotage area to which the structured training programme applies.
- (3) The structured training programme must also include—
- (a) training in human factors and Bridge Resource Management (BRM); and
  - (b) training in dealing with unexpected or emergency situations during pilotage, including the exercising of emergency scenarios<sup>32</sup>.

### **90.107 Requirements for proficiency plan for pilots**

A proficiency plan for the purposes of rule 90.101(2), must include—

- (a) a statement setting out the purpose and objectives of the plan;
- (b) processes and procedures for maintaining and demonstrating the ongoing proficiency and competence of holders of pilot licences, including—
  - (i) the minimum recent experience requirements to maintain the currency of the licence;
  - (ii) annual assessments;
  - (iii) peer reviews;
  - (iv) refresher training;
  - (v) programmes for CPE in accordance with rule 90.115; and

---

<sup>32</sup> The exercising of emergency scenarios may include the testing of contingency plans and responses by pilots in a ship simulator or manned ship model.

- (c) processes and procedures to be followed to assess the proficiency and competence of the holder of a licence, and to confirm that the required standards have been met, prior to the holder exercising the privileges of that licence, where the requirements of rule 90.45(1)(b) and (c) have not been met but the pilot licence otherwise remains valid.

### **90.108 Conduct of assessment for pilots**

- (1) An assessment conducted as part of an approved proficiency plan for the purposes of subrule 90.107(b)(ii) and 90.107(c) must—
  - (a) specify the pilotage tasks to be successfully completed by the holder of the pilot licence as part of that assessment; and
  - (b) be carried out by a person who is suitably qualified and experienced to assess those tasks, and who—
    - (i) holds a current pilot licence of the highest grade for that pilotage area; or
    - (ii) holds a current licence for that pilotage area at least one grade higher than the licence held by the pilot being assessed.
- (2) A person who carries out an assessment must record in writing the outcome of that assessment and whether, in their opinion, the licence holder has achieved the required standard as prescribed in the approved proficiency plan.

### **90.109 Requirement for structured training programme for PEC**

- (1) A structured training programme for the issue of a PEC must include—
  - (a) a statement setting out the purpose and objectives of the structured training programme;
  - (b) the maximum size or other limitation on ships, or type and size or category of ship, for which a PEC can be issued for the pilotage area as may be determined by the Director in accordance with rule 90.81(2);
  - (c) a syllabus that incorporates the knowledge areas specified in subrule (2), specific to the pilotage area to which the structured training programme applies; and
  - (d) details of the process by which the trainee will acquire the necessary knowledge of, and proficiency in, navigation within the pilotage area to enable him or her to competently exercise the privileges of the PEC ;
  - (e) details of the knowledge required to be obtained, the tasks to be performed and the standards required to be achieved to successfully complete the structured training programme;
  - (f) details of the processes for assessment of the trainee's skill in navigating in, and knowledge of the pilotage area, at regular intervals during training to measure the trainee's development and progress; and
  - (g) subject to rule 90.113, details of the examination processes and procedures to be used, including the composition of examination panels, to verify that a trainee has acquired the requisite knowledge.
- (2) The knowledge areas to be incorporated into the syllabus required in subrule (1)(c) must include<sup>33</sup>—
  - (a) limits of local pilotage areas;

<sup>33</sup> Where the exercise of the PEC is limited to certain berths or parts of the pilotage area, some of these items may not apply.

## Maritime Rules

- (b) systems of buoyage in the area;
- (c) characteristics of the lights and their angles of visibility and the fog signals, racons and radio beacons and other electronic aids in use in the area;
- (d) names and positions and characteristics of the light vessels, buoys, beacons, structures and other marks in the area;
- (e) names and characteristics of the channels, shoals, headlands and points in the area;
- (f) bridge and similar obstruction limitations including air draughts;
- (g) depths of water throughout the pilotage area and adjacent waters, including tidal effects and similar factors;
- (h) general set, rate, rise and duration of the tides and use of the tide tables and any real-time and current data systems, if available, for the area;
- (i) proper courses and distances in the area including (as applicable) alteration points and parallel index distances;
- (j) anchorages in the area;
- (k) ship handling for piloting, anchoring, berthing and unberthing, manoeuvring with and without tugs (as applicable)<sup>34</sup>, and emergency situations;
- (l) communications and availability of navigational information;
- (m) systems of radio navigational warning broadcasts in the area and type of information likely to be included in any such warning;
- (n) traffic separation schemes, vessel traffic services and similar vessel management systems in the area;
- (o) weather and environmental conditions of the area which may affect safe navigation;
- (p) use and limitation of various types of tugs;
- (q) pollution prevention;
- (r) emergency and contingency plans for the area;
- (s) any harbour safety management systems and risk assessments applicable to navigation in the pilotage area or harbour prepared by or on behalf of the Regional Council, the port operator or other relevant parties;
- (t) knowledge of any local bylaws or other regulations relevant to navigation in the pilotage area; and
- (u) any other relevant knowledge in respect of the pilotage area or areas for which the structured training programme applies.

### 90.110 Requirements for proficiency plan for PEC holders

A proficiency plan for the purposes of rule 90.101(2), must include, as applicable—

- (a) a statement setting out the purpose and objectives of the plan;

---

<sup>34</sup> If the PEC is not endorsed for use of tugs, and a tug is to be used, it may be required that a pilot be taken. Requirements relating to the use of tugs by PEC holders should be established in the pilotage provider's or port operator's SOPs.

- (b) processes and procedures for maintaining and demonstrating the ongoing proficiency and competence of PEC holders with respect to the exercise of the privileges of the PEC, including—
  - (i) the minimum recent experience requirements to maintain the currency of the PEC;
  - (ii) annual assessments;
  - (iii) peer reviews;
  - (iv) refresher training; and
- (c) processes and procedures to be followed to assess the proficiency and competence of the holder of a PEC, and to confirm that the required standards have been met, prior to the holder exercising the privileges of that PEC, where the requirements of rule 90.66(1) have not been met but the PEC otherwise remains valid.

### 90.111 Conduct of assessment for PEC holders

- (1) An assessment conducted as part of an approved proficiency plan for PEC holders for the purposes of subrules 90.110(b)(ii) and 90.110(c), must—
  - (a) specify the navigation tasks to be successfully completed by the PEC holder; and
  - (b) be carried out by a person who is suitably qualified and experienced to assess those tasks and who—
    - (i) holds a current pilot licence of a grade that would enable the holder to pilot the ship or ships, or size and type or category of ship endorsed on the PEC, in that pilotage area; or
    - (ii) is a current PEC holder identified in an approved proficiency plan for the purposes of conducting those assessments<sup>35</sup>; or
    - (iii) is approved by the Director as an appropriate person to conduct those assessments.
- (2) A person who carries out an assessment must record in writing the outcome of that assessment and whether, in their opinion, the PEC holder has achieved the required standard as prescribed in the approved proficiency plan.

### 90.112 Conduct of examinations for issue of pilot licence

- (1) The examination processes included in a structured training programme for the issue of a pilot licence or higher grade pilot licence must comply with the relevant provisions of Parts 35.5 to 35.9 inclusive<sup>36</sup>.
- (2) Examinations for the issue of a pilot licence for a pilotage area must include—
  - (a) a practical component, conducted by a person, approved by the Harbourmaster for that purpose, who—
    - (i) holds a current pilot licence of the highest grade for that pilotage area;

<sup>35</sup> A ship operator may develop a proficiency plan for approval by the Director, which permits the annual assessments of PEC holders required under Rule 90.66(c), or assessments to meet the requirements of rule 90.110(b)(ii) and 90.110(c), to be carried out by suitably experienced and trained PEC holders (generally senior Masters) nominated for that purpose. Details are provided in the Advisory Circular to Part 90.

<sup>36</sup> These rules relate to assessment and examination procedures and include: moderation (35.5), examinations (35.6), examination results (35.7), extra sea service or training (35.8) and conduct of examinations (35.9).

## Maritime Rules

- (ii) who has not directly supervised the training of the examinee; and
- (b) a written component in a formal examination setting including, as a minimum, a blank chart examination of that pilotage area; and
- (c) oral questions conducted by a panel of at least three persons approved by the Director including—
  - (i) the Harbourmaster<sup>37</sup>, or where the Harbourmaster does not have a delegation under Section 48 of the Act, another suitable delegate whom the Director may approve for this purpose;
  - (ii) one person holding a current pilot licence of the highest grade for that pilotage area; and
  - (iii) one person holding a current pilot licence or PEC for that pilotage area, or, where the persons referred to in (i) and (ii) can provide sufficient local pilotage knowledge, a suitably experienced person holding a current pilot licence for another pilotage area.
- (3) Where the requirements for an examiner in subrule (2)(a) cannot reasonably be met, the practical component may be conducted by a person who holds a current pilot licence of the highest grade for that pilotage area, providing that a separate practical evaluation of the examinee is conducted by another suitably qualified and experienced pilot, approved by the Harbourmaster.
- (4) An examination for the issue of a higher grade pilot licence for a pilotage area must include, as a minimum—
  - (a) a practical component conducted in accordance with subrules (2)(a) or (3); and
  - (b) oral questions, conducted by a panel of at least two persons, including the Harbourmaster and one person holding a current pilot licence of the highest grade for that pilotage area.

### 90.113 Conduct of examinations for issue of PEC

- (1) The examination processes included in a structured training programme for the issue of a PEC, or endorsement of an existing PEC for an additional pilotage area, must comply with the relevant provisions of Parts 35.5 to 35.9 inclusive.
- (2) Examinations for the issue of a PEC or endorsement of an existing PEC for an additional pilotage area must include—
  - (a) a practical component, conducted by a person, approved by the Harbourmaster for that purpose, who holds a current pilot licence for that pilotage area of a grade that would enable the holder to pilot the ship or ships, or size and type or category of ship for which the PEC or endorsement is sought;
  - (b) a written component in a formal examination setting, including as a minimum, a blank chart examination of the pilotage area for which the PEC is to be issued or endorsed; and
  - (c) oral questions, conducted by a panel of at least two persons approved by the Director including—
    - (i) the Harbourmaster, or where the Harbourmaster does not have a delegation under Section 48 of the Act, another suitable delegate whom the Director may approve for this purpose; and

---

<sup>37</sup> The Harbourmaster must hold a delegation from the Director of powers under Section 48 of the Maritime Transport Act 1994 in respect of the conduct of examinations and tests. Where the Harbourmaster does not have this delegation, the Director may approve another suitable delegate to be part of the examination panel.

- (ii) one person holding a current pilot licence of a grade sufficient to pilot the ship or ships, or size and type or category of ship, for that pilotage area.

#### **90.114 Examiners and assessors**

Where this Part requires persons who conduct assessments and examinations to hold a specified pilot licence or PEC, and persons meeting those requirements are not reasonably available to conduct those assessments or examinations, the Director may approve other suitably qualified and experienced persons as the Director considers appropriate to perform those functions.

#### **90.115 Continuing professional education (CPE) programmes for pilots**

- (1) CPE programmes for pilots as required in rule 90.49(c) must include—
  - (a) training to update pilots on developments in bridge and navigational technology;
  - (b) training in risk assessment and mitigation;
  - (c) training in any changes or developments to any laws or regulations in the maritime industry;
  - (d) refresher training in pilotage practices and procedures<sup>38</sup>, including the exercise of emergency scenarios;
  - (e) communications (including any cultural considerations); and
  - (f) briefings on any changes to relevant port or harbour safety management systems and risk assessments.
- (2) The CPE programme described in subrule (1) must be part of a structured training programme or proficiency plan approved by the Director.
- (3) Elements of the CPE programme may be provided by a training provider acceptable to the Director.

### **Subpart G – Revocation and Transitional and Savings Provisions**

#### **90.121 Revocation**

Part 90 of the Maritime Rules which came into force on 1 April 2003, and any subsequent amendments to Part 90 made before 1 April 2011 are hereby revoked.

#### **90.122 Activation of compulsory pilotage areas**

The pilotage requirements prescribed in rules 90.23 and 90.24 will apply to—

- (a) all pilotage areas listed in Appendix 1 from 1 April 2011; and
- (b) the individual pilotage areas listed in Appendix 2, from dates that may be determined by the Director, where he or she considers the application of those pilotage requirements is necessary in the interests of maritime safety or marine protection.

#### **90.123 Transitional and savings provisions**

- (1) Subject to subrule (2), a pilot licence that—
  - (a) was issued in accordance with Part 90 before 1 April 2011; and
  - (b) was in force before 1 April 2011;shall be deemed to be a pilot licence issued in accordance with this Part.

---

<sup>38</sup> This refresher training should include training on ship simulators or manned models.

## Maritime Rules

- (2) A pilot licence deemed to be issued in accordance with this Part in subrule (1) will be valid until the earlier of—
  - (a) 1 April 2012; or
  - (b) the date of expiry of the licence; and
  - (c) be subject to—
    - (i) the general requirements under rule 90.44;
    - (ii) the currency requirements under rule 90.45(1)(a); and
    - (iii) the recent experience requirements specified by the Director in accordance with rule 90.81(1).
- (3) The requirements of rule 90.49(c) will not apply to the first renewal of a pilot licence that is deemed to be issued in accordance with subrule (1).
- (4) The holder of a deemed pilot licence that is renewed on or before 1 April 2012 must complete a programme of CPE for pilots that meets the requirements of rule 90.115 no later than 1 April 2015.
- (5) Subject to subrule (6), a master's pilotage exemption<sup>39</sup> that—
  - (a) was issued in accordance with Part 90 before 1 April 2011; and
  - (b) was in force before 1 April 2011;shall be deemed to be a PEC issued in accordance with this Part.
- (6) A PEC deemed to be issued in accordance with this Part in subrule (5) will be valid until—
  - (a) 1 April 2013; and
  - (b) be subject to—
    - (i) the general requirements under rule 90.65;
    - (ii) the currency requirements under rule 90.66(1)(a); and
    - (iii) the recent experience requirements specified by the Director in accordance with rule 90.81(1).
- (7) Except as provided for in subrule (8), an exemption from a requirement under Part 90 that was issued under Section 47 of the Maritime Transport Act 1994 before 1 April 2011 shall—
  - (a) be deemed to be an exemption from the corresponding requirement under this Part; and
  - (b) remain in force until the earlier of—
    - (i) the date of expiry of the exemption, if applicable, or
    - (ii) the date that the exemption is withdrawn by the Director.
- (8) An exemption that was issued under Section 47 of the Act from the requirement in rule 90.5(2) in force before 1 April 2011<sup>40</sup> shall be—
  - (a) deemed to be a PEC issued in accordance with this Part;

---

<sup>39</sup> Master's pilotage exemption is the corresponding term for a PEC used in the previous Part 90.

<sup>40</sup> Rule 90.5(2) in the revoked Part 90.

- (b) be valid until 1 April 2013;
- (c) be subject to—
  - (i) the general requirements under rule 90.65;
  - (ii) the currency requirements under rule 90.66(1)(a); and
  - (iii) the recent experience requirements specified by the Director in accordance with rule 90.81(1).
- (9) A training course approved by the Director under rule 90.14 in force before 1 April 2011<sup>41</sup> will be deemed to be an approved structured training programme for the purposes of this Part until 1 April 2012.
- (10) The requirement under rule 90.22(b) (person or organisation providing pilotage to have a proficiency plan approved by the Director in accordance with rule 90.103) shall not apply until 1 April 2012.
- (11) The first annual assessments of proficiency required after 1 April 2011 under rules 90.45(1)(c) and 90.66(1)(c) must be satisfactorily completed no later than 1 April 2013.
- (12) The requirement under rule 90.2(2) shall not apply to tugs and tows until 1 April 2012.
- (13) For the purposes of Schedule 2 of the Shipping (Charges) Regulations 2000 (SR 2000/269), any reference to a master's pilotage exemption shall be deemed to be a reference to a PEC.

---

<sup>41</sup> Rule 90.14 in the revoked Part 90.

## Appendix 1: Pilotage areas and limits

| Pilotage area  | Area description   | Limits  |
|----------------|--|---|
| Bay of Islands | All the waters within the harbour of the Bay of Islands, whose outward seaward limit is a line commencing at high-water mark at the eastern extremity of Tapeka Point, and proceeding in a direction 350 degrees true to high-water mark at the eastern extremity of Black Rocks; then proceeding in a direction 019 degrees true to high-water mark at the eastern extremity of Harakeke Island; then proceeding in a direction 271 degrees true to high-water mark on the mainland.  | 500 gross tonnage                             |
| Whangarei      | All the waters comprised within the Harbour of Whangarei having their outward seaward limit a right line drawn in a direction 270 degrees true from Busby Head to the shore, and in addition, those waters enclosed within parallel lines drawn one mile on either side of a right centre line drawn in a direction 140 degrees true for a distance of 4.5 miles from Marsden Point inner leading beacon, the outward seaward limit being bound by a right line drawn in a direction 050/230 degrees true through the seaward extremity of the right centre line.  | 500 gross tonnage                             |
| Auckland       | The area of tidal waters inside a straight line drawn from the northern extreme of the eastern head of the Tamaki River to the southern extreme of Park Point (Waiheke Island); then by the high water mark of ordinary spring tide to the northern extreme of the western entrance to Owhanake Bay; then by a straight line to the south-western most point of Rakino Island; then by a straight line from the northernmost point of Rakino Island to Shearer Rock, then by a straight line to the southernwest extreme of Tiritiri Matangi Island, then by a straight line to the southeastern extreme of Whangaparoa Peninsula. | 500 gross tonnage                             |
| Manukau        | All waters bounded to seaward by the arc of a circle radius 4 miles centred on Paratutae Island (37°02.9'S, 174°30.6'E).   | 500 gross tonnage                             |
| Tauranga       | The area comprising the Bay of Plenty Harbour bounded by an arc of a circle of radius 3 miles centred on North Rock and including all the commercial area of Tauranga Harbour.   | 250 gross tonnage                             |
| Gisborne       | The area bounded seaward by the arc of a circle, radius 3 miles, centred on the southern end of Butlers wall (38°40.6'S, 178°01.2'E).  | 500 gross tonnage                             |
| Napier         | The area comprising all port waters between latitudes 39°25'S and 39°29'S, to west of longitude 176°59'E.  | 500 gross tonnage or 40 metres length overall |

| Pilotage area                                | Area description  | Limits  |
|--|---|---|
| Taharoa Terminal                             | The area bounded by the seaward arc of a circle radius 3 miles centred on the terminal pumping station (38°10.6'S, 174°42.4'E)  | 500 gross tonnage                             |
| Taranaki                                     | The area bounded by the seaward arc of a circle radius 2.5 miles centred on Mount Moturoa (39°03.8'S, 174°01.7'E).  | 100 gross tonnage                             |
| Wellington                                   | The area of enclosed water inside the harbour inside an arc of a circle of 3.85 miles radius and having its centre at a point on the outer rock in the Harbour of Wellington, such point being in position 41°20.96'S, 174°50.1' E.   | 500 gross tonnage                             |
| Nelson                                       | The area bounded by the seaward arc of a circle, radius 3 miles, centred on Boulder Bank Old Lighthouse (41°15.3'S, 173°15.9'E).  | 40 metres length overall                      |
| Pelorus Sound, Admiralty Bay and French Pass | All that area contained within Pelorus Sound having as its seaward boundary, in the north a straight line drawn in a direction 353 degrees true from high water mark at Alligator Head (40°58.1'S, 174°09.3'E) to high water mark at Sentinel Rock (40°53.9'S, 174°08.6'E) then in a direction 277 degrees true to high water mark at Bonne Point, D'Urville island (40°51.6'S, 173°54.8'E) and in the south a straight line drawn in a direction 005 degrees true from high water mark at Okuri Point (40°58.4'S, 173°46.0'E) to high water mark at Sauvage Point, D'Urville Island (40°56.5'S, 173°46.2'E). | 500 gross tonnage                             |
| Queen Charlotte Sound                        | All that area of water inside a line drawn from Cape Koamaru to Kemp Point at the seaward limit and north of a line from Dieffenbach Point in a direction 090 degrees true to the shore of Arapawa Island at the western end of Tory Channel.   | 500 gross tonnage                             |
| Tory Channel                                 | All that area of water within Tory Channel bound at the seaward limit by the arc of a circle, radius 3.5 miles, centred on West Head Light (41°12.8'S, 174°18.9'E) and south of a line from Dieffenbach Point in a direction 090 degrees true to the shore of Arapawa Island at the western end of Tory Channel.  | 350 gross tonnage                             |
| Westport                                     | The area within the Buller River and a circle centred on the signal station light on the west breakwater with a radius of 1.5 miles extending from Carters Beach at mean high water springs around to North Beach at mean high water springs.   | 100 gross tonnage or 3 metres draught         |
| Lyttelton                                    | The area having a seaward limit east of a line joining Godley Head and Adderley Head.   | 500 gross tonnage or 40 metres length overall |

**Maritime Rules**

| Pilotage area  | Area description   | Limits  |
|----------------|--|---|
| Timaru         | The area within an arc of a circle radius 2.5 miles centred on a light exhibited from Eastern Extension Mole Spur Breakwater Head (44°23.2'S, 171°16.0'E).   | 500 gross tonnage or 40 metres length overall |
| Otago          | The area where the seaward limit is a line drawn in a direction 020 degrees true for 3 miles from Heyward Point (45°45.5'S, 170°41.5'E), then in a direction 126 degrees true for 1.75 miles, and then in a direction 200 degrees true to Howletts Point on the West side of Taiaroa Head. | 500 gross tonnage                             |
| Bluff          | The area where the seaward limit is the arc of a circle, radius 2 miles, centred on Stirling Point (46°36.7'S, 168°21.6'E).  | 100 gross tonnage                             |
| Stewart Island | The area where the seaward limit is a line from Chew Tobacco Point, then to Kanetoetoe Island, then to Zero Rock, then to Gull Rock.   | 500 gross tonnage                             |

## Fiordland pilotage areas

| Pilotage area                | Area description   | Limits            |
|------------------------------|--|-------------------|
| Milford Sound                | The area of the sea and tidal waters of Milford Sound south of a straight line drawn from St Anne Point in a direction 090 degrees true direction to the opposite shore, and including the wharf limits at Deep Water Basin. | 500 gross tonnage |
| Poison Bay                   | Being all that area of the sea and tidal waters inside a straight line from Seabreeze Point in a direction 215 degrees true to the opposite shore.   | 500 gross tonnage |
| Sutherland Sound             | Being all that area of the sea and tidal waters inside a straight line from Jagged Rock in a direction 060 degrees true to the opposite shore.   | 500 gross tonnage |
| Bligh Sound                  | Being all that area of the sea and tidal waters inside a straight line from Tommy Point to Chasland Head.  | 500 gross tonnage |
| George Sound                 | Being all that area of the sea and tidal waters inside a straight line from the west head at George Sound entrance in a direction 090 degree true to the opposite shore.   | 500 gross tonnage |
| Caswell Sound                | Being all that area of the sea and tidal waters inside a straight line from McKerr Point in a direction 030 degrees true to the opposite shore.  | 500 gross tonnage |
| Charles Sound                | Being all that area of the sea and tidal waters inside a straight line from Hawes Head in a direction 090 degrees true to the opposite shore.  | 500 gross tonnage |
| Nancy Sound                  | Being all that area of the sea and tidal waters inside a straight line from Burnett Point to Anxiety Point.  | 500 gross tonnage |
| Doubtful and Thompson Sounds | Being all that area of the sea and tidal waters inside a straight line from Febrero Point to Southwest Point on Secretary Island and from Colonial Head to Shanks Head.  | 500 gross tonnage |
| Dagg Sound                   | Being all that area of the sea and tidal waters inside a straight line from Castoff Point to Towing Head.  | 500 gross tonnage |

**Maritime Rules**

| <b>Pilotage area</b>      | <b>Area description</b>   | <b>Limits</b>     |
|---------------------------|---|-------------------|
| Breaksea and Dusky Sounds | Being all that area of the sea and tidal waters inside a straight line from Rocky Point to North Point of Breaksea Island and from the West Point of Breaksea Island in a direction 180 degrees true to the opposite shore and from Five Finger Point to South Point. | 500 gross tonnage |
| Chalky Inlet              | Being all that are of the sea and tidal waters inside the arc of 6.5 miles radius centred on Surf Head.   | 500 gross tonnage |
| Preservation Inlet        | Being all that area of the sea and tidal waters inside a straight line from Gulches Head to Lee Head and across Otago Reach at its narrowest width.   | 500 gross tonnage |

## Appendix 2: Pilotage areas for future activation

Pilotage will not be compulsory in the areas listed in this Appendix until such time as may be determined by the Director in accordance with rule 90.122.

| Pilotage area | Area description   | Limits  |
|---------------|--|---|
| Akaroa        | The area of Akaroa Harbour North of a line drawn between Akaroa Head and Timutimu Head.                                  | 500 gross tonnage or 40 metres length overall |
| Whanganui     | All waters encompassed in an arc of a circle radius 2.65 miles centred on North Mole Head light (39°57.0'S, 174°58.8'E). | 500 gross tonnage                             |
| Greymouth     | The seaward arc of a circle, radius 2 miles centred on the main harbour light (42°26.6'S, 171°11.5'E).                   | 500 gross tonnage                             |

## Maritime Rules

### PART 90

#### Consultation Details

##### Introduction

This paper provides a summary of submissions received following public consultation on proposed amendments to Maritime Rule Part 90 – Pilotage.

