

Info Sheet - Proposed Cape Town Rules

FAQ

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Why are Rules needed for New Zealand to sign up to the Cape Town Agreement?

Maritime Rules are the means by which the Agreement can take effect in New Zealand.

What is this follow-up consultation about, compared to the previous consultation in 2020?

The previous consultation in 2020 sought input on proposed changes to existing Maritime Rules, and on the proposed new Part 404 Rules, in order to implement the Agreement. Since 2020, Maritime NZ has been working further on the drafting of the Rules and confirmed the position on annual surveys for NZ Cape Town vessels. In addition, due to a 2021 amendment to the Maritime Transport Act, we also propose to use a new form of secondary legislation (called transport instruments) for technical and prescriptive content originally in the Rules and appendices. This follow-up consultation provides an update on the drafting, and seeks your view on the use of transport instruments.

When are the Part 404 Rules and transport instruments expected to be signed?

The Rules are expected to be signed in November 2022. This will enable New Zealand to sign up to (accede) to the Agreement by the end of 2022, and contribute to the requirements for bringing the Agreement into force.

How do the Part 404 Rules impact new New Zealand fishing vessels?

The bulk of the Rules' requirements will apply to fishing vessels 24 metres or longer that operate in the unlimited area and are newly built or undergo a major conversion in New

Zealand from the date the Rules come into force.

As New Zealand rarely constructs or converts fishing vessels, this part of the Rules will have minimal impact.

How do the Part 404 Rules impact existing New Zealand fishing vessels?

A small number of requirements in the Rules affect existing fishing vessels 24 metres or longer, and in a few cases affects those under 24 metres, that operate in the unlimited area.

These requirements cover radio-communications, life-saving equipment and arrangements, navigational equipment and arrangements, emergency procedures, and muster drills.

The impact is likely to be minimal because:

- Many of the requirements are already standard on New Zealand fishing vessels
- Operators have up to 5 years after the Rules come into force to comply (10 years for the radio-communications requirements)
- We estimate that only around 35 existing fishing vessels will be impacted.

Most of the existing 24m vessels are pre-2004 vessels – how will these be affected if previously grandparented?

The requirements in the proposed Rules relating to existing fishing vessels are non-structural. They relate to operating procedures, training, and equipment. It is unlikely that grandparenting for pre-2004 vessels covers these elements.

What does NZ signing up to the Agreement mean for foreign fishing vessels?

New and existing foreign fishing vessels using New Zealand as a supply port will be required to demonstrate they have met the relevant requirements under the Agreement. In addition, because the Agreement is based on a 'no more favourable treatment' clause, all vessels entering a port state would be subject to the same inspection standards, even if their flag state hasn't ratified or acceded to it. This will allow Maritime NZ to inspect any applicable foreign fishing vessel, even if it only uses a port in New Zealand as a supply port.

Why don't the Part 404 Rules cover fishing vessels that only operate within the EEZ?

Globally, there are a large number of smaller fishing vessels, but these generally operate within countries' exclusive economic zones and are subject to any national safety regulations. In New Zealand's case this is Maritime Rules Part 40D, which is considered an appropriate way to continue to regulate vessels that only operate inside our EEZ.

Why don't the Part Rules also apply to fishing vessels that operate in the unlimited area but that are under 24m in length?

The Cape Town Agreement primarily covers vessels 24 metres in length or longer. According to the International Maritime Organization (IMO), this is the typical profile of vessels that carry out commercial fishing operations on the high seas.

In New Zealand's case, very few vessels smaller than 24 metres operate in the unlimited area. These vessels will stay regulated under Maritime Rules Part 40D.

If I'm a fishing operator, how will the Rules benefit me?

The purpose of the Agreement (and hence the Rules) is to decrease the number of low quality fishing vessels operating in waters New Zealand has an interest in. It will provide a level playing field for industry, in that foreign fishing vessels won't be able to compete unfairly through having potentially lower operating costs due to lower safety standards. In addition, we expect that the standards applied by the Agreement will reduce the risks of fishing vessel incidents, improve safety for crews, and also lower the risk of associated marine pollution incidents. Overall these factors will have long term benefits for operators.

Will the maritime levy go up to pay for this Agreement to be implemented?

No – Maritime NZ will check vessels (domestic and foreign) for compliance with the Agreement as part of routine port state control inspections or Maritime Operator Safety System (MOSS) audits. The costs of these will be managed from existing funding.

What changes will most impact on my existing operation?

You know your operation better than anyone else. That's why we are keen to identify whether there are any parts of the Rules that will have a particular impact on your operation.

I have an exemption from a requirement that will now be covered by the Cape Town Rules. What should I do?

Talk to us about your existing exemption. Depending on the nature of the exemption and what it relates to in the Rules, it could continue.

Will there be any exemptions issued by Maritime NZ?

Requests to be exempted from requirements of the Rules will be considered by the Director on a case by case basis.