



Maritime Levies Regulations 2016

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 30th day of May 2016

Present:

His Excellency the Governor-General in Council

These regulations are made under section 191 of the Maritime Transport Act 1994—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Transport made after complying with section 191(3A) of that Act.

Contents

	Page
1 Title	2
2 Commencement	2
3 Interpretation	2
4 Transitional, savings, and related provisions	5
5 Ships for which maritime levies are payable	5
6 Exempt ships	5
7 Persons liable to pay maritime levies	5
8 Rates of maritime levies for foreign ships	6
9 Rates of maritime levies for New Zealand ships	6
10 Rates of maritime levies for New Zealand commercial river rafts, New Zealand fishing ships, and other New Zealand commercial ships	6
11 Rates of maritime levies for chartered fishing vessels	7
12 Proportional payments for ships becoming liable for maritime levies after start of levy year	7

13	When maritime levies payable	7
14	Application to pay maritime levies by instalment	8
15	Granting of applications	8
16	When authorised instalments payable	8
17	Additional levies, fees, or charges incurred after grant of application not to be included in instalment payments	9
18	Collection of payments	9
19	Refunds or waivers of maritime levies	9
20	GST excluded	10
21	Revocation	10
	Schedule 1	10
	Transitional, savings, and related provisions	
	Schedule 2	10
	Levies	

Regulations

1 Title

These regulations are the Maritime Levies Regulations 2016.

2 Commencement

These regulations come into force on 1 July 2016.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Maritime Transport Act 1994

chartered fishing vessel means a ship licensed under Part 5 of the Fisheries Act 1996

deadweight means the difference in tonnes between the displacement of the ship in water of specific gravity of 1.025 at the load waterline corresponding to the assigned summer load line and the lightweight of the ship

Director means the Director of Maritime New Zealand

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

foreign commercial ship means a commercial ship that is not a New Zealand commercial ship

foreign non-passenger ship means a foreign commercial ship that is not a foreign passenger ship

foreign passenger ship means a foreign commercial ship that has a passenger capacity of more than 12 passengers

inshore limits means—

- (a) the inshore limits set out in Appendix 1 of Part 20 of the Maritime Rules; and
- (b) in relation to a ship, the limits within the territorial sea assigned to the ship by a surveyor under rule 20.20 of the Maritime Rules

International Tonnage Certificate, in relation to a New Zealand commercial ship, means the certificate issued under section 41 of the Act that certifies the gross tonnage of the ship

invoice means an invoice issued under regulation 13

levy year means the 12-month period beginning on 1 July in any year

lightweight means the displacement of a ship in tonnes without cargo, fuel, lubricating oil, ballast water, fresh water and feed water in tanks, consumable stores, and passengers and crew and their effects

Load Line Certificate means an International Load Line Certificate or International Load Line Exemption Certificate issued in accordance with the Load Lines Convention or the Maritime Rules

Load Lines Convention,—

- (a) in relation to a New Zealand commercial ship, means the International Convention on Load Lines, 1966 as described in the Schedule of the Maritime Transport Act (Conventions) Order 1994;
- (b) in relation to a foreign commercial ship, means that convention or the Protocol of 1988

New Zealand commercial ship—

- (a) means a commercial ship that is registered under the Ship Registration Act 1992; and
- (b) includes a commercial ship that is not registered under that Act but is required or entitled to be registered under that Act; and
- (c) includes a foreign-registered commercial ship on demise charter to a New Zealand-based operator to which section 198(1)(b) of the Maritime Transport Act 1994 applies

New Zealand fishing ship means a New Zealand commercial ship registered under section 103 of the Fisheries Act 1996

New Zealand non-passenger ship means a New Zealand commercial ship of 45 metres or more in length that proceeds beyond restricted limits, but does not include a New Zealand passenger ship or a New Zealand fishing ship

New Zealand passenger ship means a New Zealand commercial ship that has a passenger capacity of more than 12 passengers and that—

