



Ministry of **Transport**  
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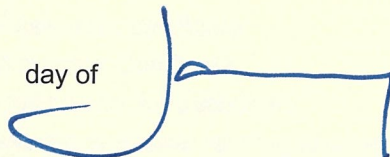
## Maritime Transport Act 1994

### Maritime Rules

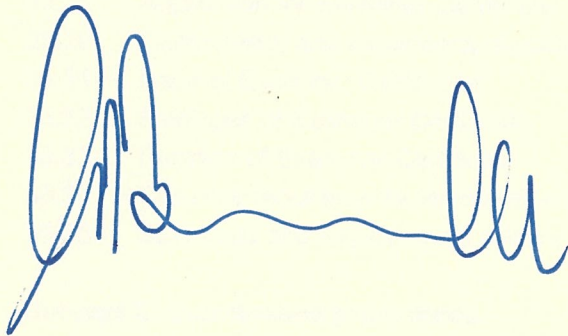
#### **PART 35: APPROVAL OF TRAINING FOR PURPOSES OF PART 32, ASSESSMENTS AND EXAMINATIONS, AND INDUSTRY SPECIFIC CERTIFICATES**

Pursuant to section(s) 34(1)(j), 36(1) (o), (u), (za) and (zb), and section 451(4) of the Maritime Transport Act 1994, and having had regard to the criteria specified in section 39(2) of that Act, I, Gerry Brownlee, Minister of Transport, hereby make the following maritime rules.

Signed at Wellington

This  day of  2014

By Hon GERRY BROWNLEE



Minister of Transport

**Part 35—Approval of Training for Purposes of Part 32, Assessments and Examinations, and Industry Specific Certificates**

**Contents**

Part objective	iii
Extent of consultation	iii
Entry into force	iii
<b>General</b>	
35.1 Application	1
35.2 Definitions	1
<b>Subpart A: Approval of training for purposes of Part 32</b>	
35.10 Purpose	3
35.11 Approved training for purposes of Part 32	3
35.12 Limitation on approval of training for the purpose of Part 32	3
35.13 Limitation on recognition of related qualifications or certificates	3
35.14 Subpart does not limit certain matters	3
35.15 Inspection of training providers for purposes of Part 32	4
35.16 Approved bridging, refresher and updating training for purposes of Part 32	4
<b>Subpart B—Assessors and Examiners</b>	
35.20 Application of subpart B	4
35.21 Requirement to hold Assessor Certificate	4
35.22 Application for Assessor certificate	4
35.23 Issue of Assessor Certificate	5
35.24 Privileges of Assessor certificate	5
35.25 Duration of Assessor Certificate	5
35.26 Currency requirements for assessors	5
35.27 Standards and requirements relating to assessors	5
35.28 Requirement to hold Examiner certificate	6
35.29 Application for Examiner Certificate	6
35.30 Competency and experience requirements relating to examiners	6
35.31 Issue of Examiner Certificate	7
35.32 Privileges of Examiner Certificate	7
35.33 Duration of Examiner Certificate	7
35.34 Currency requirements for examiners	7
35.35 Standards and requirements relating to examiners	7
<b>Subpart C: Examination procedures</b>	
35.50 Application	8
35.51 General procedural requirements for examinations	8
35.52 Conduct of examinations	9
35.53 Examination results	9
35.54 Extra sea service or training	9
<b>Subpart D - Industry Specific Certificates</b>	
35.70 Approval to issue industry specific certificates	9
35.71 Duration of approval	10
35.72 Training framework	10
<b>Subpart E – Transition and revocation provision</b>	
35.90 Former Part 35 revoked	11

**Maritime Rules**

35.91	Transitional provisions relating to subpart 2 of former Part 35 certificates of competency	11
35.92	Transitional provisions relating to persons recognised as Examiner under former Part 35	11
	<b>Summary of Submissions</b>	<b>12</b>

## **Part objective**

Subparts A to C of Part 35 relate to approval of training for the purposes of Part 32, approval of assessors and examiners, and examination procedures for examinations conducted for the purposes of Part 32.

Subpart D provides for approval of industry persons or bodies to issue industry specific certificates of competency for certain small craft.

The authority for Part 35 is found in sections 34(1)(j), 36(1) (o), (u), (za) and (zb), and section 451(4) of the Maritime Transport Act 1994.

