

# Renewing Maritime Transport Operator Certificates (OP02)

Operational Policy

February 2024

---

This policy sets out how we make decisions on whether to renew a maritime transport operator's (operators) Maritime Transport Operator Certificate (MTOC).

This policy should be read in conjunction with:

- Maritime Rules Part 19 (Maritime Transport Operator– Certification and Responsibilities) (Part 19);
- Maritime Transport Act 1994 (MTA); and
- our policy “When we reject or decline applications for Maritime and Marine Protection documents” (OP01), which can be found on our website.

## **This policy applies to all applications for renewal of an MTOC**

This policy applies to all applications for MTOCs to be renewed.

This policy does not apply to applications for an operator's first MTOC.

## **What we require and expect from operators**

Under the MTA and Part 19, we require operators seeking to renew their existing MTOC to:

- ensure their Maritime Transport Operator Plan (Operator Plan) is up to date;
- ensure that all amendments to their Operator Plan, which require the approval of the Director of Maritime New Zealand (Director) in accordance with Part 19, have been approved, or have been submitted to us for approval using the appropriate application form;
- comply with the policies and procedures set out in the Operator Plan;
- resolve any outstanding non-conformities arising from an audit before they apply for renewal;

- complete a statutory declaration confirming that, as far as they are able, the above requirements have been addressed; and
- pay the required application fee.

We also expect operators to:

- apply for renewal before their original MTOC expires;
- inform us of any changes to their Operator Plan while their application is being assessed; and
- provide any further information we request.

## How we make decisions about whether to renew an MTOC

We make decisions about whether to renew an MTOC based on whether the operator meets the MTOC renewal requirements of the MTA and Part 19; which are that:

- the application meets the requirements as set out below;
- they hold a current MTOC;
- they hold a valid Certificate of Survey for each ship that is operating;
- the relevant people named on the MTOC meet the MTA fit and proper person requirements.

We also consider whether an operation might pose a risk to maritime safety or the marine environment based on the following indicators:

- the operation has any outstanding non-conformities; and/or
- the operator has outstanding debt owed to Maritime NZ.

If all the requirements are met and the operator does not have outstanding non-conformities or debts, an MTOC will be renewed.

Where there are outstanding non-conformities and debts, an assessment of the safety and environmental performance of the operation will be undertaken, as described below.

Only people that met the MTA fit and proper person requirements under the MTA can be named on the MTOC. We will assess an application when we have all of the required information and we consider the application is a complete application. Applications received with incorrect or missing information will be processed in accordance with our policy *OP 01*, before being considered under this policy.



# How we assess the safety and environmental performance of the operation, where this is required

If an operator has outstanding non-conformities or outstanding debts to Maritime NZ, the safety and environmental performance of the operation is assessed. The assessment will determine if the performance is at a level that we consider is appropriate for MTOC renewal. In these circumstances, the application may take longer to assess and the applicant may incur extra costs to process the application.

## Outstanding non-conformities

If the operator has any outstanding non-conformities, we consider whether this is significant enough for us not to renew an MTOC. We also take into account:

- any steps the operator is taking, or has taken, to resolve the outstanding non-conformity;
- the operator's history of non-conformities; and
- whether any conditions have previously been imposed on the operator's MTOC.

We will also consider whether the operator has previously had a ship detained.

## Outstanding debts to Maritime NZ

We consider if an operator has debt to us it may indicate other non-compliance or underinvestment in their operation, which could pose a risk to safety or the environment which is significant enough for us not to renew an MTOC.

When we consider that debt does not indicate the presence of these wider risks, the application will not require further investigation.

## When undertaking the assessment we may consider other information

When we undertake the assessment we may consider a range of information collected about the operator during their time in MOSS. For example, information:

- provided in the MTOC renewal application and the statutory declaration provided by the operator;
- collected from audits and site visits we have carried out;
- contained in the operator's Maritime Transport Operator Plan; and
- relevant to the safety of the operation or the operator's approach to environmental protection.



