



Maritime Transport Act 1994

Maritime Rules

STCW-F-related Amendments 2017

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

Signed at Wellington

This

3rd

day of

April

2017

By Hon David Bennett



Associate Minister of Transport

Maritime Rules

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Objective

The objective of the STCW-F-related Amendments 2017 is to give effect to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (the Convention).

The authority for making the STCW-F-related Amendments 2017 is found in section 36, subsections (1)(b), (j), (n), (o), (p), (s), (u), (w), (za), and (zb), of the Maritime Transport Act 1994.

The amendments are intended to come into force either on the date when the Convention takes effect for New Zealand or, for the following rules, at a later date as permitted by the transitional provisions in the Convention:

- amendment 10.2 (amending rule 32.20):
- amendments 11.2 and 11.3 (amending rule 32.21):
- amendment 14.2 (amending rule 32.50):
- amendment 15.2 (amending rule 32.51):
- amendment 16.2 (amending rule 32.54):
- amendment 17.2 (amending rule 32.55):
- amendment 18.2 (amending rule 32.56):
- amendment 19.2 (amending rule 32.57).

Maritime Rules are disallowable instruments under the Legislation Act 2012. Under that Act, the rule is required to be tabled in the House of Representatives. The House of Representatives may, by resolution, disallow any rules. The Regulations Review Committee is the select committee responsible for considering rules under that Act.

Extent of consultation

Maritime New Zealand consulted, via its website, with the public on drafts of the proposed amendments to the maritime rules in accordance with the Act, including the expected costs and benefits. A notice regarding this consultation was placed in the *New Zealand Gazette* on 6 October 2016 and the consultation material was made available on the Maritime NZ website from 10 October 2016. The deadline for making a submission was 7 November 2016. Three (3) submissions were received. They were in support of the proposed amendments and are summarised in the 'summary of submissions' section on page 9.

Entry into force

These rules come into force on a date to be notified in the *Gazette* as provided for in section 451(3) of the Act.

Amendments to Part 31: Crewing and Watchkeeping

1 Part 31 General

- 1.1 In the Part objective of Part 31, amend the first paragraph as follows:
- 1.1.1 in the first sentence, between 'New Zealand' and 'passenger', insert "and foreign"; and
 - 1.1.2 at the end of the paragraph, before the last full stop and after '(STCW)', insert "and, so far as they apply in relation to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F)".
- 1.2 In the Table of Contents in Part 31 headed "Contents", amend as appropriate to align with the rules and their page numbers in Part 31.

2 31.1 Application

In rule 31.1—

- 2.1 in subrule (1)(c), replace the full stop at the end of that subrule with "; and"; and
- 2.2 after subrule (c), insert subrule (d) as follows:
- "(d) ships to which rule 31.87 (which relates to foreign fishing ships) applies, to the extent specified in that rule."

3 31.2 Definitions

In rule 31.2—

- 3.1 arrange all defined terms in alphabetical order; and
- 3.2 in the appropriate alphabetical order, insert the following new definitions—
- "fishing ship** has the same meaning as in section 2 of the Act:
- foreign fishing ship** means a ship that is—
- (a) not a New Zealand ship; and
 - (b) a fishing ship:"; and
- 3.3 in the definition of STCW-F, after '1978', delete ", as amended".

4 31.64 Other minimum crewing requirements for fishing vessels

In the flow diagram for Second Engineer below Table 7 of rule 31.64, in the note marked by an asterisk "*", after 'unlimited area', insert "(refer rule 32.211)".

5 31.80 Application

In rule 31.80, after subrule (2), insert subrule (3) as follows:

- "(3) Subpart D also applies to ships to which rule 31.87 (which relates to foreign fishing ships) applies, to the extent specified in that rule."

6 31.87 New rule

At the end of subpart D, after Table 19 and the flow-diagram below it, insert new rule 31.87 as follows:

"31.87 Foreign fishing ships

- (1) This rule 31.87 applies to any foreign fishing ship within New Zealand waters and any owner or master of the ship.

