

NZMTA Submission to the Maritime Transport Amendment Bill currently before Select Committee

Background

The Ministry of Transport, Civil Aviation Authority and Maritime New Zealand have been working together on the Clear Heads initiative. Part of this work has been to develop amendments for the Civil Aviation Act 1990 and the Maritime Transport Act 1994.

Maritime Transport Amendment Bill

The Maritime Transport Amendment Bill had its first reading in Parliament on 16 November 2016. It has now been referred to the Transport and Industrial Relations Select Committee.

The Bill makes amendments to the Maritime Transport Bill 1994 across a number of policy areas, including Clear Heads. It will enable the introduction of random testing and require commercial maritime operators to have Drug and Alcohol Management Plans.

About the Marine Transport Association

The Marine Transport Association (MTA) was formed in 1970 to represent the owners of restricted limits shipping. As an Incorporated Society, the MTA represents many fleet operators throughout the country along with owners of charter, ferry, rescue, aquaculture and work boats.

The NZ Marine Transport Association is an authoritative voice within the marine transport industry. It believes that providing all customers with safe, pleasant journeys to industry approved standards is good business.

Goals of the Association

- To promote and advance the interests and welfare of all members;
- To enhance the image of the MTA and their members by promoting their standard of compliance within the tourism, work boat and maritime community.
- To provide input and affect the direction of central and local government policy and actions in accordance with the wishes of Members and the vision of the Association;
- To represent the interests of Members at all public forums and in public issues as they arise;
- To provide the information, services and products to assist Members with meeting their business goals with respect to maritime issues;
- To maintain regular and close contact and communication with Members to listen to and understand their views and aspirations;
- To improve the public's understanding of the importance of the marine transportation industry to the nation and promote the professionalism, hospitality and efficiency of Members in the eyes of the wider community.

The organisation is made up of members who represent the majority of fleet operators throughout the country including individual owner/operators ranging from work boats, ferries (passenger and vehicular), charter boats, bare boat charters, tug and barge operators, fishing boats rescue craft and aquaculture vessels.

NZMTA Submission

The NZ Marine Transport Association agree with initiatives that encourage safety of passengers and crew at every level, however there are some concerns that have yet to be addressed before we can fully support the Act. These are as follows:

1. Drug and Alcohol Testing

How will owner/operators, volunteer organisations and small work boat operations carry out random drug and alcohol tests on themselves? To engage a drug testing company places further compliance costs on an industry sector that is already over regulated.

In general, commercial operators are prepared to submit to a controlled drug and alcohol test **following** any incident or accident, in an effort to either confirm or eliminate, that the use of drugs or alcohol or other impairment drugs, medical or otherwise, may have been or was not a contributing factor to any accident, incident or mishap. They equally recognize that in giving this support that the Government must also include all vessel operators including those operating recreational or pleasure craft.

Individual owner-operators will struggle to implement random testing. The Bill risks applying further increased costs, on the already financially stressed small operators, who by-and-large are husband and wife teams, in small coastal communities, miles away from the testing agencies.

Furthermore, many medium to large commercial operators already employ robust drug and alcohol testing regimes that are managed in line with internal Health and Safety and MOSS procedures. We submit that this is adequate enough and that further testing regimes are unnecessary.

The Bill remains unclear as to what circumstances the Director may use his powers and on that basis, the Association supports **post incident** testing only. Furthermore, The Association requests further information on the proposed costs of implementation before supporting this aspect of the Bill.

2. Maritime Officers authority

Feedback from members shows an overwhelming concern over the proposal enabling MNZ Officers to randomly test an operator. Whilst we have no issue with this and encourage operator responsibility, we are concerned about the level of training, fit and proper person status, calibrated equipment standards and consistency of application.

The Association does not support this part of the proposal without further information. Will they align with NZ Police or Drug Enforcement Agency protocols? The Association requests full details of the implementation strategy.

3. Submitting of Plans to the Director of Maritime NZ

The proposal for operators to submit their Drug and Alcohol Policy's to the Director of Maritime NZ is not supported by the NZMTA. Commercial operators already have a D&A policy within their MOSS (Maritime Operator Safety System) plans. These are checked and signed off by Maritime NZ during the initial approval stage of their MOSS plan and through regular audits and site visits.

As mentioned above, many commercial operators already employ robust drug and alcohol testing regimes that are managed in line with internal Health and Safety and MOSS procedures. We submit that this is adequate enough and that the submission of individual company policies to Maritime NZ is unnecessary.

4. Recreational Operators

The proposed Amendment Bill does not appear to address the issue of recreational boating incidents. This sector has been excluded from the proposed new Bill and yet statistics show that a significantly number of incidents involving drug and alcohol use, are from this sector. The Association seeks details on why this sector has been excluded. Given that the implementation of this Bill requires funding, why should only commercial operators be subjected to yet more compliance costs?

Summary:

This Bill proposes new requirements for commercial maritime operators only to have drug and alcohol management plans, or DAMPs.

Under this proposal; 'operators must carry out random drug and alcohol testing of workers engaged in 'safety sensitive' activities. Workers who return a test result that is not negative will be removed from safety-sensitive activities until the operator determines that it is safe for the individual to return'.

As stated above the Association supports the 'Bill's' proposal in principle, but the Bill remains unclear as to the implementation of such tests. Most companies already conduct such tests and these are detailed in employment contracts which are supported by sound reason, such as the worker demonstrating one or more of the many signs of impairment or, either random pre-sailing on extended voyages, or when working in safety sensitive areas like machinery spaces or 'Masters' in command of high-speed ferries (8 hour clear heads) or most importantly - post incident!

We question whether this proposal supersedes existing employment contracts at the risk of further eroding seafarer worker's rights and/or company policies. Workers who return a test result that is not negative will be removed from safety-sensitive activities until the operator determines that it is safe for the individual to do so.

To allow for drug and alcohol testing, operators will need to amend their employment agreements with employees, and contracts for services with their contractors.

We consider it unnecessary for Government to interfere with individual employment contracts. Collective agreements or existing individual employment contracts may require re-negotiation.

The Bill does not appear to address the ongoing problem of drug and alcohol associated with recreational boating or operators of pleasure craft.

In summary, the NZMTA support the Ministry of Transport Amendment Bill with the following exclusions:

- Compulsory random testing; we consider that testing regimes throughout the commercial sector are already in place and adequate.
- Submission of Drug and Alcohol plans for approval by the Director of Maritime NZ; every commercial operator has an existing policy in place that is signed off by Maritime NZ during the MOSS approval process. Any additional approvals would be considered excessive.
- Maritime Officer authority to test post-incident is supported by the Association, however, training to the equivalent standard of NZ police or drug enforcement agencies, along with vetting protocols, full disclosure of testing procedures and calibration of equipment must be established first. We do not support, nor do we consider it necessary, random testing by Maritime Officers.
- Recreational boating; The Bill does not appear to address the core issues associated with drug and alcohol use in the maritime sector. Operators of small non-commercial, recreational craft are not affected, whilst further compliance is being imposed on the commercial sector. The provision for Police or Maritime Officers to test operators of recreational craft for drug or alcohol - post incident, must be included. Post incident may include speeding or breaking any of the maritime rules in our coastal and inshore waters, including our lakes and rivers, such as the land transport regulations allow.

Thank you for the opportunity to lodge a submission and would request the opportunity to be heard by the Select Committee on any additions or questions relating to this submission.



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