



Ministry of **Transport**
TE MANATŪ WAKA

Maritime Transport Act 1994

Maritime Rules

PART 52: MARITIME LABOUR CONVENTION

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

Signed at Wellington

This 1st day of December 2015

By Hon CRAIG FOSS

A handwritten signature in black ink, appearing to read 'CRAIG FOSS', written over a large, faint, stylized signature.

Associate Minister of Transport

Maritime Rules

Contents

Rule objective	ii
Extent of consultation	ii
Entry into force	ii
General	
52.1 Application	1
52.2 Definitions	1
Subpart A: Foreign Ships	
52.20 Applicability	3
52.21 Foreign ships over 500 gross tonnage registered in member State	3
52.22 All other foreign ships	3
52.23 Copy of Convention	3
Subpart B: Minimum Requirements for Seafarers to Work on a Ship	
52.40 Applicability of Subpart B	4
52.41 Minimum age for work at night	4
Subpart C: Conditions of employment	
52.60 Applicability of Subpart C	5
52.61 Agreement, accounts, and records	5
52.62 Maximum pay cycle	6
52.63 Transmitting seafarer wages	6
52.64 Hours of work and rest	7
52.65 Repatriation and financial security	7
Subpart D: Accommodation, Recreational Facilities, Food and Catering	
52.80 Application of Subpart D	8
52.81 Minimum age for ship's cook	8
Subpart E: Health Protection, Medical Care, Welfare, and Social Security Protection	
52.100 Applicability of Subpart E	9
52.101 Burial costs	9
Subpart F: Maritime Labour Certificates	
52.120 Applicability of Subpart F	10
52.121 Requirement to hold certificate – New Zealand ships	10
52.122 Certification	10
52.123 Issue of Maritime Labour Certificate	10
52.124 Conditions of Maritime Labour Certificate	11
52.125 Duration of Maritime Labour Certificate	12
52.126 Interim Maritime Labour Certificate	12
Subpart G: Miscellaneous	
52.140 Consequential amendments to other Parts related to the Convention Title 1	13
52.141 Consequential amendments to other Parts related to the Convention Title 2	14
52.142 Consequential amendments to other Parts related to the Convention Title 3	14
Summary of Submissions	15

Maritime Rules

Rule objective

The objective of Part 52 is to give effect to the provisions of the Maritime Labour Convention (MLC) not covered elsewhere in New Zealand law, including other Maritime Rules.

Although this Part was created to implement the MLC requirements, other Parts also implement MLC requirements where that is more appropriate than including it in this Part. These are Parts 31, 34, and 51. The amendments to Parts 31 and 34 are contained in this Part as consequential amendments. The amendments to Part 51 are contained in a separate set of Part 51-specific amendment rules, which will be made at the same time as this Part 52 is made.

The authority for Part 52 is found in section 36 of the Maritime Transport Act 1994 (the Act). Section 36(1)(b), (e), (j), (k), (n), (o), (p), (q), (s), (u), (w), (y), and (za), of the Act provide the Minister may make maritime rules for the purposes relevant to the scope of this Part 52.

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 1 October 2015, notice of the consultation was published in the *Gazette* and Maritime New Zealand (Maritime NZ) published copies of the draft Maritime Labour Convention Rule Amendments 2015 on its website. Maritime NZ also advised interested parties via email and the electronic *SeaChange* newsletter of the consultation. Comments on the draft Rules were requested by 30 October 2015.

Five submissions were received on the draft rules and are summarised in the “summary of submissions” section of the rule.

Entry into force

This Part enters into force on a date applied by the Minister by notice in the *Gazette*.

General

52.1 Application

- (1) This Part applies to those ships specified in each Subpart, but in no case does this Part apply to—
- (a) the following New Zealand ships:
 - (i) a ship that is not a commercial ship;
 - (ii) a fishing ship;
 - (iii) a ship under 200 gross tonnage on domestic voyages;
 - (iv) a ship that does not proceed beyond the inshore limits; and
 - (b) the following foreign ships:
 - (i) a ship that is not a commercial ship;
 - (ii) a fishing ship.