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- (2) The owner and the master of a foreign fishing ship that is registered in a State that is a party to STCW-F must ensure—
 - (a) compliance with the requirements of STCW-F; and
 - (b) that all applicable persons on board that ship comply with the requirements to be certificated in accordance with STCW-F; and
 - (c) that there is carried on board the ship, accompanied by an English-language translation where it is not in English, in respect of that ship, a copy of the current certificates issued in respect of its crew in accordance with STCW-F.
- (3) The owner and the master of a foreign fishing ship to which subrule (2) applies must ensure that a copy of each document required under subrule (2) is produced when requested by the Director.
- (4) The owner and the master of a foreign fishing ship to which subrule (2) does not apply, or which is otherwise unable to provide the Director with a copy of the documents referred to in subrule (2), must demonstrate to the satisfaction of the Director compliance with the provisions of the Annex to STCW-F.”.

Amendments to Part 32: Seafarer Certification

7 Part 32 General

- 7.1 In the Part objective of Part 32—
- 7.1.1 in the first paragraph between ‘1978’ and ‘STCW’, delete “, as amended”; and
- 7.1.2 at the end of the first paragraph, before the last full stop and after ‘(STCW)’, insert “and the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F)”; and
- 7.1.3 delete the second paragraph (which begins with ‘At the time’).
- 7.2 In the Table of Contents in Part 32 headed “Contents”, amend as appropriate to align with the rules and their page numbers in Part 32.

8 32.2 Definitions

In rule 32.2—

- 8.1 arrange all defined terms in alphabetical order; and
- 8.2 replace the definition of ‘STCW-F certificate’ with—
“STCW-F certificate means an STCW-F deck certificate or an STCW-F-aligned national certificate.”; and
- 8.3 in the appropriate alphabetical order, insert the following new definitions—
“STCW-F deck certificate means a certificate that is provided for in subpart D of this Part:
STCW-F-aligned, in relation to a national certificate, means—
- (a) a MEC 5 with the associated privilege described in rule 32.51(1)(e); or
- (b) a MEC 5 motor and steam with the associated privilege, through rule 32.55(a), described in rule 32.51(1)(e); or
- (c) a MEC 4 with the associated privilege described in rule 32.57(1)(c).”

9 32.3 Alphabetical table of abbreviations and further details relating to certificates

In Table 1 below rule 32.3—

- 9.1 in the row headed ‘MEC 4’ in the first column, in the last column of that row, after ‘National’ insert “(may be STCW-F-aligned)”; and
- 9.2 in the row headed ‘MEC 5’ in the first column, in the last column of that row, after ‘National’ insert “(may be STCW-F-aligned)”; and
- 9.3 in the row headed ‘MEC 5 motor and steam’ in the first column, in the last column of that row, after ‘National’ insert “(may be STCW-F-aligned)”.

10 32.20 Renewal of certificates

- 10.1 Subrule 10.2 will come into force on a date to be notified in the *Gazette*.
- 10.2 In rule 32.20, after subrule (3), insert subrule (4), (5), and (6), as follows:

- “(4) Where an applicant renews a national certificate that was issued in accordance with rule 32.50, 32.54, or 32.56, and the requirements in rule 32.21(3) are not met, the Director may place an endorsement on the renewed certificate to the effect that the certificate is a national certificate but is not STCW-F-aligned.
- (5) Where an applicant renews a MEC 5 or MEC 5 – motor and steam that was issued in accordance with rule 32.50 or 32.54 and the privileges of that certificate do not include the privilege in rule 32.51(1)(e), the Director may place an endorsement on the renewed certificate to the effect that the certificate does not authorise the holder to act as a second engineer of a fishing ship of any propulsion power in any operating area.
- (6) Where an applicant renews a MEC 4 that was issued in accordance with rule 32.56, and the privileges of that certificate do not include the privilege in rule 32.57(1)(c), the Director may place an endorsement on the renewed certificate to the effect that the certificate does not authorise the holder to act as a chief engineer of a fishing ship of under 3000 kilowatts in the unlimited area.”.