Maritime rules are subject to 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 the Legislation Act.

## **Extent of consultation**

On 1 December 2012, Maritime New Zealand published in each of the daily newspapers in the four main centres of New Zealand a notice inviting comments on the proposed rules (Parts 20, 31, 32 and 35) to implement the proposed Seafarer Certification and Operational Limits Framework. A notice was also published in the *New Zealand Gazette*. In addition, copies of the draft rules and consultation documents were sent to interested parties and made publicly available on the internet. Comments on the proposed new Parts 20, 31, 32 and 35 were requested to be made by 29 January 2013. The consultation period was later extended in response to requests from industry to 29 March 2013.

Over 300 RSS feed subscribers also received a consultation notification by email.

Maritime New Zealand received 150 written submissions. All submissions were reviewed and amendment was made to the draft rules as appropriate. Submitters generally made points of clarification, implications for transition, and the operation of the training and examinations framework.

## **Entry into force**

These rules enter into force on 1 April 2014 except for rules 35.12 and 35.13 which enter into force on 1 January 2015.



## **General**

### **35.1 Application**

This Part applies—

(a) in relation to—

- (i) the exercise of the Director's powers under section 48 of the Act to approve training for the purpose of Part 32; and
- (ii) assessors and examiners who conduct assessments and examinations for the purpose of Part 32 of the Maritime Rules; and
- (iii) examination procedures; and
- (iv) the approval of industry organisations to issue industry specific certificates relating to certain small craft; and

(b) for any other purpose identified by maritime rules.

### **35.2 Definitions**

In this Part, unless the context otherwise requires—

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

**ancillary proficiency** has the same meaning as in Part 32:

**approved** means approved by the Director for the relevant purpose:

**assessment** has the same meaning as in Part 32:

**assessor** means the holder of a maritime document that is issued under rule 35.23:

**Assessor certificate** means a maritime document that is issued under rule 35.23:

**certificate** has the same meaning as in Part 32 of the Maritime Rules (except in relation to an industry specific certificate that is issued under subpart D):

**certificate of competency** has the same meaning as in Part 32:

**certificate of proficiency** has the same meaning as in Part 32:

**current**, in relation to an Assessor Certificate or Examiner Certificate, means that the certificate is valid, has not expired, and has not been suspended or revoked by the Director:

**Director** has the same meaning as in the Act:

**Directory of Assessment Standards** means the Directory of Assessment Standards established under the Education Act 1989 or its successor:

**document** includes any information recorded or stored by means of a computer or any other device and any material subsequently derived from information so recorded or stored:

**enclosed water limits** has the same meaning as in Part 20:

**examination** has the same meaning as in Part 32:

**examiner** means the holder of a maritime document issued under rule 35.31:

**Examiner certificate**—

## **Maritime Rules**

- (a) means a maritime document that is issued under rule 35.31; and
- (b) includes a certificate that is deemed to be an Examiner Certificate under rule 35.92:

**fishing vessel** means a ship that is required to be registered under New Zealand fisheries legislation:

**former Part 32** means Part 32 as in force prior to its revocation by Part 32:

**former Part 35** means Part 35 as in force prior to its revocation by this Part:

**industry specific certificate** means a certificate issued by an industry person or body under subpart D:

**inshore limits** has the same meaning as in Part 20:

**length overall** means the length of the ship measured from the foreside of the head of the stem to the aftermost part of the transom or stern of the ship. Fittings (such as beltings, bowsprits, platforms, gantries, trim tabs, jet and outboard drive units) projecting beyond these terminal points must not be included in the length overall for the purposes of this Part. Structures (such as bulbous bows, deckhouses, free flooding bait tanks and buoyancy tubing) projecting beyond these terminal points must be included in the length overall for the purposes of this Part:

**national award** means a certificate or qualification issued by a training provider evidencing successful completion of training regulated under the national education system:

**national education system** means training that is provided for under the Education Act 1989 or its successor that falls into any of the following categories:

- (a) training that leads to a qualification that is listed on the New Zealand Qualifications Framework and that is provided by a person or organisation with the necessary authority or accreditation to provide it; or
- (b) training based on an assessment standard that is registered on the Directory of Assessment standards, achievement of which is assessed by a person or organisation with the necessary authority or accreditation to assess it; or
- (c) training that leads to an award under a training scheme within the meaning of the Education Act 1989 or its successor and that is provided by a person or organisation with the necessary authority or accreditation to provide it; or
- (d) such other training that is regulated or authorised under the Education Act 1989 or its successor as the Director considers suitable for a purpose related to Part 32.