52.2 Definitions

In this Part unless the context otherwise requires—

Act means the Maritime Transport Act 1994:

anniversary date, in relation to a certificate issued under this Part, means the day and month of each year corresponding to the date of expiry of the certificate:

commercial ship has the same meaning as in section 2 of the Act:

Convention means the Maritime Labour Convention, 2006, (MLC) adopted by the International Labour Organization:

date of construction, in relation to a ship, means the date that the ship's keel is laid or when the ship is at a similar stage of construction; and **constructed** has a corresponding meaning:

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

domestic voyage means a voyage by ship that is not an international voyage:

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

gross tonnage means the gross tonnage calculated in accordance with the tonnage measurement rules contained in Annex I of the International Convention on Tonnage Measurement of Ships 1969:

harbour has the same meaning as in section 2 of the Act:

inshore limits has the same meaning as in Part 20:

international voyage means—

- (a) for a New Zealand ship, a journey by water from—
 - (i) a port in New Zealand to a port outside of New Zealand or vice versa; or
 - (ii) a port outside New Zealand to another port outside New Zealand; and
- (b) for a foreign ship, means a journey by water—
 - (i) from the flag State to a port outside the flag State or vice versa; or
 - (ii) between two ports outside the flag State:

member State means a State that is registered by the Director-General of the International Labour Office as having ratified the Convention:

Maritime Rules

New Zealand ship has the same meaning as in section 2 of the Act:

nominated person, in relation to a person to whom a seafarer transmits wages, means any of the following persons:

- (a) the seafarer's spouse, civil union partner, or de facto partner:
- (b) the seafarer's former spouse, former civil union partner, or former de facto partner:
- (c) a member of the seafarer's family:
- (d) a dependant of the seafarer:
- (e) a legal beneficiary of the seafarer:

non-member State means a State that is not registered by the Director-General of the International Labour Office as having ratified the Convention:

night means the 9-hour period from 2100 hours on any day to 0600 hours on the next day, and includes any part of that period:

operate has the same meaning as in section 2 of the Act:

owner has the same meaning as in section 2 of the Act:

Part means a group of rules made under the Act:

pleasure craft has the same meaning as in section 2 of the Act:

port has the same meaning as in section 2 of the Act:

seafarer has the same meaning as in section 2 of the Act:

ship has the meaning in section 2 of the Act.

Subpart A Foreign Ships

52.20 Applicability of Subpart A

This Subpart applies to—

- (a) a foreign ship that is a commercial ship in a New Zealand port, excluding fishing ships; and
- (b) the owner and the master of that ship and each seafarer on that ship.

52.21 Foreign ships over 500 gross tonnage registered in member State

- (1) The owner and the master of a foreign ship over 500 gross tonnage that is registered in a member State must ensure—
 - (a) compliance with the requirements of the Convention as given effect by that State; and
 - (b) that the ship and all persons on board that ship comply with the requirements of the Convention.
- (2) Where a requirement referred to in subrule (1) relates to the design or structure of a ship, then that requirement will apply in respect of that ship from the date upon which the design and structure requirements in the Convention apply to that ship in the State in which it is registered.
- (3) The owner and the master of a foreign ship over 500 gross tonnage that is registered in a member State must ensure 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) a copy of a current Declaration of Maritime Labour Compliance; and
 - (b) either—
 - (i) a copy of a current Maritime Labour Certificate; or
 - (ii) a copy of a current Interim Maritime Labour Certificate—
issued by or on behalf of the flag state of the ship in accordance with the Convention.
- (4) The master of a foreign ship to which subrule (3) applies must ensure that a copy of each document required under subrule (3) is produced when requested by the Director.

52.22 All other foreign ships

- (1) The owner and the master of a foreign ship to which Rule 52.21 does not apply, or which is otherwise unable to provide the Director with a copy of the documents referred to in subrules 52.21(3)(a) and (b), must demonstrate to the satisfaction of the Director compliance with the areas listed in Appendix A5-III of the Convention.
- (2) Where a requirement referred to in subrule (1) relates to the design or structure of a ship, then that requirement will apply in respect of a foreign ship as follows:
 - (a) if the ship is registered in a member State, the date upon which the design and structure requirements in the Convention apply to ships in that State; or
 - (b) if the ship is registered in a non-member State, the date upon which this Part 52 comes into force.

