



Ministry of Transport
TE MANATŪ WAKA

Maritime Transport Act 1994

Maritime Rules

International Omnibus — Various Amendments 2020

Pursuant to section 36 of the Maritime Transport Act 1994 I, Michael Wood, 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 30th day of January 2021

By Hon MICHAEL WOOD

A handwritten signature in black ink, appearing to read "M. Wood".

Minister of Transport

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Objective

The objective of the Maritime Rules (International Omnibus) Various Amendments 2020 is to update Maritime Rules Parts 21, 22, 23, 24A, 24C, 42A, 46, 48, and 52 to address recent changes to international conventions, codes and other mandatory instruments. There are also amendments to correct existing rules relating to international instruments.

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

Extent of consultation

On 10 September 2020, Maritime New Zealand consulted, via its website, with the public on 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 10 September 2020. The deadline for making a submission was 23 October 2020. One submission was received in respect of the proposed amendments to the maritime rules.

Entry into force

These rules enter into force on 31 March 2021.

Part 21: Safe Ship Management Systems

1. Part 21 Part objective

In the Part objective in Part 21—

- (a) after the fourth paragraph, insert the following new paragraph:

“Section 1A applies to New Zealand ships on voyages to polar waters. This gives effect to the operational parts of regulation 3 of Chapter XIV SOLAS. Chapter XIV SOLAS refers to the Polar Code.”; and
- (b) in the penultimate paragraph, replace “36(j)” with “36(1)(j)”.

2. Rule 21.2 Definitions

In rule 21.2—

- (a) after the definition of “Act”, insert the following definitions:

“**Antarctic area** means the sea area south of latitude 60° S:

Arctic waters means those waters which are located north of a line from the latitude 58°00′.0 N and longitude 042°00′.0 W to latitude 64°37′.0 N, longitude 035°27′.0 W and thence by a rhumb line to latitude 67°03′.9 N, longitude 026°33′.4 W and thence by a rhumb line to the latitude 70°49′.56 N and longitude 008°59′.61 W (Sørkapp, Jan Mayen) and by the southern shore of Jan Mayen to 73°31′.6 N and 019°01′.0 E by the Island of Bjørnøya, and thence by a great circle line to the latitude 68°38′.29 N and longitude 043°23′.08 E (Cap Kanin Nos) and hence by the northern shore of the Asian Continent eastward to the Bering Strait and thence from the Bering Strait westward to latitude 60° N as far as Il'pyrskiy and following the 60th North parallel eastward as far as and including Etolin Strait and thence by the northern shore of the North American continent as far south as latitude 60° N and thence eastward along parallel of latitude 60° N, to longitude 056°37′.1 W and thence to the latitude 58°00′.0 N, longitude 042°00′.0 W.”; and
- (b) after the definition of “passenger ship”, insert the following definitions:

“**Polar Code** means the safety-related provisions in the Introduction, and all of Part I-A, of the International Code for Ships Operating in Polar Waters adopted by the International Maritime Organization:

polar waters means any of the following:

 - (a) Arctic waters:
 - (b) the Antarctic area.”.

3. New section 1A

In Part 21, after rule 21.8 and before section 2, insert the following:

“Rules 21.9 to 21.19 Reserved

Section 1A: SOLAS ships and ships of 45 metres or more in length in polar waters

21.20 Application of section 1A

Rule 21.21 applies to a New Zealand ship to which section 1 applies that operates in polar waters.

21.21 Operating in polar waters

- (1) The owner and the master of a ship that operates in polar waters must ensure the operation is conducted in accordance with the requirements in the Polar Code.

- (2) The owner and the master of a ship that operates in polar waters must implement and maintain processes and procedures that ensure compliance with the Polar Code, including the requirements relating to—
 - (a) the polar waters operational manual under Chapter 2 of the Polar Code; and
 - (b) voyage planning under Chapter 11 of the Polar Code.”.

Part 22: Collision Prevention

4. Rule 22.2 Definitions

In rule 23.2, in the definition of “**high speed vessel**”, replace “MSC.36(83)” with “MSC.36(63)”.

Part 23: Operating Procedures and Training

5. Rule 23.9 Emergency training and drills

In rule 23.9, replace subrule (4)(b) with the following:

- “(b) on a passenger ship that is both a New Zealand ship and a SOLAS ship—
 - (i) enclosed space entry and rescue drills; and
 - (ii) damage control drills in accordance with regulation 19-1 of Chapter II-1 of SOLAS.”.

Part 24A: Carriage of Cargoes – Dangerous Goods

6. Rule 24A.82 Documentation - shippers, packers, and carriers

In rule 24A.82, insert the following new subrule (4) after subrule (3):

- “(4) The shipper of dangerous goods that are to be transported by ship, if the dangerous goods are solid bulk cargo as defined in regulation 1-1.2 of Chapter VI of the International Convention for the Safety of Life at Sea (SOLAS) 1974, must—
 - (a) classify that cargo in accordance with Appendix I of Annex V of MARPOL; and
 - (b) declare whether the cargo is harmful to the marine environment.”.

Part 24C: Carriage of Cargoes – Specific Cargoes

7. Rule 24C.3 Cargo information

In rule 24C.3, insert the following new subrule (4) after subrule (3):

- “(4) The shipper of cargo to be carried on a ship to which section 2 applies, must—
 - (a) classify that cargo in accordance with Appendix I of Annex V of MARPOL; and
 - (b) declare whether the cargo is harmful to the marine environment.”.