**New Zealand Qualifications Framework** means the New Zealand Qualifications Framework provided for in the Education Act 1989 or its successor:

**non-passenger ship** means a ship that is not a passenger ship or a fishing vessel:

**on-board training** has the same meaning as in Part 32:

**passenger** has the same meaning as in section 2 of the Act:

**passenger ship** means a ship that carries more than 12 passengers beyond restricted limits or that carries any passengers within restricted limits:

**Part** means a group of rules made under the Act:

**prescribed endorsement** has the same meaning as in Part 32:

**question framework** means a framework prescribed by the Director against which questions for an examination must be asked and marked:

**restricted limits** has the same meaning as in Part 20:

**training in reduction of sea service** has the same meaning as in Part 32:

**training record book** has the same meaning as in Part 32:

**training scheme** has the same meaning as in the Education Act 1989 or its successor.

## **Subpart A – Approved training for purposes of Part 32**

### **35.10 Purpose**

The purpose of this subpart is to—

- (a) provide for requirements that apply to the exercise of the Director's powers under section 48 of the Act to approve training for the purpose of Part 32; and
- (b) in applicable cases, provide for the necessary mechanisms to implement international standards relating to maritime training; and
- (b) align the requirements for the exercise of the Director's powers under section 41(2) when recognising domestic qualifications and certificates for the purposes of Part 32 with the requirements of this Part.

### **35.11 Approved training for purposes of Part 32**

For the purposes of this subpart, the Director may approve training as meeting a relevant competency and training standard for a certificate, prescribed endorsement or ancillary proficiency provided for in Part 32.

### **35.12 Limitation on approval of training**

- (1) Subject to rule 35.14, the Director must not approve training under rule 35.11 if, at the time of determining whether to approve the training,—
  - (a) training for a national award is available in New Zealand; and
  - (b) the Director has determined under rule 32.04 of Part 32 that the training meets the relevant competency and training standard for the relevant certificate, prescribed endorsement, or ancillary proficiency.
- (2) Subrule (1) does not prevent the Director from approving training in accordance with this subpart that is provided in combination with training based on 1 or more assessment standards listed on the Directory of Assessment standards.
- (3) This rule commences on 1 January 2015.

### **35.13 Limitation on recognition of related qualifications or certificates**

- (1) Subject to rule 35.14, the Director must not recognise a certificate or qualification under section 41(2) that evidences successful completion of training, other than training for a national award, unless the Director would be able to approve that training in accordance with rule 35.12.
- (2) This rule commences on 1 January 2015.

### **35.14 Subpart does not limit recognition of foreign qualifications and certificates and certain other matters**

Nothing in this subpart limits—

- (a) the Director's exercise of powers under section 41(2) in relation to foreign qualifications or certificates; or
- (b) the power of the Director to accept training, or to recognise qualifications or certificates that evidence successful completion of on-board training or training in reduction of sea service.



**35.15 Inspection of training providers that provide approved training**

- (1) For the purposes of approving and assessing approved training under rule 35.11, the Director may, from time to time require a training provider to—
  - (a) provide the Director with such documents, records and information as the Director requires to assess if training is suitable to deliver training to the relevant competency and training standard; and
  - (b) provide the Director with access to inspect the facilities of the training provider, including reviewing its procedures and training methods.
- (2) The training provider shall pay for cost of any inspection undertaken under this rule, which shall be provided for as fees in regulations made under the Act.

**35.16 Approved bridging, refresher and updating training for purposes of Part 32**

- (1) The Director may apply this subpart with any necessary modifications for the purpose of—
  - (a) enabling the transition from any certificate, prescribed endorsement, or ancillary proficiency or qualification available in New Zealand provided for in former Part 32 or Part 32 to another certificate, endorsement or ancillary proficiency provided for in Part 32; or
  - (b) enabling the renewal of any certificate or endorsement provided for in this Part.
- (2) Refresher and updating training, including training which may lead to a qualification or certificate recognised for the purposes of Part 32, may include material that relates to and takes account of the need to update competency relating to—
  - (a) changes in relevant national and international regulations concerning the safety of life at sea, security and the protection of the marine environment; and
  - (b) technological changes that affect relevant seafaring practices and procedures.