The existing Maritime Rule Part 90: Pilotage, came into force on 1 April 2003, setting out a new pilotage regime under the Maritime Transport Act 1994 (MTA), and bringing pilot and exempt master licensing within that Act's maritime document system managed by Maritime New Zealand (MNZ).

Draft amendments to the rule were issued for public consultation in October 2007 with submissions closing on 19 December 2007. The closing date was extended into early 2008 to allow for late submissions. In addition to those submissions, MNZ received other submissions related to various aspects of the pilotage regime during the course of 2008, in response to issues that arose since the initial consultation.

MNZ also hosted a one-day workshop in August 2008 attended by pilots and pilotage providers, harbourmasters and holders of pilotage exemption certificates (PEC) to review the requirements for training, assessment and examination of candidates for pilots' licences and PECs.

The feedback received was taken into account in preparing a revised draft amendment for a second round of consultation.

##### List of submissions received

58 submissions were received from the following organisations and individuals. Reference numbers are used when discussing the submissions in the interests of brevity.

| No. | Name                  | Organisation                 |
|-----|-----------------------|------------------------------|
| 1   | J L Harvey            |                              |
| 2   | Capt. John Henderson  | Strait Shipping Ltd          |
| 3   | Darren Guard          |                              |
| 4   | Peter Robinson        | Golden Bay Cement            |
| 5   | R F Keer-Keer         |                              |
| 6   | Peter Dunlop          | Sea-Tow Limited              |
| 7   | Bill Healey           | Sealord Group Ltd            |
| 8   | Peter Bloxham         | Real Journeys Ltd SSM System |
| 9   | James Varney          |                              |
| 10  | Dawson and Associates | (see submission # 33)        |

| No. | Name                | Organisation  |
|-----|---------------------|---|
| 11  | Lance Brown         | Thomson Towboats  |
| 12  | T Grieg             | North Tugz Limited                                      |
| 13  | David Yeowell       |   |
| 14  | Capt. Steve Blom    | Strait Shipping Ltd                                     |
| 15  | Ross Sutherland     | Holcim Shipping   |
| 16  | Nigel Drake         | Port of Tauranga Ltd                                    |
| 17  | Jim Dilley          | Auckland Regional Council                               |
| 18  | JSM Blaikie         | River City Port Ltd                                     |
| 19  | Paul McNeill        | PrimePort Timaru  |
| 20  | Dick Mogridge       | Sea-Tow Limited   |
| 21  | Bruce Heather       | NZ Association of Ship Owners and Agents                |
| 22  | Peter Brown         | PrimePort Timaru  |
| 23  | Wayne Mills         | Ports of Auckland Ltd                                   |
| 24  | Capt. George Hadley |   |
| 25  | Mike Birch          | Port Taranaki Ltd                                       |
| 26  | Thejs Pedersen      | PrimePort Timaru  |
| 27  | Capt. John Taylor   | Westport Harbour  |
| 28  | Ian Niblock         | Northland Regional Council                              |
| 29  | Kevin O'Sullivan    | Environment Southland                                   |
| 30  | Confidential        |   |
| 31  | Roy Skucek          | Port Nelson Limited                                     |
| 32  | Barrie Saunders     | Submission on behalf of port companies                  |
| 33  | Peter Dawson        | Submission on behalf of McManaway Tug and Barge Limited |
| 34  | Dave Duncan         | Interislander (3 submissions)                           |
| 35  | Nigel Meek          | NZ Maritime Pilots Association                          |
| 36  | David McLoughlin    |   |
| 37  | Helen McAra         | NZ Merchant Service Guild                               |

## **Maritime Rules**

| No. | Name                  | Organisation                              |
|-----|-----------------------|---|
| 38  | Peter McGrath         | Holcim NZ Ltd                             |
| 39  | PW Kempster           | Royal NZ Navy                             |
| 40  | Paul Nicholas         | NZ Shipping Federation                    |
| 41  | David Pearks          | Environment Waikato                       |
| 42  | Richard Hunter        |   |
| 43  | Des Ashton            | Port Marlborough Ltd (2 submissions)      |
| 44  | William Oliver        | Holcim Shipping                           |
| 45  | Alex van Wijngaarden  | Marlborough District Council              |
| 46  | Capt. Eric Inkster    | Holcim Shipping                           |
| 47  | Peter Dawson          | See submission #33                        |
| 48  | MaryAnne McLeod       | Environment Bay of Plenty                 |
| 49  | Capt. Charles Rycroft | Hawkes Bay Regional Council               |
| 50  | Chris Douglas         | Seaworks Ltd                              |
| 51  | Peter Dawson          | NZ Federation of Commercial Fishermen Inc |
| 52  | John Oliver           |   |
| 53  | David Edge            | Southport Ltd                             |
| 54  | John Hadfield         | NIWA Vessel Management Ltd                |
| 55  | Tony Cooper           | Charterlink Marlborough                   |
| 56  | John Brown            | New Zealand Company of Master Mariners    |
| 57  | Peter Clarke          | Interislander                             |
| 58  | Nigel Meek            | Ports of Auckland                         |

### **Summary of submissions and commentary on the draft**

In this section, each rule within Part 90 is discussed in turn. The following structure has been adopted in the analysis:

- Rule summary and intent (NOTE: the rule numbering and content in this document is as per the 1st draft rule amendments issued for consultation in October 2007).
- Submissions
- MNZ comments on submissions received in relation to the intent and the wording of the rule.

- Changes proposed as a result of the submissions made or other considerations (in italics).

In this document, the submissions received have been paraphrased, consolidated and edited to provide as far as possible succinct summaries of the issues being raised. A copy of the full original submissions received can be viewed at MNZ's offices upon request.

## Part Objective

Rule summary and intent

The stated objectives of Part 90 are to :

- Maintain the contribution of pilotage to safety of navigation, protection of the marine environment and the efficiency of seaborne commerce;
- Maintain the existing privileges of pilots and exempt masters currently in the system;
- Enable new pilots' licences and masters' pilotage exemptions to be issued;
- Ensure transparency and consistency in respect of sanctions for non-performance and protection of the rights of individuals;
- Set minimum national standards while enabling port-specific risks to be addressed;
- Recognise and support industry best practice.

Submissions

Submitters commented on the objectives as follows:

- Some of the proposed amendments either do not address, or actively hinder, these objectives. (34)
- The word "effectiveness" with its connotation of a successful conclusion to each pilotage act should be inserted into the first objective e.g. "...and the effectiveness and efficiency of seaborne commerce." (35)

MNZ comment and changes in 2nd draft

MNZ has reviewed the objectives of Part 90. The second objective to maintain existing privileges comes from the original Part 90 in 2003 and relates to the transition to national regulation of pilotage at that time. This objective has been deleted. The comments about effectiveness have been noted. A new objective has been added relating to the ongoing sustainability of pilotage services, responsiveness to future demands and changes in technology and best practice.

*As the objectives are not usually included with the final printed rule, they have also been included directly into the rule under "Application and Purpose" for easy reference.*

## Rule 90.2 Application

Rule summary and intent

Part 90 applies to all ships within New Zealand waters except warships (as defined in 90.3). This reflects the provisions of the Maritime Transport Act that, "...except as otherwise provided in the Act, or in any regulations or rules made under the Act, nothing in the Act, or any regulations or rules made under the Act shall apply to warships of the New Zealand Defence Force or any other state, or to the master or crew of any such warship." Rule 90.2 is unchanged from the current Part 90.

Submissions

Submitters commented as follows:

- The application of Part 90 should only exclude *New Zealand* warships. It can be reasonably expected that New Zealand naval personnel will have a good working knowledge of the New Zealand ports and harbours. Experience has shown varying

## **Maritime Rules**

levels of English language skill and knowledge of local protocols among foreign navies whose vessels visit commercial wharves. In the extreme case, the general exclusion could allow large warships such as aircraft carriers to enter, navigate and exit New Zealand ports without the benefit of local knowledge. (17, 35, 45)

- In times of peace, a pilot should be carried by a warship whose commander is not pilotage exempt. While the commander could still carry out the pilotage, the pilot would be there for advice. We have had incidents in Tauranga in the past which could have been avoided with a pilot as part of the bridge team. It would also assist in training and exercising of naval personnel. (16)
- The exclusion fails to give port companies formal rights to protect their infrastructure or towage assets through the requirement for a pilot to be carried on foreign warships. (21, 32)
- Warships should only be exempt from carrying a pilot when deemed acceptable by the Harbourmaster and in times of war. (31)
- While the Maritime Transport Act may exclude warships, and New Zealand warships rightly so, this generous treatment is not extended to our own warships when calling at overseas ports. (9)
- The RNZN supports the continued exclusion of warships from Part 90. While in some circumstances it may be appropriate that a pilot is embarked on warships, the RNZN observes that some ports are using environmental and safety legislation to override the exclusion. It is not considered that this is an appropriate manner in which to ensure pilots are embarked and RNZN wishes to ensure that this practice does not become a requirement through habit or regular occurrence. (39)

MNZ comment and changes in 2nd draft

The positions of the regional councils and port companies on the one hand and the Royal New Zealand Navy on the other are noted.

MNZ agrees that there is no safety basis for treating warships differently from merchant ships or other craft and also recognises the prerogative of port companies and regional councils to protect their assets and ensure the safety of all shipping in the harbour. However the exclusion of warships from pilotage is a long standing principle.

In the case of warships, a harbour pilot will offer detailed knowledge of the harbour and berths, the local conditions, navigation and communication protocols, and be experienced in directing tugs during manoeuvring and berthing. Hence MNZ agrees that in general, where the warship and its crew are not visiting a pilotage area on a regular basis, it would be prudent for the services of a pilot to be used in an advisory capacity. This would be particularly the case where weather conditions or traffic may make navigation in the pilotage area more demanding. Hence it is not unreasonable for the port operator or harbourmaster to request that a pilot be taken by a warship in the interests of navigation safety within the pilotage area.

However MNZ does not consider that there is case for changing the rule provision at this time, but will provide guidance in the Advisory Circular to the rule.

### **Rule 90.3 Definitions**

Rule summary and intent

This rule defines terms used in Part 90. The following terms have been added which are not in the current rule. Where these are terms also defined in the Maritime Transport Act this is noted.

- Bunker barge
- Chemical tanker
- Exemption holder
- Gas carrier
- Gross tonnage
- Harbourmaster

- Length overall
- Master's pilotage exemption
- Oil tanker
- Pilot's licence
- Ship (MTA)
- Training provider
- Warship (MTA)

#### Submissions

A number of submissions were received in relation to the definition of "bunker barge", generally along the lines that the definition is too broad. (5, 12, 17, 21, 31, 32, 45)

These submissions are discussed in more detail below under Rule 90.5 (3)

#### MNZ comment and changes in 2nd draft

The definition of "bunker barge" has been removed (see discussion under Rule 90.5(3)).

To ensure consistency in the use of definitions, a number of definitions included in the rule which also appear in the Act have been removed.

For clarity the term *pilotage exemption certificate (PEC)* has been used in place of *pilotage exemption*.

The term structured training programme has been used in place of training courses to better describe the process of attaining the necessary knowledge and proficiency and the required standards of performance to obtain a pilot's licence or a PEC. However a new definition is not considered necessary as the term is self-explanatory.

The definition of Harbourmaster has been amended to make it clear that the term refers to a specific Harbourmaster, namely the person appointed as Harbourmaster for the region which covers the pilotage area.

New definitions for "pilotage" and "current" in respect of licences and PECs have been added.

### **Rules 90.5 (1) & (2) Compulsory pilotage**

#### Rule summary and intent

Rule 90.5 (1) requires all oil tankers, chemical tankers or gas carriers, regardless of size to carry a pilot when navigating in a pilotage area.

Rule 90.5 (2) requires the same for vessels over the specified tonnage or length limits for the area, as set out in schedule to the rule.

Both clauses also specify circumstances whereby a vessel may be led in or out by a pilot not on board. The requirement in the current rule has been amended to require any decision to pilot remotely in such a situation to be made by the pilot AND harbourmaster jointly, rather than it just being the pilot's decision in isolation.

#### Submissions

Various submitters commented:

- The provision under 90.5 (1) could allow a tanker or gas carrier to enter a pilotage area without a pilot on board, though under the remote control of a pilot. Such vessels should only be allowed to do so under strict conditions. It is suggested that if the weather is too bad to embark or disembark a pilot, then it is probably too bad to lead a vessel in or out. (12)
- The involvement of the harbourmaster is strongly supported. However the pilot and harbourmaster are not in position to assess whether *a vessel can navigate safely*.

## **Maritime Rules**

Rather they can assess whether *the planned harbour transit can be completed safely*. Wording should be changed to reflect this. (28)

- Clarification is sought that directing from a shore station can only be done by a pilot with a valid licence, applicable to the pilotage area, size and type of ship etc. (34)
- It was observed that with respect to the current work on developing VTS guidelines for New Zealand, directing from a shore station can only be done by a pilot with a valid licence. A VTS operator would require to be suitably qualified to do so. (35)
- The opinion of the harbourmaster is not relevant in this decision, as they are not in a position to judge the conditions from their location. Also they are generally not qualified pilots and in some cases may not even hold a Masters Foreign Going Certificate of Competency. The master has responsibility for the vessel and takes advice from the pilot. (43)
- The pilot must be able to direct a ship standing into danger or labouring in a heavy sea at the pilot station without reference to the harbourmaster. The pilot is charged with conducting the ship safely in the pilotage area. The harbourmaster ashore is not in a position to make a judgement on the conditions, particularly where the pilot station is remote from the port as in Queen Charlotte Sound. The harbourmaster may not be immediately available when required to be consulted. (43)
- The limit for compulsory pilotage should be set in the rule at 50m overall length, applicable to all New Zealand ports. This will make it immediately obvious (during the hours of darkness) that vessels not showing two masthead lights are vessels which operate outside the rule [not subject to pilotage or exemptions]. (14)

MNZ comment and changes in 2nd draft

### **Leading in/leading out (pilot not embarked)**

Where weather prevents pilot boarding then, in the case of tankers or gas carriers it may be reasonable to delay the pilotage due to the nature of the hazardous cargo carried. However there may also be rare cases where the safety of the vessel and crew is at risk by delaying and it would be better to lead the vessel in. The rule should continue to allow for that option to be taken.

### **Involvement of harbourmaster in decision to lead in/lead out**

In any event, the harbourmaster should be consulted in the decision making. Under the NZ Port and Harbour Marine Safety Code, the harbourmaster is the designated person with responsibility for the safety of navigation within the harbour. The harbourmaster has powers to direct shipping under the LGA and can also direct that a pilot be taken (this power under the MTA is delegated from the Director). In view of those responsibilities and the associated liabilities, those powers will not be used lightly.

It is expected that a prudent and professional harbourmaster will take advice from the pilot who is on the spot, before together taking a decision. It is acknowledged that the pilot and harbourmaster are not in a position to “assess whether a vessel can navigate safely”, but as noted, they can make an assessment as to whether “a movement can be completed safely.”

*The rule has been amended to include this change of wording.*

MNZ does not support the view that the pilot should not need to confer with the harbourmaster when electing to carry out pilotage remotely. Arrangements to ensure the availability of a suitably qualified harbourmaster or deputy for any particular location when required need to be addressed at the local level.

However, it is understood that there will be situations where in the interests of safety, an immediate decision may need to be made and it is not possible to consult with the harbourmaster first. In such cases, the harbourmaster should be informed at the earliest opportunity.

*The rule has been amended accordingly.*

### **Direction by a VTS operator**

The New Zealand VTS guidelines (to be published by MNZ) recognise that where a VTS operator may give pilotage directions to a vessel, that operator would do so under a delegation from the harbourmaster. In all probability that direction would be required to be given by a pilot. Such a situation would be covered by appropriate authorisations of VTS operators in line with internationally recognised standards (IALA standards for VTS).

#### **Fixed length for compulsory pilotage**

A fixed vessel length limit of 50m for compulsory pilotage is not supported by MNZ. Pilotage requirements should be determined on the basis of risk and for many harbours a fixed limit would be unnecessary and impractical.

#### **Other issues**

Currently the rule requires that when navigating in a pilotage area, a pilot is to be carried or, in circumstances where a pilot is unable to board or disembark safely, a pilot may give advice remotely from a shore station or another vessel.

In some locations, it is established practice for vessels routinely to be permitted to proceed inbound to an anchorage or a pilot boarding station located within the pilotage boundary, without a pilot on board, or similarly to depart, but this is only under the specific instruction of a pilot or the harbourmaster. An example is Auckland where the usual pilot boarding station is well inside the pilotage area boundary. Similarly for the Manukau Harbour, the pilotage area extends to seaward of the bar but the pilot station is located inside the harbour entrance. Such practice is currently outside the rule.

In some locations, outward pilotage limits may be different to inwards limits or there may be provision for the pilot to disembark early and direct the vessel's outward passage from the pilot vessel (not necessarily because of the weather). Current examples of such practice include Napier and Timaru. In bad weather, the pilot on a departing vessel, can be carried over to the next port if unable to transfer safely and pilotage providers should have procedures covering this eventuality. However, it is appreciated that this is undesirable, particularly for a ship departing New Zealand, but safety considerations should be paramount.

*Provision has been made in the rule to allow the harbourmaster to permit certain regular movements to be conducted within the pilotage area, under the direction of a pilot, without a pilot embarked, where supported by the findings of a harbour risk assessment. The harbourmaster shall seek the approval of the Director for such arrangements or when making any significant changes to them.*

#### **Rule 90.4 Requirement to hold a pilot's licence**

Rule summary and intent

The requirement of the rule has been made more specific. The pilot must hold a valid licence which is endorsed for the pilotage area and size and type of ship.

Submissions

There was one submission (8) questioning whether this should also refer to master's exemptions. However, by definition in the rule, a pilot is not a member of the ship's crew, hence an exempt master cannot be considered to be acting as a pilot when conducting a ship within a pilotage area.

MNZ comment and changes in 2nd draft

The terms "pilotage" and "act of pilotage" are not explicitly defined anywhere. The UK Pilotage Act 1987 gives the following definition:

*"Pilot means any person not belonging to a ship who has the conduct thereof and pilotage shall be construed accordingly".*

## **Maritime Rules**

The Guidelines for Marine Pilotage Standards in Australia<sup>42</sup> define a marine pilot as “any person not belonging to the ship who has the conduct thereof”. It notes two elements:

- The person must not belong to the ship; and
- The person must have the conduct of the ship.

If neither element is present, the ship is not under pilotage.

*For clarity, a definition of pilotage has been added as follows:*

“Pilotage means the conduct of a ship in a pilotage area and to pilot a ship has a corresponding meaning.”

### **Rule 90.6 (1) Exemptions from Compulsory Pilotage**

Rule summary and intent

Rule 90.6 (1) states that a vessel exceeding the pilotage limits in any area is not required to take a pilot if the master holds a valid master’s pilotage exemption for the area and the ship, or type and size of ship. This rule does not apply to tankers and gas carriers for which an exemption cannot be given (except as noted above).

