

14 November 2024

Maritime New Zealand
Email: consultations@maritimenz.govt.nz

INVITATION TO COMMENT: Regulatory Amendments Package 2024, with relation to Non-Commercial Use of Commercial Vessels and SeaCert.

Thank you for the opportunity to comment on proposals relating to the Regulatory Amendments Package 2024 for Non-Commercial Use of Commercial Vessels and SeaCert.

Our stakeholders have been consulted and feedback is provided below:

Proposed rules changes on non-commercial use of commercial vessels:

The main issue regarding non-commercial use of commercial vessels lies in the ambiguity of the Maritime Rules, particularly about whether such vessels must adhere to their Certificate of Survey (COS) and associated requirements during non-commercial activities. While Part 19 waives many requirements for non-commercial use, it conflicts with other parts like Part 20 (operating limits) and Part 32 (crewing requirements), which lack explicit exclusions. For instance, Part 32.10 mandates that crew members hold proper certifications, even for non-commercial use, creating inconsistencies.

When the Maritime Operator Safety System (MOSS) was introduced, the intent was to reduce regulations for commercial vessels during non-commercial use, waiving certain restrictions like crewing and operating limits. However, under current rules, a commercial vessel remains part of a maritime transport operation and does not transition to being a "pleasure craft" during non-commercial use. This maintains the operator's obligation to comply with MOSS.

Part 19 outlines some non-commercial use requirements, such as maintaining a valid COS, ensuring ship safety, logging activities, and including relevant procedures in the Marine Transport Operator Plan (MTOP). However, ambiguities in Part 19 and conflicts with Parts 20 and 32 result in unclear guidance, leading to unintended confusion and regulatory consequences.

The New Zealand Marine Transport Association is in favour of **Option Two** proposal: *Rule changes to reduce regulation of non-commercial use subject to key conditions*. These being -

- remove crewing and operating area limits on non-commercial use
- insert new conditions to treat specific risks, such as unsecured lifting appliances
- align with overseas jurisdictions

In support of this proposal, we make the following comments and seek clarification on the following:

- What would the Health and Safety at Work (HSWA) implications be for operators, should an accident or incident occur whilst the vessel is being operated recreationally. Would the vessel/operator be treated as a recreational craft? (subject to rule Part 91) or would they be treated as commercial for the purpose of any investigation.
- *Section 111 Authority and Recreational Use of Commercial Fishing Vessels*
Under Section 111 authority, commercial fishing vessels can allow recreational fishing by their crew, provided the catch is reported and adheres to recreational fishing limits. These vessels may also host family and friends for recreational fishing trips or private excursions without affecting their commercial status. If a vessel intends to engage solely in recreational fishing, it must deregister its commercial status through a straightforward process with Fisheries New Zealand (FNZ). This deregistration does not impact other certifications, such as MOSS, MTOP, or MTOC. For private use, there appear to be no specific obligations for the operator, allowing inshore commercial vessels to engage in non-commercial activities with minimal restrictions, provided legal and reporting requirements are followed.
- *Recreational Use Under the Maritime Transport Act (MTA)*
In contrast to the Section 111 authority for fishing vessels, the Maritime Transport Act (MTA) does not require a commercial vessel to declare when it is being used for recreational activities. Once a vessel is registered as commercial—whether for fishing or passenger purposes—it is always regarded as a commercial vessel, regardless of its current use.
- With respect to relocation voyages, owners moving their vessels from their surveyed limits to those outside of these need to ensure that these relocations are recorded in their logbooks as non-commercial.
- The vessel's risk register should include specific risks associated with operating beyond surveyed limits, whereby operators recognise and record the need for additional safety equipment (i.e. life rafts if moving from Inshore to Coastal), loading and design capabilities.

We take this opportunity to thank Maritime New Zealand for their work in putting this amendment package together. Interpreting requirements for non-commercial use of a commercial vessel has caused significant angst, particularly amongst our smaller vessel operators. We believe that changes to the rule will alleviate any future ambiguity.

In summary, the proposal addresses the regulatory flexibility needed for commercial vessels used for non-commercial activities, with particular focus on relaxing operating limits when undertaking recreational use.

Proposed amendments to the SeaCert framework

This section of the Invitation to Comment (ITC) outlines the scope of Maritime New Zealand's proposed policy changes and rule amendments to the SeaCert framework as follows:

1. changes to the competency framework and Training Record Book (TRB) for the Qualified Deck Crew (QDC) Certificate
2. creation of a limited pathway for skilled foreign seafarers to enter the New Zealand domestic sector
3. creation of a new Skipper Two Nautical Miles (S2NM) Certificate
4. amendments to the SRL endorsed for 500 GT
5. some minor and technical amendments.

