

Hi Helen,

My colleague Andrew de Montalk has stated that he will response on my behalf.

Regards,

Simon

**Simon Gooder** | Industry Liaison Advisor, Navigation, Environment & International Operations  
**Maritime New Zealand** | Wellington  
*Nō te rere moana Aotearoa*

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**From:** Helen McAra [<mailto:helenm@nzmsg.co.nz>] **Sent:** Monday, 17 August 2015 5:44 p.m. **To:** Simon Gooder **Subject:** FW: Rules applicable to foreign flagged vessels in NZ waters

Hi Simon

Just checking that you got our message below. Can we please have an answer asap because the ship is here, working already. Thanks.

Regards

Helen McAra

**GENERAL SECRETARY**  
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**From:** Helen McAra <[helenm@nzmsg.co.nz](mailto:helenm@nzmsg.co.nz)> **Date:** Thursday, 13 August 2015 9:55 am **To:** Simon Gooder <[Simon.Gooder@maritimenz.govt.nz](mailto:Simon.Gooder@maritimenz.govt.nz)> **Subject:** Rules applicable to

foreign flagged vessels in NZ waters

Hello Simon

Further to below:

1. Sorry, but you still haven't answered the question in my point 1 below: "So the question remains, what will Maritime NZ do if a "supernumerary Chief Officer" is carrying out chief officer duties?"

2. Based on our members' experience and stories of working on foreign vessels whose foreign regulations at times conflicted with New Zealand's health, safety and accident rules, we are trying to help MNZ adopt a proactive approach in relation to this vessel, which will employ New Zealanders on New Zealand employment agreements, who will work on this vessel 24/7 in New Zealand's busiest port for up to two years. At some stage Maritime NZ will/may have to think about which rules will prevail. We think it is better to hypothesise now than wait for Maritime New Zealand to come up with answer when/if a real life situation arises. You're probably aware that before your time this reactive model was spectacularly exposed as a disastrous failure. The ship is already in New Zealand now in dry dock, and New Zealanders are already working on her, doing dangerous work on a daily basis. They are employed by a New Zealand based employer, Skilled Offshore NZ Ltd. We think Maritime New Zealand must immediately determine what NZ rules and regulations (HSE, Maritime Rules, ACC etc), will be applicable to the New Zealand employees on board this foreign flagged vessel operating continuously in NZ. We request written confirmation of this from Maritime New Zealand asap.

3. We hope you have our point, thanks

4. In our view the pilot should not just be "embarked" onto the vessel, but will have to stay on the bridge 24/7 until the Master and Chief Officer (both numeraries) have obtained their PECs. We have not at any time contemplated incompetence of foreign officers. We are speaking about the incompetence and/or dangerous practices which the company is trying to impose on the operation of a ship in and around the busiest port in New Zealand. We still believe that the ship cannot be safely operated in or around Tauranga harbour limits with its minimum

safe manning document, because of obvious non-compliance with rest hours, fatigue management, lookout, maintenance especially of life saving appliance requirements. In theory the ship can operate with just Master and Chief Officer in the harbour limits if both hold a PEC. They would, in theory, work 12 on 12 off between them. But in reality, how can they go to the toilet if there is no-one else on the bridge? And further, the company can have only 2 ABs/pipe operators working 12 on/12 off. If there is only one officer driving the ship manually, and the AB is doing the pipe manually, who will be the Lookout – i.e. *constant* lookout – we're speaking about the busiest port in New Zealand. We believe it's the job of Maritime NZ under PSC to *ask* these questions of the operator. It's very heartening that you have quoted MIT Director, Captain Tim Wilson, because you will also hopefully recall Tim unequivocally stating that two people working 12 on 12 off on a 24/7 operation IS NOT SAFE.

I look forward to hearing from you soon.

Regards

Helen McAra

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**From:** Helen McAra <[helenm@nzmsg.co.nz](mailto:helenm@nzmsg.co.nz)> **Date:** Wednesday, 12 August 2015 10:26 am **To:** Simon Gooder <[Simon.Gooder@maritimenz.govt.nz](mailto:Simon.Gooder@maritimenz.govt.nz)> **Subject:** Re: Rules applicable to foreign flagged vessels in NZ waters

Hello Simon

Thanks for your reply. Sorry you've been offended. I will try to respond to your points soon.