The rule has been amended to allow the Chief Officer or 1st Mate to exercise the master’s exemption under direct supervision. The stated aim is to ease the workload of the master and to give experience to the Chief Officer/1st Mate.

Provision has been made for the exemption to be endorsed with the name of a particular vessel, rather than a size and type of vessel. This would be the case where the master’s exemption applies to a single vessel.

Submissions

Various submitters commented on 90.6(1), and two matters in particular:

#### **Maximum limits on vessels for which a master can hold a pilotage exemption**

- There is no limit on length of vessel for which a pilotage exemption can apply. A maximum length should be set for each port such as was previously set in bylaws (e.g. 145m for Lyttelton, 120m for Timaru). Limits should be set for each port in consultation with the port companies who own the wharves. (5)
- Under the old Harbours Act and local bylaws, limitations were set on the issue of exemptions including length (150m in Marlborough), tonnage and draft. The rule does not address these matters. (45)

#### **Exercising a pilotage exemption under supervision**

- The amendment to Rule 90.6 which will allow the Chief Officer/1st Mate to exercise the master’s exemption certificate is seen as a positive change to allow for ongoing training. (8)
- On Strait Shipping the vessel has a master and mate/master. The master can take over command at any time, but the mate/master is not normally supervised by the master unless requested to do so. Does this rule require the master to supervise the mate/master? The legal requirement needs spelling out in the rule. (2)
- The meaning of “conduct” and “under direct supervision” needs to be spelled out in the rule. It is assumed that if the master has the exemption and the chief officer does not, the master will still be navigating the ship. Can the Chief Officer hold an exemption and navigate the ship if the master does not hold an exemption? (12)
- The rule appears to allow the master to act as a “pilot” while the conduct of the vessel is in the hands of the 1st Mate. While training of officers is a vital part of a ships operation, when supervising, the master should not undertake any role that may distract him or her

---

<sup>42</sup> Guidelines for Marine Pilotage Standards in Australia (Edition 2, November 20080  
Australian National Maritime Safety Committee (NMSC)

such as acting as navigator, and should be additional to the bridge team (normally master, mate and helmsman). The rule should make this clear. (17)

- It is doubtful if the workload of the master would be reduced when supervising, rather it increases stress. (22)
- Any reasonable master will train his senior officers in shiphandling. Provided this is done under supervision, no amendment to the rule is necessary. Allowing a chief officer to use a master's exemption has potential for extensive litigation. Who is actually in control of the vessel?

Training a new pilot or exempt master does not reduce stress, it adds to it. If someone has not demonstrated their competence by taking the master's qualification exams, why should they be judged responsible and competent enough for such high risk? (24)

- The rule should be amended to read "the Chief Officer or 1st Mate has the conduct of the ship and he or she is training under the direct supervision of the exempt master", which would facilitate training of future exempt masters. If the exempt master is unable to conduct the ship due to fatigue or is otherwise incapacitated, he or she should not attempt to supervise another officer and a pilot should be taken to conduct the planned transit. (28)
- Why can the 1st Mate, if they hold a pilotage exemption in their own right, not have the conduct of the ship to exercise their own exemption? They also need to keep their exemption current. Why is supervision by the master limited to the 1st Mate and not others? This is contrary to the principles of Bridge Resource Management (BRM). All deck officers should over a period of time acquire the ability to conduct the ship in pilotage waters themselves, day or night, regardless of whether they hold an exemption. (34)
- The intention of the amendment is unclear. Easing the workload of the master is welcomed but how will this achieve that? (37)
- Does a Chief Officer or 1st Mate who holds a valid exemption in their own right require direct supervision of the exempt master while navigating in a compulsory pilotage area? (37, 40)
- The law should revert to what it was prior to 1952 which allowed a suitably qualified person (usually the mate) to also use an exemption. This would mean that there is only one master; there would be no doubt as to that was and where the responsibility stopped w 24 hours a day. It would certainly stop the practice of crew members and ship owners and operators of playing one master off against another. (56)
- Interislander intends to position itself in the future on the basis of one Master per vessel with the balance of the pilotage being undertaken by the Mate/master. The reason for this change is due to a lack of direct responsibility for the vessel while carrying two Masters on board at all times. We intend to position Interislander into a similar operating mode such as P&O, Stena and the like of European ferry operators using the role of Mate/master to berth the vessel while the Master is off watch. This will necessitate a change to the present rule and we ask that this is taken into consideration when you redraft the pilotage rule. (57)

MNZ comment and changes in 2nd draft

### **Maximum limits on vessels for which a master can hold a pilotage exemption**

Setting maximum limits for the size of vessel for which a master's pilotage exemption can be granted in any pilotage area is supported. However, MNZ considers that such limits should not be set in the rule but established through some other mechanism e.g. within local bylaws or within the approved training programmes for exempt masters.

Such limits as are currently applied appear to have been derived from the now-repealed Harbour Regulations or have evolved from local practice. Such local limits generally reflect the size of vessels in the local trade for which exemptions may be sought, rather than the limits of the harbour. The limits for Napier, Nelson and New Plymouth are 125m, 145m and 100m OAL respectively.

## **Maritime Rules**

It is proposed that limits for each particular harbour, where applicable, be established at a local level based on consideration of the risks.

*The rule has been amended to allow the Director to set upper limits for PECs where appropriate and for those limits to be notified in the Gazette. Those limits will be established as part of the structured training programmes for pilotage exemption certificates for each pilotage area. The approval of the training programmes together with setting of upper limits by the Director will ensure a level of national consistency.*

### **Exercising a pilotage exemption under supervision**

The points raised about supervision and workload are valid ones. The master cannot supervise someone who has the conduct of the vessel and also be part of the bridge team.

A good case has been made for allowing a 1st Mate who holds a pilotage exemption certificate and has the conduct of the ship, to exercise that certificate without the direct supervision of the master. This will enable the conduct of the ship in a pilotage area to be shared between the Master and 1st Mate and not require the Master to be on watch for all passages in pilotage waters. However, MNZ is of the view that the exercise of an exemption by someone who is not the master should be conditional on the master also holding an exemption.

*The rule has been modified accordingly.*

It is emphasised that only one person can exercise an exemption at any given time on a ship. Where the conduct of a ship is handed over during a passage through a pilotage area, the Master and 1st Mate cannot both credit that particular passage towards meeting their respective currency requirements.

Where the 1st Mate is exercising his or her exemption, the Master retains overall responsibility for the ship including any decisions and notifications regarding reporting of ship defects.

### **Rule 90.5 (3) Exemptions for bunker barges**

Rule summary and intent

90.5(3) states that the Director cannot grant an exemption to pilotage under s47 in the case of tankers and gas carriers, except where the vessel is a dedicated bunker barge used for the sole purpose of ship-to-ship bunkering within the pilotage area.

A bunker barge is defined under rule 90.3 as a barge used for transferring bunkers. The term "barge" is not defined in the rule or in the MTA. However, the rule and the MTA contain a definition of "ship" which includes a barge, lighter or other like vessel, whether or not it has any means of propulsion.

This is a new provision in the rule. The intent is that for a bunker barge such as the one that currently operates solely within Auckland harbour, but which is still considered to be a tanker under the rule, an exemption from the requirement to carry a pilot can be sought under s47 of the MTA. The present rule does not permit the consideration of any such exemptions.

Submissions

Various submitters commented on rules 90.3 and 90.5(3):

- The definition of a bunker barge should specify a maximum length and tonnage to avoid large tankers being used for lightering being excluded from the requirement to take a pilot. (5, 17)
- Bunker barges can be self-propelled or dumb barges and range from small barges to large ships. The definition should be tightened. (12)
- A bunker barge should be defined as "a vessel designed and used for transferring bunkers ship-to-ship and which is primarily being used in that capacity. It is only a bunker barge when being used for that role." If it undertakes another function it should be classed as a tanker. (17, 21, 31, 32, 45)

- The wording should be amended to also allow the barge to re-fuel and de-fuel without taking a pilot as well as carry out ship-to-ship bunkers. The current wording also implies that a pilot is required for ship-to-ship bunkers outside a pilotage area. (6, 21)
- It is not clear if the exemption provision covers bunker barges entering or departing a pilotage area. If that is the intent it should be spelled out. There should be a limit on the size of a bunker barge for which a master can receive an exemption. (12)
- The operation of small dedicated bunker barges in some ports may not present a significantly greater risk than general cargo ships whereas in other areas such as Fiordland, or where there are other considerations such as traffic or navigational hazards, such operations may be deemed unacceptable. A limit on the size of barge subject to exemption should be set following an assessment of the operation and location. (17)
- Is a rule supporting ship-to-ship transfer of persistent oil in bulk consistent with improving harbour safety? (22)
- A bunker barge solely operates for ship-to-ship bunkering operations within a pilotage area. Any barge transiting between pilotage areas should be considered to be a tanker. (28)
- The barge master should be required to hold a pilot exemption certificate appropriate for the size of vessel and any areas of operation. (5, 21, 32)
- Any exemption should only be applicable when operating to specific guidelines for navigation safety which could be set in place by the harbourmaster. (17)
- The exemption certificate should cover the area the barge normally operates in. If it leaves the port area and navigates in another area of the port with which the pilot is unfamiliar then a licensed pilot should be taken. (25)
- It is suggested that for clarity the rule be split to:
  - not require a pilot to be taken for a bunker barge designed and used specifically for the purpose of transferring bunkers;
  - to allow holders of an exemption to pilot a bunker barge designed and used etc.Local training rules and exercise of privilege conditions governing the exemption should be appropriate to the circumstances in a particular port. (35)
- The rule should be changed to allow an exemption to be granted under s47 in respect of a New Zealand oil tanker or gas carrier. To permanently remove the possibility of a master of a New Zealand ship from ever obtaining a pilotage exemption at any time is draconian and short sighted, and case for the current wording of the rule has not been substantiated. (40)
- Rule 90 allows bunker barge skippers to not have PECs; does this include tug masters? (31)
- Bunker barge operations represent a significant stand-alone industry as evidenced by the existence of a global trade association, the IBIA. The master of a bunker barge who is also the holder of a PEC for that vessel and pilotage district will make a very significant contribution to the safety principles of the NZ Port and Harbour Marine Safety Code. The use of a section 47 exemption runs the risk of minimising what is clearly a significant international sector of the maritime industry. It is recommended that a definition of bunker barge be included in part 90. It is recommended that MNZ works with regional harbourmasters to agree and approve a training programme that acknowledges the perceived significance of the ship type and area of operation in any pilotage district where a "bunker barge" might operate. (58)

#### MNZ comment and changes in 2nd draft

The current rule precludes any exemption to be granted under s47 of the Act for oil or chemical tankers or gas carriers.

There is currently a proposal to replace the bunker barge presently in Auckland with a new vessel that would travel regularly between Auckland and the refinery at Marsden Point to load. Hence the amendments to the rule would have implications for this vessel, particularly as it will transit between two compulsory pilotage areas and conceivably could be used to deliver fuel to other ports as well.

## **Maritime Rules**

The submissions raise legitimate concerns which MNZ supports.

- The definition of a bunker barge should be tightened to exclude other vessels such as tankers being used in that role.
- There appears to be a consensus that such bunkering operations within a harbour can be covered by a pilotage exemption. Such exemptions should be subject to maximum length and/or tonnage limits, specified areas of operation and also specific operating procedures, determined from a local risk assessment with input from the harbourmaster.
- The exemption should allow the barge to load and discharge its cargo at a berth as well as to transfer fuel to and from other vessels.
- The exemption should apply to movements and certain activities within specified parts of a pilotage area and should not cover entry into or departure from any pilotage area unless specifically included under the conditions of the exemption.

In view of the uncertainty over the meaning of the term “barge” it is considered that introducing the term “bunker barge” is confusing, as any such vessel irrespective of size is still an oil tanker.

MNZ recognises that to require such a vessel to take a pilot when manoeuvring from berth-to-berth for bunkering may be impractical and that a pilot may not offer any significant additional benefit to a skilled vessel crew in this case. However, it is considered that any exemptions to the requirement to take a pilot in this situation are best handled on a case-by-case basis.

Under the proposed provision, an exemption from the requirement of Rule 90.5(1) may be granted under s47 of the Act. The exemption would be for the master and not for the vessel, and for a specific pilotage area or areas. Importantly, it is given under Section 47 of the Act and is not a pilotage exemption granted under Rule 90.13, and it is not the intention that a holder of a master’s pilotage exemption be permitted to operate such a vessel as a matter of course.

The Section 47 process allows a suitably rigorous mechanism by which any application can be assessed and a decision made. The exemption process requires the applicant to make a proper case for the granting of the exemption and to demonstrate that there is no “significant increase to safety” as a result. Conditions can be set by the Director in respect of any exemption so granted after consultation with the harbourmaster and other stakeholders.

Factors affecting the risk include the type and quantity of fuel carried, the exposure (the time, number and nature of vessel movements and transfers), traffic density, the difficulty of navigation in the harbour and environmental conditions, as well as the scale and nature of potential impacts in the event of a spill.

Factors taken into consideration by the Director in making any decision might include the design of the vessel, its crewing, the type of oil carried and how the vessel is to be operated. Conditions applied might include maximum length and tonnage limits or cargo capacity, specified areas of operation and approved operating procedures, all informed by the harbour risk assessment. The exemption may not necessarily apply in all areas of the harbour or to all operations. The exemption would have a limited period of validity. The granting of an exemption is essentially discretionary and the Director is not obliged to grant one.

If an upper size limit for bunker barges is set for the purpose of granting exemptions, then such a limit needs to be determined on the basis of risk. Any future bunker barges likely to be introduced into New Zealand will be double hulled. Additionally, conventional cargo and passenger vessels may typically carry up to 3,000 – 4,000 tonnes of heavy fuel oil (and possibly more in the future with larger container vessels). Hence an upper limit perhaps could be comparable with the bunker capacity of the largest likely vessel. A limit of 5,000 tonnes of oil (cargo and vessel bunkers) is proposed as the upper limit for consideration, though as noted above, a lower figure could be set as a condition of any exemption, supported by risk assessment.

There is no intention to relax the requirement for all tankers to take pilots when navigating in a pilotage area. This is the status quo which reflects international practice. No solid case has been made for change.

*The rule has been amended to remove the term “bunker barge”.*

*Provision has been made to allow for section 47 exemptions to be granted in respect of tankers where:*

- *The primary operational purpose of the tanker is ship-to-ship bunkering within a pilotage area; and*
- *The tanker is not capable of carrying more than 5,000 tonnes of oil (including cargo and its own bunkers).*

#### **Rule 90.6(2) (b) Exception to exemption provisions**

Rule summary and intent

90.6 (2) outlines conditions under which an exempt master would be required to take a pilot, namely, where:

- They are directed to do so by the Director under s60A of the MTA or by the harbourmaster under delegation [90.6 (2) (a)]; or
- The manoeuvring capability of the ship is adversely affected by defective equipment (propulsion, manoeuvring or communication equipment for instance) [90.6 (2) (b)]; or
- The transit is to be in darkness and the master has not completed a transit within that pilotage area within the last 6 months [90.6 (2) (c)].

The rule states that where there is such an equipment defect, the harbourmaster is required to be notified as soon as practicable.

The intent of 90.6(2) (c) is that a transit in darkness is generally considered to be more difficult than one during daylight (hence for example, prohibitions on night time bar crossings in certain places). If the master has not made a transit for quite some time (6 months) then the intent is that they should be required to complete one transit in daylight (assuming that their exemption certificate is still current) to re-familiarise themselves with the passage before attempting it in the dark.

Submissions on 90.6 (2) (a)

#### **Director directs that a pilot be taken**

One submitter commented on 90.6 (2) (a):

- The delegation by the Director under s60A of the MTA should be to the regional council and not the harbourmaster (with a consequential amendment to s60 of the Act). In certain locations, the appointed harbourmaster may lack the necessary expertise or qualifications to undertake the delegation and the council may need to contract the expert services required to make that decision. (41)

MNZ comment and changes in 2nd draft

Under the MTA, the Director may delegate the power to a person other than the harbourmaster but this will be at his/her discretion.

*No change has been made.*

Submissions on 90.6 (2) (b)

#### **Requirement to take a pilot when the manoeuvring capability of the ship is affected by defective equipment**

Various submitters commented on 90.6 (2) (b):

- Defects should in all circumstances be reported prior to the ship entering into a pilotage area or departing from a berth or anchorage within a pilotage area. This requirement is vital to ensure navigation safety. Harbour risk assessments are undertaken on the basis of a fully functioning vessel or equipment. (17)

## **Maritime Rules**

- Interislander ferries declare the vessel's operational status prior to entry and departure to the harbourmaster indirectly via port control in Picton and Wellington. This notification is ineffective unless the master takes it upon himself to request a pilot, as port control and the harbourmasters in these locations are not qualified to judge (without reference to a pilot) what effect any deficiency may have on the ship's manoeuvring capability. The pilot may possibly not be on duty or be less experienced than the master. (34)
- Taking a pilot on board in this case should be the master's decision. As an exempt master, he knows his ship and the pilotage area and is in a position to judge whether he requires further advice from a pilot. (43)
- Taking a pilot should be at the master's discretion. What if a defect occurs during the transit – does this require the vessel to stop and take a pilot? (43)

MNZ comment and changes in 2nd draft

For vessels taking a pilot, declaration of the vessel's operational status and any defects are made as part of the master/pilot exchange prior to commencing the transit (entering into the pilotage area, departure from the berth or other movement within the area). The pilot needs to be aware of any defects or problems that may affect the safe conduct of the vessel during the pilotage. The pilot is then in a position to make a decision whether to proceed with the pilotage and may consult with the harbourmaster. If considered necessary, he may request additional support such as a further tug or choose to go to anchor while the problem is rectified, or some other mitigations to manage the situation.

It is not uncommon for defects which are apparently known to the vessel's crew not to be declared with unexpected surprises during the pilotage. Under the UK Pilotage Act 1987, the master commits an offence if he/she does not declare such failures to the pilot.

In effect, the requirement mirrors that situation for vessels with masters who are PEC holders. Where there are known defects which may adversely affect the manoeuvring capability of the vessel, the harbourmaster should be advised and agreement obtained on whether the movement should proceed and if any mitigating measures (such as tug assistance or using a pilot) may be required. Commonly where a tug or tugs are required, a pilot will be taken (or the port operator may require that one be taken) as exempt masters may not routinely be using tugs.

The master is responsible for the safety of the vessel and he or she is in the best position to assess any problem and its implications for the safe navigation of the vessel itself. If they are unhappy with the situation they should consult with the harbourmaster before proceeding. While the harbourmaster personally may not always be best placed to make a judgement about the vessel, they are responsible for the safety of navigation in the harbour and there may well be other considerations (such as other vessel movements occurring) which the master may not be aware of. It is noted that the master has overall responsibility for the ship, so any decision in respect of reporting defects rests with the master.

If a defect occurs during the transit, the master should notify the harbourmaster and may if necessary request further assistance.

In most New Zealand ports, the initial contact point for a vessel is the port control service or harbour radio. In many cases they will be an inbound ship's initial point of contact for communication with pilots or the harbourmaster, however local protocols for communication with harbourmaster to cover this situation should be established as part of the harbour safety management system.

*The rule has been amended to require the master (or the pilot as the case may be, if a pilot is boarded) to report such defects to and consult with the harbourmaster before navigating the ship within the pilotage area.*

Submissions on 90.6 (2) (c)

### **Requirement to take a pilot for passage in darkness**

Various submitters commented on 90.6 (2) (c):

- This requirement should be changed to 4 months not 6 months [no justification given]. (5)
- Real Journeys' vessels go to Bluff for annual survey over a short period in the winter often necessitating transits in darkness. It will be usually be longer than 6 months between visits. The 100GT pilotage limits requires that masters hold exemptions. The requirement for a recent passage (within the previous 6 months) before entering or exiting in darkness will create difficulties for Real Journeys' exempt masters and it is suggested that it be extended to 12 or even 24 months, subject to ship's charts being up-to-date and NOTAMs regarding buoys and beacons noted and complied with. (8)
- This requirement is too restrictive and unnecessary as in almost all cases, the port's navigation aids are well lit and more accurately observable during darkness than during daylight. The master has to complete the requisite number of transits anyway to keep an exemption current [several submissions related to cement carrier operations – visits less frequent than interisland ferries]. (15, 38, 44, 46)
- Should it be necessary to take a pilot if the exemption holder has transited the pilotage area during the hours of darkness as a current exemption holder [maybe the wording of the rule is not quite right here?] (40)
- How does MNZ envisage that this would be administered and enforced? It would require a database to be set up to log every transit. (28, 34)

MNZ comment and changes in 2nd draft

While lit navigation marks may be more visible in the dark, it is generally agreed that given the reduction in visual information available to a person navigating a ship in darkness e.g. the state of the sea, height and direction of swell etc., pilotage during darkness is more difficult than during daylight.

The stated recent experience conditions are required to be met in any prior 12-month period. There may be situations where the required transits for the period have been completed, but none have been carried out in the last six months. Without recent experience of the harbour, conducting a transit in darkness, particularly in poor weather, is not considered to be safe practice and a pilot taken or the passage delayed.

No justification was given by the submitter for a shorter period (i.e. four months).

In the particular case of Bluff and Real Journeys (see submission 8), it is not considered good practice for an exempt master to enter or depart in darkness if they have not navigated their vessel there at all in the previous six months, and this is a situation where it would be considered appropriate that a pilot be taken. While harbour information and the master's knowledge may be up-to-date, the master's experience of ship handling in the particular conditions of the harbour will not be. An extension of the six month period is not justified.

In many situations, voyages can be planned to allow arrival or departure during daylight hours and the need to take a pilot for a night movement should not be that frequent. In some cases, it may be a condition of the PEC that only daylight transits are permitted.

Rule 90.16 (b) requires that exempt masters log all their movements and are required to provide this information to the harbourmaster or the Director on demand. In most ports, the port operator (through harbour radio or harbour control) will also log all movements and this can be used as a cross-check of the master's log by harbourmasters.

*The provision in the rule has been retained in its present form.*

## **Rule 90.7 Licence Issue and Endorsement**

Rule summary and intent

This rule sets out the requirements for issue of a pilot's licence and the endorsements on that licence.