Our comments on these proposals are as follows:

Proposal One: Policy change – amend the competency framework and the training record book for the QDC Certificate

The Qualified Deck Crew (QDC) certificate is primarily intended for use on passenger and non-passenger vessels under 24 metres in length, operating in restricted and near-coastal waters. Legacy equivalents to the QDC certificate include the CDH and ADH. Notably, Maritime Rule Part 31 does not reference the QDC (or its legacy equivalents, CDH and ADH) as a requirement in any application or manning table within the rule.

To provide context, some passenger fleets encourage and employ seafarers with this certificate as a stepping stone toward obtaining their Skipper Restricted Limits (SRL) qualification. In contrast, many non-passenger operators prioritise the SRL as the entry-level certificate for seafarers.

Summary of Industry Comments:

- Concerns were raised that the proposed reductions to the QDC task book are excessive and could significantly impact how QDC-qualified crew are utilised onboard.
- Support was expressed for removing or simplifying some tasks, such as splicing lines, types of ropes, and cleaning tasks. Suggestions included replacing cleaning tasks with competencies related to hazardous substance handling and understanding Material Safety Data Sheets to align with broader training requirements.
- Retention of certain tasks, such as buoyage, magnetic compass usage, rigging gangways, and lookout duties (replacing "watchkeeping") was recommended to better reflect deck rating responsibilities.
- The QDC should remain a deck rating qualification, encompassing essential deck rating competencies.
- The medical requirements for QDCs should be simplified or eliminated. A potential solution is using the "National Deck" option, which is affordable and can be completed by any doctor. For comparison, commercial jet boat drivers require a DL9 medical, valid for five

years if under 40 and two years if over 40. Consolidating medical forms for QDCs, jet boats, and other vessel types into a single, streamlined form would improve efficiency and reduce complexity.

- It was noted that no entry-level qualification is required for supervised ship work, aside from shipboard familiarisation. For newcomers, the STCW Basic Training course (7 days) was highlighted as a flexible and beneficial starting point for various maritime sectors.
- Comparisons with Australia's equivalent training emphasised the inclusion of sea survival and fire extinguisher training, which could be condensed into a shorter, less costly program tailored for smaller vessels.

In addressing the additional questions outlined in the Invitation to Comment document, we have not observed a shortage of QDC certificate holders, likely due to the absence of any application for this certificate in SeaCert. Additionally, we believe that revising the QDC certificate's competency framework and TRB would have no financial impact. The primary financial implications for seafarer's stem from the NZQA qualification pathways and the TEC funding framework.

Proposal Two: Policy change – a new limited pathway for skilled foreign seafarers to enter the New Zealand domestic sector

Currently, there are maritime sector skill shortages that cannot be resolved solely with changes to certificate settings. If a seafarer wants to work on a New Zealand-flagged ship they need to have their certificate recognised by Maritime NZ as an equivalent to a New Zealand certificate or endorsement. Recognition depends on the certificate or endorsement type and where it was issued.

Maritime New Zealand's preferred option (one) is to create a new limited pathway for skilled foreign seafarers to enter the New Zealand domestic sector. The process would enable the Director of Maritime NZ to recognise a foreign qualification provided that the requirements of 41(2)¹ and 41(3)² of the MTA ARE met. Applicants would still have to comply with medical requirements, the fit and proper person test and other requirements of the certificate they were seeking.

Summary of Industry Comments:

- There is general support for a limited pathway, focusing on seafarers from countries with well-regarded maritime agencies (e.g., the UK MCA).
- A bridging course covering New Zealand-specific maritime legal requirements, rules, and incident reporting processes was recommended. Additional quality control measures, such as a written or oral exam by an MNZ examiner, could identify and address gaps in knowledge through targeted training.

¹ MTA 41(2) For the purpose of granting or renewing a maritime document, or recognising a document as a maritime document, the Director may, subject to any provisions in the maritime rules, recognise such qualifications or certifications as he or she considers appropriate in each case.

² MTA 41(3) In no case shall the Director recognise foreign qualifications or foreign certificates where—
(a) the requirements to gain such qualifications or to obtain such certificates are less than the requirements to gain similar qualifications or to obtain similar certificates in New Zealand; and
(b) the Director believes that to recognise such qualifications or certificates might pose a risk or danger to the safety of any person, to property, or to the marine environment.

