29 March 2013

Rules Co-ordinator, Maritime New Zealand

SeaCert proposals

As you know, the Merchant Service Guild is the union which represents *(inter alia)* masters, pilots, deck officers, tug masters and tug engineers.

We refer to Maritime NZ's Invitation to Comment on proposals for rule changes designed to give effect to the QOL Framework.

Firstly, we strongly object to all SeaCert proposals which have the effect of reducing the level of qualification currently required on board any New Zealand vessel of greater than 500 gt.

Secondly, we strongly object to the alteration and extension of operating limits which currently apply to New Zealand waters.

Thirdly, we do not believe that Maritime NZ has engaged in genuine consultation with the New Zealand public on this major review of the rules and regulations governing the qualifications required on the vessels operating in New Zealand waters. Errors in the original QOL proposals, significant changes since consultation, and multiple errors in the final consultation documents[1], all demonstrate that a further round of public consultation meetings is required to explain and answer questions on the new proposed framework. Without proper consultation any rule changes are invalid.

Fourthly, the proposals will have a devastating effect on NZ maritime education.

The proposals are the result of requests to MNZ by NZ and overseas ship owners and operators to:
- *avoid complying with international conventions; and*
- *lower qualifications of ships' crew; and*
- *extend operating limits*

In formulating the proposals, it is clear that Maritime NZ has not taken into account that:

1. Failure to comply with international maritime conventions will have a devastating effect on the NZ economy which depends 100% on foreign ships continuously coming and going with import and export cargo, (as there is now not a single New Zealand ship trading internationally). Maritime NZ and New Zealand taxpayers now have first-hand knowledge of the magnitude of damages and other monetary claims which are pursued by international ship owners.

2. Two major international maritime conventions to which New Zealand is a signatory, STCW[2] and SOLAS[3] currently apply in New Zealand to many ships. STCW e.g. applies to all vessels of more than 500gt[4] which are not navigating exclusively in restricted limits. The convention requires that the crew of such ships must hold foreign-going[5] (internationally recognised) qualifications. A list of NZ coastal vessels of greater than 500 gt and their tonnages is attached.

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[1] See http://www.maritimenz.govt.nz/Consultation/QOL/Erratum-for-rules.asp
[2] Standards of Training, Certification and Watchkeeping
[3] Safety Of Life At Sea
[4] "gt" = gross tonnage
[5] 'foreign-going' refers to the hierarchy of ship officers' certificates for working on ships of more than 500 gross tonnes which operate anywhere including waters outside restricted areas.

3. It is well known worldwide that New Zealand waters are characterised by harsh conditions. The offshore oil and gas industry is effectively a seasonal industry because the sea conditions in winter make it impossible for seismic survey, drill ships and dive support vessels to operate during that time of the year. At other times of the year the weather is a frequent cause of operational delays; for example some offshore ships which come here for e.g. a 30 day project have been forced to stay for 60 days; and some offshore ships were not able to work at all and eventually departed again without completing their projects.

The origins of the proposals:

4. The origins of the SeaCert proposals can be traced back to 19 October 2009 and the "IMO Steering Group inaugural meeting[6]" a gathering of 'industry members' (i.e. ship owners) and Maritime NZ/MOT staff. The NZ Merchant Service Guild was not invited to participate in this meeting and the main topic under discussion was how to remove the Maritime Transport Act's requirement for ship operators to comply with international conventions.

5. Beyond the secret 2009 "IMO Steering Group" meeting (of which the then Director later claimed no knowledge), Maritime NZ was already helping NZ ship owners to bend, 'misinterpret', or ignore national and international maritime rules. Just two examples of this are:

   • allowing the owner of *MV Anatoki* (a ship of over 500gt) to avoid the requirement to have foreign-going certificated crew by using ship length and not gross tonnage as per international rules, and then 'shortening' the vessel via holes drilled in the bow (some of which have since been blocked again). Then again allowing modification of *Anatoki,* using domestic rules (not international rules), so that now the "new" *Anatoki* can take even more cargo than the "old" *Anatoki.*

   • allowing the owner of *MV Pelican,* a SOLAS ship of more than 500 gt to continuously operate in New Zealand and overseas with lower crew qualifications than required for that vessel by national rules and international conventions.

The proposals:

6. Against this backdrop many in the industry found it unsurprising that MNZ's initial Qualifications and Operational Limits proposed framework released for consultation on 27 September 2010 were constructed around the use of STCW's 'sheltered waters' concept to avoid its coverage.

7. After Maritime NZ held public consultation meetings throughout the country, the expression 'sheltered waters' was removed from its proposals, purportedly because of 'lack of industry support'. However, this change was cosmetic only, and the intent behind the 'sheltered waters' proposal still lingers. A major example of this is:

   • the proposal to introduce inshore limits for the open ocean ports of Timaru and Taranaki. These ports currently have no such limits assigned to them as both harbours open immediately to coastal limits. This change will result in removing the application of STCW in two areas where it currently applies and is apparently the sole objective of the change. It is a change which is very

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[6] The minutes of this meeting are available on request

obviously designed to legitimise ongoing breaches of international conventions and Maritime NZ's unlawful Minimum Safe Crewing Documents.