- (a) is 45 metres or more in length and proceeds beyond restricted limits; or
- (b) is engaged on an international voyage

New Zealand port means—

- (a) any place designated as a Customs port under section 9 of the Customs and Excise Act 1996;
- (b) 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) being incapable of operation as a result of being wrecked, stranded, or disabled while—
 - (i) in a New Zealand port; or
 - (ii) on the New Zealand coast; or
 - (iii) proceeding from one New Zealand port to another; or
- (b) being prohibited from operation by the Director exercising his or her powers under the Act; or
- (c) being prevented from operation by an employment relationship problem (for example, a strike or a lockout)

overall length has the same meaning as in section 2(1) of the Ship Registration Act 1992

passenger capacity, in relation to a foreign passenger ship or New Zealand passenger ship, means the maximum number of passengers that may be carried on a ship as set out in the relevant certificate

relevant certificate, in relation to a ship, means—

- (a) a Passenger Ship Safety Certificate and Record of Equipment issued in accordance with SOLAS;
- (b) a New Zealand Ship Safety Certificate and Record of Equipment issued under the Maritime Rules;
- (c) an equivalent certificate issued under the laws of the country where the ship is registered

restricted limits means—

- (a) enclosed water limits; and
- (b) inshore limits

SOLAS means the International Convention for the Safety of Life at Sea, 1974, and the protocols relating to that convention, and the annexes to that convention and to the protocols

summer load line means the mark on a ship that indicates the maximum depth to which the ship is permitted to be loaded in summer as described in the ship's Load Line Certificate.

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

5 Ships for which maritime levies are payable

Except as provided in regulation 6 and in the Act, maritime levies are payable for—

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

6 Exempt ships

(1) Maritime levies are not payable for any ship of any of the following classes:

- (a) ships that put in to any New Zealand port—
 - (i) because of stress of weather; or
 - (ii) because of, or to repair, damage:
- (b) ships used in searching for or rendering emergency assistance to any person or ship:
- (c) pleasure craft.

(2) However, the exemption specified in subclause 1(a) applies only if—

- (a) no passenger permanently embarks or disembarks; and
- (b) no cargo (other than fuel or supplies intended for use on board) is loaded or permanently unloaded.

7 Persons liable to pay maritime levies

(1) Each of the following persons is liable to pay maritime levies 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 levies, fees, or charges for the ship.

- (2) No person specified in subclause (1) is liable to pay a maritime levy for any ship if another person has paid that maritime levy.

8 Rates of maritime levies for foreign ships

The rates of the maritime levies payable for foreign ships for any levy year are specified in Part 1 of Schedule 2, and the maritime levies must be calculated,—

- (a) for a foreign non-passenger ship with a summer load line,—
- (i) in relation to the first New Zealand port that the ship visits on each voyage in any levy year, by multiplying the deadweight tonnage of the ship by the amount specified for that category in the first table; and
 - (ii) in relation to each New Zealand port that the ship subsequently visits on that voyage in that levy year, by multiplying the deadweight tonnage of the ship by the amount specified for that category in the first table:
- (b) for a foreign non-passenger ship without a summer load line,—
- (i) in relation to the first New Zealand port that the ship visits on each voyage in any levy year, by multiplying the deadweight tonnage of the ship by the amount specified for that category in the second table; and
 - (ii) in relation to each New Zealand port that the ship subsequently visits on that voyage in that levy year, by multiplying the deadweight tonnage of the ship by the amount specified for that category in the second table:
- (c) for a foreign passenger ship, by multiplying the passenger capacity of the ship by the amount specified in the third table.

9 Rates of maritime levies for New Zealand ships

The rates of the maritime levies payable for New Zealand ships for any levy year are specified in Part 2 of Schedule 2, and the maritime levies must be calculated,—

- (a) for a New Zealand non-passenger ship, by multiplying the deadweight tonnage of the ship by the amount specified for that category:
- (b) for a New Zealand passenger ship, by multiplying the passenger capacity of the ship by the amount specified for that category.