**Subpart B —Assessors and Examiners**

**35.20 Application of subpart B**

This subpart applies to the approval process, privileges and requirements relating to—

- (a) assessors who conduct assessments that are required or otherwise provided for in Part 32; and
- (b) examiners who conduct examinations that are required or otherwise provided for in Part 32.

*Assessors*

**35.21 Requirement to hold Assessor Certificate**

- (1) No person may, other than under the authority of, and in accordance with, a current Assessor Certificate issued under this Part, or otherwise in accordance with the exercise of the Director's powers under section 48 of the Act—
  - (a) conduct an assessment that is prescribed or provided for in Part 32; or
  - (b) exercise the privileges of an assessor under this subpart.
- (2) Despite subrule (1), this rule does not prevent any person from assessing persons in the course of approved training or training towards a national award, provided that the person does not represent that he or she is doing so for a purpose described in subrule (1).

**35.22 Application for Assessor certificate**

- (1) The applicant for an Assessor Certificate must be a natural person.
- (2) An applicant for an Assessor Certificate must make an application in accordance with section 35 of the Act, and provide—
  - (a) the following information in a form required by the Director—

- (i) the types of certificates, prescribed endorsements, ancillary proficiencies or approved training record books in respect of which the person intends to act as assessor; and
  - (ii) such further particulars relating to the applicant as may be required by the Director; and
- (b) a signed statement agreeing to comply with the requirement to promote and maintain quality standards and consistency in the carrying out of assessments, in accordance with any guidance published by the Director.
- (3) Every application must be submitted to the Director, with a payment of the appropriate application fee prescribed by the regulations made under the Act.

**35.23 Issue of Assessor Certificate**

The Director must issue a maritime document that is an Assessor Certificate if satisfied that the applicant meets the applicable requirements of this Part and the requirements of section 41 of the Act, which include—

- (a) holding a certificate of competency that has an associated competency and training standard that the Director considers appropriate for the certificates, prescribed endorsements, ancillary proficiencies, or approved training record books for which the applicant seeks to act as an assessor; and
- (b) recent commercial sea service that is relevant to the certificates, endorsements, or ancillary proficiencies, or approved training record books in respect of which the person seeks to be an assessor, that is acceptable to the Director.

**35.24 Privileges of Assessor certificate**

- (1) The privileges of an Assessor Certificate are to conduct and administer assessments for certificates, endorsements, ancillary proficiencies or approved training record books which are provided for in Part 32, for the purposes of that Part and section 48 of the Act.
- (2) An assessor may require the person being assessed to provide such information as the assessor considers appropriate and necessary for the exercise of privileges under the Assessor Certificate.

**35.25 Duration of Assessor Certificate**

An Assessor Certificate may be issued for a period not exceeding 5 years.

**35.26 Currency requirements for assessors**

An assessor must not conduct an assessment for a certificate, endorsement, ancillary proficiency or training record book that is provided for under Part 32 unless the assessor has had at least 6 months commercial sea service in the 5 years preceding the assessment.

**32.27 Standards and requirements relating to assessors**

- (1) An assessor must conduct and administer an assessment for a certificate, endorsement, ancillary proficiency or training record book in accordance with such requirements and procedures as are set by the Director from time to time.
- (2) An assessor must, in accordance with the Director's requirements—
  - (a) keep records related to the performance of the assessor's duties; and
  - (b) follow any required practices and procedures related to—
    - (i) the storage, security, and disposal of the records and personal information of the person assessed; and
    - (ii) the provision of records of assessment and other relevant information to the Director that—
      - (A) is in the required format; and

## **Maritime Rules**

- (B) is provided within the applicable time frames specified as a condition to the assessor's certificate or otherwise within a reasonable time frame after the date of the assessment.

### *Examiners*

#### **35.28 Requirement to hold Examiner certificate**

- (1) No person may, other than under the authority of, and in accordance with, a current Examiner Certificate issued under this Part, or otherwise in accordance with the exercise of the Director's powers under section 48 of the Act—
  - (a) conduct an examination that is required or may be required by the Director under Part 32; or
  - (b) exercise the privileges of an examiner under this subpart.
- (2) Despite subrule (1), this rule does not prevent any person from examining persons in the course of approved training or training towards a national award, provided that the person does not represent that he or she is doing so for a purpose described in subrule (1).