52.23 Copy of Convention

The owner and the master of a ship must ensure a copy of the Convention is readily available at all times to all seafarers on board the ship.

Maritime Rules

Subpart B Minimum Requirements for Seafarers to Work on a Ship¹

52.40 Applicability of Subpart B

This Subpart applies to—

- (a) a New Zealand ship that is a commercial ship, except—
 - (i) fishing ships;
 - (ii) ships under 200 gross tonnage on domestic voyages;
 - (iii) a ship that does not proceed beyond the inshore limits; and
- (b) the owner and the master of that ship and each seafarer on that ship.

52.41 Minimum age for work at night

- (1) The owner and the master of a ship must ensure that, except as provided in subrule (2), each seafarer under the age of 18 years does not perform any duty at night.
- (2) A seafarer under the age of 18 years may perform duties at night for the purposes of training provided that training at night—
 - (a) is reasonably required to train that seafarer; and
 - (b) is in accordance with an approved training programme; and
 - (c) will be significantly less effective if conducted other than at night.

¹ Refer to the Convention Title 1

Subpart C Conditions of Employment²

52.60 Applicability of Subpart C

This Subpart applies to—

- (a) a New Zealand ship that is a commercial ship, except—
 - (i) fishing ships;
 - (ii) ships under 200 gross tonnage on domestic voyages;
 - (iii) a ship that does not proceed beyond the inshore limits; and
- (b) the owner and the master of that ship and each seafarer on that ship.

52.61 Agreements, accounts, and records

- (1) The owner and master of a ship must ensure that each seafarer working on the ship is provided with a signed original of the seafarer's employment agreement.
- (2) The owner and master of a ship must ensure that the seafarer's employment agreement contains the following information:
 - (a) the seafarer's full name, date of birth or age, and birthplace:
 - (b) the owner's name and address:
 - (c) the place where and date when the seafarer's employment agreement is entered into:
 - (d) the capacity in which the seafarer is to be employed:
 - (e) the amount of the seafarer's wages or, where applicable, the formula used for calculating them:
 - (f) the amount of paid annual leave or, where applicable, the formula used for calculating it:
 - (g) the termination of the agreement and the conditions thereof, including:
 - (i) if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the owner than for the seafarer:
 - (ii) if the agreement has been made for a definite period, the date fixed for its expiry:
 - (iii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged:
 - (iv) the health and social security protection benefits to be provided to the seafarer by the owner:
 - (v) the seafarer's entitlement to repatriation:
 - (vi) reference to the collective bargaining agreement, if applicable:
 - (vii) any other particulars which national law may require.
- (3) The owner and master of a ship must ensure that each seafarer working on the ship is provided with a monthly account of the payments made and payments due that includes details of—
 - (a) the amounts paid to the seafarer, including wages and any additional payments; and
 - (b) the amounts deducted from the seafarer's wages; and

² Refer to the Convention Title 2

Maritime Rules

- (c) the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to.
- (4) The owner and master of a ship must ensure that clear information as to the conditions of employment can be easily obtained on board by seafarers, including the ship's master, and that such information, including a copy of the seafarers' employment agreement, is kept on board the ship.
- (5) The owner and master of a ship must ensure that records of seafarers' daily hours of work or of their daily hours of rest is—
 - (a) maintained; and
 - (b) provided to the seafarer in respect of the record that pertains to them; and
 - (c) endorsed by the master, or a person authorised by the master, and by the seafarer in respect of the record that pertains to them; and
 - (d) kept on board the ship and is available in English—in accordance with Standard A2.3 of the Convention.

52.62 Maximum pay cycle

The owner and the master of a ship must ensure that it pays the full wages due to each seafarer working on the ship at no greater than monthly intervals.

52.63 Transmitting seafarer wages

- (1) The owner and master of a ship must provide each seafarer working on the ship with the option and the means to transmit all or part of their wages to a nominated person.
- (2) Where the seafarer opts to transmit all or part of their wages under subrule (1), the owner and the master must ensure that—
 - (a) the proportion of the seafarer's wages the seafarer has opted to transmit to a nominated person under subrule (1) is remitted to the nominated person—
 - (i) at the intervals requested by the seafarer; and
 - (ii) by bank transfer or similar means directly to the nominated person; and

- (b) any charge for the service to transmit all or part of wages under subrule (a) is reasonable in amount; and
- (c) where the currency to be transmitted is required to be exchanged, the rate of currency exchange, unless otherwise agreed, is at the prevailing market rate or the official published rate and not unfavourable to the seafarer.

