



**THE MARINE SAFETY CHARGES REGULATIONS 1990**

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PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 19th day of November 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to sections 375 and 376 of the Shipping and Seamen Act 1952, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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ANALYSIS

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REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Marine Safety Charges Regulations 1990.

(2) These regulations shall come into force on the 28th day after the date of their notification in the *Gazette*.

**2. Interpretation**—In these regulations, unless the context otherwise requires,—

“The Act” means the Shipping and Seamen Act 1952:

“Length” means overall length:

“New Zealand port” means any place appointed as a port of entry pursuant to section 26 of the Customs Act 1966; and includes any place within New Zealand waters where any ship is anchored or moored:

“New Zealand waters” means—

- (a) The territorial sea of New Zealand; and
- (b) The internal waters of New Zealand:

“Out of commission”, in relation to a ship, means—

- (a) Being moored in a New Zealand port and not engaged in its ordinary employment (which includes the loading or unloading of passengers or cargo for hire or reward); or
- (b) Being wrecked, stranded, or disabled while in a New Zealand port or on the New Zealand coast or while proceeding from one New Zealand port to another.

**3. Ships in respect of which marine safety charges are payable**—Except as provided in regulation 4 of these regulations and the Act, marine safety charges are payable in respect of every ship that enters or uses any New Zealand port.

**4. Exempted ships**—Marine safety charges are not payable in respect of any ship of any of the following classes:

- (a) Ships of less than 8 metres register length:
- (b) Ships that put in to any New Zealand port—
  - (i) By reason of stress or weather; or
  - (ii) By reason of or to repair damage,—
    - so long as no passenger permanently embarks or disembarks and no cargo (other than fuel or supplies intended for use on board) is loaded or permanently unloaded:
- (c) Ships that become liable for marine safety charges by reason only of their use in searching for or rendering emergency assistance to any person or ship:
- (d) Every ship that has a current certificate of survey that does not authorise the ship to ply beyond river limits.

**5. Persons liable to pay marine safety charges**—(1) Subject to subclause (2) of this regulation, each of the following persons shall be liable to pay marine safety charges in respect of any ship:

- (a) The master:
- (b) The owner:
- (c) The charterer:
- (d) The person responsible for the management of the ship:
- (e) Any agent of any of the persons specified in paragraphs (a) to (d) of this subclause who, by law or contract, is liable to pay any other charge on account of the ship.

(2) No person specified in subclause (1) of this regulation shall be liable to pay marine safety charges in respect of any ship where those charges have been paid by any other person.

**6. Rates of marine safety charges**—(1) Except where an election is made under subclause (2) of this regulation, marine safety charges shall be payable in respect of each 12-month period beginning with each 1st day of April, and shall be an amount calculated at the rate of—

(a) \$100, plus \$25 for each complete 2 metres of length in excess of 8 metres; or

(b) \$3.75 per gross ton,—  
whichever rate is the greater.

(2) Instead of paying marine safety charges on the basis specified in subclause (1) of this regulation, the owner of any foreign going ship may elect to pay marine safety charges on the following basis:

(a) On the first entry of the ship at a New Zealand port on a voyage from any place outside New Zealand, 15 cents per gross ton:

(b) On each subsequent entry at a New Zealand port where the previous port of call was a New Zealand port, 3.75 cents per gross ton.

(3) Where an owner elects to pay marine safety charges on the basis specified in subclause (2) of this regulation,—

(a) There shall be a minimum charge of \$100 in respect of any ship (irrespective of the number of ports of call involved); and

(b) The marine safety charges shall be paid before outward clearance of the ship from the last New Zealand port of call of the voyage to the Collector of Customs at that port, or to such other person as is nominated by the Secretary.

**7. Proportional payments for ships becoming liable to dues after start of 12-month period**—(1) Where, after the 1st day of April in any year, a ship becomes a ship in respect of which marine safety charges are required to be paid in accordance with these regulations, the amount of charges payable for the relevant 12-month period shall, subject to subclause (2) of this clause, be a reduced amount calculated in accordance with the following formula:

$$\frac{a \times b}{12}$$

where—

a is the amount that would be payable for a whole period of 12 months; and

b is the number of whole months remaining before the next 1st day of April from and including the date on which the ship becomes a ship in respect of which marine safety charges are required to be paid.

(2) The minimum amount payable under subclause (1) of this regulation shall be \$100.

**8. Refunds or waivers where ship out of commission, etc.**—(1) This regulation applies to ships for which marine safety charges have been paid or are payable under regulation 6 of these regulations.

(2) Where the Secretary is satisfied that a ship has, for a period of 3 consecutive months or more, been—

(a) Out of commission; or

(b) Laid up for survey or repairs; or

(c) Prevented from putting to sea due to an industrial dispute,—

the Secretary shall, on receipt of a written application, refund to the person who paid the charges the appropriate proportion of those charges, or, where the charges have not been paid, waive the appropriate proportion of the charges otherwise payable.

(3) Where the Secretary is satisfied that a ship has become a ship that is exempt from marine safety charges, the Secretary shall, on written application, refund to the person who paid the charges the appropriate portion of the charges, or waive payment of the appropriate portion of the charges.

(4) Where the Secretary is satisfied that a ship has not entered any New Zealand port during the 12-month period for which marine safety charges have been paid, the Secretary shall, on written application, refund those charges to the person who paid them.

(5) The Secretary shall not be obliged to make any refund or grant any waiver of marine safety charges unless written application for the refund or waiver is made within 12 months of the date by which payment of the charges would otherwise be due.

(6) Except in the case of a refund or waiver under subclause (2) of this regulation in respect of a full 12-month period, or a refund under subclause (4) of this regulation, no refund or waiver shall be granted if its effect would be to reduce the marine safety charges payable in respect of any ship to an amount of less than \$100.

**9. Goods and services tax excluded**—The amounts and the minimum amounts payable as marine safety charges under these regulations are exclusive of any goods and services tax payable under the Goods and Services Tax Act 1985.

**10. Revocation**—The Coastal Light Dues Order 1988\* is hereby revoked.

MARIE SHROFF,  
Clerk of the Executive Council.

\*S.R. 1988/56

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#### EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force 28 days after the date of their notification in the *Gazette*, prescribe the marine safety charges payable in respect of ships that enter or use any New Zealand port. The new charges replace coastal light dues.

In addition to the exemptions specified in regulation 4, pleasure yachts are exempted by virtue of section 376 (1) of the Shipping and Seamen Act 1952, and, by virtue of section 3 (2) of that Act, the regulations do not apply to any ship set aside for or being used by the Armed Forces of New Zealand or any other country.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 22 November 1990.

These regulations are administered in the Ministry of Transport.