#### **35.29 Application for Examiner Certificate**

- (1) The applicant for an Examiner Certificate must be a natural person.
- (2) An applicant for an Examiner Certificate must make an application in accordance with section 35 of the Act, and provide—
  - (a) the following information in a form required by the Director;
    - (i) the types of certificates or endorsements in respect of which the person intends to act as an examiner; and
    - (ii) such further particulars relating to the applicant as may be required by the Director; and
  - (b) a signed statement agreeing to comply with the requirement to promote and maintain quality standards and consistency in the carrying out of examinations, in accordance with any guidance published by the Director.
- (3) Every application must be submitted to the Director, with a payment of the appropriate application fee prescribed by the regulations made under the Act.

#### **35.30 Competency and experience requirements relating to examiners**

- (1) The Director must be satisfied that an examiner—
  - (a) has qualifications, knowledge and understanding that the Director considers appropriate for the certificates or prescribed endorsements in respect of which the person is an examiner, taking into account the relevant competency and training standard; and
  - (b) has relevant and adequate knowledge in the training and assessment methods and practice relevant to—
    - (i) the types of certificates or prescribed endorsements in respect of which the applicant intends to act as an examiner; and
    - (ii) the types of examinations that may be conducted in respect of those certificates or endorsements; and
  - (c) is familiar with the procedural requirements set for the conduct of examinations under this Part and any further requirements set by the Director.
- (2) For the purpose of determining whether the Director is satisfied of the matters in subrule (1)(b) and (c), the Director may, without limitation,—
  - (a) require an applicant for an Examiner Certificate to do either or both of the following:
    - (i) provide evidence to the satisfaction of the Director that the applicant has attended a course that is acceptable to the Director on examination techniques relevant to the types of certificates or prescribed endorsements for which the applicant intends to act as an examiner; or

- (ii) attend one or more interviews with an employee of or contractor with Maritime New Zealand; and
- (b) consider relevant testimonials or references from appropriately qualified and experienced persons.

**35.31 Issue of Examiner Certificate**

The Director must issue a maritime document that is an Examiner Certificate if satisfied that the applicant—

- (a) meets the applicable requirements of this Part and the requirements of section 41 of the Act; and
- (b) has agreed to the requirement for examiners to promote and maintain quality standards and consistency in the examination system as set out in this Part.

**35.32 Privileges of Examiner Certificate**

- (1) The privileges of an Examiner Certificate are, for the purposes of Part 32 and section 48 of the Act, to—
  - (a) conduct and administer examinations for certificates or endorsements for which the person is authorised to act as an examiner and that are required or may be required by the Director under Part 32; and
  - (b) conduct and administer any examinations for the recognition of foreign equivalents to the certificates or endorsements described in paragraph (a), for persons whom the Director requires to undergo examination.
- (2) An examiner may require the person being examined to provide such information as the examiner considers appropriate and necessary for the exercise of the examiner's privileges.

**35.33 Duration of Examiner Certificate**

An Examiner Certificate may be issued for a period not exceeding 5 years.

**35.34 Currency requirements for examiners**

An examiner must not conduct an examination that is required by or otherwise provided for under Part 32 unless the examiner—

- (a) has undergone at least 1 peer review in the period 3 years immediately preceding the date of the assessment; and
- (b) has undertaken at least 1 refresher course relating to relevant examination techniques in the period since the examiner's certificate was issued or last renewed (as applicable), subject to a relevant refresher course being available in New Zealand.

**35.35 Standards and requirements relating to examiners**

- (1) An examiner must maintain knowledge and understanding appropriate for the types of certificates or endorsements for which that person acts as an examiner.
- (2) An examiner must conduct and administer an examination of a candidate in accordance with—
  - (a) the procedural requirements of this Part; and
  - (b) such other requirements and procedures as are set by the Director from time to time; and
  - (c) subject to subrule (4), an examination plan designed by the examiner and provided for in this rule.
- (3) An examiner must design an examination plan based on—
  - (a) the question framework (if any) set by the Director; and
  - (b) the information from the candidate referred to in rule 35.51(1); and
  - (c) the relevant competency and training standard for the certificate or endorsement.

