



Marine Safety Charges Regulations 2000

Michael Hardie Boys, Governor-General

Order in Council

At Wellington this 11th day of December 2000

Present:

His Excellency the Governor-General in Council

Pursuant to section 191 of the Maritime Transport Act 1994, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

1	Title	9	Proportional payments for ships becoming liable for marine safety charges after start of 12-month period
2	Commencement	10	When marine safety charges payable
3	Interpretation	11	Collection of payments
4	Ships for which marine safety charges are payable	12	Refunds or waivers of marine safety charges
5	Exempt ships	13	Goods and service tax excluded
6	Persons liable to pay marine safety charges	14	Revocation
7	Rates of marine safety charges		
8	Rates of marine safety charges for chartered fishing vessels		

Regulations

- 1 Title**
 These regulations are the Marine Safety Charges Regulations 2000.

2 Commencement

- (1) Except as provided in subclause (2), these regulations come into force on 1 February 2001.
- (2) In relation to vessels under 8 metres in length and all vessels that operate exclusively in enclosed water limits, these regulations apply on and from 1 July 2002.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Maritime Transport Act 1994

chartered fishing vessel means a ship registered under the Fisheries Act 1983 with consent under section 57(8) of that Act

Director means the Director of Maritime Safety

enclosed water limits means—

- (a) the enclosed water limits set out in Appendix 1 of Part 20 of the Maritime Rules; and
- (b) all inland New Zealand waters

length means the length overall of a ship

New Zealand port means any place designated as a Customs port under section 9 of the Customs and Excise Act 1996; 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; and
- (c) all rivers and other inland waters of New Zealand

out of commission, in relation to a ship, means—

- (a) not being engaged in its ordinary employment (which includes the embarking or disembarking of passengers and the loading or unloading of 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 1 New Zealand port to another.

4 Ships for which marine safety charges are payable

Except as provided in regulation 5 and in the Act, marine safety charges are payable for—

- (a) every commercial ship that enters any New Zealand port or operates in New Zealand waters; and
- (b) every river raft that operates in New Zealand waters for hire or reward.

5 Exempt ships

Marine safety charges are not payable for any ship of any of the following classes:

- (a) as 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, ships that put in to any New Zealand port—
 - (i) by reason of stress of weather; or
 - (ii) by reason of, or to repair, damage:
- (b) 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.

6 Persons liable to pay marine safety charges

- (1) Each of the following persons are liable to pay marine safety charges for 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) who, by law or contract, is liable to pay any other charge on account of the ship.
- (2) No person stated in subclause (1) is liable to pay marine safety charges for any ship if those charges have been paid by another person.

7 Rates of marine safety charges

- (1) Unless an election is made under subclause (3) or regulation 8 applies, marine safety charges are payable in advance, for each 12-month period beginning on 1 July in any year, at whichever of the following rates is the greater:
 - (a) \$12.50 per complete metre of length; or
 - (b) \$3.75 per unit of gross tonnage.
- (2) For the purposes of subclause (1),—

- (a) the rate for ships less than 24 m in length must be calculated by length only;
 - (b) the rate for ships licensed to operate only in enclosed water limits is 45% of the rate calculated in accordance with subclause (1) or paragraph (a) of this subclause;
 - (c) gross tonnage, in the case of a tanker, does not include the tonnage of its segregated ballast tanks.
- (3) Instead of paying marine safety charges on the basis set out in subclause (1), 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, at 15 cents per unit of gross tonnage;
 - (b) on each subsequent entry at a New Zealand port if the previous port of call was a New Zealand port, at 3.75 cents per unit of gross tonnage.

8 Rates of marine safety charges for chartered fishing vessels

- (1) In the case of a chartered fishing vessel, marine safety charges are payable for every month or part of a month during which the vessel is or remains in operation in New Zealand waters.
- (2) The amount payable must be calculated at a monthly rate of one-twelfth of the greater of the rates calculated in accordance with regulation 7(1) or regulation 7(2).

9 Proportional payments for ships becoming liable for marine safety charges after start of 12-month period

- (1) If, after 1 July in any year, a ship becomes a ship for which marine safety charges are payable, the amount of charges payable for the relevant 12-month period must 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 1 July, from and including, the date on which the ship becomes a ship in respect of which marine safety charges are payable.

- (2) This regulation does not apply to any chartered fishing vessel.

10 When marine safety charges payable

The due date for payment of any marine safety charges payable to the Director in accordance with these regulations,—

- (a) in the case of annual or monthly payments, is the 20th day of the month after the invoice for the charge is issued; and
- (b) in the case of individual port visits, 7 days after the date the invoice for the charge is issued.

11 Collection of payments

Any marine safety charge that is payable in accordance with these regulations must be paid to the Director, the chief executive of the New Zealand Customs Service, or any other person appointed by the Director under section 193(1) of the Maritime Transport Act 1994.

12 Refunds or waivers of marine safety charges

- (1) This regulation applies to ships for which marine safety charges have been paid or are payable under regulation 7 or regulation 8.
- (2) The Director must, on receipt of a written application, refund to the person who paid the charges the appropriate proportion of those charges, or, if the charges have not been paid, waive the appropriate proportion of the charges otherwise payable if the Director 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.
- (3) If the Director is satisfied that a ship has become a ship that is exempt from marine safety charges, the Director must, on receipt of a 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) If the Director is satisfied that a ship has not operated in any New Zealand waters nor entered any New Zealand port during the 12-month period for which marine safety charges have

been paid, the Director must, on receipt of a written application, refund those charges to the person who paid them.

- (5) The Director is not obliged to make any refund or grant any waiver of marine safety charges unless a written application for the refund or waiver is made within 12 months of the date on which payment of the charges would otherwise be due.
- (6) The Director may waive any marine safety charge in whole or in part if the amount of the charge is less than the reasonable cost of recovering the charge.

13 Goods and service tax excluded

The amounts and the minimum amounts payable as marine safety charges under these regulations are exclusive of any goods and service tax.

14 Revocation

The Marine Safety Charges Regulations 1990 (SR 1990/335) are revoked.

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

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

These regulations, which come into force on 1 February 2001, replace the Marine Safety Charges Regulations 1990. The regulations prescribe the marine safety charges payable for ships that enter or use any New Zealand port, or operate in New Zealand waters.

In addition to the exemptions specified in *regulation 5*, pleasure craft are exempted by virtue of section 192(1) of the Maritime Transport Act 1994 and, by virtue of section 4(1) of that Act, the regulations do not apply to certain ships used by the New Zealand Defence Force or any other State, or the master or crew of those ships.

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These regulations are administered in the Ministry of Transport.