Regards

Helen McAra

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m:

**From:** Simon Gooder <[Simon.Gooder@maritimenz.govt.nz](mailto:Simon.Gooder@maritimenz.govt.nz)> **Date:** Wednesday, 12 August 2015 9:24 am **To:** Helen McAra <[helenm@nzmsg.co.nz](mailto:helenm@nzmsg.co.nz)> **Subject:** RE: Rules applicable to foreign flagged vessels in NZ waters

Good morning Helen,

In response to your implicit allegation that I am working as an agent for others, you are incorrect. I find the insinuation – masquerading as a question, offensive and potentially disruptive to fostering good working relationships.

With regard to me copying Peter Buell and Phil Julian in my correspondence, I considered it appropriate to ensure there was no ambiguity in understanding “ that the approved process will be followed for the award of any PEC – including to those officers on the dredger”. It is much better to get all relevant people on the same page in the interest of safety rather than engaging in cat and mouse games. You will note that this email is not copied to them.

In response to your numbered paragraphs:

1. You are seeking answers to hypothetical questions based on hearsay. I refer you to my previous replies – , “the manning and operation of a vessel is a matter for its flag state.” PSC inspections are an enabler to assure compliance with STCW and ISM. Your reference to SSM is indicative of a lack of understanding, this is a SOLAS vessel so ISM applies. MNZ will act in accordance with our international obligations in respect of a foreign flag vessel.
2. Again, you hypothesise on the basis of hearsay. You

should take comfort that the Netherlands is a signatory of the Maritime Labour Convention with the Convention in force on its vessels.

3. Your observation is noted.
4. You hypothesise on hearsay and therefore your conclusions are potentially flawed. You are entitled to your belief. A pilot will be embarked initially until a PEC standard can be achieved and application sought. Your insinuation about foreign officers' competence implies xenophobia. They are professional mariners who enjoy the confidence of the owners and their flag state. New Zealanders do not enjoy a monopoly on competence.

Regarding the un-numbered paragraphs, "how Maritime NZ will allow the *Brage R* to operate in Tauranga" – it will be in accordance with our international obligations in respect of a foreign flag vessel.

Then later, "it is up to Maritime NZ to check and ensure that the vessel is operated safely." In accordance with the MTA it is the owner that is responsible for safe operation of a vessel. We will regulate any vessel operating in or around New Zealand consistent with our powers, and our international and national obligations.

You will recollect at the International Maritime Engagement Forum, last week, that Tim Wilson offered the view that the two international maritime administrations that he respected were the Netherlands and Norway. I am confident that the Netherlands value such status and vessels under their flag do not flagrantly compromise their reputation.

Best regards,

Simon

**From:** Helen McAra [<mailto:helenm@nzmsg.co.nz>] **Sent:** Tuesday, 4 August 2015 3:36 p.m. **To:** Simon Gooder **Subject:** Re: Rules

applicable to foreign flagged vessels in NZ waters

Hi Simon

Have Port of Tauranga or RN Dredging employed you as an agent? Why are you copying my correspondence to them?

Thanks for your responses but:

1. I don't understand your reference "In response to that additional query – there can be only one chief officer at any particular time. There is no position as a supernumerary chief officer" We understand that there can be only one Chief Officer, but the company has already employed a supernumerary Chief Officer, and he has been told he will work under the direct instruction of the Master. We don't believe this is lawful. The role of supernumeraries must be in the ship's SSM with a clear understanding of his/her duties and responsibilities. Everyone on board should know about his/her status and authority according to law. It looks like all STCW references are in relation to training only. So the question remains, what will Maritime NZ do if a "supernumerary Chief Officer" is carrying out chief officer duties?
2. As we understand it, the company will use foreign officers and engineers, and there will be New Zealand ratings on board. The question is how will NZ Health and Safety laws be complied with? Will Maritime NZ conduct some kind of examinations of the masters and officers on the NZ Health and Safety laws and regulations? We would like to have from MNZ some clear indication of how the operation in Tauranga will comply with NZ law.
3. Yes, you're correct that Interislander operates with two Masters, but they are both *Masters*, not "aster" and "Supernumerary Master". The dredger in Tauranga can operate with a day and night master, but those people must be employed as Masters and not "Supernumerary Masters" in our view, with both eligible to hold pilotage exemptions.