## **Maritime Rules**

- (4) An examiner is not required to design an examination plan for an examination that has been prescribed in full by the Director.
- (5) An examiner must provide such reasonable assistance as is required by the Director to assist the Director in—
  - (a) maintaining quality and consistency in the examination system, including moderation of the examination system; and
  - (b) the administration of any examinations that the examiner conducts or administers; and
  - (c) training new examiners.
- (6) An examiner must not conduct an examination for the issue of a certificate or endorsement to any person that she or he has taught for the relevant certificate or endorsement.
- (7) An examiner must, in accordance with the Director's requirements—
  - (a) keep records related to the performance of the examiner's duties; and
  - (b) follow any requested practices and procedures related to
    - (i) the storage, security, and disposal of the records and personal information of the person examined; and
    - (ii) the provision of records of examination and other relevant information to the Director that—
      - (A) is in the required format; and
      - (B) is provided within the applicable time frames specified as a condition to the assessor's certificate or otherwise within a reasonable time frame after the date of the assessment.

## **Subpart C: Examination procedures**

### **35.50 Application**

This Part applies to the conduct of examinations that are required or may be required by the Director under Part 32.

### **35.51 General procedural requirements for examinations**

- (1) Subject to any later date allowed by the examiner, a candidate must provide the information that the examiner requires in accordance with the exercise of the examiner's privileges under rule 35.32(2) on a date no later than 10 working days prior to the intended date of an examination.
- (2) Where the examination is for the issue of a certificate or endorsement issued under Part 32, the information referred to in subrule (1) must include—
  - (a) all training record books required to be completed as part of the requirements for the certificate or prescribed endorsement; and
  - (b) evidence from the training provider as to whether or not the candidate passed or failed any assessments or examinations that formed part of the required training towards the certificate or endorsement.
- (3) An examiner may decline to proceed with the conduct of an examination if the applicant does not provide the information referred to in subrules (1) and (2).
- (4) A candidate who fails to attend an examination at the time and place appointed by an examiner will be considered to have failed that examination unless he or she produces a medical certificate or other evidence satisfactory to the examiner of her or his inability to attend.
- (5) Passes in any examinations are valid for 5 years, or as otherwise approved by the Director.
- (6) No candidate who fails an examination may re-sit that examination until—
  - (a) 3 weeks have passed from the date of the failed examination; and

- (b) the candidate has satisfactorily completed any extra sea service or training required under rule 35.54.

**35.52 Conduct of examinations**

- (1) A candidate must observe the rules required by examiner to be observed during the examination.
- (2) The Director may refuse to issue a certificate to an applicant who violates the rules referred to in subrule (1) during the examination.

**35.53 Examination results**

An examiner must, as soon as possible after the conclusion of the examination,—

- (a) inform the candidate in writing, of the results of the examination; and
- (b) forward the examination plan, marks and results to the Director in the format required by the Director.

**35.54 Extra sea service or training**

- (1) This rule applies if an examiner—
  - (a) forms an opinion, during an examination, that a candidate fails to meet the relevant training and competency standard for the relevant certificate or the prescribed endorsement; and
  - (b) is also of the opinion that—
    - (i) the areas of knowledge, understanding or proficiency in which the candidate fails to meet the relevant standard of competence could pose a risk to maritime safety; but
    - (ii) additional training or sea service will rectify any deficiency.
- (2) The examiner must notify the Director and candidate in writing that the candidate is required to complete extra sea service or training or both before applying for re-examination, in accordance with subrule (3).
- (3) Where an examiner has given notice in accordance with subrule (2), the candidate must not apply for re-examination until she or he has, as required by the examiner,—
  - (a) completed extra sea service not exceeding 6 months as specified by the examiner; or
  - (b) successfully completed extra training relevant to the areas of knowledge, understanding or proficiency in which the candidate fails to meet the relevant standard of competence; or
  - (c) complied with the requirements in both paragraphs (a) and (b).

**Subpart D - Industry Specific Certificates**

**35.70 Approval to issue industry specific certificates**

- (1) An applicant for an approval under this rule must—
  - (a) make an application in accordance with section 35 of the Act in a form required by the Director, and
  - (b) include such further relevant particulars and supporting information relating to the applicant as may be required by the Director, including a training framework that meets the requirements of rule 35.72; and
  - (c) submit the application to the Director, with a payment of the appropriate application fee prescribed by the regulations made under the Act.
- (2) The Director may issue an approval if the Director is satisfied that—
  - (a) the approval is in the interests of maritime safety, having regard to the risks to maritime safety related to the applicant's maritime operation; and
  - (b) the training framework is appropriate for the applicant's maritime operation; and
  - (b) the applicant meets the requirements under section 41 of the Act.