52.64 Hours of work and rest

Except in respect of ships to which and seafarers to whom rule 31.30 applies, the owner and the master of a ship must—

- (a) establish and enforce rest periods for seafarers working on the ship; and
- (b) post a table with the shipboard working arrangements and the maximum hours of work or the minimum hours of rest required—

in accordance with Standard A2.3 of the Convention.

52.65 Repatriation and financial security

- (1) The owner and the master of a ship must make provision on termination of the voyage, or where the seafarer has been left behind by the ship by reason of—
 - (a) the seafarer's employment agreement expiring; or
 - (b) the termination of the seafarer's employment agreement—
 - (i) by the owner; or
 - (ii) by the seafarer for justified reasons; or
 - (c) the seafarer no longer being able to carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances—

to return the seafarer to their own country, or to the port where that seafarer was employed, or to the port where the voyage commenced, or to such other place (if any) as may be agreed between the owner or the master and the seafarer.

- (2) The owner of a ship must pay the seafarer's reasonable expenses to return to their own country, or to the port where the seafarer was employed, or to the port where the voyage commenced, or to such other place as may be agreed between the owner or the master and the seafarer.
- (3) The owner and the master of a ship must carry and make available to the seafarers on board the ship a copy of the rights and obligations of the owner, the master, and the seafarers regarding repatriation of seafarers.

Maritime Rules

Subpart D Accommodation, Recreational Facilities, Food and Catering³

52.80 Applicability of Subpart D

This Subpart applies to—

- (a) a New Zealand ship that is a commercial ship, except—
 - (i) fishing ships;
 - (ii) ships under 200 gross tonnage on domestic voyages;
 - (iii) a ship that does not proceed beyond the inshore limits; and
- (b) the owner and the master of that ship and each seafarer on that ship.

52.81 Minimum age for ship's cook

The owner and the master of a ship must ensure no person under the age of 18 years is employed or otherwise engaged as a cook on board the ship.

³ Refer to the Convention Title 3. Subpart B of Part 51 also relates to the Convention Title 3

Subpart E Health Protection, Medical Care, Welfare, and Social Security Protection⁴

52.100 Applicability of Subpart E

This Subpart applies to—

- (a) a New Zealand ship that is a commercial ship, except—
 - (i) fishing ships;
 - (ii) ships under 200 gross tonnage on domestic voyages;
 - (iii) a ship that does not proceed beyond the inshore limits; and
- (b) the owner and the master of that ship and each seafarer on that ship.

52.101 Burial costs

In the case of death of a seafarer occurring on board or ashore during the period of engagement of that seafarer on a ship, the owner of the ship must, to the extent not otherwise provided in legislation or any applicable insurance policy, cover the reasonable cost of the burial.

⁴ Refer to the Convention Title 4

Maritime Rules

Subpart F Maritime Labour Certificates⁵

52.120 Applicability of Subpart F

This Subpart applies to—

- (a) a New Zealand ship that is a commercial ship 500 gross tonnage or over on an international voyage, except fishing ships; and
- (b) any other New Zealand ship for which the owner voluntarily holds or applies for a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance; and
- (c) the owner and the master of that ship.

52.121 Requirement to hold certificate – New Zealand ships

- (1) The owner of a New Zealand ship must hold a—
 - (a) current Maritime Labour Certificate; or
 - (b) current Interim Maritime Labour Certificate.
- (2) The owner of a New Zealand ship must hold a current Declaration of Maritime Labour Compliance.
- (3) The owner and the master of a New Zealand ship must ensure that a copy of each document required under subrules (1) and (2) is—
 - (a) kept on board the ship at all times; and
 - (b) produced when requested by the Director.