10 Rates of maritime levies for New Zealand commercial river rafts, New Zealand fishing ships, and other New Zealand commercial ships

- (1) The rates of the maritime levies payable for New Zealand commercial river rafts, New Zealand fishing ships, or other New Zealand commercial ships not referred to in regulation 9, for any levy year, are specified in Part 3 of Schedule 2, and the maritime levies must be calculated,—

- (a) for a New Zealand fishing ship, by multiplying the overall length of the ship in metres or the gross tonnage of the ship by the amount specified for that category, whichever produces the greater rate:
 - (b) for a New Zealand commercial river raft, by multiplying the overall length of the ship in metres or the gross tonnage of the ship by the amount specified for that category, whichever produces the greater rate:
 - (c) for any other New Zealand commercial ship, by multiplying the overall length of the ship in metres or the gross tonnage of the ship or the dead-weight tonnage of the ship by the amount specified for that category, whichever produces the greatest rate.
- (2) Maritime levies for New Zealand ships and vessels referred to in subclause (1) for which no international tonnage certificate is held must, in all cases, be calculated by reference to the overall length of the ship or vessel.

11 Rates of maritime levies for chartered fishing vessels

- (1) For a chartered fishing vessel, maritime levies 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 rate payable in accordance with regulation 10(1)(a).

12 Proportional payments for ships becoming liable for maritime levies after start of levy year

- (1) If, after 1 July in any levy year, a ship becomes a ship for which maritime levies are payable, the amount of maritime levies payable for the levy year must be a reduced amount calculated in accordance with the following formula:

$$(a \times b) \div 12$$

where—

- a is the amount that would be payable for the whole levy year; 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 maritime levies are payable.
- (2) This regulation—
- (a) applies to maritime levies that are payable on an annual basis; but
 - (b) does not apply to any chartered fishing vessel.

13 When maritime levies payable

The due date for payment of any maritime levy is,—

- (a) for annual or monthly payments, the 20th day of the month after the invoice for the maritime levy is issued; and

- (b) for individual port visits, 7 days after the date the invoice for the maritime levy is issued.

14 Application to pay maritime levies by instalment

- (1) This regulation applies to a person who, in the same levy year, is liable for—
 - (a) a maritime levy payable under these regulations; and
 - (b) an oil pollution levy payable under any other enactment; and
 - (c) a total amount payable that is not less than \$50,000.
- (2) If this regulation applies, the person may apply to the Director for authority to pay the maritime levy by monthly or quarterly instalments.
- (3) An application must be made no more than 10 days after the invoice for the most recent levy is issued.

15 Granting of applications

- (1) The Director must grant an application under regulation 14 unless—
 - (a) the Director is not satisfied that the applicant will pay the account in monthly or quarterly instalments; or
 - (b) the application is not made within the time specified in regulation 14(3); or
 - (c) the applicant has not paid an application fee of \$112.50 (inclusive of goods and services tax).
- (2) For the purposes of subclause (1)(a), the Director may consider the payment history of the applicant in relation to maritime levies and any other levies, fees, or charges previously incurred by the applicant under the Act or regulations made under the Act.

16 When authorised instalments payable

- (1) Despite regulation 13(a), an applicant who has been authorised under regulation 15 to pay a maritime levy by monthly instalments must—
 - (a) pay the maritime levy in 12 equal payments; and
 - (b) make the first and second payments on 20 August of the levy year in which the invoice for the maritime levy was issued; and
 - (c) make the remaining 10 payments on the first day of each succeeding month of the levy year in which the invoice for the maritime levy was issued.
- (2) Despite regulation 13(b), an applicant who has been authorised under regulation 15 to pay a maritime levy by quarterly instalments must—
 - (a) pay the maritime levy in 4 equal payments; and

- (b) make the payments on 30 September, 31 December, 31 March, and 30 June of the levy year in which the invoice for the maritime levy was issued.