An applicant is entitled to a licence if an application is made under s35 of the MTA and it meets the general requirements of a licence in rule 90.9 and the requirements for issue and recognition of maritime documents under s41 of the Act.

## **Maritime Rules**

The licence must be endorsed with:

- the applicable pilotage area or areas;
- the size and type of vessels that may be piloted without restriction or supervision; and
- the exercise-of-privilege conditions determined by the Director under Rule 90.8.

There were no submissions specifically on Rule 90.7.

### **Related issues**

#### **Exercise-of-Privilege Conditions on Licence**

MNZ comment and changes in 2nd draft

Past practice has been to include the required number of transits required to maintain the currency of the licence on the licence certificate. The same applies to pilotage exemption certificates (PECs).

It is proposed that the required number of transits for each pilotage area no longer be included in the rule itself. This level of detail is not appropriate for a rule and some flexibility needs to be maintained to be able to review and change the number of transits if required. Instead it is proposed that the recent experience requirements (number of transits) for each pilotage area be required to be specified in the structured training programme (subject to the Director's approval which will provide national oversight) and also be gazetted by the Director.

*The rule has been amended accordingly.*

Exercise-of-privilege conditions are discussed in more detail under subsequent rules.

#### **Inability to meet Exercise-of-Privilege conditions**

MNZ comment and changes in 2nd draft

All pilot's licence and PECs issued in the past have had the following endorsement:

*"If the holder of this document is unable to meet the requirements of the exercise of privilege conditions due to operational constraints, the required passages may be completed as an observer on a vessel with a duly licensed pilot or exempt master."*

While there strictly is no basis for this provision in the rule, it is considered to be a practical solution to ensure that holders of licences and exemptions are not unfairly penalised and at risk of losing their currency if the required number of transits cannot reasonably be completed.

*A new provision has been added to the rule to cover the situation where the recent experience requirements for the licence have not been met but the licence has not expired. The currency of the licence can be regained if the holder conducts one entry and exit pilotage under the supervision of a licensed pilot within a period of two months of ceasing to be current. A similar provision has been included in respect of PECs.*

#### **Rule 90.8 Exercise-of-privilege conditions**

Rule summary and intent

90.8 (1) requires the director to specify exercise-of-privilege conditions to be met for the licence to be current. These conditions include the minimum number of pilotages that must be undertaken under specified operating conditions within a given period, and any other requirements considered appropriate in the interests of maritime safety. As noted above, Rule 90.7 requires that these conditions be endorsed on the licence.

90.8 (2) sets out what matters should be taken into account when setting the conditions. These include the complexity of navigation, traffic density, environmental sensitivity and any factors affecting the consequences of an accident. The views of the harbourmaster, pilotage provider, port company and any owner of significant port assets should be considered. No

specific mention of the harbourmaster is made in the current rule with respect to advice on setting exercise-of-privilege conditions.

90.8 (3) requires that the minimum exercise-of-privilege conditions for each pilotage area, not be less onerous than the minimum set out within the schedule to the rule.

90.8(2)(c) requires that the results of any relevant port and harbour risk assessment be taken into account when determining exercise-of-privilege conditions. In reviewing and approving risk assessments under the NZ Port and Harbour Marine Safety Code, MNZ expected that those assessments would inform the setting of pilotage limits for each pilotage area and any relevant conditions-of-privilege. It was also expected that the risk assessment process would provide the mechanism for local stakeholder input as required under 90.8(2)(b) and that the harbourmaster would co-ordinate this input.

#### Submissions

Various submitters commented on 90.8:

- The exercise-of-privilege conditions for a pilot's licence should reflect the requirements for each individual pilotage area specified on a multiple pilotage area licence. The present requirements of MNZ and the harbourmaster are at a variance. (12)
- Exercise-of-privilege conditions should not form part of the rule as these will vary from port to port. The requirements need to be made at a local level through the harbourmaster and could be approved by the Director of MNZ. The pilotage limits should also be made at a local level and approved by the Director, not locked into a maritime rule. The limit should be 250 GT for Tauranga not 500 GT. (16)
- Requiring the Director to seek the input of the harbourmaster and to consider the outcome of the harbour risk assessment in setting exercise-of-privilege conditions is strongly supported. (28)
- Formal recognition of the Regional Council's role as "owner" of the risk assessment should be made by including the regional council specifically as a stakeholder whose views should be considered when setting exercise-of-privilege conditions. This applies similarly to the equivalent provisions for master's exemptions [90.14]. (41)
- The views of local pilots on matters in 90.8 (2) (a) should be taken into account in setting conditions as they are the local experts with an appreciation of the complexity of navigation, traffic density and environmental sensitivity. This applies similarly to the equivalent provisions for master's exemptions [90.14]. (43)
- The Director should have regard to the views of pilots in the pilotage area. It cannot be taken for granted the views of pilots will be promoted by port companies or harbourmasters. (43)

#### MNZ comment and changes in 2nd draft

The information in the schedule to the rule, including minimum conditions-of-privilege is based on feedback from harbourmasters during earlier informal consultation. Those conditions were generally accepted as reflecting findings from the risk assessments and the views of harbour users and other affected stakeholders.

At present, the specified exercise-of-privilege conditions in the schedule are incomplete and may not be consistent with currently approved local training courses. The formal consultation on the rule was intended to provide the opportunity for these conditions to be confirmed or amended as appropriate and a number of submissions have been received on the schedule itself.

It is recognised that the setting of exercise-of-privilege conditions should also cover PECs. Furthermore, these conditions should be set as part of the development of local training requirements for licences and PECs.

#### **Inclusion of minimum conditions of privilege**

There is a wide variation in conditions applied across the country (which should reflect the risk profile of each particular pilotage area). Taken together with the need to specify conditions for

## **Maritime Rules**

licence holders as well as PEC holders, attempting to include all of those conditions in the rule becomes impractical. In addition, conditions-of-privilege for both licences and PECs in a given harbour may also vary according to the size and type of vessel for which the licence or PEC applies.

MNZ takes the view, which is supported by a number of submissions, that any attempt to specify minimum conditions-of-privilege in the rule (either for each individual pilotage area or across the whole country) is not practical.

As noted above, it is expected that the minimum requirements for each area will be established as part of the development of the training programmes and assessment schemes (see later submissions) for pilot's licences and PECs. The Director's approval of these training programmes will provide the national overview to ensure that a consistent approach is taken in setting those requirements, that the criteria in 90.8(2) are satisfied and that there is input from relevant parties.

It is expected that the harbourmaster as the regional council's appointee will represent the views of the council in determining any conditions, and therefore it is not necessary to stipulate the need for council input into the setting of minimum conditions-of-privilege.

*Minimum exercise-of-privilege conditions and specific rules for pilotage areas have been removed from the Schedule. A provision has been added requiring the Director to notify the minimum recent experience requirements for each pilotage area in the Gazette.*

*In order to clarify the rule, the expression "conditions of privilege" has been removed. Instead the rule specifically sets out the criteria for maintaining the currency of a licence or PEC, which include meeting "recent experience requirements". Provision has been made for licences and PECs to be endorsed with any other conditions that the Director considers appropriate in the interests of maritime safety, noting that any recommendations of the examination panel will be taken into account when setting those conditions.*

*The privileges of licences and PECs have been made more explicit.*

### **Employers of pilots**

While the wording in the draft rule refers to "any employer of pilots in the pilotage area", it is intended to mean providers of pilotage services. There is an expectation that the views of individual pilots will be heard through this process.

*For clarity, the wording has been changed to require the Director to seek the views of "any providers of pilotage services in the pilotage area" instead of "any employer of pilots".*

### **National minimum number of pilotages required for currency**

In light of the discussions above, it is not considered appropriate for national minima to be set in the rule as these would not reflect the diversity of the country's harbours or their particular risk profiles. However, the advisory circular will provide some guidance on minimum expectations.

*No change has been made.*

### **Confirmation of ongoing competency**

Submissions made on rule 90.14 (exercise-of-privilege conditions for PECs have noted that whereas exemption holders are required to undergo and pass an annual assessment by a licensed pilot in respect of each pilotage area for which they hold exemptions, there is no equivalent requirement for ongoing assessment of pilots. The only provision is for where there has been an absence from pilotage duties. Where a pilot is not being supervised or observed for the purposes of obtaining a higher grade of licence, he or she or could conceivably continue to carry out their duties indefinitely without any independent scrutiny of their practical performance.

*This appears to be an anomaly and the rule has been amended to require pilots to also undergo annual assessments.*

## **Rule 90.9 General Requirements (for a pilot's licence)**

### **General requirements (90.9 (1))**

Rule summary and intent

90.9 (1) requires an applicant to hold a certificate of competency as master of a foreign-going ship, that can be recognised by the Director [90.9 (1) (a)] and a current medical certificate [90.9 (1) (b)].

It requires evidence from a training provider that the applicant has completed a general pilot training course and passed an assessment [90.9 (1) (c)].

It also requires that the applicant has completed a course of local training and knowledge and passed an assessment. Each assessor is required to attest to this. The results of the assessment are to be provided. [90.9 (1) (d)]

The changes to wording in (c) and (d) aim to tighten up the level of documentary proof of attendance and satisfactory assessment of general and local training.

Submissions

Various submitters commented on 90.9 (1). The issue of the entry qualification i.e. the requirement for candidates to hold a Certificate of Competency as a master foreign-going, and possible consideration of equivalent qualifications in the future is covered under 90.19. Submissions related to that aspect are discussed under that section.

- Local knowledge and experience is important for river bar pilotage. The combination of local knowledge and a competent ship handler is the best choice for Wanganui. (18)
- It is essential for the harbourmaster to co-ordinate any assessment of a candidate's local training and knowledge. (28)
- It is essential that communications between pilots, tugs, port radio and local vessels are clear. It is necessary to ensure that applicants have high fluency in English. The current checks for fluency in the equivalent qualification of competency are not adequate. (25)
- It is not the function of an assessor to verify attendance at a course. The role of the assessor is to test the knowledge of the candidate and whether this is to the standard required for a licence (or exemption as applicable). (45)

MNZ comment and changes in 2nd draft

Assessment of fluency in English is included as part of a safety oral examination for the recognition of any non-New Zealand certificate of competency.

It is agreed that it is not the function of the assessors to verify attendance. It is the function of the examiner to verify that all the requirements for the issue of the licence (or exemption) have been met.

*The rule requirements for training, assessment and examination of candidates for pilot licences and PECs have been reviewed in the light of the submissions and issues surrounding examinations of pilots. As a result of this review, clarification and further detail has been provided and the relevant sections of the rule have been extensively rewritten. Specific changes are discussed elsewhere in this document.*

### **Consideration of previous relevant experience (90.9 (2))**

Rule summary and intent

90.9 (2) provides for the Director to waive the requirement in 90.9(1)(d) i.e. to provide evidence of completed a course of local training, if the applicant has experience as a pilot in another pilotage area and has undertaken local training that is sufficient to ensure that they can act as a pilot in that area.

The intent of this provision was to enable the qualifying requirements (for instance, the number of supervised pilotages to be carried out) to be relaxed where a candidate already has

## **Maritime Rules**

significant relevant pilotage experience. The current rule contains no such provision. It was never intended that local knowledge or training requirements could be bypassed.

### Submissions

Various submitters commented on 90.9 (2). There was strong opposition to inclusion of a provision that could be interpreted as allowing the Director to effectively waive local training requirements. Submitters commented:

- Where an applicant holds a licence for another area, there already exists a mechanism for them to gain additional areas through the completion of a local training course. The inclusion of a clause allowing a person to bypass any local training scheme, and therefore any requirements or findings of any risk assessment as required by the NZ Port and Harbour Marine Safety Code, would undermine the whole purpose of having risk assessments and localised training. It is accepted that a person may have a reduced local training requirement due to previous experience, however some local training will always be required. The Director should not have the power to waive the requirement for a local training course and the clause should be deleted. (17, 21, 31, 32, 45).
- 90.9 (2) may conflict with the detailed local training requirements of 90.20(2). In that part the harbourmaster is obliged to ensure that all local training programmes are sufficient to ensure an applicant from any other jurisdiction or level of skill will undertake sufficient training to satisfy local requirements before gaining a pilot's licence or pilot-exempt master's certificate. Such a person must be subject to whatever local training programme the Director approves within 90.9(1)(d)(i)(aa). The clause is redundant and should be deleted. (35)
- The Director is not in a position to assess whether an applicant can "safely act as a pilot" without consulting the harbourmaster. The wording should be modified accordingly. (28)
- The amendment is supported on the grounds that a pilot who is working at one New Zealand port is likely to have handled vessels trading on the coast and will be familiar with the specific rules and regulations pertaining to the New Zealand maritime industry. (22)
- An exempt master having an exemption for a port and making regular use of such an exemption should also be in a position to have the Director's option to waive the requirements [if they wish to apply for a pilot's licence] (2)

### MNZ comment and changes in 2nd draft

The comments regarding the importance of local knowledge and training, in the context of the NZ Port and Harbour Marine Safety Code are acknowledged. It was not the intention in the rule to bypass these requirements entirely but to provide for some relaxation of them where appropriate. As noted above, the provisions in the rule covering training have been extensively revised.

### *The following changes have been made:*

- *The distinction between general and local training courses has been removed and the required form and content of training courses made more explicit.*
- *In future, a pilot licence will generally be issued for a single pilotage area. To obtain a licence for a second area, the candidate will be required to complete the approved training programme for that area and a separate licence will be issued.*
- *The required syllabus for approved training programmes has been prescribed, including the local knowledge requirements. The programme must detail the process by which the pilot will acquire the necessary knowledge of, and proficiency in, pilotage and navigation in the pilotage area to enable him or her to competently exercise the privileges of the licence.*
- *The revised rule specifies that training programmes must set out the process for determining whether and how a previously approved training programme might be modified to reflect a candidate's previous experience. Any "standard" training programme modified for a particular individual will need a separate approval. These changes should ensure that a pilot wishing to obtain a licence for another pilotage area*

*has to attain and then demonstrate the same level of local knowledge, ship handling skills and general proficiency in pilotage as any licence holder for that area.*

- *The revised rule provides for a PEC to be endorsed for more than one pilotage area but the training requirements for further endorsements have been made more explicit and specifically include local knowledge.*

#### **Rule 90.10 Additional Endorsements (for a pilot's licence)**

##### Rule summary and intent

The current rule does not make any specific provision for enabling a licence or exemption to be endorsed with additional pilotage areas. This part stipulates a requirement for completion and successful assessment of additional training as a condition of such endorsements. The reference to advanced training in 90.10 is misleading.

##### Submissions

Some of the submissions made on this part also apply to 90.9. Submitters commented:

- The Director should not be able to endorse a licence with additional pilotage areas, without the applicant having successfully completed the course of local training. (31)
- Add an additional clause requiring that "where an endorsement is for an additional area, vessel type or size, the applicant must complete those parts of a local training course applicable for that area, vessel type or size, and approved by the Director under rule 90.20 (2). The inclusion of an advanced pilotage course to the requirements of all pilot's licences, and particularly as an ongoing requirement is strongly supported. (17)
- It is essential for the harbourmaster to co-ordinate any assessment required for advanced training in order for the standards set for the pilotage area to be maintained (28)
- New Zealand ports have largely supported both BRM and Advanced Pilot Training courses (such as in Australia) and this has been achieved voluntarily. While requirements for increased training and attendance at advanced courses are fully supported, making this a requisite of licensing is not necessary given the huge support these courses currently have. (22)

##### MNZ comment and changes in 2nd draft

See previous comments under 90.9 above.

#### **Rule 90.11 Currency and Exercise-of-privilege Conditions (for a pilot's licence)**

##### Rule summary and intent

This part sets out the requirements for a licence to remain "valid", namely, the holder:

- Continues to hold a certificate of competency as master of a foreign-going vessel;
- Continues to hold a current medical certificate;
- In the event of any absence from piloting duties, on medical grounds or any other reason that may affect the ability of the holder to safely exercise the privileges of the licence, satisfactorily completes any competency audits or assessments as required by the Director; and
- Complies with the exercise of privilege conditions endorsed on the licence.

##### Submissions

Submitters commented:

- Substitute the word "current" for the word "valid". The licence may be valid for 5 years but that does not mean that it is current (21, 31, 32, 35, 43). Similar comments were made in respect of the "validity" of master's pilotage exemptions under 90.18.
- The Director is not well placed to determine the requirement for competency audits or assessments in the event of absence from duty and should consult the harbourmaster before making a decision. (28)

## **Maritime Rules**

- Add an additional clause requiring that the holder complies with any ongoing training requirements set down in a course of local training approved by the Director under 90.20(2). A local training course may set out ongoing training requirements where an area has particular hazards, conditions or other circumstances that require such training. Where these ongoing requirements are part of a course approved by the Director then they are part of the currency of the licence. The Director has the ability to question those ongoing training requirements when the course is approved. (17)

MNZ comment and changes in 2nd draft

### **Current vs. valid**

The points raised regarding “current” vs. “valid” are noted.

*The term “valid” has been removed and a definition of currency has been included as noted under 90.3. Currency requirements for both pilots’ licences and PECs have been made more explicit in the rule. Licences and PECs will be issued for a period of 5 years, after which time they must be renewed.*

### **Audits required in the event of absence**

The points raised are noted.

*The rule has been amended to require that assessment schemes for pilots and PEC holders describe the procedures and processes to be followed where the recent experience requirements have not been met. The Director will endorse those processes through the approval of the assessment schemes, so referral to the Director should not be required routinely in such cases.*

*The rule has also been amended to simplify the requirements in respect of regaining medical fitness. It will remain the licence or PEC holders to ensure that they are medically fit before exercising the privileges of the licence or PEC. The responsibility will rest with the pilotage provider or employer of a PEC holder to determine the extent of any assessment of proficiency required before an individual can resume normal duties, once a certificate of medical fitness is obtained. A copy of that certificate must be provided to the Director within one month of it being issued.*

*A general requirement has been added that assessment schemes for pilots (see discussion elsewhere) should include processes and procedures for maintaining and demonstrating the ongoing proficiency and skills of licensed pilots.*

### **Compliance with ongoing training requirements**

It is a valid point to require ongoing training requirements to be spelled out within the scope of an approved training course and to require those requirements to be met to maintain the currency of the licence.

*The rule has been amended to require all providers of pilotage services to have an assessment scheme in place, approved by the Director, to ensure the proficiency and skills of pilots are maintained. The rule sets out the requirements for the scheme, including annual assessments, refresher training and ongoing Continued Professional Development (CPE). It should also address the matter of resumption of duties following absence. The assessment scheme may be part of an approved structured training programme or separate.*

### **Rule 90.12 Validity of a pilot’s licence**

Rule summary and intent

This rule introduces provision for licences to have a limited validity and be revalidated after five years. It requires licence holders to make an application prior to the expiry of their licence. Revalidation requires:

- Evidence from the holder’s employer that the holder has complied with the exercise-of-privilege conditions;

- Where the pilot is licensed for more than one pilotage area, confirmation from the harbourmaster for each pilotage area that the holder has complied with the conditions;
- Evidence of having completed an advanced pilotage course within the last two years and passed an assessment.

A revalidated licence will be valid for a further five years. The five year revalidation brings New Zealand into line with international requirements under STCW95 for revalidation of certificates.

#### Submissions

Submitters commented on the following matters:

#### **Advanced Pilot Training**

- The value of requiring pilots to attend an advanced pilotage course was questioned, and it was considered an unnecessary cost. (11)
- Why does attendance at an advanced pilotage course have to be within two years of seeking re-validation? (12)
- The requirement for advanced training every five years as a precursor to revalidation is supported and will assist in the delivery of technical and operational advances within the industry to serving pilots in a format that is internationally recognised with a measurable educational outcome. (21, 35)
- Emphasis should be placed on practical training such as bridge simulation which recognises the hands-on nature of pilotage and would be better than a classroom-based course. It would give the assessor insight into the inherent ability of the pilot and their future training needs. (22)
- If a mandatory course requirement is introduced, efforts must be made to ensure adequate provision of courses to meet the resulting demand, as well as some controls with respect to the costs of such courses, given that they would be mandatory. (22)
- A refresher course on BRM combined with simulator training on one's own port would be more beneficial than a total advanced pilotage course with simulator training on some foreign port. New Zealand ports are modelled on simulators but not all at recognised advanced pilotage training providers. Recognition needs to be given for time spent on one's own port simulator as they provide the opportunity to experiment with different vessels or weather conditions. (27)
- There is no port-specific simulator training requirement, environmental factors or emergency procedures training. The use of simulators is the only way to ensure practice and currency in execution of emergency procedures and such practice should be mandatory every two years. (31)
- It may not be possible to complete an advanced training course in the timeframe required because a course is not being offered during that time or the pilot is not available. It may be appropriate to allow a two-year period of grace either side of the first revalidation after the new rule takes effect. (35)

#### MNZ comment and changes in 2nd draft

The scope and intent of "advanced pilot training" is not particularly clear in the rule. The requirement for advanced pilot training to be completed within two years of seeking revalidation was intended to ensure that that training would be relatively recent at the time of revalidation. However, the difficulties of programming such training into a two-year window are recognised and MNZ considers that this can be relaxed, allowing for such training to have been completed at any time during the period of the validity of the licence (i.e. five years).

*Noting the comments regarding "current" vs. "valid", the rule has been amended to use the term "renewal" instead of "revalidation".*

*The concept of Continuing Professional Education (CPE) for pilots has been introduced into the rule in place of "advanced training" and the topics to be covered as part of CPE are set out (see later discussion). Pilots will be required to complete a course of CPE within the previous five years in order to renew a licence.*

## **Maritime Rules**

MNZ recognises that where a port has been modelled on a simulator then use of this simulator as part of advanced pilotage training is advantageous and should be credited. However, a distinction should be made between the use of a simulator for meeting ongoing CPE requirements including exercising emergency scenarios, and its use for evaluating new vessels and operating conditions.