52.122 Certification

The applicant for a Maritime Labour Certificate must make an application in accordance with section 35 of the Act, and include, in a form required by the Director—

- (a) a declaration, signed by the applicant, that the applicant will comply, and ensure compliance, with the requirements set out in Part I of Appendix A5-II of the Convention; and
- (b) such further particulars relating to the applicant as may be required by the Director.

52.123 Issue of Maritime Labour Certificate

- (1) The Director must issue a Maritime Labour Certificate if satisfied that—
 - (a) the applicant meets the applicable requirements of this Part and the requirements of section 41 of the Act; and

⁵ Refer to the Convention Title 5

- (b) the owner has completed a declaration that the applicant will comply, and ensure compliance, with the requirements set out in Part I of Appendix A5-II of the Convention; and
 - (c) the relevant requirements in the Convention are met.
- (2) The Director must, when issuing a Maritime Labour Certificate, include with it a Declaration of Maritime Labour Compliance.
- (3) A Maritime Labour Certificate is a maritime document.

52.124 Conditions of Maritime Labour Certificate

- (1) It is a condition of every Maritime Labour Certificate issued under this Subpart that—
- (a) an intermediate inspection is satisfactorily completed within the periods specified under subrule (2); and
 - (b) the certificate is endorsed in accordance with subrule (2)(d); and
 - (c) an intermediate inspection is conducted and satisfactorily completed in the following circumstances:
 - (i) when a ship changes flag;
 - (ii) when the owner ceases to assume the responsibility for the operation of a ship;
 - (iii) when substantial changes have been made to the structure or equipment referred in Subpart B of Part 51; and
 - (d) the standards and requirements referred in rules 52.123(1)(a), (b), and (c) continue to be met.
- (2) A Maritime Labour Certificate issued under this Subpart shall be subject to the condition that all matters relevant to the Certificate are subject to at least one intermediate inspection by the Director in accordance with the following:
- (a) the intermediate inspection is conducted between the time of issue or renewal of the certificate and its date of expiry, to ensure continuing compliance with the Convention;
 - (b) if only one intermediate inspection is carried out and the period of validity of the certificate is five years, it shall take place between the second and third anniversary dates of the certificate;
 - (c) the scope and depth of the intermediate inspection shall be equal to an inspection for renewal of the certificate;
 - (d) the certificate shall be endorsed following satisfactory intermediate inspection.
- (3) Evidence of a major non-conformity with the Convention or failure to undertake an intermediate inspection may result in the suspension under section 43 of the Act, or the revocation under section 44 of the Act, of the relevant maritime document.

Maritime Rules

52.125 Duration of Maritime Labour Certificate

- (1) A Maritime Labour Certificate may be issued for a period not exceeding 5 years.
- (2) Notwithstanding subrule (1)—
 - (a) when the renewal inspection has been completed within three months before the expiry of the existing Maritime Labour Certificate, the new Maritime Labour Certificate shall be valid from the date of completion of the renewal inspection for a period not exceeding five years from the date of expiry of the existing certificate; and
 - (b) when the renewal inspection is completed more than three months before the expiry date of the existing Maritime Labour Certificate, the new Maritime Labour Certificate shall be valid for a period not exceeding five years starting from the date of completion of the renewal inspection.

52.126 Interim Maritime Labour Certificate

- (1) The owner of a ship may make an application to the Director under section 35 of the Act for an interim Maritime Labour Certificate if the purpose of the interim Maritime Labour Certificate is to facilitate an efficient transition in any of the following circumstances:
 - (a) it relates to a new ship on delivery;
 - (b) it relates to a change of flag of a ship;
 - (c) when an owner assumes responsibility for the operation of a ship where the ship is new to that owner.
- (2) The Director may issue an interim Maritime Labour Certificate if the Director is satisfied—
 - (a) the ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I of the Convention, taking into account verification that—
 - (i) the owner has demonstrated that the ship has adequate procedures to comply with this Convention; and
 - (ii) the master is familiar with the requirements of this Convention and the responsibilities for implementation; and
 - (iii) relevant information has been submitted to the Director to produce a Declaration of Maritime Labour Compliance.
- (3) An interim Maritime Labour Certificate—
 - (a) may be issued for a period not exceeding 6 months; and
 - (b) may not be renewed or extended.
- (4) A full inspection must be carried out prior to expiry of the interim certificate to enable issue of a Maritime Labour Certificate.
- (5) For the avoidance of doubt, a Declaration of Maritime Labour Compliance need not be issued for the period of validity of the interim Maritime Labour Certificate.
- (6) Within the period of validity of an interim Maritime Labour Certificate, the owner must demonstrate to the Director, as and when required by the Director, evidence that the owner is in the process of developing a Declaration of Maritime Labour Compliance and meeting the requirements for the issue of a Maritime Labour Certificate.