4. As we understand it at the moment, the company would like to operate the dredger within the harbour limits (pilotage area) with a foreign master and foreign chief officer, foreign second mate, and a NZ chief officers supernumerary. We do believe such operation will be unlawful and we are asking you to give us asap Maritime NZ's point of view as to how the ship should be operated. As we said before, we do believe the operation of the same kind of ship, MV Pelican, should be used as a model; the vessel works two shifts, 12 on/12 off, with each shift having a Master (with PEC) and chief officer. We do believe that such an arrangement would be the absolute minimum for such an operation, but being in contact with our members who had been working on Pelican for many years, we believe it would be safer (in relation to fatigue and general safety) for there to be a Master, Chief Officer and Second Officer on each shift. Please note that the MSCD may provide only for a Master and Chief Officer – such manning can be enough (although we would disagree) for ocean-going voyages, but is absolutely not acceptable in the harbour limits.

We would like an answer from you asap about how Maritime NZ will allow the *Brage R* to operate in Tauranga (in and around port limits, 24/7), and to be advised of the minimum number of officers on board including master/s, their ranks, their pilotage exemptions (or requirements for same) for each officer, their working hours (if e.g. The shift concept as per Pelican will be accepted).

We do not accept that the operator of *Brage R* does not have an idea how it will operate the vessel in Tauranga, and it is up to Maritime NZ to check and ensure that the vessel is operated safely.

Regards  
Helen McAra  
**GENERAL SECRETARY**  
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**From:** Simon Gooder <[Simon.Gooder@maritimenz.govt.nz](mailto:Simon.Gooder@maritimenz.govt.nz)> **Date:** Tuesday, 4 August 2015 9:02 am **To:** Helen McAra <[helenm@nzmsg.co.nz](mailto:helenm@nzmsg.co.nz)> **Cc:** "Phillip Julian ([PhillipJ@port-tauranga.co.nz](mailto:PhillipJ@port-tauranga.co.nz))" <[PhillipJ@port-tauranga.co.nz](mailto:PhillipJ@port-tauranga.co.nz)>, "[peter.buell@boprc.govt.nz](mailto:peter.buell@boprc.govt.nz)" <[peter.buell@boprc.govt.nz](mailto:peter.buell@boprc.govt.nz)> **Subject:** RE: Rules applicable to foreign flagged vessels in NZ waters

Hi Helen,

I have discussed your queries with Phil Julian and Peter Buell in Tauranga – to whom this is copied. They assure me that the approved process will be followed for the award of any PEC – including to those officers on the dredger.

Some vessels do have two officers as Master to assure operations, for example RoRo ferries. In this event, only one of these officers is The Master at any particular time. Formal exchange of Command is made. My comment last week “There is only one Master at any particular time”, is valid. This is an internationally accepted practice – indeed applies on the Interislander Cook Strait Ferries as well as Dover Strait ferries in Europe – an area of significant marine traffic density. The “off watch” (for the lack of a better term) master is not involved in the conduct of the vessels operations. This practice would be found in the vessels ISM documentation.

As I have mentioned before, the manning and operation of a vessel is a matter for its flag state. We are empowered to verify this by PSC inspection. You may recollect our email correspondence in January in similar vein “The Port State Control (PSC) Officer is gaining assurance that a vessel is operating in compliance with its Flag State’s Document of Compliance and ISM documentation. ....”. Additionally in that exchange and in relation to your last email, “..... Detaining a vessel is not lightly undertaken and it is often the case that a Maritime Officer will consult with Head Office in Wellington before this occurs. This back up to those in the field



assures the integrity of the PSC process .....”.

It is appropriate to offer this extract from the Toyko MOU, of which NZ is a signatory, governing PSC inspections:

### 3.3 Selection of ships for inspection

**3.3.1** In selecting ships for inspection, the Authorities will determine the order of priority based on, in principle, the new inspection regime (hereinafter referred to as the “NIR”) as prescribed in Annex 2.