### **Confirmation of currency for revalidation**

- An independent pilot has no employer other than himself so there would be difficulty in complying with the requirement of 90.12(2)(a). (12)
- It is suggested that the harbourmaster be required to confirm currency in both 90.12(2)(a) and (b) to provide consistency and confirmation from a party independent of the employer. As a regulator, the harbourmaster is better placed to fulfil this requirement. (17, 45)
- Pilots should complete an annual return to the regional harbourmaster for each pilotage area for which he/she is licensed, providing evidence of having satisfied the exercise-of-privilege conditions. When revalidating their licence, pilots should provide a statement from the regional harbourmaster confirming compliance with those conditions. This should apply even if they are licensed for only one area. The provision of an annual return to the harbourmaster will ensure that the controlling authority is aware of the extent of compliance by each pilot with their respective licence conditions, in the various pilotage areas. (29)

MNZ comment and changes in 2nd draft

For an independent pilot, where the “employer” is not a separate entity, a statutory declaration could be made in order to comply with the requirement of 90.12 (2) (a).

The harbourmaster is delegated by the Director to conduct examinations for licences, and has overall responsibility for the safety of navigation within the pilotage area. It is logical that the harbourmaster should have a role in ensuring ongoing compliance with the conditions of licences held within their area of jurisdiction and also in any renewal of those licences. The current wording of the draft rule only requires harbourmaster involvement where a licence is held for more than one pilotage area which appears to be an anomaly.

Draft rule 90.16 requires that exempt masters maintain a log of movements carried out within pilotage areas and that this be provided to the harbourmaster or the Director upon demand. It is proposed that a similar requirement be included in respect of licence holders.

Harbourmasters could then require annual returns to be furnished or as regularly as they see fit for monitoring purposes. For most pilotage providers it is expected that such record-keeping is routinely done already so this would not be an onerous requirement. Prior to licence revalidation, the harbourmaster would then be able to independently confirm that the conditions-of-privilege for their particular pilotage area(s) have been met.

*The rule has been amended to require that for a licence to be renewed, the Director must be satisfied that that licence is current. The new currency requirements require the licence holder to maintain a record of all pilotage carried out in a format acceptable to the Director.*

### **Five-year validity for licence**

- Making a pilot’s licence valid for five years is a positive move and assists in removing older licences and pilots who are not active in the licensed area. (13)
- The proposal for revalidation after five years seems in conflict with other parts of the rule. There is no requirement to hold a currently valid STCW95 certificate of competency in order to be issued a pilot’s licence or exemption, so why bring in an STCW95 style of revalidation? (17)
- The proposal for a five-yearly renewal does not add any new checks, audits or value – it only sets in place a fee and process, and therefore is not supported. A stronger stance that saw annual checks of currency and audits would be supported. (17)

- There appears to be no requirement for peer review or competency audits, except in the case of an absence from piloting. (31)
- Under what conditions would the Director NOT revalidate a licence? (43)

MNZ comment and changes in 2nd draft

All new certificates of competency as Master of a Foreign Going Ship being issued in New Zealand and other “white list” countries require revalidation after five years, in line with STCW95. (It is anticipated that all STCW95 certificate holders will revalidate their certificates at the due date. They will be able to do this by proving experience as a pilot, showing 2.5 years experience in the past five). Hence over time as new pilots are trained and existing licences are relinquished, all pilots will hold STCW95 certificates of competency, so it is desirable to have licences also issued for a 5-year period. MNZ can issue licences with the same expiry date as the certificate of competency to make revalidation easier to remember.

*The rule has been amended to now require pilots to undergo an annual assessment to maintain the currency of the licence. As a condition of renewal the pilot must continue to hold the required certificate of competency and as noted above, the Director must be satisfied that the licence is current.*

*To avoid confusion, the rule has been revised and refers only to “currency” not “validity” and to “renewal” and not “revalidation”.*

### **Rule 90. 13 Master’s pilotage exemption issue and endorsement**

Rule summary and intent

This rule sets out the requirements for issue of a master’s pilotage exemption and the endorsements on that exemption.

An applicant is entitled to an exemption if an application is made under s35 of the MTA and it meets the general requirements of an exemption in rule 90.9 and the requirements for issue and recognition of maritime documents under s41 of the Act.

The exemption must be endorsed with applicable pilotage area or areas, the name or names of the vessels (or if relevant, the size and type of vessels) that may be commanded without a pilot, and the exercise-of-privilege conditions determined by the Director under Rule 90.14.

Submissions

Submitters commented as follows:

- For tug masters’ pilotage exemptions, the exemption should be endorsed with the ship type (tug and tow) rather than the name of the tug, to enable the exemption to be used on different vessels with different tows. This is the nature of the towage industry and would enable the master to use a tug most suitable for the task in hand. (11)
- Exemptions should be endorsed with tonnage limits as at present. Otherwise it would be necessary to re-apply if the ship’s name is changed or if replacement/new tonnage was to be introduced. (34)
- Exemptions should be endorsed with length and gross tonnage, not on ships’ names. Otherwise this becomes restrictive on masters who are in relieving capacities across several companies. (36)

MNZ comment and changes in 2nd draft

The rule already provides for the size and type of vessel to be identified on a PEC instead of the vessel name. However, specifying the name of a vessel or vessels for which the master may exercise an exemption is not particularly onerous and is MNZ’s preference. There are generally only a handful of vessels for which a master would be hold a PEC for any particular pilotage area and PECs can be reissued when there are changes. Using names also provides a useful prompt/check on the currency of the PEC when there is a change of vessel.

*No changes have been made in respect of the above submissions.*

**Rule 90.14 Exercise of privilege conditions (master's pilotage exemption)**

Rule summary and intent

90.14 (1) requires the Director to specify the minimum number of pilotages that must be undertaken under specified operating conditions within a given period. The exemption holder must undergo and pass an assessment by a pilot licensed for the area, for each area covered by the exemption, at least once every year. They must also meet any other requirements considered by the Director to be appropriate in the interests of maritime safety, in order that the licence remain current. As noted these conditions should be endorsed on the licence.

In the draft rule, the requirement for an annual assessment does not apply to pilot's licences at present.

90.14 (2) sets out what matters should be taken into account when setting the conditions. These include the complexity of navigation, traffic density, environmental sensitivity and any factors affecting the consequences of an accident. The views of the harbourmaster, port company and any owner of significant port assets should be considered, as well as the owner of any vessel subject to compulsory pilotage in that area.

The above requirement mirrors that for a pilot's licence. In the current rule, the harbourmaster is not specifically referred to with respect to the Director taking advice on setting exercise-of-privilege conditions. However, they are included by inference (through the Chief Executive of the Regional Council).

90.14 (3) specifies minimum exercise-of-privilege conditions for each pilotage area.

As for pilot's licences, the amendment introduces a requirement that the results of any relevant port and harbour risk assessment be taken into account. In reviewing and approving risk assessments under the NZ Port and Harbour Marine Safety Code, MNZ expected that those assessments would provide the basis for setting appropriate pilotage limits for each pilotage area and any relevant conditions-of-privilege. It was also expected that the risk assessment process would provide the mechanism for local stakeholder input as required under 90.14 (2) (b) and that the harbourmaster would co-ordinate this input.

Submissions

Submitters commented on various aspects of this rule as follows:

**Annual assessment by licensed pilot**

- The above requirement is understood for a master exercising their privileges infrequently, but in the case of Cook Strait ferry masters, they conduct many more transits than either Wellington or Picton pilots. It is suggested that this requirement could be waived when a master makes use of his/her exemption more than a defined number of times in a year. (2)
- In the case of Fiordland tourist operations, requiring exempt masters to undergo an assessment by a licensed pilot annually, for a trip they make several times a day will be both expensive and unnecessary. Could this be made a five-yearly assessment, to line up with the five-yearly revalidation, or could exemptions be obtained? (8)
- The current wording does not specify whether the assessment is written, oral or practical. It is suggested that it take the form of a check trip with a pilot (as opposed to a blank chart examination). (14, 40)
- An annual assessment is an onerous requirement for exempt masters who exercise their privileges on a frequent basis, for example, tourist launch operations in Fiordland. It is suggested that exempt masters should complete an annual return to the harbourmaster providing evidence of having met the exercise-of-privilege conditions and that the harbourmaster makes the decision as to whether an assessment is necessary, after reviewing the experience of the master and the number of transits made. (29)
- In Wellington, Tory Channel and Queen Charlotte Sound, exempt masters on the ferries carry out many more transits than the harbour pilots, so where is the sense in requiring

such masters to be assessed annually by a pilot? Ferry masters typically carry out 500 transits per year in Wellington and a similar number in the Marlborough Sounds. The average Wellington pilot completes about 250 pilotages and the average Marlborough pilot, around 20 - 30. In the case of the Marlborough pilotage areas, it is doubtful if local pilots could provide any meaningful review of ferry masters' competencies. Where the harbourmaster does not hold a pilot's licence for the area, how can they make any judgements on competency and knowledge? (30, 34)

- Holder of master's pilotage exemptions are being treated differently to holders of pilot's licences who are not required to undergo an annual assessment under the rule. Would it not be prudent for experienced masters with PECs to either assess port pilots or assess other masters in-house (such as an airline-style check trip/peer review)? (34)
- The requirement for an annual assessment is excessive – is Maritime New Zealand going to pay for all these acts of pilotage? (36)
- An annual assessment is unnecessary as the exemption is valid for five years during which time the holder must undergo and pass an assessment demonstrating his/her competency and knowledge of the pilotage area. Most companies that employ exempt masters have an annual peer review process for pilotage as part of their ISM procedures. (38, 44)
- For Marlborough where there are a large number of exemption holders to be assessed and only one resident pilot, the annual assessment may become difficult to achieve. Perhaps the rule could contemplate a percentage of exemption holders being assessed annually so that all holders are assessed over a five-year period. (45)

MNZ comment and changes in 2nd draft

These points are addressed in turn.

Firstly, it is intended that the annual assessment be a practical one, in the form of a check trip within the pilotage area by a licensed pilot or another exempt master. This will be made more specific in the rule. Such a requirement has parallels in the airline industry where aircrew undergo assessments on a regular basis with a "check captain". Such practice is also becoming more widespread in the maritime sector for pilots and exempt masters.

Secondly, the practical assessment is intended as a peer review, not specifically to test the exempt master's local knowledge but to ensure that established practices and procedures for the pilotage area are being adhered to, and to provide an opportunity for peer discussion and feedback in an operational situation. Hence the fact that the exempt master may have more experience in a particular pilotage area than the assessor is not the issue, as the primary function is to provide an independent view from a peer.

Thirdly, it is intended that the requirement for an annual assessment be also applied to pilots. This will be added to the rule.

Finally, it is recognised that many operators who employ exempt masters already operate internal peer review schemes as part of their ISM or SSM procedures. Such in-house schemes are strongly supported by MNZ. Provision will be made for such assessment schemes to be approved by the Director as meeting the requirement for the annual assessment in the rule, and that a "peer" may include another exempt master, not just a pilot.

It is not expected that all employers of exempt masters (or pilots) will be in a position to seek approval for such an in-house assessment schemes. It is also considered that for the assessment to be of value, it should not be less than an annual requirement.

It is also noted in response to one of the submissions, that the assessment is not an act of pilotage by a pilot. The exempt master undergoing assessment has the command and the conduct of the vessel. The pilot/peer reviewer is observing and assessing.

*The rule has been amended to require PEC holders to complete an annual assessment in order to maintain the currency of the PEC. Where the Director has approved an annual assessment scheme for this purpose, the rules will allow those assessments to be conducted by a person other than a pilot, as specified in that scheme.*

### **Determining exercise-of-privilege conditions**

Submitters commented as follows:

- The setting of additional conditions “that the Director considers appropriate in the interests of maritime safety...” should be expanded to include reference to use of tugs, transits during darkness or restricted visibility or berths to which a master may navigate. Alternatively, add a new clause 90.14 (1) to require that exercise-of-privilege conditions include any limitations or conditions identified in a local training course approved by the Director under 90.20 (2). The risk assessment has highlighted the training requirements for use of tugs, night time or reduced visibility transits. Where a master holds an exemption that, for instance, does not permit night time transits, or the use of tugs, then that should be clearly stated [on the exemption certificate?] (17)

MNZ comment and changes in 2nd draft

As for pilot's licences, recent experience requirements determined by the Director and endorsed on a PEC will be developed as part of the training programme. The revised rule will provide for the Director to endorse a PEC (or licence) with any other conditions appropriate in the interests of maritime safety. The Director will have regard to any recommendations of the examination panel conducting the PEC exam when setting those conditions which in turn will reflect the training programme. Such conditions may include restrictions on night time transits or the use of tugs as appropriate.

### **Exercise of privilege conditions (per 4th column of the schedule to the rule)**

Submitters commented as follows. Comments on specific pilotage areas are included in the discussion on the schedule itself.

- The conditions specified will make it practically impossible for Holcim masters holding current pilotage exemptions to retain them at most ports. This will have major impact on the business, put unnecessary extra work on licensed pilots (and generate extra revenue for ports) and does not achieve the objectives of Part 90 as set out in the preamble. Is not MNZ concerned that the conditions of this clause will contribute to the loss of very important qualifications and skills to the industry? (38)
- There appears to be no standardisation in the number of transits required for maintaining currency and no reasons or parameters for the logic in setting these requirements. This does not conform to the stated outcome of the New Zealand Transport Strategy of harmonising New Zealand qualifications. Some ports that our masters (Holcim) consider relatively straightforward for our operation have a higher number of required transits than more challenging ports. The specialist characteristics of each vessel and their trading operations can be applied to the limitations of the pilot exemption issued by the local authority in conjunction with the development of the training undertaken in 90.15. (4)
- The competency of the individual master is assessed annually under 90.14 (1) and more thoroughly prior to renewal before the end of the fifth year under 90.18 (2) (b). Further support for the currency requirements is provided by the six-month limit between transits in 90.6 (2) which ensures that the dates of the required transits are spread over a greater proportion of the year. The minimum requirement should be four passages inwards and four outwards, with one inwards and one outwards to be during the hours of darkness, within each 12-month period. (4)
- The minimum number of transits required to maintain currency should be stated in the rule and should be the same for all New Zealand ports to provide standardisation and consistency. The minimum requirement should be four passages inwards and four outwards, with one inwards and one outwards to be during the hours of darkness, within each 12-month period. (14)
- The schedule shows an increased number of transits required for Tory Channel and Wellington. I do not believe that the any of the incidents in recent years involving ferries were the result of exempt masters having limited experience piloting their vessels in those waters. Increasing the number of transits required to maintain currency will make it effectively impossible for masters on vessels other than ferries (e.g. cement carriers,

- Kent) to keep their exemptions current. They will have to engage pilots, adding to their operating costs. (14)
- My current PEC states that I must exercise my authority to pilot my vessel on at least six occasions at each port (including one inwards and one outwards during the hours of darkness). The proposal is for each port to be different, with up to 10 transits with six during darkness in one case. I feel that the present six is perfectly satisfactory to maintain currency. (15, 46)
  - We recognise that the Director must take cognisance of harbourmasters, port companies and port and harbour risk assessments but we ask what thought has been given to the practicality and actual practice of when setting exercise-of-privilege conditions. Feedback from masters indicates that in some cases, the number of required transits would make it effectively impossible for masters of coastal traders other than ferries to keep their exemptions current. (40)
  - The new requirements (annual assessment, increased number of transits) will have the effect of making it more difficult to retain a pilotage exemption. The current requirement (42)
  - Many commercial fishing vessels using Tory Channel for access to the Cook Strait hoki fishery do so for only a few months of the year due to limited quota and may only undertake four or five trips per season. The proposed rule change will force them outside of the criteria to gain and maintain exemptions and impose a pilotage charge of the order of \$1500 per transit. This will impose an unnecessary and unreasonable financial burden and force them to use ports further afield, with associated operational stress and fatigue potentially compromising safety. The Federation of Commercial Fishermen is strongly opposed to the proposal to increase the number of required transits and considers that three or four supervised transits (?) over a year will be adequate. (51)
  - Pilotage exemptions are held by individual skippers. Skippers often move from one fishing vessel to another. Vessel owners are saddled with the costs of paying for a new exemption when skippers change. This is an added cost to the owner's business. Comment about a possible exemption or sunset clause for current exemption holders? (51)

MNZ comment and changes in 2nd draft

The minimum number of transits required to maintain the currency of exemptions for each pilotage area were set out in the fourth column of schedule. These requirements were based on pre-consultation with harbourmasters in each area, whose views take account of the findings of the risk assessments carried out for their respective harbours.

A key principle of the NZ Port and Harbour Marine Safety Code is that harbour management is informed by risk assessment. Pilotage is central to harbour management and the pilotage and exemption regime should therefore reflect the risks associated with navigation in each particular area and be established at a local level with MNZ oversight. Hence MNZ does not consider that the minimum number of transits required for currency of licences or exemptions should be standardised across all pilotage areas.

*As noted previously, the minimum exercise-of-privilege conditions and specific rules for each pilotage area have been removed from the Schedule to the rule. Minimum recent experience requirements will be notified by the Director in the Gazette.*

MNZ notes the concerns raised in some submissions regarding the minimum exercise-of-privilege conditions and the practical implications of these for current exemption holders. MNZ has discussed the proposed requirements for each area with the respective harbourmasters taking into account the submissions. However, safety of navigation is the prime consideration in determining pilotage requirements. As the persons with primary operational responsibility for the safety of navigation in each harbour, harbourmasters must satisfy themselves that pilots and exempt masters are competent and maintain a sufficient level of recent experience in order to conduct their vessels safely in the pilotage waters of their region.

Comments on the number of transits required to meet the minimum recent experience requirements for individual areas are addressed in the section on the schedule below.

## **Maritime Rules**

*Some changes and corrections have been proposed to the required minimum number of transits in some pilotage areas which should address some of the concerns.*

### **Rule 90.15 General Requirements (for a master's pilotage exemption)**

Rule summary and intent

90.15 (a) requires an applicant to hold a certificate of competency as master of a ship of the size and type for which the exemption is sought. A current medical certificate is also required [90.15 (b)].

90.15 (c) requires confirmation that the applicant has completed a course of local training and knowledge approved by the Director and has passed an assessment. Each assessor is required to attest to this.

The changes to wording in (c) aim to tighten up the level of documentary proof of completion and satisfactory assessment of local training.

Submissions

Submitters commented on various aspects of this rule as follows:

- It is suggested that a check run be included in the requirements for issue of a pilotage exemption, in addition to completing the blank chart and oral examination. This would give pilots a tool to assess ship handling competence of candidates who wish to obtain exemptions. The following wording is suggested:  
“... has within the last three months taken a licensed pilot for one transit in and out of the relevant pilotage area; and successfully completed an assessment by that pilot to demonstrate competence and knowledge of the pilotage area.” (14, 40)
- The requirement to complete a course of training and local knowledge would be a positive step if such courses were available in either of the jurisdictions for which I hold exemptions (Wellington and Marlborough). It is absurd to introduce a requirement to take a course that does not exist. The costs of such course does not appear to have been identified in the Invitation to Comment. (34)
- There needs to be an approved syllabus and defined standard to obtain with regard to local training and knowledge. Some examinations are more practically oriented than others with some being only a memory test. The standard needs to be the same throughout the country and set/marked by practising pilots. (34)
- The assessment is required to be appropriate for a particular size and type of ship. This is too restrictive and open to interpretation. (34)
- In view of the short sea nature of New Zealand shipping, the Shipping Federation promotes the concept of both the Master and the Chief Mate holding exemptions and being able to carry out the pilotage. If given proper consideration this could prove to be a safety measure which duplicates the current master/pilot relationship. Should this rule be amended or is this concept adequately covered under 90.19? (40)
- Nowhere in the rule is there an indication of a standard, level and contents of the required “course of local training and knowledge”. It is also not clear who would provide the necessary training. The same comments apply to local training for pilots. (45)

MNZ comment and changes in 2nd draft

MNZ acknowledges that the requirements for local training for a PEC are very general in the current draft of the rule.

In response to the submission that such courses are not available, the requirements for obtaining a pilotage exemption certificate (PEC) in both Wellington and Marlborough have been documented in the past. As part of the implementation of the new Part 90, structured training programmes for both pilotage areas will need to be developed to meet the requirements in the rule.

*The rule has been amended to require that a candidate for a PEC completes an approved structured training programme. The rule spells out in more detail the required content of the PEC syllabus, as well as general standards for the conduct of assessments and examinations.*

In response to the submission that such courses are not available, the requirements for obtaining a pilotage exemption certificate (PEC) in both Wellington and Marlborough have been documented in the past. As part of the implementation of the new Part 90, structured training programmes for both pilotage areas will need to be developed to meet the requirements in the rule.

*The changes in the revised rule in respect of training, assessments and examinations are wide ranging and address most of the matters raised above. In particular, the distinction between general and local training has been removed with the content of the training being more explicit and clear objectives set. It is not intended that the rule should specify the number or format of check trips to be completed by PEC candidates, but that the PEC training requirements for each pilotage area should reflect the risks being managed. MNZ will maintain an overview to ensure an appropriate level of consistency in PEC training programmes at a national level.*

### **Rule 90.16 Conditions of exemption**

Rule summary and intent

This rule sets out requirements on exemption holders including:

- Keeping an accurate log of all arrivals and departures at ports covered by the exemption;
- Producing the log upon request by the harbourmaster or MNZ;
- Advising the harbourmaster by radio prior to entry into the pilotage area of the exemption holder's name, exemption number, date of last entry into port, exemption status and date of exemption expiry.

The intention of the rule is that the exemption holder will keep a record of whenever the exemption is exercised, so that the validity of the exemption for any particular pilotage area can be verified by the harbourmaster prior to it being exercised. It also provides a basis for monitoring compliance by exempt masters with the requirements of the rule and confirming that the conditions-of-privilege have been complied with in order to revalidate the exemption.