Subpart G Miscellaneous

**52.140 Consequential amendments to other Parts related to the Convention Title 1
Part 34 Amendments – seafarer medical standards**

Part 34 Part objective

- (1) Delete from the last sentence of the first paragraph of the Part objective of Part 34, “International Labour Organisation (ILO) Medical Examination of Young Persons (Sea) Convention, 1921.”, and replace with—

“International Labour Organization’s “Maritime Labour Convention” in relation to the medical examination of young persons.”.

- (2) Insert, after the third paragraph of the Part objective of Part 34, the following paragraph—

“Subpart B also implements, through an amendment to this Part in 2016, requirements of the International Labour Organization’s “Maritime Labour Convention”. This amendment implements a wider applicability (in terms of seafarers and ships) for medical certificates and also provides for the transitioning of expiring medical certificates.”.

rule 34.20 Application

- (3) Insert, after rule 34.20(3)(d), the following rule 34.20(4):

“(4) Every seafarer who is not referred to in subrules (2) and (3) on a ship to which rule 52.1(1) applies must meet the requirements of rules 34.22, 34.23, 34.31, and 34.32.”.

rule 34.28 Expiry of certificates of medical fitness of holders of STCW certificates in course of voyage

- (4) Amend rule 34.28 as follows:

- (a) delete “of holders of STCW certificates in course of voyage” from heading;
(b) insert the subrule reference “(1)” before the current rule;
(c) replace the full stop “.” after the current rule with “; and”;
(d) insert, after the current rule—

“(2) If the period of validity of a medical certificate of fitness of a holder expires in any case other than under subrule (1), then the medical certificate may be treated as being in force until the next port of call where a medical practitioner recognised by the Party is available, provided that—

- (a) the period shall not exceed 3 months; and
(b) the holder is in possession of an expired medical certificate of recent date.”.

Maritime Rules

**52.141 Consequential amendments to other Parts related to the Convention Title 2
Part 31 Amendments – Crewing and watchkeeping**

Part 31 Part objective

- (1) Insert, after the two bullet points of the second paragraph of the Part objective of Part 31, the following paragraph—

“Through an amendment to Section A-VIII/I of the STCW Code, Subpart A also aligns with requirements of the International Labour Organization’s “Maritime Labour Convention” related to working conditions on a ship.”.

**52.142 Consequential amendments to other Parts related to the Convention Title 3
Part 31 Amendments – Crewing and watchkeeping**

Rule 31.43 Unlimited area

- (1) Replace 31.43(1)(c)(i) with the following:

“holds a National Certificate in Hospitality (Cookery) (Level 3) or an equivalent, or a New Zealand Certificate in Cookery (Level 3) or an equivalent; and”.

Part 52

Summary of Submissions

This text does not form part of the rules contained in Parts 52, 31, 34 and 51. It provides details of the consultation undertaken in making the rules.

Summary of consultation

An invitation to comment on the draft Maritime Labour Convention Rule Amendments 2015 was issued on 1 October 2015. Submissions closed 30 October 2015. The consultation was notified in the Gazette, and on the Maritime New Zealand (Maritime NZ) website. In addition, key stakeholders were notified of the consultation via email.

The following five organisations made submissions on the draft MLC Rules: the Mission to Seafarers; the New Zealand Seafarer Welfare Board; the New Zealand Shipping Federation (NZSF); Sanford; and Shipping New Zealand.

Responses to these submissions are given below.

New Part 52 and shore leave

The Mission to Seafarers and the New Zealand Seafarer Welfare Board both requested that a new clause be included in Part 52 in relation to shore leave as follows:

“That seafarers on ships in New Zealand ports be granted the unalienable rights to shore leave, unless prevented by quarantine requirements.”