# What happens if there are changes to an Operator Plan while we are assessing an application

You must inform us if there are any changes to an Operator Plan, including any changes that need to be approved by the Director, while we are assessing an MTOC renewal. We will pause the MTOC assessment while we assess and decide on the changes.

## What happens if an MTOC expires

If an MTOC expires while we are assessing a renewal application, the current MTOC expiry date will be extended until we have made a decision, to allow for the assessment to be completed. We can extend an MTOC for up to 9 months after the original certificate expiry date.

### Expired MTOCs (where a complete application for renewal has not been submitted)

If the original MTOC is expiring and we do not receive a complete application for renewal before the expiry date, then the operator must cease operating when that MTOC expires. The operator, unless exceptional circumstances apply, will need to apply for a new MTOC and must not operate until a new MTOC has been issued.

## Legislative basis for this policy

Sections 35 and 41 of the MTA set out the requirements for applications for renewal and issue of maritime documents, which include an MTOC.

Section 50 and 51 of the MTA set out criteria and processes relating to fit and proper person applications. If a person does not meet the fit and proper person criteria, they cannot be named as a responsible person on the MTOC. If there is only one named responsible person on the application and they do not meet the criteria, the application will be declined.

Maritime Rules Part 19 requires a person operating a maritime transport operation to hold a Maritime Transport Operator Certificate (MTOC). Part 19 also sets out requirements for an application for a new MTOC, the Director's consideration of a renewal application, and the changes to an operator plan that require the approval of the Director.

The Maritime (Charges) Regulations 2014 set out the fees for processing MTOC applications.

## Key terms

For the purposes of this document:

### Complete application

We determine that an application is 'complete' when we have received all of the essential information required to be able to assess it. Any application that is declined after it is deemed complete is entitled



to appeal under section 424 of the MTA.

**Exceptional circumstances** One-off events (not ongoing issues). Examples of these are serious illness or accident, family bereavement, critical personal circumstances involving the health or wellbeing of a relative or other exceptional circumstances beyond the applicant's control (e.g. natural disaster, damage to significant property, impacts arising from being the victim of a serious crime).

#### **Incomplete application**

When we have not received all of the essential information required to assess the application within the timeframes set out in this policy, it is an incomplete application. It may be rejected for administrative purposes and cannot be appealed under section 424 of the MTA.

**Maritime or marine protection document** Under the MTA, the Director of Maritime NZ (Director) can issue maritime and marine protection documents. These documents are licences, permits, certificates and other documents that allow the holder to exercise certain privileges in relation to maritime activities. The legal definitions of a maritime document and a marine protection document are in the MTA. An MTOC is a maritime document.

**Maritime Transport Operator (operator)** means the holder of a Maritime Transport Operator Certificate issued under Part 19.

**Maritime Transport Operator Plan** documents the operator's overall safety system including the details of each ship, its safe operating procedures, personnel details, survey plan, the maintenance plan, the safety equipment list and all relevant documents and certificates. A Maritime Transport Operator Plan must meet the requirements set out in Part 19.

**MOSS (Maritime Operator Safety System)** is the safety system that applies to most domestic commercial ships in New Zealand. This system is comprised of a comprehensive set of processes and procedures for identifying and managing safety risks in a maritime transport operation.

**MTOC (Maritime Transport Operator Certificate)** means a certificate granted or renewed by the Director under Maritime Rule 19.22.

#### **Outstanding non-conformity**

A non-conformity is where we observe something at an audit that is not compliant with the rules. The operator is required to complete corrective and preventative actions to address it within a set timeframe. It is outstanding when the operator has not completed the corrective and preventative actions within that timeframe.



## Disclaimer

This document provides information on how Maritime NZ makes decisions on MTOC renewals under relevant legislation (including the Maritime Transport Act 1994, and Maritime Rules). This document is not a substitute for the rules and legislation.

Operators must make sure they are operating to the latest maritime rules and other legislation. Operators must also obtain legal advice where appropriate.

This document may not be the most current version available so please check the website to confirm that you are referring to the current version of this document.

[maritimenz.govt.nz/operational-policy](https://maritimenz.govt.nz/operational-policy)