**3.3.2** Regardless of the NIR, as referred to in paragraph 3.3.1, the following ships will be considered to have overriding priority for inspection:

.1 ships which have been subject of report or notification by another Authority;

.2 ships which have been the subject of a report or complaint by the master, a crew member, or **any other person or organization with a legitimate interest in the safe**

**operation of the ship, shipboard living and working conditions or the prevention of the**

**pollution**, unless the Authority concerned deems the report or complaint to be manifestly unfounded;

.3 ships which have been permitted to leave the port of a State, the Authority of which is a signatory to the Memorandum, on the condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period;

.4 ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation;

.5 ships carrying dangerous or polluting

goods, which have failed to report all relevant information concerning the ships' particulars, the ships movements and concerning the dangerous or polluting goods being carried to the competent authority of the port and coastal State;  
.6 ships referred to in paragraph 3.9; and  
.7 category of ships identified by the Committee from time to time as warranting priority inspections.

The text emboldened is for your assurance.

Regarding the term supernumerary, it is mentioned in STCW in 4 places:

- a) Regulation V/1-1 – approved onboard training for oil & chemical operations
- b) Regulation V/1-2 – and for liquefied gas operations
- c) Section A –I/11 – revalidation of certificates
- d) Guidance regarding onboard training – trainees being in a supernumerary capacity

Clearly this is not within the context of your queries.

In response to that additional query – there can be only one chief officer at any particular time. There is no position as a supernumerary chief officer

I hope that this provides the assurance you seek.

Regards,

Simon

**From:** Helen McAra [<mailto:helenm@nzmsg.co.nz>] **Sent:** Friday, 31 July 2015 9:04 a.m. **To:** Simon Gooder **Subject:** Re: Rules applicable

to foreign flagged vessels in NZ waters

Hi again Simon

Further to below, have you had a chance to consider the operation of this vessel? It looks to us that the company may try to employ a supernumerary officer. We don't believe that a supernumerary officer can carry out pilotage under Part 90. The rule permits only the master or the first mate of the vessel to hold and exercise a PEC. We would be very opposed to any exemptions being issued by Maritime NZ about this.

Our exempt masters who hold exemptions for Tauranga advise: to achieve the PEC, they need to learn the Port details thoroughly. All the navigational aids including light characteristics, the depths, the berth details, lines of all leading lights and the courses to steer along each leg of the channel. Plus many other details. This information has to be filled in on a chart which shows outlines only. This is normally an exam of one hours duration. Then all other port info such as radio frequencies, reporting points, tugs, special procedures etc, are included in a written exam also one hours duration. Another hour long oral exam in front of the harbourmaster, senior pilot and one other has to be successfully completed before a recommendation to the regional council is made to issue a PEC by the Harbourmaster. 3 hours of exams plus all of the time to study for them! Then a letter can be sent to MNZ. As usual with MNZ this is then slowly processed before the issuing of the PEC. Until this is received, the master cannot exercise the privileges of the PEC.

We would also be extremely opposed to any attempts to short-circuit this established and approved PEC process. We're speaking about a very high profile port and harbour, and not just the occasional arrival and departure, but 24/7 continuous close quarters navigation. And the vessel must at all times comply, as you say, with all applicable Conventions such as STCW.

As we see it, the vessel can only lawfully operate with a minimum 2 existing Tauranga pilots, or 2 exempt NZ masters, or foreign master and mate if they can obtain a PEC. But one or other of the master or chief officer must be on the bridge at any given moment – a second officer cannot be alone on the bridge. So this means that

for a safe operation, the manning on the bridge should be the same as that for a similar NZ dredger, MV Pelican, which operates with 4 people on the bridge working 2 shifts, 12 on/12 off, and each 12 hour shift comprises a master and first mate.

Can you please pass this to the appropriate person who may be approached to grant exemptions? Thanks.