## **Maritime Rules**

- (3) Every approval made under subrule (1)—
  - (a) must be in writing; and
  - (b) must prescribe the type of certificate or certificates that the organisation may issue; and
  - (c) must prescribe the class of applicants to whom the applicant may issue certificates; and
  - (d) is subject to any conditions that the Director considers, on reasonable grounds, are appropriate for the approval.
- (4) A person who holds an approval under this rule may issue industry-specific certificates for the operation of—
  - (a) craft of 6 metres or less in length overall; or
  - (b) non-passenger boats which are not fishing boats, of 15 metres or less in length overall, and which operate only within restricted limits; if the Director has approved, in accordance with rule 35.72, a training framework developed by the organisation for the certificates that the applicant intends to issue.
- (5) A person who holds an approval under this rule may only issue an industry specific certificate under this rule if that certificate—
  - (a) has been issued while the applicant continues to comply with an approved training framework for the certificate; and
  - (b) has been issued in accordance with an approved training framework; and
  - (c) has been issued to a person who falls within the class of applicants prescribed in the approval; and
  - (d) the applicant has complied with every condition of the approval.

### **35.71 Duration of approval**

The Director may issue an approval under 35.70 for a period not exceeding 5 years.

### **35.72 Training framework**

- (1) The Director may approve a training framework for an industry specific certificate if the Director is satisfied that the training framework—
  - (a) identifies the duties to be performed by the holder of the certificate and the training to be provided to enable the holder to undertake the duties; and
  - (b) identifies the risks, including health and safety and environmental risks, involved in the operation of any ship to which the certificate relates; and
  - (c) identifies the training that will be given to enable applicants to recognise and avoid or respond to each risk identified under subrule (1)(b); and
  - (d) identifies the skill level of persons providing training for applicants, including nautical, instruction, and assessment experience; and
  - (e) identifies how the training will be given to applicants for the certificate, including—
    - (i) which parts of the training will be classroom based and which parts will be carried out on board a vessel; and
    - (ii) the length of time for the delivery of each lesson, including, if relevant, whether training will be undertaken in darkness; and
    - (iii) how applicants will be assessed; and
    - (f) outlines the training schedule; and
  - (g) outlines the minimum number of hours of boating experience required for the granting of the certificate; and
  - (h) identifies the medical and eyesight standards that will be required of the holder of the certificate; and
  - (i) identifies the requirements that existing operators must fulfil to be issued with the certificate; and
  - (j) outlines how continued proficiency of certificate holders will be maintained; and

- (k) outlines how continued proficiency of persons providing training will be maintained.
- (2) The organisation must ensure the form of the certificate issued to a successful applicant has been approved by the Director.

## **Subpart E – Transitional and revocation provisions**

### **35.90 Former Part 35 revoked.**

Part 35 as in force prior to the commencement of this Part is revoked.

### **35.91 Transitional provisions relating to subpart 2 of former Part 35 certificates of competency**

- (1) An approval of an organisation under rule 35.10 of former Part 35 prior to its revocation by this Part that was current immediately before the commencement of this Part—
  - (a) is deemed to be an approval under 35.70 of this Part that has been issued under section 41 of the Act; and
  - (b) expires on the expiry date it would otherwise have expired on, or if there is no expiry date, on a date 5 years after the commencement of this Part.
- (2) A certificate of competency issued under a deemed approval described in subrule (1) (whether before or after it was deemed as such) that was current immediately before the commencement of this Part may be treated as if it was issued as an industry specific certificate in accordance with an approval under this Part.