11 32.21 Minimum duration of sea service for the purposes of renewal of certificates

- 11.1 Subrules 11.2 and 11.3 will come into force on a date to be notified in the *Gazette*.
- 11.2 In rule 32.21, replace the lead phrase in subrule (1), which precedes subrule (1)(a), with—
 - “(1) An applicant to renew a national certificate, that is not STCW-F-aligned, issued under subpart B or an equivalent that the Director has recognised under section 41 of the Act must have completed—”.
- 11.3 In rule 32.21, replace the lead phrase in subrule (3), which precedes subrule (3)(a), with—
 - “(3) An applicant to renew a certificate of competency to be an STCW-F deck certificate or an STCW-F-aligned national certificate, or an equivalent that the Director has recognised under section 41 of the Act, must have completed the approved sea service or an equivalent that is no less than—”.

12 32.26 Letter of permission authorising temporary service on application for recognition of equivalence to STCW Certificates

- 12.1 In rule 32.26, in the heading, after ‘STCW’, insert “or STCW-F”.
- 12.2 In rule 32.26, after subrule (1), insert the following subrule (1A)—
 - “(1A) The Director may issue a letter of permission verifying that the Director permits a person to serve on board a ship in the same capacity as a person holding an STCW – F certificate issued under this Part (with or without prescribed endorsements) for a period not exceeding 3 months on a ship entitled to fly the New Zealand flag in accordance with paragraph 3 of Regulation I/7 of STCW-F if—
 - (a) the person has made an application under section 35 of the Act to have a foreign certificate recognised as an equivalent to the STCW-F certificate; and
 - (b) the Director is satisfied that, on the information available at the time the application is made, the person holds an appropriate and valid certificate issued and endorsed as required by another Party to STCW-F.”.

13 Subpart B Heading

In Part 32, replace the heading of subpart B as follows:

“Subpart B – National certificates of proficiency and competency and national prescribed endorsements, including STCW-F-aligned national certificates”

14 32.50 Marine engineer class 5

- 14.1 Subrule 14.2 will come into force on a date to be notified in the *Gazette*.
- 14.2 In Table 7 below rule 32.50—
- 14.2.1 insert a new row above row 1, including 3 columns in the new row that align with row 1; and
- 14.2.2 in the first column of the new row, insert “**1A**”; and
- 14.2.3 in the second column of row 1A, insert “**Age**”; and
- 14.2.4 in the third column of row 1A, insert “is at least 18 years of age.”.

15 32.51 Privileges of Marine engineer class 5

- 15.1 Subrule 15.2 will come into force on a date to be notified in the *Gazette*.
- 15.2 In rule 32.51—
- 15.2.1 before the beginning of the lead phrase, which precedes subrule (a), insert the number “(1)” so the lead phrase becomes subrule (1); and
- 15.2.2 after the end of subrule (1)(f), insert subrule (2) as follows:
- “(2) The privilege in subrule (1)(e) ceases upon renewal or expiry, whichever occurs first, of the Marine engineer class 5 certificate of competency and the holder may no longer exercise that privilege, unless the certificate is renewed in accordance with rule 32.21(3).”.

16 32.54 Marine engineer class 5 motor and steam

- 16.1 Subrule 16.2 will come into force on a date to be notified in the *Gazette*.
- 16.2 In Table 9 below rule 32.54—
- 16.2.1 insert a new row below row 5, including 3 columns in the new row that align with row 5; and
- 16.2.2 in the first column of the new row, insert “**6**”; and
- 16.2.3 in the second column of row 6, insert “**Ancillaries and GMDSS**”; and
- 16.2.4 in the third column of row 6, insert “demonstrates one of the following ancillary proficiencies in accordance with rule 32.16:
- (a) STCW-F proficiency in basic training;
- (b) STCW basic.”.

17 32.55 Privileges of Marine engineer class 5 motor and steam

- 17.1 Subrule 17.2 will come into force on a date to be notified in the *Gazette*.
- 17.2 In rule 32.55, in subrule (a) after ‘motor’, insert “, subject to rule 32.51(2)”.