- Some suggested removing the Training Record Book (TRB) requirement for highly experienced foreign seafarers, as MNZ exams should already ensure competency. This aligns with practices in Australia, where a TRB is only required for those with limited commercial sea time.
- Concerns were raised about the current TRB requirement in New Zealand, which is now seen as excessive since sea service requirements have been reduced from 28 months on a commercial vessel to just 25 days, which can include recreational experience.
- The proposal must ensure foreign seafarers are competent in practical command roles, particularly for endorsements like the SRL 500gt. Examiners have noted cases of seafarers with limited command experience attempting these endorsements, such as those working exclusively on mussel barges slightly over 24m.

In response to the additional questions raised in the Invitation to Comment document, we note skill shortages across all levels, particularly for MEC2 and MEC3 engineering certifications. We support the proposed policy changes and anticipate a smooth transition facilitating collaboration between New Zealand and Australian seafarers.

Proposal three: Rule change – introduce a new S2NM Certificate for small vessels

Stakeholders have identified a gap in the SeaCert framework for a lower-level skipper certificate tailored to low-risk, near-shore activities. Current skipper certificates, such as the SRL, require training that may be excessive for tasks like transporting employees between marine farm sites in sheltered areas or fishing close to shore. Feedback suggests developing a certificate similar to the former Limited Launch Operator or the Australian Coxswain Grade 3 Near Coastal, which permits operation within one nautical mile of shore or near a parent vessel.

Maritime NZ reviewed data to estimate the number of vessels that could benefit from a proposed S2NM certificate for operations within two nautical miles of shore. Of the 264 eligible vessels identified, 198 are up to 6 metres long, and 65 are between 6 and 12 metres. This certificate would address the needs of operators conducting safe, low-level tasks without requiring the full SRL certification.

Industry Feedback on the Proposed S2NM Certificate:

- The proposal for an S2NM certificate is supported for vessels up to 6 metres, as it provides an accessible, standardised qualification and reduces the need for Part 35 applications across the industry.
- Extending the certificate to 12m vessels risks overlap with the SRL qualification, which could undermine its distinct purpose and rigor. Perhaps consider 7.5 or 9 metres as the threshold.
- It is crucial to maintain the current training, qualification, and sea time requirements for the SRL certificate to ensure operators of larger passenger vessels meet robust industry standards.

- To avoid shortcuts, individuals upgrading from S2NM to SRL should complete the SRL task book and not rely solely on Recognition of Prior Learning (RPL) for sea time requirements.
- The industry welcomes the introduction of this certificate, but its implementation must be clearly defined as part of the broader SeaCert review. Without this clarity, like the QDC, industry participants may struggle to understand its purpose and application.

In response to the specific questions outlined in the ITC, we support the introduction of the new S2NM certificate, provided industry feedback highlighted in this submission is considered. We do not anticipate any significant costs or impacts associated with this proposal and believe the new certificate will offer broad benefits and practical value to smaller operators.

Proposal four: Rule change – amend the SRL endorsed to 500 GT

The maritime sector faces significant challenges in hiring seafarers with specific domestic skipper certificates, contributing to workforce gaps. Stakeholders have highlighted difficulties with the SRL endorsed to 500 GT, as current sea service requirements mandate holding a prior domestic certificate. This creates a barrier to gaining the endorsement, because even if applicants complete the required SRL (less than 24m) course, they cannot obtain the 500 GT endorsement without the previous certificate, creating an unnecessary hurdle for qualified candidates.

Industry Feedback on Proposed Changes to SRL Endorsed to 500 GT:

- The proposal is supported as it allows candidates to complete 18 months of sea time on appropriate vessels (not requiring command sea service) and the <500 GT training record book, bypassing the 24m endorsement if all criteria are met.
- In practice, most crew are likely to obtain the SRL at the earliest opportunity and complete the <500 GT task book later.
- Examiners report that many candidates for the 500 GT endorsement lack command experience, as they often work exclusively on mussel barges slightly over 24m in length.

The New Zealand Maritime Transport Association (NZMTA) also endorses the proposed minor and technical Rules amendments. We appreciate the opportunity to provide feedback on the Proposed Regulatory Amendments Package and believe these proposals will deliver meaningful and positive outcomes for the maritime sector. Thank you for engaging with industry stakeholders to ensure the regulatory framework supports a safer, more efficient, and sustainable maritime environment.

Please don't hesitate to get in touch if you would like any clarification on this submission.

Yours sincerely,

Margaret Wind
Executive Director
New Zealand Marine Transport Association