### **35.92 Transitional provisions relating to persons recognised as Examiner under former Part 35**

- (1) A person who held a maritime document that recognised that person as an examiner under rule 35.4 of former Part 35 prior to its revocation by this Part, and that remained current immediately before the commencement of this Part, is deemed to have been issued with a maritime document that is an Examiner Certificate under rule 35.31.
- (2) For the purpose of rule 35.32 the certificates or endorsements for which the person is authorised to act as an examiner are those that correspond to the certificates or endorsements for which the person was recognised as an Examiner under former Part 35.
- (3) For the purposes determining whether certificates or endorsements correspond to the certificates or endorsements for which the person was recognised as an Examiner under former Part 35—
  - (a) former Part 32 certificates listed in the first column of Table 43 of Part 32, correspond to certificates shown in the relevant row in the second column of that table; and
  - (b) former Part 32 certificates or endorsements listed in the first column of Table 44 of Part 32, correspond to the certificates and endorsements shown in the relevant row in the second column of that table; and
  - (c) former Part 32 certificates listed in the first column of Table 45 of Part 32 (other than legacy certificates), correspond to the certificates shown in the relevant row in the second column of that table.
- (4) The deemed Examiner Certificate expires on the date that the maritime document recognising the person as an Examiner under former Part 35 would have expired.
- (5) The currency requirements in rule 35.24—
  - (a) do not apply to a person who holds a deemed Examiner Certificate under this rule that expires before 31 March 2016; and



***Maritime Rules***

- (b) in relation to any other person who holds a deemed Examiner Certificate, do not apply before 31 March 2016.

## **Part 35**

### **Summary of Submissions**

Proposed new Maritime Rules Parts 20, 31 (replacing 31A, 31B & 31C), 32 and 35, and amendments to Part 34, to implement SeaCert were consulted on between November 28 2012 and March 29 2013. The associated offences provisions were consulted on between February 7 and March 29 2013.

150 submissions were received from a broad range of interested parties. The vast majority were supportive of the proposed rule changes in as much as they gave effect to the previously consulted on QOL framework. However there were substantive submissions on some of the elements, particularly the proposed new fee rates for seafarer certification (Part 32).

The draft Part 32 and Part 35 set out a new approach to training course approval within a regulatory framework that ensures the necessary national and international standards and performance are consistently maintained. Training will be primarily delivered under the Education Act and can be a qualification or learning scheme or unit standard based. This last supports a modular approach to learning and will assist trainee seafarers to access courses locally, so avoiding costs of travel, accommodation, and foregone income to attend traditional block courses, and was strongly supported by submissions (over 70).

The principal concern raised in a large number of submissions was whether the proposed framework adequately ensures that Maritime New Zealand (MNZ) can exercise sufficient oversight over maritime certifications standards and training.

The proposed framework elevates the level at which Maritime New Zealand provides regulatory oversight of the training and examination to complement, rather than duplicate, other government agencies' and recognised bodies' accountabilities and responsibilities in the maritime education sector; in particular the role of the New Zealand Qualifications Authority and the relevant maritime Industry Training Organisation (Competenz).

Although there was general support for an approach that reduced duplication, considerable concern was voiced in regards to the respective roles of NZQA, Competenz, and MNZ. In particular there was a concern that MNZ was stepping back from its responsibilities to set standards for maritime training.

This is not the case.

The competencies (standards) for all certificates are set in Maritime Rule Part 32 – incorporated by reference for STCW and STCW-F certificates, with additional guidance on the competencies required provided by Director. The Final Examination that must be passed to receive a certificate is set by MNZ against the competencies set out in the rules and guidance materials, conducted by approved Maritime Examiners, and moderated by MNZ Standards Team.

MNZ will also continue to play a key role in the development, approval and monitoring of maritime qualifications, unit standards, and training courses delivered under the Education Act. This is particularly important as STCW places an obligation on Parties to have approval and appropriate quality assurance processes in place for all training for seafarer certification.

Arrangements for this will be provided for in a Memorandum of Understanding between MNZ, NZQA and Competenz. A central feature of this is a Qualification Development and Consistency Panel (with members drawn from MNZ, Competenz, industry and training providers), chaired by MNZ, that will oversee the quality assurance of all training delivered under the Education Act that leads to a MNZ Certificate of Competency, Certificate of Proficiency or Endorsement.

#### Transition to the new training framework

NZQA are currently reviewing maritime qualifications. This is expected to be completed, with all new qualifications approved, by early 2014. Transitional provisions have been included in the rules to manage the move to the new training framework, in particular to mitigate the impact of any gap between the new rules coming in and the approval of new qualifications, unit standards and training

## ***Maritime Rules***

courses. The provisions ensure that training providers can continue to provide existing courses for the new certificates as appropriate until such time as the new qualifications and courses have been approved.