Submissions

Submitters commented on various aspects of this rule as follows:

- Allow notification to be by fax or radio and be given 12 hours before arrival. (2)
- It is assumed that the information required by the harbourmaster would be relayed through local harbour or port control and then passed on. It is proposed that this information be conveyed by email or phone at a time which would be less critical to the operation of the vessel and avoid unnecessary radio communication. The name of the master could still be given by radio in line with current practice in some ports. (4)
- Will the deck log on the vessel be sufficient evidence as a record of arrivals and departures? (8)
- Compliance with the radio call requirement (to the harbourmaster in Invercargill) may be difficult for Fiordland operations and seems unnecessary when vessels are in radio contact and hold regular scheduled calls with their own base. Where vessels are working on the Fiordland coast on trips up to 14 days duration, routes and activities are revised on a daily basis and a 14-day plan would be unreliable. The rule is problematic for remote harbours and perhaps a definition which distinguishes between a port (with wharves, a harbourmaster and radio traffic etc.) and a harbour (uncontrolled apart from buoyage) would be beneficial. (8)
- In relation to tug and barge operations in Auckland, most work that requires an exemption does not constitute an arrival or departure but is still within the pilotage area, for example, 10 minutes to turn a barge around on a berth. A harbourmaster may not appreciate

## **Maritime Rules**

frequent calls to meet the rule requirement and most harbourmasters may not be monitoring the radio very often. (11)

- The requirements are generally agreed with but advice regarding exempt master details will most likely be provided to port control as it is impractical to advise the harbourmaster on a 24/7 basis. (28)
- It is reasonable that exempt masters log all transits of an area in which they hold an exemption and it would be sensible to provide that information to the regional harbourmaster on an annual basis to ensure that the controlling authority is aware of the operation of each exempt master. Harbourmasters may not be in regular radio contact with exempt masters so other forms of communication should be allowed. In addition it is unduly onerous to require that this information is provided on each occasion the exemption is exercised. An annual advice should suffice, at least in Southland. Amended wording was suggested. (29)
- Several submitters questioned the requirement for each exempt master to keep his or own record when this information on movements is already recorded by the port company. (34, 36, 38, 44)
- Several submitters commented that the additional information required to be provided by the exempt master – exemption number, date of last entry and exemption status/date of expiry is unnecessary and impractical because the information will already be held by the port concerned. (30, 34, 36, 44)
- It may be impractical to contact the harbourmaster directly by radio. The harbourmaster may not be in direct contact with vessels and exempt masters by radio.
- The rule fails to recognise the distinction between port limit and the harbour limit in terms of the requirement to report to the harbourmaster. This conflicts with current bylaw requirement that vessels report prior to entering harbour limits. (46)

MNZ comment and changes in 2nd draft

The matters raised in the submissions are noted and the requirements have been reviewed. The following principles apply:

- It is the responsibility of the PEC holder to ensure that they are current before they exercise that PEC and it their responsibility to be able demonstrate that when required.
- PEC holders should maintain a log of all occasions on which the PEC is exercised.
- Prior to entering or otherwise navigating within a pilotage area, PEC holders should contact the local harbour control and advise their name, the name of the ship and confirm that their PEC is current.

The responsibility for ensuring an adequate record of movements is being maintained rests with the exemption holder. They should retain their own log as evidence of arrivals and departures.

In most pilotage areas, some form of “harbour control” or “harbour radio” operates, run either by the port company or the harbourmaster’s office directly and this will be the first point of contact for any movement by a vessel where the master holds an exemption. Harbour control should be notified prior to any movement within the pilotage area.

Local arrangements need to be established between regional councils and port operators to ensure that harbour control operations are set up to log calls by exempt masters. It is not the responsibility of the person receiving the call to check or confirm that the exemption holder is current each time – that is the exemption holder’s responsibility.

The shortcomings of having to notify by radio are recognised so the rule will no longer specify how or when contact should be made. This will be elaborated upon in the Advisory Circular and local protocols for communication established.

For vessels operating regular and frequent movements within a pilotage area, such as tugs and work barges within a harbour, it is expected that movements where these operations are covered by a master’s PEC, they will be notified in accordance with the protocols operating within that harbour. In any case, a pragmatic approach should be taken in notifying the intention to exercise an exemption.

It is considered that it is not necessary to give the exemption holder's status and the date of expiry of their exemption. However the following information is required as a minimum:

- The exemption holder's name
- The name of the master, for cases where the exemption holder having the conduct of the ship is not the master
- The name of the ship
- Confirmation that the exemption certificate is current

The distinction between "port limit" and "harbour limit" is noted. The rule relates to movements within a pilotage area, which may or may not coincide with the harbour limit. Local protocols for reporting will need to be developed and promulgated accordingly.

#### **Rule 90.17 Currency and exercise of privilege requirements (for a master's pilotage exemption)**

Rule summary and intent

This part sets out the requirements for the exemption to remain valid, namely, the holder:

- Continues to hold a certificate of competency as master of the size and type of vessel covered by the exemption;
- Continues to hold a current medical certificate;
- In the event of any absence from seagoing duties, on medical grounds or any other reason that may affect the ability of the holder to safely exercise the privileges of the exemption, satisfactorily completes any competency audits or assessments as required by the Director; and
- Complies with the exercise of privilege conditions endorsed on the exemption.

Submissions

Submitters noted that the word current should be substituted for valid in this part. (17, 32, 35)

MNZ comment and changes in 2nd draft

See previous comments on currency vs. validity above.

#### **Rule 90.18 Validity of Exemption**

Rule summary and intent

This rule introduces provision for pilotage exemptions to have a limited validity and be revalidated after five years. It requires exemption holders to make an application prior to the expiry of their licence.

Revalidation requires that the exemption holder provides evidence of having in the last three months:

- Having taken a licensed pilot on one transit in and one out of each pilotage area;
- Successfully completed an assessment by that licensed pilot to demonstrate continuing competence and knowledge of the pilotage area.

A revalidated exemption is valid for a further five years. The five year revalidation brings New Zealand into line with international requirements under STCW95 for revalidation of certificates.

Submissions

Submitters commented on various aspects of this rule as follows:

#### **Revalidation period**

- The requirement for a separate maritime document for a master's pilotage exemption subject to revalidation is superfluous. A certificate of competency, which itself requires revalidation every five years is required to be eligible for a pilotage exemption. If the

## **Maritime Rules**

exemption was entered as an endorsement on the certificate of competency there would be no need for a separate document. (42)

- Reference to STCW95 as the basis of the five-yearly revalidation is flawed as that convention does not include either pilots' licences or masters' pilotage exemptions. It requires certain maritime documents to be issued in accordance with provisions of the Convention. NZ's licensing system does not generally cancel documents (issued outside STCW95) hence there is a plethora of documents in existence of unknown validity. (22)
- Introducing a validity period for exemptions is a welcome improvement and brings them into line with pilots' licences. The requirement for an annual assessment by a licensed pilot will also ensure that the knowledge is still relevant. (13, 14, 22)
- With the trading pattern of Holcim NZ ships, it is not uncommon for a master to not visit all the ports during the rostered periods on, hence making it impossible to meet the revalidation requirements (or the exercise of privilege requirements). There is a strong chance that within 5 – 10 years all PECs could become invalid, except those held by personnel on ferries and other vessels on fixed regular trades, which would severely disadvantage operators such as Holcim. (15)

MNZ comment and changes in 2nd draft

MNZ cannot enter a pilotage exemption as an endorsement on the certificate of competency (CoC). Not all exemption holders will have an STCW95 certificate as they may hold a range of qualifications, depending on the ship which they command.

The matter of the difficulty of maintaining the currency of exemptions is discussed under the sections on conditions-of-privilege.

*No changes have been made to this section other than adopting the term "renewal" rather than "revalidation" of PECs.*

### **Costs**

Submitters commented as follows:

- Real Journeys has 10 masters holding exemptions for vessels over 500 GT covering Fiordland harbours and Bluff. Revalidation will cost around \$1,000 plus the cost of reassessments by a licensed pilot. The costs are not exorbitant but also not insignificant. (8)
- The process for issue of maritime documents could be more efficient. In some cases it may involve several stages each of which requires a fee of \$96. (22)
- It is important to keep the costs of administering the exemption process to a minimum. Most of the work in training and examining a pilot or exempt master is carried out a local level. The costs of issuing a certificate out of Wellington should recognise that this is a small part of the process. (16)

MNZ comment and changes in 2nd draft

MNZ's fees are set by statute in the charging schedule. The fees for issuing of maritime documents are not considered excessive. In some cases, chasing up the required documentation can take considerable time, and the costs of this time may not be fully covered by the fixed fee.

*No change has been made.*

### **Revalidation requirements**

Submitters commented as follows:

- The requirement for the holder to demonstrate that the conditions-of-privilege have been met on an annual basis should be included as part of the revalidation [as for a pilot's licence]. This could take the form of a letter from the port authority confirming dates and times when the master exercised his/her privilege. (22)

- Provide an additional clause in 90.18 (2) requiring evidence of licence [means exemption perhaps?] currency per 90.17 for the purposes of revalidation. With the present wording, an exemption could go without being exercised for five years and then the revalidation requirement be met with one or two trips. (17)
- The harbourmaster should countersign the assessment to ensure that he/she is satisfied that the revalidation of the exemption can be processed. (28)
- The proposed revalidation process is a significantly different in concept to the STCW95 requirements quoted as the basis for its justification. Revalidation of a COC does not assess or retest a candidate on the core qualification – these are short course requirements only. However the idea of an advanced pilotage course being part of the initial and subsequent revalidation process is supported. [This wasn't proposed for exemptions?] (34)
- The requirement to be successfully assessed by a licensed pilot within the last three months before seeking revalidation will almost certainly be too restrictive to cover all ports and should be changed to 12 months. (36, 38)
- Suggest change 90.18 (2) (b) to allow another exempt master to carry out the assessment. (36, 46)
- Any provision that would make an exemption unusable after a lapse of only six months would be overtly harsh. (46)
- Suggest adding a further process so that an exempt master can be assessed by a licensed pilot in order to renew his/her exemption [if it has lapsed?] without redoing the full examination. (38)
- The need for assessment by a licensed pilot is accepted where the exemption has been used on limited occasions within a five-year period. However, where an exempt master transits the pilotage area much more frequently than the pilots themselves do, this should be taken into consideration and some flexibility allowed in the assessment requirements for revalidation. (2)
- A five-yearly peer review is a good option as it provides an audit function aligned with the renewal of seagoing licences. Can the company instigate a peer review system with measurable standards that are acceptable to MNZ? There is also concern that a system requiring assessments by pilots may be open to abuse if they have had a run-in with an exempt master [some instances of this were cited]. (34)

MNZ comment and changes in 2nd draft

The submissions have been noted and the renewal requirements for PECs have been revisited in the 2nd draft.

*A PEC can be renewed if the holder's medical certificate and certificate of competency are current and if the Director is satisfied that the PEC itself is current. Currency of the PEC requires that all conditions have been complied with, annual assessments successfully completed and records maintained of all movements conducted as a PEC holder.*

*As noted above, the revised rule allows annual assessments to be conducted by another PEC holder as part of an assessment scheme approved by the Director. Such assessment schemes must also specify the process to be followed to regain currency where the recent experience requirements have not been met but all other conditions have been met.*

### **Rule 90.19 Acceptance of Equivalent Certificates or Qualifications**

Rule summary and intent

This rule provides for the Director to be able to accept any qualifications, which he or she considers equivalent, as a pre-requisite for the issue of a pilot's licence or master's pilotage exemption.

Specifically the intent was to allow consideration of qualifications other than a Certificate of Competency Master Foreign Going for the purposes of issuing pilot's licences. This provision was intended to support the New Zealand Transport Strategy by supporting the development of a skilled and professional maritime workforce. In particular it is seeking to widen the net for

## **Maritime Rules**

candidates for pilot training by allowing other equivalent qualifications e.g. naval qualifications, coastal master or specific pilotage qualifications from other jurisdictions to be considered.

Australia is currently considering proposals to allow entrants into the pilotage industry who do not have a Class 1 certificate of competency.

Comments were invited on this proposal by way of this draft rule.

### **Submissions**

Submissions generally fell into two camps – broadly supportive to consideration of alternatives or strongly opposed to what is seen as a relaxation of requirements or “dumbing down”, with little middle ground.

#### **Submissions broadly supportive**

- The UK, where the harbour authority determines the qualifications and experience required of maritime pilots, is not a good example to follow, as some Competent Harbour Authorities (CHAs) have no maritime experience. This has been reflected in several incidents e.g. at Newhaven. There is some merit in alignment with what Australia is trying to achieve. (9)
- We agree in principle with an alternative pathway into piloting, but would caution against lowering the basic qualification without first establishing a different system that can be shown to be safe, transparent and tailored to the needs of NZ pilotage areas that require a pilot capable of handling vessels of any size or type that the port can safely accommodate. (16)
- We would suggest a robust system based on standards or competencies would be a far more effective means of establishing equivalency. Given that rule 90.9 (1) already provides a standard (Master FG), and that other certificates “recognised under Section 41 of the Act” are also acceptable, there seems to already be a system of deciding equivalency in place. This rule appears to allow a reduction in standards and fails to set a minimum standard. (17)
- Port companies would need to be assured that qualifications and training competencies of individuals operating vessels in the vicinity of their infrastructure are sufficient to protect asset integrity. (21)
- Port companies are interested in alternatives to the current system and have investigated the Australian alternative pathway being developed which may become suitable for NZ. Port companies would need to be assured that qualifications and training competencies of individuals operating in the vicinity of their infrastructure are sufficient to protect asset integrity. (32)
- The acceptance of equivalent certificates or qualifications should be subject to the same structural openness as for instance the certificate equivalency provisions of Part 31. There is no explanation within Part 90 as to how the Director might determine equivalency. [The AMSA gap analysis between Australian navy navigators and marine pilots is referenced.]

[Reference is made to s36(o), s41 and s47 of the MTA.] There is no overt statement within these sections of the MTA describing standards, how equivalence may be assessed or why an exemption might be granted. (35)

- How does the amendment widen the scope of individuals who currently who can be assessed for a pilot’s licence? We do not believe that allowing qualifications lower than Class 1 is consistent with, or supportive of, industry best practice, nor this country’s standing in the international maritime community.

The pre-amble to the proposed amendments is slanted in that it itemises jurisdictions allowing or considering broader pre-requisites for pilot training but does not refer to other jurisdictions which continue to require Class 1 certificates. Are stakeholders being steered in a particular direction, and if so what is the motivation? (37)

- The RNZN supports draft rule 90.19 and requests that Naval representatives be involved in any process where a review of maritime qualifications takes place and in particular that they are invited to attend the meeting scheduled for 2008/09. (39)
- The rule has the support of the NZ Shipping Federation given that a review of all maritime qualifications is scheduled for FY 2008/09. The Federation would certainly support any proposals to recognise qualifications that were robust and which enabled, after proper assessment and training, a pilot's licence or an exemption to be granted. It is disappointing that during the process of developing Part 90, that those initiatives to increase the availability of qualified pilots and officers with exemptions has not been taken up. (40)

#### **Submissions opposed**

- I object in the strongest possible terms to the proposed reduction in base qualification required for the issue of a pilot's licence. It would reduce the quality and experience level of NZ pilots and have a serious impact on the ongoing safety of navigation in NZ ports. The master must have total faith in the ability and knowledge of a pilot. Only in a handful of countries can any person other than a master act as pilot. The master/pilot relationship is one that demands mutual respect and confidence and this can only be achieved by the maintenance of high standards.

The UK MAIB investigation into the Sea Empress accident in Milford Haven identified the shortcomings of the UK Pilotage Act 1987 in giving CHAs the right to determine standards of pilot training and authorisation, with no mechanism for those standards to be challenged. The MAIB noted that this was not a satisfactory situation, unlike the training and certification of ships' officers where minimum national and international standards exist.

The last four pilot trainee appointments at Timaru have all held Master FG certificates and each vacancy attracted an excess of applicants with that qualification. In one instance there were 120 applicants, of which 80% held Master FG certificates. (19)

- Acceptance of anything less than a Master FG or MNZ recognised equivalent as a pre-requisite for a pilot's licence would result in dumbing down of this profession. I see the drive to remove the Master FG qualification from the pilot's licence/exemption criteria as being based on economic grounds and far from improving the safety or the credibility of MNZ. (24)
- The applicant should possess a master's certificate of not less than what is required to command the largest vessel entering that port. This will ensure that the master knows he is getting advice from a pilot with no less a qualification than his own, which will ensure trust and good communication between the master and pilot, thus ensuring good Bridge Resource Management during the pilotage. Downscaling the requirements for pilotage is at odds with the objectives of Part 90. MNZ has the opportunity to set the benchmark for what should be recognised safe pilotage and not follow the UK standards. (26)
- We don't wish to see another Humber pilot's situation. If there is a properly constructed training programme similar to Montreal or Hull (pre-2002) then one would not have a problem – these pilots have had long apprenticeships from ab initio, with a certain amount of sea time and proper training with suitable local knowledge. (27)
- We strongly disagree with this rule. Port and harbour stakeholders have agreed on the pre-requisite qualifications for pilots and exempt masters as documented in the rule. In both Whangarei and the Bay of Islands, pilotage is one of the key mitigation factors for the hazards identified in the risk assessments and the effectiveness of the mitigation relies on the training platform for pilots and exempt masters. Giving the Director sole discretion to vary these pre-requisites is inconsistent with the professional and safety objectives of this rule, and the aim of the NZ Port and Harbour Marine Safety Code. (28)

MNZ comment and changes in 2nd draft

#### **Background to Australian alternative training pathways**

## **Maritime Rules**

The traditional pathway to a pilotage career has been to first qualify as a Master Foreign Going (MFG). Currently it typically takes around 10 years to achieve a MFG qualification, comprising around 3-4 years of tertiary academic study and 6-7 years of sea-time.

Alternative pathways to pilot training are currently being developed in Australia, led by the Australian Marine Pilots Association (now the Australasian Marine Pilots Institute - AMPI). Two “non-traditional” pathways have been developed, one for persons with no maritime experience and one for those with some experience (including naval experience). These two pathways require a combination of tertiary level education and practical experience and reduce the period of knowledge, experience and skills acquisition to about six years.

The alternative training pathway developed for those with no previous maritime experience or qualifications include the same academic training as for the MFG (Master Mariner in Australia) qualification (excluding the sea time) plus additional subjects such as Human Factors and Risk Management. The practical training includes sufficient time at sea to gain a working knowledge of merchant ship management structures, equipment, procedures, construction and stability, as well as working in ports in the areas of hydrography, dredging, towage, pilotage and Vessel Traffic Services (VTS) as well as time on simulators and manned models. The trainee will also be required to complete all of the Australian Maritime Safety Authority (AMSA) short courses such as Radar Observer, Fire Fighting and Safety.

At this point the trainee is able to commence the port specific pilot training programme, the same as would a pilot trainee with a Master Mariner’s qualification.

As pilotage is a state responsibility in Australia, the next step in the process is for the scheme to gain acceptance from the state jurisdictions for the new training pathways. The first part of the process involves determining the competencies against which the training scheme is assessed so that individual states can then recognise the qualification as a pre-requisite for a pilot’s licence. At this time agreement is yet to be reached on who should develop those competencies – the AMPI, an industry qualifications body or possibly AMSA.

As noted above, New Zealand will follow the ongoing development of competencies and assessment criteria in Australia. New Zealand has representation on the AMPI and so will have the opportunity for input to this process.

## **Submissions**

It is noted that the Australian scheme is an alternative pathway to a piloting career and comprises a total training package. It is not just an equivalent qualification and there is no intention to “dumb down” the pilotage profession as suggested in the submissions.

Many of the submissions remain strongly opposed to candidates for a pilot’s licence holding anything less than a Master’s Foreign Going Certificate of Competency. Others are broadly supportive of the concept of alternative training schemes, though stressing the need for a robust system based on achieving minimum standards and competencies. In some views, the rule as currently worded gives the Director too broad a licence to accept “equivalent” qualifications without establishing minimum standards or a transparent process for determining that equivalence and without reference to external stakeholders. These are fair comments.

It is unlikely that in the short term, any training organisation in New Zealand will be proposing its own scheme for ab initio training of pilots. However, looking to the future, the NZ maritime industry needs to be able to consider pilots for employment, who have trained in a recognised and reputable scheme elsewhere and achieved the appropriate standards and level of competency.

While the current rule stipulates a minimum qualification for the purposes of obtaining a pilot’s licence, that level of competence (as opposed to practical experience) required to achieve that qualification is not specified.

## **Summary**

*The rule has been revised to broaden the pre-qualification criteria for a pilot licence to include pilots who have held a pilot's licence in another jurisdiction. This will allow qualified and experienced pilots who may not hold a Certificate of Competency as Master of a Foreign Going ship, such as pilots trained in some UK ports, to be considered for pilot training in New Zealand. In addition to the requirement that the issuing Authority for any such licence must be from a Flag State that is party to STCW, the pilot will need to have pilotage experience on the size of ships that they will be required to pilot in New Zealand. The Director will determine whether that experience is appropriate.*

*The revised rule also allows for the Director to consider persons with experience, qualifications and competencies equivalent to a Master (Unlimited) Certificate (Master Mariner) or a pilotage qualification from another jurisdiction. The wording used in the revised rule reflects wording recently adopted in the Guidelines for Marine Pilotage Standards in Australia (Edition 2, November 2008) published by the Australia National Maritime Safety Committee (NMSC). The Australian standard recognises the ongoing development of alternative pathways for pilot training currently being developed in Australia, which is discussed in the next section.*

The intent is to future-proof the rule by providing for consideration of those alternative pathways for the purposes of licences in New Zealand, once an appropriate set of competencies and assessment criteria is developed and agreed. The development of such criteria is a major task and not something that New Zealand should attempt to develop in isolation, hence New Zealand will draw on the work in this area in Australia as it develops.

#### **Rule 90.20 Training Course Approvals**

This rule provides for the Director to approve the training courses necessary for meeting the requirements of the issue of a pilot's licence or a master's pilotage exemption.

The Director has delegated the role of assessment and examination of candidates for pilots' licences and masters' pilotage exemptions to harbourmasters.

The various parts of the rule are discussed in turn below.

*A new section has been added to the rule on Training, Assessments and Examinations and the provisions extensively revised. The term "structured training programme" has been adopted in place of general and local training courses. Provisions for the development and approval of such programmes by the Director have been made more explicit. These changes address the majority of the submissions made on rules 90.20 and 90.21.*

#### **General pilot training 90.20 (1)**

Rule summary and intent

Rule 90.20 (1) covers general training courses for pilots which should include:

- A syllabus including any recommendations on pilots' training from the IMO and training in human factors and bridge resource management;
- A description of the examination and assessment procedures for the course.