18 32.56 Marine engineer class 4

- 18.1 Subrule 18.2 will come into force on a date to be notified in the *Gazette*.
- 18.2 In Table 10 below rule 32.56—

- 18.2.1 insert a new row above row 1, including 3 columns in the new row that align with row 1; and
- 18.2.2 in the first column of the new row, insert “**1A**”; and
- 18.2.3 in the second column of row 1A, insert “**Age**”; and
- 18.2.4 in the third column of row 1A, insert “is at least 18 years of age.”.

19 32.57 Privileges of Marine engineer class 4

- 19.1 Subrule 19.2 will come into force on a date to be notified in the *Gazette*.
- 19.2 In rule 32.57—
 - 19.2.1 before the beginning of the lead phrase, which precedes subrule (a), insert the number “(1)” so the lead phrase becomes subrule (1); and
 - 19.2.2 after the end of subrule (1)(c), insert subrule (2) as follows:
 - “(2) The privilege in subrule (1)(c) ceases upon renewal or expiry, whichever occurs first, of the Marine engineer class 4 certificate of competency and the holder may no longer exercise that privilege, unless the certificate is renewed in accordance with rule 32.21(3).”.

20 32.115 Privileges of GMDSS radio operator

- In rule 32.115—
- 20.1 before the beginning of the sentence insert the number “(1)” so the sentence becomes subrule (1); and
- 20.2 after the end of subrule (1), insert subrule (2) as follows:
 - “(2) A certificate of competency as a GMDSS radio operator is deemed to meet the requirements for certification under regulation II/6 of STCW-F.”.

21 32.117 Privileges of Radio officer

- In rule 32.117—
- 21.1 before the beginning of the sentence, insert the number “(1)” so the sentence becomes subrule (1); and
- 21.2 after the end of subrule (1), insert subrule (2) as follows:
 - “(2) A certificate of competency as a radio officer is deemed to meet the requirements for certification under regulation II/6 of STCW-F.”.

22 Subpart D Heading

In Part 32, replace the heading of subpart D as follows:

“Subpart D – STCW-F deck certificates of competency and proficiency”.

23 32.170 Schedule of ancillary proficiencies

In rule 32.170—

23.1 replace subrule (b) with—

“(b) the status of each ancillary proficiency (whether related to a national standard, an STCW standard, or an STCW-F standard); and”;

23.2 amend the last subrule, which is the second numbered (d), to become subrule (e).

24 32.175 Training in reduction of sea service

In rule 32.175, replace subrule (1)(c)(ii) with—

“(ii) in relation to any certificate or endorsement that is an STCW or STCW-F certificate, is consistent with STCW or STCW-F, as applicable.”.

Amendments to Part 34 Medical Standards

25 Part 34 General

- 25.1 In the Part objective of Part 34, in the first sentence of the second paragraph, delete “aligned”.
- 25.2 In the Table of Contents in Part 34 headed “Contents”, amend as appropriate to align with the rules and their page numbers in Part 34.

26 34.2 Definitions

In rule 34.2—

- 26.1 arrange all defined terms in alphabetical order; and
- 26.2 in the definition of ‘national engineering certificate’, immediately after ‘MEC 4’, insert “, including those that are STCW-F-aligned national certificates”; and
- 26.3 replace the definition of ‘STCW certificate’ with—
“**STCW certificate** means a certificate that is provided for in subpart C of Part 32”; and
- 26.4 delete the definition of “STCW or STCW-F deck certificate”; and
- 26.5 in the appropriate alphabetical order, insert the following new definitions:
“**STCW deck certificate** means the following certificates as described in rule 32.03 of Part 32: AB Deck, Chief Mate, Chief Mate <3000GT, Chief Mate Yacht, DWR, IR, Master, Master<3000GT, Master<500GT NC, Master Yacht, Master Yacht<500GT, Master <500GT, Watchkeeper Deck, Watchkeeper Deck<500GT NC:
STCW-F deck certificate means a certificate that is provided for in subpart D of Part 32:
STCW-F-aligned, in relation to a national certificate, means—
(a) a MEC 5 with the privilege in rule 32.51(1)(e); or
(b) a MEC 5 motor and steam with the privilege, through rule 32.55(a), in rule 32.51(1)(e); or
(c) a MEC 4 with the privilege in rule 32.57(1)(c):”.