Part 42A: Safety Equipment – Life-Saving Appliances – Performance, Maintenance and Servicing

8. New rules 42A.32A and 42A.32B

After rule 42A.32 and before the heading “Maintenance, inspections and servicing”, insert the following new heading and rules:

- “**Operational readiness, maintenance, and inspections and training — Part 40B ships**
42A.32A Operational readiness, maintenance, and inspections — Part 40B ships

- (1) The owner and the master of a ship to which Part 40B applies must maintain operational readiness and perform maintenance and inspections of life saving appliances relating to the ship in accordance with regulation 20 of Chapter III of the International Convention for the Safety of Life at Sea, 1974.
- (2) The examination, operational testing, repair, and overhaul of equipment in accordance with regulation 20 of Chapter III of the International Convention for the Safety of Life at Sea, 1974, must be performed by a person authorised by the Director to do so.
- (3) The Director may authorise a person to perform an examination, operational testing, repair, or overhaul of equipment if that person meets the requirements for service providers in IMO resolution MSC.402(96) titled "Requirements for the maintenance, thorough examination, operational testing, overhaul and repair of lifeboats and rescue boats, launching appliances and release gear".
- (4) A power or function of the Administration referred to in IMO resolution MSC.402(96) is a power or function of the Director.

42A.32B Training manuals and onboard training aids — Part 40B ships

The owner and the master of a ship to which Part 40B applies must comply with the requirements of regulation 35 of Chapter III of the International Convention for the Safety of Life at Sea, 1974."

9. New heading and rule

After rule 42A.32—

- (a) replace the heading "Maintenance, inspections and servicing", with the following:

"Maintenance, inspections and servicing — except Part 40B ships"; and

- (b) under that heading insert the following new rule:

"42A.33 Application of rules 42A.33A to 42A.40

Rules 42A.33A to 42A.40 apply only to ships to which Part 40B does not apply."

10. Change existing rule number

In rule 42A.33 that has the heading "Maintenance"—

- (a) change "42A.33" in the heading to "42A.33A"; and
- (b) in subrule (a)(i), replace "42A.35(a)" with "42A.35(1)(a)"; and
- (c) in subrule (b), replace "rule 42A.33(a)" with "subrule (a)".

11. Rule 42A.35 Weekly tests and inspection

In rule 42A.35—

- (a) in subrule (a), delete the second sentence; and
- (b) in subrule (b), replace "rule 42A.35(c)" with "subrule (c)"; and
- (c) in subrule (b), delete the last sentence; and
- (d) replace subrule (e) with the following:
" (e) Reserved".

12. Rule 42A.36 Monthly inspections

In rule 42A.36—

- (a) in subrule (a), replace "42A.33(a)(i)" with "42A.33A(a)(i)"; and
- (b) replace subrule (c) with the following:

“(c) Reserved”.

13. Rule 42A.40 Servicing of hydrostatic release units

In rule 42A.40, in subrule (1)(a), replace “rule 42.40(2) and 42.40(3)” with “subrules (2) and (3)”.

14. Rule 42A.40A Periodic servicing of launching appliances and on-load release gear

Replace rule 42A.40A with the following:

“**42A.40A Reserved**”.

15. Rule 42A.41 Training manuals

Replace rule 42A.41 with the following:

“**42A.41 Reserved**”.

16. New heading

After rule 42A.41, insert the following heading:

“**Miscellaneous**”.

Part 46: Surveys, Certification and Maintenance

17. Rule 46.14 Certificates for ships of 45 metres or more in length that proceed beyond restricted limits

In rule 46.14, replace subrule (11)(a) with the following:

“(a) verification that the ship complies with the additional safety measures required under Chapter XIV of SOLAS for ships in polar waters is determined in accordance with—

- (i) rule 46.10B, as if that ship is a SOLAS ship; and
- (ii) rule 21.21; and”.

Part 48: Tonnage Measurement

18. Rule 48.2 Definitions

In rule 48.2, replace the definition of “surveyor” with the following:

“**surveyor** means—

- (a) a person employed by an authorised organisation to undertake an activity that Part 48 requires be undertaken by a surveyor; or
- (b) a person who holds a current Certificate of Surveyor Recognition:”.

Part 52: Maritime Labour Convention

19. Part 52 Part objective

In the Part objective of Part 52, in the second paragraph, delete the last two sentences.

20. New rules 52.66 and 52.67

After rule 52.65, before the heading for subpart D, insert the following rules:

“52.66 Continued effect of seafarer's employment agreement

- (1) The owner and master of a ship must ensure that the seafarer's employment agreement required under rule 52.61(1) continues to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against

ships, regardless of whether the date fixed for the agreement's expiry has passed or either party has given notice to suspend or terminate it.

- (2) Subrule (1) does not apply when, prior to the commencement of the acts of piracy or armed robbery—
 - (a) the date fixed for expiry of the employment agreement has passed; and
 - (b) the seafarer has arrived at the place agreed between the seafarer and the owner or the master under rule 52.65(2).
- (3) In this rule 52.66 piracy and armed robbery have the same meaning as in paragraph 7 of Standard A2.1 of the Convention.

52.67 Wages

- (1) The owner and master of a ship must ensure, where a seafarer employed on the ship is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, wages and other entitlements under the seafarers' employment agreement referred in rule 52.61(1), relevant collective bargaining agreement, or applicable national laws, including the remittance of any wages under rule 52.63, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated in accordance with rule 52.65 or, where the seafarer dies while in captivity, until the date of death.
- (2) In this rule 52.67 piracy and armed robbery have the same meaning as in paragraph 7 of Standard A2.1 of the Convention.”.

Maritime Rules

Summary of Submissions

These Maritime Rules were consulted on in conjunction with Marine Protection Rules (International Omnibus) 2020, as one package of rule amendments, between 10 September 2020 and 23 October 2020.

One submission was received in respect of the proposed amendments. The submission was in general support of the amendments proposed.