This provision is also in the current rule, though the requirement to describe examination and assessment procedures has been made more explicit. The amended rule also explicitly requires the Director to consult with "such interested persons as the Director considers appropriate" thereby ensuring that there is an adequate level of external input.

Submissions

Submitters commented as follows:

- POAL supports a national standard of training for the generic elements of pilotage. This offers a useful step forward from the raft of training programmes that have been approved around the country in the past and ensures that local training can be built upon a strong and secure foundation. (21)

## **Maritime Rules**

- As a pilot/pilot trainee, I suggest that attending a course in vessel manoeuvring on a simulator is part of the training syllabus for pilots and for the revalidation of pilots' licences. The quality of simulator training is of a very high standard and the pilot can be challenged with severe weather situations, machinery failures etc. Such training can only be gained through years of experience. While this would be an additional cost to training providers, this is minimal compared to the cost of an accident and such training would be in line with best practice. (26)
- If this refers to pilot training provided by a tertiary education provider, to provide background context and support to the local approved training course, then we agree; otherwise not. There is no such thing as stand-alone "general pilot training" in as much as the training needs to be as specific to the pilotage area as the complexity and unique physical and environmental factors presented by the area. This part of the rule should be amended to clarify its intent. (28)
- To our knowledge, no such general training course exists at the present time and the value of a general course as an additional requirement to an approved local training course is questioned. (16)

### **MNZ comment and changes in 2nd draft**

The general training requirements spelled out in 90.20(1) are usually incorporated into a pilotage provider's training course together with local training and local knowledge requirements. It was not intended that the general training be a substitute or alternative to local training requirements – Rule 90.9 requires applicants for a pilot's licence to complete and successfully pass both [90.9(1)(c) and 90.9(1)(d)]. The provision for separate approvals for general and local training was a recognition that while the general training applies only to pilots, the local training course for a given pilotage area may well be the same for both pilots and exempt masters.

At this time, no-one in New Zealand offers general pilot training as a stand-alone course and there have been no such courses approved by the Director. However, the Director has in the past approved a number of training courses developed by pilotage providers which cover both the general and local training elements.

The current IMO recommendations for pilot training and certification referred to are those set down in IMO draft resolution STW 33/17 Annex 2 but the rule recognises that these requirements may be updated in the future. Many of the elements in the IMO draft resolution are matters that would already be covered by training for a Master Foreign Going Certificate of Competency.

*Reference to general and local training has been removed from the rule and the required content of structured training programmes has been described in more detail. The requirement to have a structured training programme has been made more explicit and the approval process for such programmes and approval for any significant changes has been spelled out.*

*The content of the IMO resolution has been included directly into the rule with a general provision to cover any other matters that may be recommended from time to time by the IMO to capture future changes.*

### **Local and exempt master training 90.20 (2) and 90.20 (4)**

#### **Summary and intent**

Rule 90.20(2) covers courses of local training and local knowledge for pilots and masters' pilotage exemptions. The syllabus must incorporate:

- Relevant local knowledge;
- Local emergency response procedures including the port and harbour safety plan and the risk assessment for any port within the pilotage area;
- Ship-handling ability relevant to the specific local operations;
- Any other topics that the Director may specify from time to time.

The examination and assessment procedures must be described.

This provision is also in the current rule, though again the requirement to describe examination and assessment procedures has been made more explicit. The rule also explicitly now requires the Director to consult with “the local harbourmaster, port company and any other owner of significant port assets” thereby ensuring that the appropriate people are consulted. The required content has been expanded to include specific reference to the Port and Harbour Safety Plan and also the harbour risk assessment.

Rule 90.20 (4) requires that the training provider must submit their training manual to the relevant harbourmaster for comment prior to approval by the Director.

#### Submissions

Submitters commented as follows:

- Who is to deliver these local training courses? (45)
- Doesn't a course of local training not include relevant local knowledge by definition? (45)
- Does any of this exist in NZ at present? (34) [Exempt master]
- Part 90.20 is unclear – it is assumed that anyone applying to become a pilot would have the required qualifications and would continue to undergo intensive training at the port of engagement under rules set out by MNZ – is this the case? (21)
- There should be some assurance that where a pilotage service other than that of the port operator is offered, the pilots providing this alternative service must meet the same criteria as the port operator's own pilots in the way of port specific simulator training, including blind pilotage, manned model training, peer reviews etc. The purpose of this amendment is to allow the port operator to safeguard its infrastructure. Some proposed wording is suggested:

“Where an alternative pilotage service is available, the pilots providing this service must meet the same training criteria as those providing the primary service, such criteria to be determined by the port operator and/or harbourmaster”. (53)

MNZ comment and changes in 2nd draft

While the Director has in the past approved local training courses for pilots for nearly all compulsory pilotage areas, the same is not true for training of exempt masters. The rule does not state who is responsible for exempt master training. Any organisation can develop a training course and seek approval from the Director. Successful completion of a pass in a course of local training is a requirement for the issue of an exemption, as well as a licence.

In practice, training for exempt masters has been developed by pilotage providers, operators employing exempt masters and in some cases harbourmasters directly. While the responsibility ultimately falls back on the applicant to meet the requirements it is expected that local training requirements will be addressed within the harbour SMS developed under the Port and Harbour Code. Hence the harbourmaster will have a co-ordinating role in the development of local training requirements.

*The rule has been revised to require any person or organisation providing training for a pilot's licence or for obtaining a PEC to have a structured training programme approved by the Director.*

While harbourmasters have been delegated responsibility for assessment and examination for pilot's licences and pilotage exemptions, this cannot be further delegated. While port companies for example, may be involved in the training and assessment, the harbourmaster must be part of the process as they have the powers to conduct examinations.

It is the intention that all providers of pilotage services meet a common minimum standard in terms of the training provided to their pilots. Where more than one provider offers pilotage services in a given pilotage area, the same training criteria should apply to all providers. It is expected that this will be achieved by way of an explicit requirement that any training course be submitted to the harbourmaster for comment prior to seeking the Director's approval. As

## **Maritime Rules**

part of the approval process, provide any comments, submissions or other material received from the harbourmaster or other interested parties consulted.

### **Advanced pilot training 90.20 (3)**

Rule summary and intent

Rule 90.20 (3) covers courses of advanced training for pilots which must be successfully completed in order to:

- Obtain a licence for an additional pilotage area or areas;
- Revalidate an existing licence.

The syllabus must incorporate any topics that the Director may specify from time to time.

The examination and assessment procedures must be described. The Director is required to consult with “interested parties” as part of the approval process.

The current rule already provides for advanced training following the initial issue of the licence but does not require it for the purposes of revalidation. Such training is considered an important part of maintaining skills and keeping abreast of new developments.

Submissions

Submitters commented as follows.

- The requirement of advanced training every five years is supported, though the examination and assessment procedure could be difficult to administer if a number of approved providers are involved. The need for examination and assessment at this course is questioned. (16)
- The requirement for advanced training is supported with the proviso that “interested parties” should include harbourmasters, perhaps as a sub-group of the Harbourmasters/Harbour Managers’ Special Interest Group.

MNZ comment and changes in 2nd draft

There is a lack of clarity in the current rule as to the intent of the advanced training requirement. To date the Director has not approved any courses of advanced training, though many pilotage providers are putting their pilots through courses offered by organisations such as AMC in Tasmania and the NZ Maritime School in Auckland which both have ship simulators that can be used to model specific ports.

On reviewing the rule, it was decided to adopt the concept of Continuing Professional Education (CPE) in place of “advanced training” to include any formal training undertaken subsequent to gaining a pilot’s licence. The content of such CPE is spelled out in a new provision and completion of a course of CPE in the previous five years is a condition of renewal of any licence.

Providers of pilotage services must have an assessment scheme approved by the Director which includes processes and procedures for maintaining the ongoing proficiency and skills of that service’s licensed pilots. Programmes for CPE are to be part of the assessment scheme.

It is envisaged that courses run by training organisations will address the CPE requirements and may be recognised by the Director as fulfilling some or all of those requirements.

### **Approval of training course amendments 90.20 (5)**

#### **Validity of approvals 90.20 (7)**

#### **Changes to courses 90.20 (8)**

Rule summary and intent

Rule 90.20 (5) provides for the Director to approve amendments to approved courses provided that they continue to comply with the requirements of the original approval.

Under rule 90.20 (8), approvals will be come invalid if there is a substantial change to the content or the delivery of the training course.

Rule 90.20 (7) sets a maximum period of validity of five years on approvals, unless there is a substantial change as above.

Under the current rule, training course approvals have been indefinite, with no requirement for approval of any changes that have been made. Some training providers have submitted amended or revised courses to the Director as a courtesy, but generally there has been no requirement for the Director's sanction where courses have changed, nor any requirement for the provider to even update or revise courses over time or as circumstances require.

#### Submissions

Submitters commented as follows:

- We would like to see a formal approval of changes to any training scheme other than those of an administrative nature. This could be required by the addition of the following to 90.20 (8) of "other than those of an administrative nature or approved by the Director under 90.20" and by the addition of "any amended training course" to the relevant rule [90.20 (1), 90.20 (2), 90.20 (3)]. (17)

MNZ comment and changes in 2nd draft

*The revised rule spells out the process for approval of structured training programmes in more detail and maintains the 5-year validity period for approvals. Any significant changes to a previously approved programme will require re-approval.*

#### **Audit of examination procedures 90.20 (6)**

Rule summary and intent

Rule 90.20 (6) requires that the Director audit examination procedures for pilots and exempt masters on a regular basis. There is no such requirement at present.

This situation has been highlighted with the recent case of pilotage examinations for the Marlborough Sounds where examination procedures were appealed by the applicant and the Director was required to assess those procedures and convene a new assessment panel.

#### Submissions

Submitters commented as follows:

- The ability to audit examination procedures seems to be out of context in a section dealing with training course approvals. (45)

There were no other submissions on this part of the rule relating to auditing of examination procedures.

MNZ comment and changes in 2nd draft

*The provision for the Director to audit examination processes has been removed from the rule. Instead the rule will directly refer to the relevant sections of Maritime Rule Part 35 – Examinations and Training, which includes moderation of examinations by the Director.*

#### **Rule 90.21 Assessments**

##### **Delegations 90.20 (1)**

Rule summary and intent

Rule 90.21 (1) requires that assessments carried out for the purposes of the rule must be performed by an assessor or assessment panel to whom the Director's power of examination has been delegated under Section 48 of the MTA for that purpose.

## **Maritime Rules**

While the power of examination has been delegated to harbourmasters under Section 48 in the past, this has not been referenced in the rule itself but was noted in the advisory circular. The delegation was only made to harbourmasters appointed at that time and so does not cover many of the current harbourmasters. The delegation expires in July 2008 and a new delegation will be issued.

### Submissions

Submitters commented as follows:

- The delegation under s48 was to those harbourmasters warranted at the time and so about 50% of the current harbourmasters are not covered by it and technically cannot sit on an assessment panel as required by the current rule or this amendment. (17)
- We agree with this provision, providing that any assessor or assessment panel delegation from the Director specifically refers to the harbourmasters as the assessor or co-ordinator of the assessment panel. (28)
- The rule should address the qualifications of the examiner/assessor. In one of the ports in which I hold an exemption, candidates for exemptions are examined by the harbourmaster who does not hold a pilot's licence. In the other port the harbourmaster uses the port company pilots to carry out the assessment and examinations prior to the granting of an exemption. (24) [Exempt master]
- It is not clear whether it is an assessment or an examination that is being conducted. There is no indication as to whom can fulfil the role of assessor and what qualifications such person must have as a prerequisite to performing assessments. Under previous legislation, it was quite clear that pilots were required to be examined by a "board" the composition of which was prescribed. This is not addressed in the draft rule. (45)

MNZ comment and changes in 2nd draft

The Director's delegations to harbourmasters were renewed in July 2008 for a further 12 months.

The terms assessment and examination were not defined in the rule and the distinction has not been made. Generally, where the issuing of a maritime document is the outcome, then an examination is required.

*The revised rule spells out more explicitly what is meant by assessments and examinations and sets clear requirements for the conduct of both. This change will address the current lack of clarity in this area. The Advisory Circular provides further guidance.*

### **Stand-down period 90.21 (2)**

Rule summary and intent

Rule 90.21 (2) provides for the assessors to specify a stand-down period of between three weeks and six months for candidates who have failed an assessment before they can re-sit.

The current rule makes no provision for such a stand-down period.

### Submissions

Submitters commented as follows:

- What happens to a master who fails their assessment? Do they lose their PEC until it can be reassessed? It would seem that holders of master's pilotage exemptions are at risk of losing their livelihoods, but the same does not apply to pilots. (34)
- This section should also address dishonesty by the applicant during an assessment/examination process. When this is found to occur, the applicant should be disqualified from further attempts. This provision should be added. (45)

MNZ comment and changes in 2nd draft

*The revised rule refers to the requirements in Maritime Rule Part 35 (35.5 to 35.9 inclusive) regarding examination and assessment procedures. These requirements address most of the*

issues raised. In particular, there is a minimum stand-down period specified. The Director can refuse to issue a certificate of competency to a person if they have not complied with the rules specified in the examination.

With regard to dishonesty, the s50 of the MTA sets out criteria for determining whether a person is a fit and proper person for the purposes of issuing maritime documents and recognition of documents (s41 of the MTA). The Director shall not be confined to consideration of the matters specified in subsection (1) of s41 and may take into account such other matters and evidence as may be relevant. If there is repeated dishonesty, then the Director may need to consider whether that person is a fit and proper person for the issue of a licence or an exemption

## **Rule 90.22 Application of Part to Combined Tugs and Tows**

### Rule summary and intent

This rule states that for the purpose of determining whether or not a tug and tow should be subject to compulsory pilotage, the combined tonnage of the tug and tow, or combined length of the tug, topline and tow should be considered. Currently only the tonnage or length of the tug is considered and in most cases, tugs fall below the threshold for pilotage or pilotage exemptions. However some towed barges in New Zealand are of considerable size (80 – 100m LOA) and navigation of large tug and tow combinations through some pilotage waters can be challenging.

The rule excludes barges under 24m LOA. Unmanned dumb barges below this size are not required under maritime rules to have a load line assigned, be measured for tonnage, have a barge safety certificate, comply with any design, construction or equipment criteria, or meet any stability test or have basic stability documentation [TAIC, 2008].

The original intent was, that given that these barges are small and tonnage cannot be defined, that the rule should not apply.

### Submissions

Submitters commented as follows:

- The change is supported. (5, 22, 27, 31)
- Tugs under 24m are not required to be measured for tonnage so a tonnage rule cannot be applied. Perhaps the rule should only apply to the tonnage of the tow if the tug is under 24m in length and the tow has a valid tonnage certificate. (11)
- Where a length restriction of 40m is place as at some ports this will require even very small tugs and tows to take a pilot e.g. a 10m tug with a 10m barge using a 20m topline. The combined tonnage could be as low as 50 GT; perhaps a 500 GT limit would be more practical. (11)
- On some occasions, very little instruction has been provided by the pilot. The pilot signs away responsibility for his actions, yet pilotage charges can be significant. We strongly disapprove of a having a rule requiring an operator to take and pay for the services of a pilot who is not responsible for their actions. (11)
- A number of occasions have arisen where a barge trip has been priced on the basis of no pilotage being required as the tug master holds an exemption. The senior pilot overrides that by ordering a pilot to be taken as the tow is over 500 GT. The situation where a harbourmaster engages a pilot or the port company to advise on exemptions and conduct examinations needs to be tidied up as sometimes of these companies have begun to rule the roost to suit themselves, especially financially. (11)
- Instead of tug masters having to go through a full pilotage exemption when a tug relocates to operate within a given pilotage area, sometimes for a short period for jobs such as dredging, marine construction etc, is it possible for a reduced version of an exemption to cover these situations? For example, prior to commencing work the tug master could undergo a port safety briefing from the harbourmaster. Covering port operations and shipping, hazards, communications and harbour control, safety issues related to the task to be undertaken etc (11)

## Maritime Rules

- Transport by sea can be much more cost efficient than road transport but cannot compete when the extra costs of pilotage charges are included. For example, a 100GT tug and 650 GT barge does a return trip Auckland – Whangarei – Auckland. The barge can carry up to 1000 tonnes of cargo. Pilotage costs (pilots required on 4 occasions) are around \$4,700 – 58% of the tug and barge hire. (11)
- Tug masters are highly experienced in their craft and there would be few pilots with the necessary tug handling skills and in most cases they would be reduced to a watching brief on the tug. (12)
- The combined tonnage or length is very restrictive for normal harbour operations where many tug-tow combinations would exceed the limits. The tug or tow size individually should be the limiting factor. If a combined figure is used, the tonnage and length limits would need to be increased, or exemptions be obtained. Where length criteria are to be used, these would need to be specified for all pilotage areas or a national limit set in the rule. Generally the 40/50m limits currently set would be too low. (12)
- Suggest add a new part 90.22 (3) providing for certain tug/tow operations to be exempted by the harbourmaster from 90.22 under certain pre-determined conditions. (12)
- There appears to be no basis for the exclusion of barges less than 24m. This will create inconsistencies and therefore 90.22 (2) should be deleted. (17)
- The barge length for exclusion under 90.22 (2) should be increased to 40m and the pilotage limit should remain at 500 GT for Wanganui when the vessel is a tug and tow. (18)
- A master undertaking regular voyages to a port will have a very good local knowledge. Piloting a tug and barge combination is very different to piloting a ship and considered by some more difficult to handle. Masters have found it not uncommon for pilots to have little experience and practical knowledge of handling tugs and tows. In our view, local knowledge alone is not a sufficient reason to insist that a pilot be taken. (20)
- In port a tug “hips up” alongside a barge to endure greater control, therefore comments related to towline length exceeding limits would not apply. In many ports, if additional manoeuvrability is required a master will call on an additional tug, which then operates under his guidance. (20)
- It is agreed that tugs and tows are more difficult to handle than ships, but I have to disagree with the comment that “tug masters are highly experienced”. Masters generally have certificates for the tugs only but may be towing an 8,000 tonne foreign-going barge with minimal experience. (27)
- Tugs and tows travelling between pilotage areas should be treated as a single ship for pilotage using combined GT or length. However this is too restrictive for tug and tow combinations employed solely within a particular pilotage area. For example, the tug and crane barge used to maintain navigation marks in Whangarei Harbour would exceed the limits. The persons operating these vessels are very experienced in operating on the harbour and the requirement to take a pilot or have an exempt master would be unnecessarily onerous and in our opinion not improve safety. (28)
- The exemption for barges of less than 24m from the requirement to consider the combined tonnage or length as a basis for pilotage, seems inconsistent with the statement that tug and tow combinations are considered more difficult to handle than the equivalent tonnage ships. (35)
- Does 90.22 apply to a tug attached to a ship i.e. any ship handling tug? (43)
- There does not appear to be any rationale for excluding barges less than 24m from consideration and 90.22(2) should be deleted. (45)

Specific and detailed submissions were made in relation to tug and barge operations in the Marlborough Sounds:

- The changes to the rule appear to result from the harbour risk assessment for the Marlborough Sounds in as far as lowering of the tonnage limit for pilotage in Tory Channel, more onerous exercise-of-privilege conditions and the requirement to consider combined tug and tow tonnages and lengths for the purposes of pilotage. These changes would have a significant impact on McManaway’s operations as all six masters

would require to obtain pilotage exemptions and maintain their currency and this would make it uneconomic to continue to operate. (33)

- A far greater contribution would be made to the safety of navigation and protection of the marine environment and efficiency of seaborne commerce by establishing a coherent regulatory basis for the safety of navigation in NZ ports and the Marlborough Sounds in particular. Confusion in the underlying legislation has flowed through to the risk assessment and to Part 90. Changes to Part 90 should be postponed until the underlying legislative issues are addressed. The requirement to treat a tug and tow as a single ship is not supported by the risk assessment or the incidents involving tugs and tows that are quoted therein. (33)
- Pilots in the Marlborough Sounds do not have the same degree of local knowledge of Tory Channel as McManaway's skippers. There is little or no accommodation on a small tug for a pilot. The number of trips required to keep an exemption current would be difficult to meet in any 12-month period and difficult to achieve within the current operations. There are insufficient Marlborough pilots available to ensure that the exemption conditions can be met [in terms of assessments?] Each time a master moves on or is replaced additional costs would be incurred. (33)

MNZ comment and changes in 2nd draft

There appears to be a general consensus that a tug and tow is more difficult to handle than a ship of equivalent tonnage or length. There is no question of the shiphandling skills of tug masters routinely engaged in towing operations (except maybe in isolated cases) and it is recognised that most pilots will have limited experience in handling tugs and tows. However, the current rules allow tug masters to be engaged in towing quite large barges (some up to 8,000 GT) with qualifications and knowledge much less than that required for the equivalent sized ship.

The primary contribution of a pilot in this case is their knowledge of the local conditions. The tug masters themselves may already have a good level of local knowledge, but there is a case for this to be demonstrated and maintained through the pilotage exemption scheme.

There appear to be three main issues to be addressed:

- Whether there are safety benefits in extending the pilotage/exemption regime to bringing tug and tow operations above a certain size;
- If so, whether the trigger level for application of pilotage control to those operations is set at the right level, and whether the requirement should apply to movements carried out solely within the pilotage area; and
- Whether the qualifications, experience and knowledge required under the present maritime rules for command of a tug with a large tow are adequate.

In addition, submitters have noted that the costs of pilotage or of obtaining and maintaining a pilotage exemption can be a significant component of the cost of operation of a tugs and tow.

### **Safety benefits of pilotage**

The requirement for pilotage in a harbour area is a key risk mitigation measure. It is implemented through the requirement for either a pilot to be taken on board for the movement or for the master to obtain a pilotage exemption through demonstrating knowledge of the particular harbour and a minimum level of operating experience and competence in the command of his or her vessel within that harbour. Both mechanisms in effect exert some level of additional control over the movement of vessels over a certain size within the harbour.