17 Additional levies, fees, or charges incurred after grant of application not to be included in instalment payments

If a person who has been authorised under regulation 15 to pay a maritime levy by instalments becomes liable for additional levies, fees, or charges in the same levy year, the additional levies, fees, or charges must not be incorporated into the instalment payments in relation to that maritime levy.

18 Collection of payments

Any maritime levy that is payable under 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.

19 Refunds or waivers of maritime levies

- (1) This regulation applies to ships for which maritime levies have been paid or are payable under regulation 8, 9, 10, or 11.
- (2) The Director must, on receipt of a written application, refund to the person who paid the maritime levies the appropriate proportion of those maritime levies, or, if the maritime levies have not been paid, waive the appropriate proportion of the maritime levies 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.
- (3) If the Director is satisfied that a ship has become a ship that is exempt from maritime levies, the Director must, on receipt of a written application, refund to the person who paid the maritime levies the appropriate portion of the maritime levies, or waive payment of the appropriate portion of the maritime levies.
- (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 levy year for which maritime levies have been paid, the Director must, on receipt of a written application, refund those maritime levies to the person who paid them.
- (5) The Director is not obliged—
 - (a) to make any refund of maritime levies unless a written application for the refund is made within 12 months of the date on which payment of the maritime levies was made; or
 - (b) to grant any waiver of maritime levies unless a written application for the waiver is made within 12 months of the date on which payment of the maritime levies was due.

- (6) The Director may waive a maritime levy (in whole or in part) if the amount of the maritime levy is less than the reasonable cost of recovering it.

20 GST excluded

The amounts and the minimum amounts payable as maritime levies under these regulations are exclusive of any goods and services tax.

21 Revocation

The Marine Safety Charges Regulations 2000 (SR 2000/268) are revoked.

Schedule 1
Transitional, savings, and related provisions

r 4

Part 1
Provisions relating to these regulations as made

There are no transitional, savings, or related provisions relating to these regulations as made.

Schedule 2
Levies

rr 8, 9, 10

Part 1
Foreign ships

Foreign non-passenger ship with summer load line

Category	Rate per tonne (cents)
Deadweight tonne (first visit to New Zealand port)	11.08
Deadweight tonne (each subsequent visit to New Zealand port)	3.76

Foreign non-passenger ship without summer load line

Category	Rate per tonne (cents)
Deadweight tonne (first visit to New Zealand port)	15.35
Deadweight tonne (each subsequent visit to New Zealand port)	3.84

Foreign passenger ship

Category	Rate per passenger (\$)
Passenger	3.09

Part 2 New Zealand ships

Category	Rate per tonne or passenger (\$)
Deadweight tonne	2.46
Passenger	238.14

Part 3 New Zealand commercial river rafts, New Zealand fishing ships, and other New Zealand commercial ships

Category	Measurement unit	Rate per measurement unit (\$)
New Zealand fishing ship	Metre	13.70
New Zealand fishing ship	Gross tonne	4.11
Commercial river raft and other commercial ships	Metre	17.11
Commercial river raft and other commercial ships	Gross tonne	5.14
Other commercial ships	Deadweight tonne	2.62

Michael Webster,
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 July 2016, revoke and replace the Marine Safety Charges Regulations 2000. In doing so, these regulations replace marine safety charges with maritime levies, simplify the system for determining the amounts payable, and adjust the applicable levy rates to better reflect current costs.

Regulatory impact statement

The Ministry of Transport produced a regulatory impact statement on 10 March 2016 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <http://www.transport.govt.nz/assets/Uploads/About/Documents/Regulatory-Impact-Statement-Maritime-NZ-Mid-Point-Funding-Review-2015.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 2 June 2016.
These regulations are administered by the Ministry of Transport.