- The introduction of new operating limits in these two ports will benefit only one ship, *MV Pelican*. Basically MNZ is spending taxpayers' money to benefit a solitary vessel.

- Retaining and expanding the current 'near coastal' operating limit out to the whole of New Zealand's Exclusive Economic Zone (EEZ) i.e. 200 nm (or 370 km), so that the 2010 amendments to STCW's Near Coastal provisions can be exploited to maximum advantage for New Zealand ship owners. But Maritime NZ's proposals on Near Coastal Waters will mean that all vessels of between 500 and 3000 gt operating anywhere in the EEZ can now be under the command of a person holding a NZ Offshore Master qualification (a qualification which does not currently permit its holder to hold *any* officer position on *any* ship of more than 500gt.)

From MNZ's Invitation to Comment on Part 32:

Master <500GT unlimited

This is a new certificate developed in response to seafarer feedback on NZOM STCW with unit standards 6912 and 6913. This new certificate aligns with STCW-10 requirements for *Master of a <500GT ship in the unlimited area* (STCW-10 regulations II/3 (2) and II/3 (7)), and aligns with the Australian *Master <500GT* certificate. It provides for privileges as Master or Chief Mate on ships of less than 500GT in any operating area. It can also be used for OOW on ships of any gross tonnage in any operating area and for Master or Chief Mate on ships <3000GT near-coastal area (see Appendix 1 for more detail).

8. Under the new amendments to STCW (Manila 2010), signatory states will have the power to recognise not only foreign-going qualifications, but also another state's domestic qualifications. The widening of the operating limits will mean that international seafarers holding very, very low domestic (overseas) qualifications will be able to come and to work in New Zealand waters.

9. Allowing persons holding NZOM certificates to be employed as junior officers on New Zealand and international ships will mean there will be no jobs for graduates or holders of a *Second Mate Foreign-going*[7] certificate (which is currently the internationally required entry level officer qualification on ships bigger than 500 gt.). Without jobs for holders of this certificate, an eventual shortage of Chief Officers and Masters is inevitable, leading to a further push for NZOM-holders to fill masters' and chief officers' positions on vessels of any size, or to bring chief officers and masters from overseas on work permits.

In general, the view expressed to the Guild by large numbers of its members, is that the SeaCert proposals are not in any conceivable way designed to raise standards or strengthen compliance with national and international rules, but are solely about lowering standards and compliance costs for NZ and overseas ship owners/operators (e.g. by removing the application of STCW where it currently applies). In our view they are also about making the law fit a culture of exemption and non-compliance. Even with the fallout from the *Rena* grounding still reverberating, Maritime NZ's SeaCert proposals demonstrate a continued willingness to subordinate such risks to the profits of New Zealand and overseas ship owners ■

Helen McAra, General Secretary, NZ Merchant Service Guild

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[7] "Second Mate Foreign-Going" is the title of the minimum ship's deck officer qualification for a ship bigger than 500 gt

Vessel name	Gross tonnage
MV Anatoki	550
MV Aratere	12596
MV Arahura	13621
MT Awanuia	2747
MV Golden Bay	3165
MV Kaitaki	22365
MT Kakariki	27795
MV Milburn Carrier II	6200
MV Pelican	942
MV Rangatira	520
MV Santa Regina	14588
MV Spirit of Endurance	7464
MV Spirit of Independence	6701
MV Straitsman	13906
MV Tangaroa	2291
MT Torea	25400
MV Westport	3091

Master on ships of less than 500GT unlimited

Short name	Master <500GT unlimited
Regulation	STCW-10 regulations II/3 (2) and II/3 (7)
Replaces	NZOM STCW with unit standards 6912 and 6913
Operational limit	Any operating limit
Privileges	• Master or Chief Mate • Ships of less than 500GT • Any operating area • Can also be OOW on ships of any GT in any operating area and Master or Chief Mate on ships <3000GT near-coastal
Minimum age	20 years of age
Minimum service	Duration: 36 months' seagoing service as Officer in charge of a navigational watch on ships >24m While holding: *Master <500GT near-coastal* or *OOW <500GT near-coastal* or *Skipper coastal/offshore <24m* Conditions; at least 12 months' seagoing service must be served while holding *Master <500 near-coastal* and at least 24 be months be served on ships on voyages of at least 24 hours duration *Or* Duration: 24 months' seagoing service in charge of a navigational watch on ships >24m at least 12 months of which must be served as *Chief mate* or *Master* While holding: *Master <500GT near-coastal*
Training and supplementary certificates	• Has met the standard of competence specified in section A-II/1 and the relevant sections of A-II/2 of the STCW Code • Completed the approved modules in command navigation, shipmasters business and management, and ship operations and administration • STCW Basic Training • STCW Advanced Fire Training • STCW training in medical care aboard a ship • Certificate of proficiency in survival craft and rescue boats • GMDSS General Radio Operators Certificate
Changes	This new certificate aligns with STCW -10 requirements for Master of a <500GT ship in the unlimited area, and aligns with the Australian Master <500GT certificate.
Career progression	It is possible with 36 months seagoing service as Master <500GT unlimited to progress to either Master <3000GT unlimited or, with 12 months seagoing service, to Chief Mate >3000GT unlimited