Under the current rule, tugs and tows are largely unregulated in terms of pilotage, given that all of the tugs used for these purposes fall under the 500 GT limit that applies to most New Zealand harbours, with a few exceptions. Several submitters support a change to this. There have been several incidents over the years involving tugs and tows. However it is not clear to what extent either lack of knowledge of local conditions and/or inadequate shiphandling skills and/or poor decision making were contributing factors in any of these incidents.

## **Maritime Rules**

On balance MNZ considers that there is a safety benefit from applying the pilotage regime to tugs and tows. The pilot will provide the benefit of local knowledge where the tug master is not a regular visitor and therefore not eligible for a master's pilotage exemption. However it is acknowledged that this could have significant commercial implications for existing operators and those costs need to be balanced against the navigation safety gains. Hence the level at which pilotage limit is set is critical.

Tug and barge operators whose operations are carried out entirely within pilotage waters may only go beyond the pilotage area boundary infrequently. In some pilotage areas (such as Tory Channel), the harbour entrance constitutes the most challenging part of the passage, but this is not the case everywhere. It is suggested that in those cases, exemptions might be subject to conditions allowing passage within the harbour but excluding certain areas.

It is noted that the rule refers to "tows" as opposed to barges specifically. In some areas, for example, tugs may tow structures of significant size that are not ships (for example, marine farms) and such movements can affect navigation safety.

### **Trigger level for pilotage control**

The limits for pilotage in the schedule to the rule, together with the minimum conditions-of-privilege, were established based on the advice of the harbourmasters in each area, which in turn reflect the outcome of the risk assessments. The preparation of those risk assessments has in turn involved the harbour stakeholders, so they have had an opportunity to provide input. The limits and conditions-of-privilege have not been set arbitrarily by MNZ. However MNZ retains the oversight through both the rule and in effect approving the conditions for a licence or exemption set by the examiner.

It is recognised that the limits and conditions will have implications for operators of tugs and tows. In the case of the Marlborough Sounds, it is noted that the 100 GT pilotage limit applies only to Tory Channel and that Queen Charlotte Sound remains at 500 GT, hence there is an option available. Safety considerations should take primacy over commercial ones. The limits and conditions for each area are discussed in detail in later sections of this document.

Proposed changes to the draft amendment will provide for the annual assessment of an exemption holder, in certain circumstances, to be undertaken by another exempt master instead of a pilot. This should make it easier to meet the conditions-of-privilege of the exemption.

Ships under 24m are not required to be measured for tonnage, hence the proposal to use the combined length of the tug and tow combination as an alternative criteria where a tonnage figure is not available. However, where the length of the towline is included in the criteria, this could encourage a towage operator to use a shorter tow than the optimum or to "hip up" to the tow, which for a given situation may not be the safest option. It is suggested that using the combined length of tug and tow excluding the towline would be a better approach, as it will not influence the operator's choice of towing configuration.

*The rule has been amended to apply either the combined tonnage of tug and tow or the combined length excluding the tow line as the criteria for pilotage. Where tonnage is not measured, and a length criterion is specified for the pilotage area, a measured length will be used. If either tug or tow exceeds the specified length or tonnage criteria on its own, pilotage will apply. The exclusion for barges under 24m has been removed.*

### **Qualifications for tug masters**

This matter is to be addressed under the forthcoming qualifications review and is not discussed further in this document.

### **Pilotage exemptions for tugs and tows**

Where tugs are engaged for short period in operations such as dredging, marine construction and so on, and the tug triggers the criteria for pilotage, there is merit in a simplified exemption process being established. The revised rule has been drafted with sufficient flexibility to allow training programmes for exempt masters to be tailored according to the navigation tasks being

carried out and to reflect the risks they present, rather than a “one size fits all” pilotage exemption scheme. It is envisaged that in such cases, exemption training schemes for particular pilotage areas and routine low risk activities will be developed by operators in conjunction with the harbourmaster for approval by the Director.

### **Rule 90.23 Revocation**

This provision revokes the previous Maritime Rule Part 90 signed on 25 February 2003.

### **Rule 90.24 Transitional provisions**

#### Rule summary and intent

Given the introduction of a five-year validity of new pilots licences and masters pilotage exemptions, this rule provides for licences and exemptions issued under the old rule to remain valid until five years after their date of issue.

#### Submissions

Submitters commented as follows:

- If a certificate has previously been held for longer than five years when the new rule is signed will it require immediate revalidation? (8)
- This clause is vital to ensure that grandfathered licences come up to the standards now required following assessments in line with the NZ Port and Harbour Marine Safety Code.
- Does this mean that one-year pilotage exemption certificates will now become five-year ones? (34)
- The requirement to have satisfactorily attended and completed an advanced pilotage training within the 12 months prior to revalidation of a pilot's licence may leave some pilots without a valid licence during the transition period because a course is not offered with the necessary timeframe and availability window of the pilot. It may be appropriate to allow a two-year grace period either side of the first revalidation after the new rule becomes law. (35)

#### MNZ comment and changes in 2nd draft

The intention of the rule is that any certificates held for more than five years at the time of the rule coming into force will require immediate renewal. However a grace period of 12 months will be provided for.

*Pilotage exemption certificates previously issued for one year will be renewed for five years upon their expiry but PEC holders will be subject to an annual assessment under the new rule.*

*Provision has been made in the revised rule for exemptions granted under section 47 of the MTA to be deemed to be a PEC issued under the new rule for no more than two years after the rule comes into effect.*

*As noted in the discussion on rule 90.12, a course of Continuing Professional Education (CPE) is required to be completed within five years prior to renewal of a pilot's licence.*

### **Schedule - Pilotage Areas and Limits**

The revised schedule updated the descriptions, physical extents and tonnage or length limits for the compulsory pilotage areas. This information was compiled based on advice from harbourmasters and is informed by the results of the respective harbour risk assessments developed in accordance with the NZ Port and Harbour Marine Safety Code.

In addition, following requests from a number of stakeholders, minimum conditions-of-privilege for the exercise of licences and masters pilotage exemptions were added, again based on advice from harbourmasters.

Information was not complete for all areas. Tonnage and/or length limits for pilotage were changed in some areas. New pilotage areas were defined which were not previously included in the rule – Paterson Inlet (Stewart Island), Greymouth and Wanganui.

## **Maritime Rules**

Submissions made relate both to the setting of limits generally and to the implications for operators of the proposed limits for individual areas.

A 100 GT limit was proposed for Taranaki, Nelson, Westport, the same as the current limits for these harbours. The 100 GT limit reflects the general difficulty of navigation in these harbours and in turn the need to closely control the movements of larger vessels. A change to 100 GT was set for Tory Channel (previously 500 GT). The 100GT limits for the Fiordland harbours, the Bay of Islands and Whangarei were raised.

It noted that pilotage areas and local pilotage requirements are still included in some regional council bylaws. The issue of bylaws duplicating requirements in maritime rules is being addressed by the Ministry of Transport in its review of the legislation governing the management of ports and harbours and navigation safety.

### **Setting of tonnage/length limits and minimum exercise-of-privilege conditions**

#### **General**

Submissions on the setting of tonnage /length limits and conditions-of-privilege within the rule in general are summarised as follows. The apparent inconsistencies in the requirements between pilotage areas and the high number of transits required in some particular areas were common themes.

- Why not standardise the tonnage limit and keep it low if required. What is wrong with an operator seeking a pilotage exemption? (2)
- Only some of the minimum exercise-of-privilege conditions are shown and there is a vast difference in requirements. While pilotage in some areas is more difficult than in others, the relative requirements for Bluff (4 transits in, 4 out per annum) and Queen Charlotte Sound (10 in, 10 out) do not make sense. Are these limits just the old requirements or have they been further researched by MNZ? (2)
- The schedule should include the minimum exercise-of-privilege conditions for each area. Having it stated in part 90 leaves no ambiguity as to the minimum level for each particular port. (17)
- The schedule should become an advisory circular. (27)
- The minimum number of transits required seemed to be derived from some ad-hoc method. For some areas it would be almost impossible to comply for even the local pilot, particularly at night. (34)
- The exercise-of-privilege conditions in the schedule could be dealt with more effectively and comprehensively within local training and revalidation programmes rather than in a higher level rule. (35)
- Earlier comment from the Shipping Federation asked that minimum exercise of privilege conditions be set within Part 90, but taking into consideration the difficulty of amending a rule, we consider that including the schedule in an advisory circular would provide more flexibility. (40)
- Only some of the areas in the schedule have conditions-of-privilege shown and there is a vast difference in requirements. A review of these conditions should be undertaken before they are finalised (in an advisory circular). (40)
- Marlborough District Council considers that Part 90 should be facilitating the use of Pilotage Directions and not limiting the Harbourmaster's ability to manage safe navigation by the use of rigid legislation, with long timescales between overhauls. The pilotage district should be an area where a Harbourmaster has the freedom to issue Pilotage Directions, which are separate from the decision to provide pilotage service.

Pilotage Directions should define the geographic area within which pilotage is compulsory based on the output of the risk assessment. If new or further risks are identified outside the area, the harbour authority should be in a position to amend these limits quickly, without going through the process of a rule amendment. Pilotage directions should:

- Describe how pilotage applies to vessels using the port

- Be driven by the outcome of the harbour risk assessment
- Specify the ship or ship type
- Identify the geographic area to which the directions apply (45)

### **MNZ comment and changes in 2nd draft**

*As noted earlier in this document, minimum conditions-of-privilege for each pilotage area have been removed from the schedule to the rule and minimum recent experience requirements will be set by the Director and notified by Gazette. The conditions for each area have been reviewed in the light of the submissions, and changes proposed in some areas as discussed below.*

Submissions on the limits and conditions proposed in specific areas are summarised below by area, with MNZ comments where relevant.

#### **Bay of Islands**

- Recommended tonnage limits and exercise-of-privilege conditions are consistent with the approved training manual criteria and/or the relevant harbour procedures and have been discussed and agreed as part of the implementation of the NZ Port and Harbour Safety Code. (28)
- Change pilotage limit to 1000 gross tonnage. (28)
- Conditions:
  - for pilots working in the Bay of Islands, 4 inwards and 4 outward transits per annum.
  - for pilots licensed and working on another Northland harbour, 2 inward and 2 outward transits per annum. (28)

*MNZ comment:*

*The limit for the Bay of Islands has since been changed to 500GT on the recommendation of the Harbourmaster.*

#### **Whangarei**

- Recommended tonnage limits and exercise-of-privilege conditions are consistent with the approved training manual criteria and/or the relevant harbour procedures and have been discussed and agreed as part of the implementation of the NZ Port and Harbour Safety Code. (28)
- Change pilotage limit to 500 gross tonnage and/or 40m overall length. (28)
- Change pilotage limit to 500 gross tonnage or 50m overall length (whichever is lower) (12)
- Conditions:
  - At least 12 pilotage acts per annum of which at least 6 shall be arrivals. (28)

#### **Auckland**

- Amend description of pilotage area to delete reference to Otara Creek. (17)
- Conditions for pilot's licences:
  - 12 transits per annum, of which at least 6 shall be arrivals. (17)
- Conditions for master's pilotage exemptions:
  - 8 transits per annum, of which at least 4 shall be arrivals. (17)

*MNZ comment:*

*ARC Harbourmaster's direction 1-07 provides for a ship to be directed into the pilotage area to an anchorage or to the pilot boarding area. A provision in the revised rule allows for Harbourmasters to permit certain regular movements of this type within a pilotage area without a pilot boarded (see previous discussion under 90.5 above).*

#### **Manukau**

## **Maritime Rules**

- Conditions for pilot licences:  
8 transits per annum, of which at least 6 shall be arrivals. (17)
- Conditions for master's pilotage exemptions:  
8 transits per annum, of which at least 4 shall be arrivals. (17)  
8 transits per annum, of which at least 4 shall be arrivals with 1 arrival and 1 departure during the hours of darkness (21, 32).

### **Tauranga**

- Change pilotage limit to 250 gross tonnage. Vessels of 250 – 500 GT are less manoeuvrable and may impede the passage of larger vessels, particular where the master of the vessel has little or no experience of the Tauranga Harbour entrance. (48)
- The harbourmaster should have the ability to grant pilotage exemptions for masters of vessels up to 500 GT. This would make exemptions for these vessels more readily available due to being covered at a local level, and would enhance safety for all harbour users. (48)

*MNZ comment:*

*The rule does not provide for Harbourmasters to grant pilotage exemptions, only the Director, so local discretion cannot be granted. The pilotage limit has been changed to 250 GT.*

### **Wellington**

- The pilotage limit shown in the draft is the existing harbour limit. (34)
- The requirement for 16 transits per annum (8 in, 8 out) to maintain the currency of a pilotage exemption compares with Otago and Manukau (8 transits) which Holcim masters generally consider to be the most demanding harbours in terms of pilotage. (38, 44)
- I have held a master's pilotage exemption for Wellington for the last 11 years and in the current year have exercised it on 14 occasions. On the basis of the draft rule I would lose that exemption. (36)
- The *Tangaroa* undertakes on average 12 – 14 passages per year in Wellington (6 – 7 per master) and both masters have been undertaking their own pilotage for over 20 years. The vessel also undertakes research work in the harbour with a considerable number of movements between berths. Maintaining the currency of master's exemptions could be difficult if 8 transits in and 8 out are required. Departure times often change frequently right up to the time of departure, making it difficult to plan for a pilot. Having to use a pilot for every movement would be inconvenient and of considerable cost. NIWA would like to see the proposed number of transits reduced to no more than 6 or for an exemption to be granted to the *Tangaroa* masters (?) (54)

*MNZ comment:*

*The current pilotage limit of 3 miles shown on the charts is not the compulsory pilotage limit. However, the compulsory pilotage limit will be extended out to the harbour limit. Local pilotage procedures allow early disembarkation of the pilot (by mutual agreement with the master) in sheltered waters once the ship is south of the rear leads.*

*MNZ has discussed the conditions-of-privilege with the Wellington harbourmaster and notes that the minimum conditions-of-privilege should be 4 transits in and 4 out, including 1 in and 1 out during the hours of darkness, applicable to both pilots and exemption holders. This will address the concerns raised and provide greater consistency with other harbours, while still reflecting the particular risk profile of Wellington harbour.*

### **Pelorus Sound**

- The Admiralty Bay risk assessment concluded that the area should become subject to compulsory pilotage. It is suggested that it be incorporated into the proposed Pelorus Sound pilotage area by defining the limit as "A line joining Alligator Head, through Sentinel Rock through to Bonne Point on D'Urville island". This would still allow casual anchorage off the Rangitoto Islands. (45)

*MNZ comment:*

*The suggested extension to the proposed pilotage area is supported and has been incorporated into the revised rule. A western boundary to the area has been defined between Okuri Point and Sauvage Point (D'Urville Island). Any additional restrictions on the use of French Pass, which is within this new pilotage area, will be determined by the Marlborough District Council and documented in the revised Marlborough Sounds Navigation Safety Bylaw 2009, currently under consultation.*

#### **Tory Channel and Queen Charlotte Sound - extension of pilotage area**

A number of submitters commented on changes to the boundary of the pilotage areas, which extend both areas further into Cook Strait. In both areas it was considered that boarding and disembarking further out to sea would be unsafe and would put the pilot and pilot boat crew at unnecessary risk. For the northern entrance, the extended limit is on the line of the rising shelf, with a 30m+ depth change. Coupled with a northerly or northwesterly wind will put up quite a steep sea and there is no shelter. In poor weather a pilot would be unable to board. There was considered to be no justification for the move. (34, 43, 55).

Some also commented on the need to take shelter inside Tory Channel in poor weather, requiring a pilot or a pilotage exemption in order to do this. (50)

#### *MNZ comment:*

*The concerns are noted. The revised rule makes provision for the harbourmaster to permit certain regular movements to be carried out within a pilotage area without a pilot boarded, subject to conditions (see previous discussion under 90.5). For small vessels where boarding in open waters might be considered unsafe, there may be a case to be made for boarding further in, within the pilotage boundary. However, each case will need to be considered on its own merits, taking into account the associated risks, and be subject to approval by the Director.*

#### **Tory Channel – reduction of pilotage limit to 100 GT**

#### **Tory Channel and Queen Charlotte Sound – increase in required transits to maintain currency**

Several submitters commented at length. The current limit for Tory Channel is 500 GT. The impact would be to require many fishing vessels which currently are just over the 100 GT limit to either have to take a pilot or obtain a pilotage exemption. This would add a significant cost to fishing operations.

Increasing the number of required transits to keep currency (from 3 in, 3 out to 10 in, 10 out per annum) would make it difficult to maintain an exemption, particularly for some vessels which may have a number of masters and operate over a short season. This could affect the viability of Picton as a base for fishing and other small operators with a potential loss of revenue for the region.

Some questioned whether the change was in fact supported by the results of the risk assessment and expressed concern that there was no discussion with affected parties before the proposed changes were publically consulted on. (51)

Marlborough District Council commented that although the number of transits to maintain currency was high, Tory Channel is a difficult and dangerous area and the number of transits was justified. (45)

#### *MNZ comment*

*The matter has been discussed at some length with the Marlborough Harbourmaster, with reference to the Marlborough Sounds risk assessment and recent accident statistics. As a result, the proposed limit for Tory Channel has been changed to 30m overall length which better reflects the hazards associated with navigating the eastern entrance of the channel. Additional notification provisions for the use of the channel are included in the bylaw.*

## **Maritime Rules**

*Exercise of privilege conditions will no longer be included in the rule. Recent experience requirements will be set by the Director in consultation with the Harbourmaster and other stakeholders and notified by Gazette. The current proposals are as follows:*

Tory Channel – 8 inward transits and 8 outward transits per 12 month period with at least 3 inwards and 3 outwards during the hours of darkness.

Queen Charlotte Sound – 5 inward transits and 5 outward transits per 12 month period with at least 2 inwards and 2 outwards during the hours of darkness.

*The number of trips to be completed for the purpose of obtaining a pilot licence or pilotage exemption certificate will be specified in the structured training programmes for each area.*

## **Greymouth**

- Who will set the limits for Greymouth? I am one of the last two pilots for Greymouth prior to it being left out of the rule and have not been consulted to date. How is a licence reinstated? (2)
- Change the pilotage limit to 100 GT and/or 3m draft. Coal export is due to get underway in the next two years; Greymouth is a bar harbour with depths over the bar subject to change. (5)

*MNZ comment:*

*Greymouth is not currently a compulsory pilotage area and a process will need to be established by the port operator, harbour authority and MNZ for the training and licensing of pilots and development of pilotage procedures. This process will draw on the expertise of pilots who have previously held licences for Greymouth under the old pilotage regime.*

*The revised rule includes a provision to cover training for new pilotage areas where there are currently no licensed pilots to conduct training, assessments or examinations. Where persons meeting the specified requirements are not reasonably available, the Director may approve other qualified and experienced persons whom he/she considers appropriate to perform those functions.*

*A draft restriction for Greymouth has been included as suggested.*

## **Bluff**

- Both Picton and Bluff are historically heavy use commercial fishing ports. A significant proportion of the commercial fishing vessels using these ports are just over 18m and 100 – 200 GT and will now be required to take a pilot or obtain a pilotage exemption. These vessels have operated safely from these ports for many years and they generally have surplus power and are very manoeuvrable. It could be argued that the owners and skippers are more familiar with navigation in these ports than the pilots and have superior small vessel handling skills. (51)
- Pilots at Bluff and Marlborough have advised that vessels can expect significant delays when requiring a pilot to enter the harbour and this will be particularly the case during peak seasonal fishing. This may force vessels of less than 100 GT to stand by waiting for a pilot in two of the world's most dangerous stretches of water. (51)

*MNZ comment*

*In subsequent discussions, South Port has made a strong case for a 100 GT limit. The change in limit will predominantly affect the larger foreign trawlers. The manoeuvrability of some of these vessels, combined with the challenging conditions in the harbour and communication difficulties at times support the suggested limit.*

## **Paterson Inlet (Stewart Island)**

- The pilotage area for Stewart Island should be gazetted due to cruise ships wishing to enter and anchor in Paterson Inlet over recent years. (13)
- Environment Southland's Coastal plan makes provision for the internal waters of Stewart Island to be considered as areas for special protection. It is a non-complying or

discretionary activity for ships over 1000GT other than cruise ships to enter those waters or the internal waters of Fiordland. Half Moon Bay, Paterson Inlet, and Port Pegasus on Stewart Island should be considered as a compulsory pilotage area with a limit of 500 GT. Environment Southland advocates for cruise ships to carry a pilot when navigating in the internal waters of Stewart Island and the suggested amendment to Maritime Rule Part 90 would ensure consistency with the council's Coastal plan. (29)

*MNZ comment*

*Limits for Paterson Inlet and Half Moon Bay have been set in the revised rule after consultation with the regional Harbourmaster and cruise ship pilots. The consensus was that compulsory pilotage for Port Pegasus should not be needed for the foreseeable future.*

### **Fiordland**

- The Fiordland area shows every sound on the coast but other than Milford, Doubtful/Thompson and Dusky/Breaksea I am not aware of any present pilot who has been into the other sounds. They should be removed from the list. (2)
- Exercise of privilege conditions should be consistent for Milford Sound Harbour, Doubtful and Thompson Sounds Harbours, and Dusky and Breaksea Sounds Harbours. For pilot's licences and master's exemptions, the [minimum] number of transits should be 2 in and 2 out within each 18-month period. Minimum exercise-of-privilege conditions should not be set for all other Fiordland harbours but should be left to the discretion of the examiner and the Director to determine.

The above three areas are the most consistently used pilotage areas and amending the exercise-of-privilege conditions will ensure consistency with current pilot training and pilot licences. The other areas are used less frequently and each case should be considered separately. (29)

- Bligh, Breaksea and Dusky Sound require 2 transits in and 2 out. (43)

*MNZ Comment*

*The comments are noted. Cruise ship pilotage covers only a limited number of the sounds in Fiordland and it is agreed that those pilot licences should be limited to areas which they regularly traverse. It is however proposed that all the pilotage areas remain in place to ensure that access for large ships to the sounds continues to be controlled.*

*The change to a 500GT limit for the sounds of Fiordland, greater prescription of the requirements for pilot and PEC training and assessments and the ability for the Director to notify recent experience requirements by Gazette, will provide greater flexibility in the rule to enhance navigation safety in Fiordland while reflecting the practical circumstances of ship operations there.*