Regards  
Helen McAra  
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**From:** Helen McAra <[helenm@nzmsg.co.nz](mailto:helenm@nzmsg.co.nz)> **Date:** Friday, 24 July 2015 2:42 pm **To:** Simon Gooder <[Simon.Gooder@maritimenz.govt.nz](mailto:Simon.Gooder@maritimenz.govt.nz)> **Subject:** Re: Rules applicable to foreign flagged vessels in NZ waters

Thank you very much Simon. I'm in communication with the company, who says it is bringing the vessel Brage R in August. As we understand it, the vessel will operate 24/7 with Master, Mate and Second Mate, and constantly in a pilotage area. The company is saying it would like to keep its foreign officers on board (with their foreign qualifications). The question will be: how can it operate 24/7? Will it be required to have a NZ pilot on board 24/7 working on the bridge doing 12 hour shifts (or 8 on 16 off)? Or will the port company be allowed to give pilotage exemptions to foreign officers with foreign qualifications?

Regards  
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**From:** Simon Gooder <[Simon.Gooder@maritimenz.govt.nz](mailto:Simon.Gooder@maritimenz.govt.nz)> **Date:** Friday, 24 July 2015 1:35 pm **To:** Helen McAra <[helenm@nzmsg.co.nz](mailto:helenm@nzmsg.co.nz)> **Subject:** RE: Rules applicable to foreign flagged vessels in NZ waters

Hello Helen,

Sorry about the delay – I have been out of office for much of this week.

The dredger, a foreign ship, will need to comply with the applicable conventions consistent with its size and flag state.

I am unaware of the name of the trailer hopper suction dredger that Rohde Nielsen will be using, so I am unable to offer any more than this general response. If it arrives from overseas it would be reasonable to expect that it would be a SOLAS vessel and therefore compliant with STCW. I have checked the Tauranga shipping movement schedule – which their website tells me is updated hourly, but no mention is made of the dredger arriving on 1 August.

I have spoken with Phil Julian – the Marine Operations Manager at Port of Tauranga, whom you know, and he informs me that their annual maintenance dredging campaign is due to commence shortly. This is different to the capital dredging scheduled to take place between October 2015 and August 2016.

I have spoken also with our Exemptions Officer who advises that he has not been approached for any exemptions for a vessel called *Brage R*.

MR 46.28 was revoked in 2014 <http://www.maritimenz.govt.nz/Rules/List-of-all-rules/Part46-maritime-rule.asp>

I hope this provides the information you seek.

Have a good weekend,

Regards,

Simon

**From:** Helen McAra [<mailto:helenm@nzmsg.co.nz>] **Sent:** Friday, 24 July 2015 9:40 a.m. **To:** Simon Gooder **Subject:** Re: Rules applicable to foreign flagged vessels in NZ waters

Hi Simon

Will you be able to respond to our question today? We are advised that one of these vessels will be arriving in NZ on 1 August. Can you please also advise whether Maritime NZ has been approached for any exemptions in relation to the operation in Tauranga of the vessel *Brage R*?

Regards

Helen McAra

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**From:** Simon Gooder <[Simon.Gooder@maritimenz.govt.nz](mailto:Simon.Gooder@maritimenz.govt.nz)> **Date:** Monday, 20 July 2015 4:34 pm **To:** Helen McAra <[helenm@nzmsg.co.nz](mailto:helenm@nzmsg.co.nz)> **Subject:** Re: Rules applicable to foreign flagged vessels in NZ waters

Hi Helen,

Thanks for both your queries. I am out of office until later this week, and I reply properly when I return.

I hope that all is well with you too.

Regards,

Simon

Sent from Samsung Mobile

----- Original message ----- From: Helen McAra Date:17/07/2015  
18:39 (GMT+12:00) To: Simon Gooder Subject: Rules applicable to  
foreign flagged vessels in NZ waters  
Hello Simon

I hope all's well with you. We have a question about foreign flagged vessels operating in New Zealand waters. As we understand it, a foreign flagged dredger will be coming to carry out dredging work for Port of Tauranga Ltd. Can you please advise whether SOLAS and/or STCW will apply to it? (I've looked at Part 20 and it looks like it only applies to a foreign vessel covered by Rule 46.28, but I can't find this section of Part 46.)

Thanks Simon.

Regards

Helen McAra

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