Response

States continue to have the right to restrict entry for immigration, security and other reasons. For seafarers on foreign ships in New Zealand ports, the obligation on the owner to provide shore leave is provided for in Part 52. Rules 52.20 and 52.21 incorporate the MLC by reference. Regulation 2.4 of the MLC requires that seafarers be granted shore leave to benefit their health and well-being, and consistent with the operational requirements of their position. It is considered that the right to shore leave on ships in New Zealand ports is provided for in Part 52.

New Part 52 and seafarer welfare facilities

The Mission to Seafarers and the New Zealand Seafarer Welfare Board both made submissions in relation to welfare facilities. They proposed that a clause be included in Part 52 as follows:

“That shore based seafarers welfare facilities in New Zealand ports be recognized, approved and given tacit support by the Maritime Authority in New Zealand, as fulfilling the voluntary requirements of the Maritime Labour Convention (2006).”

In addition, the Seafarer Welfare Board made the following proposal:

“Shipping companies be levied a small percentage to fund services to seafarers when in NZ territory as all three service groups work collaboratively but the NZ Government and the Churches costs currently are too great to help us deliver services with professional standards now required by NZ Law relating to social service delivery [Privacy, Health and Safety, Employment Contracts] and ANZASW social services Standards of Ethics.”

Response

Maritime NZ provides financial support to the New Zealand Seafarer Welfare Board via an annual \$5,000 donation. Maritime NZ also maintains a good working relationship with the New Zealand Seafarer Welfare Board and its members. The MLC requires states to promote the development and accessibility of seafarer welfare facilities. The MLC does not require that seafarer welfare facilities be recognised in national law or the provision of financial support to seafarer welfare centres. The ongoing relationship between the New Zealand Seafarer Welfare Board and Maritime NZ, and the financial support provided by Maritime NZ, are considered to adequately reflect the objectives of the MLC.

Maritime Rules

Alignment of the MLC and New Zealand Law

The NZSF noted that its members are generally operating at standards equal to or greater than what is required by the MLC. NZSF expressed concern with regards to situations where the requirements of the convention are at odds with the requirements of New Zealand law.

The NZSF state that the owner and master of a ship may not be in a position to be responsible for the line-by-line contents of employment agreements, as staff on coastal ships are generally on collective employment agreements.

Response

Previous MLC related consultation documentation has acknowledged that New Zealand ship operators are generally operating at standards equal to or greater than the requirements of the MLC.

We have conducted a thorough gap analysis of New Zealand law and the MLC requirements. Where there were gaps between New Zealand law and the MLC, these have been reflected in Part 52. Representatives of seafarers negotiating collective agreements are unlikely to oppose the inclusion of terms that benefit seafarers.

Exclusion of fishing vessels

Sanford acknowledges and supports the exclusion of fishing vessels from the proposed amendments. Sanford noted that the definition section in this Part of the Act for commercial ships has not excluded fishing vessels.

While it is not the intention of Maritime NZ that the proposed amendment would apply to fishing vessels, Sanford's view is that fishing vessels may be inadvertently caught if over 500 gt and engaged on international voyages.

Sanford suggest that for the removal of doubt, a change is made to the applicability section, section 52.120(1), by making explicit reference to the fishing vessel exclusion and provided example text as follows:

“(1) This Subpart applies to –

- (a) A New Zealand ship 500 gross tonnage or over on an international voyage other than a fishing vessel; and ... etc.”*

Response

We have reviewed the applicability provisions of Part 52 in light of the submission made by Sanford and have made some changes to ensure that it is clear that Part 52 does not apply to fishing vessels.

Subpart A, B and Part 31

Shipping NZ support Maritime NZ's commitment to ensure New Zealand is a party to the MLC. Shipping NZ recognises the importance of minimum standards for seafarers in relation to, employment contracts, accommodation, recreational facilities, food and catering, health care, medical care, welfare and social security in ensuring support and encouragement for longer term employees.

- Subpart A - 52.20 and 52.21 is noted and in line with ship owner compliance requirements.
- Subpart B - 52.40 and 52.41 is noted as a positive development in respect to responsibility.
- Part 31 is noted with reference to the STCW code and recognized as encouraging and an essential link.

Response

Noted.