27 34.3 Approval of medical practitioners

In rule 34.3, in subrule (b), after ‘representatives’, replace the comma with “; and”.

28 34.20 Application

In rule 34.20, in subrule (2), between ‘STCW-F’ and ‘or’, insert “deck”.

29 34.23 Examination of seafarers for certificate of medical fitness

In rule 34.23, in subrule (5)(a), replace ‘issue of a STCW, STCW-F or national deck certificate’ with “issue of an STCW deck, STCW-F deck, or national deck certificate”.

30 34.26 General eyesight and colour vision standards and testing for eye disease

In rule 34.26—

- 30.1 at the end of the lead phrase in subrule (4), which precedes subrule (4)(a), replace the m-dash ‘—’ with a colon “:”; and
- 30.2 in subrule (4)(a), between ‘STCW’ and ‘and’, insert “deck certificates”; and

- 30.3 in subrule (4)(a), replace 'the Appendix' with "Appendix 1"; and
- 30.4 in subrule (4)(b), replace 'the Appendix' with "Appendix 1"; and
- 30.5 in subrule (4)(c), replace 'the Appendix' with "Appendix 1"; and
- 30.6 in subrule (4)(d), replace 'the Appendix' with "Appendix 1"; and
- 30.7 in subrule (4)(e), replace 'the Appendix' with "Appendix 1".

31 Part 34 Appendix 1: General eyesight and colour vision standards for seafarers

In Appendix 1 of Part 34, in the table—

- 31.1 in row 1, in column 1, replace 'STCW and STCW-F Deck' with "STCW deck certificates and STCW-F deck certificates"; and
- 31.2 in row 2, in column 1, replace 'STCW and STCW-F Radio, Engineering, and Electro-technical' with "STCW certificates for GMDSS radio operators, radio officers, engineer officers and ratings, and electro-technical officers and ratings"; and
- 31.3 in row 3, in column 1, replace 'National Deck' with "National deck certificates"; and
- 31.4 in row 3, in column 2, replace 'As for row 1 – STCW and STCW-F deck' with "As for row 1 – STCW deck and STCW-F deck certificates"; and
- 31.5 in row 3, in column 3, replace 'As for row 1 - STCW and STCW-F deck' with "As for row 1 - STCW and STCW-F deck certificates"; and
- 31.6 in row 4, in column 1, replace 'National Engineering' with "National engineering certificates"; and
- 31.7 in row 4, in column 2, replace 'As for row 2 – STCW and STCW-F engineering' with "As for row 2 – STCW certificates".

Summary of Submissions: STCW-F-related Amendments 2017

Submissions were received from three parties: Terra Moana Limited (on behalf of Moana New Zealand), the Solander Group, and Pacific Networks Limited. All of the submissions expressed support for the rule amendments. Two submissions raised matters beyond the scope of the consultation:

- Terra Moana Limited suggested that mandatory fisher training programmes should be designed to improve awareness about the Code of Conduct for Responsible Fisheries in order to create a more efficient fishing industry, and to minimise harm to marine ecosystems. As these matters relate to the responsibilities of the Ministry for Primary Industries, this suggestion will be referred to that Ministry, for consideration.
- The Solander Group suggested that, as part of the international review of STCW-F, Maritime New Zealand should present a case to the International Maritime Organisation for a formal STCW and STCW-F certification 'cross over' framework. Maritime New Zealand will take this view into consideration during its engagements in the international review. The Solander Group also asked two questions relating to the transferability of, and requirements associated with STCW-F certificates. These questions are unrelated to the rule amendments and do not raise any significant issues.