

Chair
Cabinet Legislation Committee

Maritime Funding Review 2019

Proposal

1. This paper seeks authorisation for submission to the Executive Council of the:
 - 1.1. Maritime Levies Amendment Regulations 2019
 - 1.2. Maritime Security (Charges) Amendment Regulations 2019
 - 1.3. Maritime (Charges) Amendment Regulations 2019
 - 1.4. Ship Registration (Fees) Amendment Regulations 2019

together referred to as the Amendment Regulations.

Executive Summary

2. Maritime New Zealand (Maritime NZ) is the national regulatory, compliance and response agency for safety, security and marine environment protection of coastal and inland waterways. Maritime NZ funds its regulatory and compliance activities mainly from the maritime levy on commercial ships and from fees, the rates of which are set in regulations and reviewed every six years (with the option of a further mid-point review three years in).
3. Maritime NZ has completed a review of its funding for the period of 2019 – 2024. The result is that Cabinet Economic Development Committee agreed on 3 April 2019 that the total forecast revenue from the maritime levy must increase by \$10 million a year from 2019/20 – 2021/22 and a further \$3 million a year from 2022/23 to 2024/25 [DEV-19-MIN-062 refers]. The increased funding is necessary in order for Maritime NZ to meet the costs of continuing to perform its current functions and activities and meet additional government and sector expectations.
4. Cabinet also agreed to a revised levy allocation methodology that addresses industry and Regulations Review Committee concerns that the rationale for the current methodology is not clear, consistent and transparent. The proposed methodology splits levy payers into five categories and allocates charges according to the value placed at risk for each category of vessel within Maritime NZ's jurisdiction.
5. Additional cost recovery changes agreed to by Cabinet following the funding review are:
 - 5.1. a single hourly rate of \$245 (GST inclusive) for work and services conducted under the three sets of fees and charges regulations. This would replace the multiple hourly rates that currently exist in the regulations and would

significantly improve the transparency of charging and reduces the administrative burden of multiple hourly rates for operators and Maritime NZ

- 5.2. a fixed fee of \$368 (GST inclusive) to replace existing seafarer certificate and endorsement fees (which currently range from \$467 to \$1,105), again reducing the administrative burden of multiple fees
 - 5.3. except for offshore installations, fees charged for routine maritime safety audits and inspections conducted in New Zealand (including the time and cost of any travel) and that do not require follow-up visits would be discontinued, which will reduce costs for many operators and incentivise positive engagement between regulated parties and Maritime NZ
 - 5.4. any seafarer certificate and endorsement fees not met by the new fees and all routine audit and inspection costs to be levy funded.
 - 5.5. the time and cost of any travel associated with conducting a feeable activity (except travel to an offshore installation or to an overseas location) would be levy-funded rather than recovered through fees.
6. The implementation of these policies requires amendments to the:
- 6.1. Maritime Levies Regulations 2016
 - 6.2. Maritime Security (Charges) Regulations 2016
 - 6.3. Ship Registration (Fees) Regulations 2013, and
 - 6.4. Shipping (Charges) Regulations 2014.¹
7. The Amendment Regulations will give effect to these decisions and come into force on 1 July 2019. No waiver of the 28-day rule is sought and no compliance issues have arisen.

Policy

8. Maritime NZ is the national regulatory, compliance and response agency for safety, security and marine environment protection of coastal and inland waterways. Its activities are funded by the Crown, levies on commercial ships, and fees for certification, approval, recognition, audit, inspection or other services.
9. Revenue to fund Maritime NZ's regulatory and compliance activities is derived mainly from the maritime levy on commercial ships and from fees, the rates for which are set in regulations and reviewed every six years (with the option of a further mid-point review three years in).
10. Maritime NZ has undertaken a review of its funding for 2019/20 through to 2024/25.

¹ The Shipping (Charges) Regulations 2014 will be amended by the Maritime (Charges) Amendment Regulations 2019. This is a consequence of an amendment to the name of the Shipping (Charges) Regulations 2014 to the Maritime (Charges) Regulations 2014.

11. Cabinet Economic Development Committee agreed on 3 April 2019 that, in order to cover planned activity over the next six years, meet business cost pressures, and replace fee revenue, the forecast total revenue from the maritime levy must increase by \$10 million a year for 2019/20 to 2021/22 and a further \$3 million a year from 2022/23 to 2024/25 [DEV-19-MIN-0062 refers]. The 2018/19 forecast total revenue from the maritime levy is \$22.4m.
12. The focus is to reinforce Maritime NZ's role as an effective regulator that has the resources and skills necessary to deliver strong, evidence-based, risk-focused safety policy and interventions. It will also help to reduce the regulatory and compliance burden and make it as easy as possible for maritime operators to meet their regulatory requirements.
13. The maritime levy and fee proposals agreed are based on a revised methodology for allocating the levy for different categories of ship, a modified approach to recovering seafarer certification and routine audit and inspection costs, and a simplified charging structure for chargeable activities.
14. The levy methodology also addresses industry and Regulations Review Committee concerns that the rationale for the current methodology is not clear, consistent and transparent.

A new methodology for determining the maritime levy

15. The maritime levy funds the provision of maritime safety services and other services, as well as regulatory services and activities that Maritime NZ and the Director of Maritime NZ undertake in the performance or exercise of functions, duties and powers under the Maritime Transport Act 1994 (the Act). Levies fund safety and regulatory services provided under the Act, apply regardless of whether a ship uses any such services, and may be varied based on the characteristics of ships.
16. A maritime levy must be paid for each commercial vessel, either annually or by the number of port visits, depending on whether the vessel is domestic or foreign. The current methodology for allocating the levy burden is based on eight categories of vessels and a revenue target which is the forecast average over three years.
17. The proposed method for generating the required maritime levy revenue distributes levy liability according to the value placed at risk for each category of vessel within Maritime NZ's jurisdiction. Levy liability allocation is based on a simplified structure of five categories of vessel.
18. The potential impact of something going wrong – the value placed at risk – is approximated for each vessel by its gross tonnage (or length for domestic vessels of less than 24 metres), passenger capacity (for any passenger vessels) and dead weight tonnage (for vessels carrying freight).
19. The share of the levy allocated to each of the five categories is shown in Table One.

Table One – Comparison of proposed and current levy impact on categories of levy payers

Levy paying category	Current Sector Share %	Current Sector Share \$ of \$22.4m	Proposed Sector Share %	Proposed Sector Share \$ of \$32.4m	Change in Sector Shares \$m
Domestic non-SOLAS <24m	4.00	1.017	2.92	0.947	+0.983
Domestic non-SOLAS 24m and over			3.25	1.053	
Domestic SOLAS²	5.00	1.118	4.78	1.547	+0.429
Foreign Passenger	23.00	5.100	22.34	7.239	+2.139
Foreign Cargo	68.00	15.150	66.71	21.621	+6.471
Total	100	22.4	100	32.40	+10.00

20. The proposed methodology is simple and consistent, and based on a clear measure of the value of what is placed at risk. It addresses the issues previously raised by complaints to the Regulations Review Committee about the maritime levy.
21. The main effect is that, while foreign cargo and cruise ship operators would pay the largest proportion of the levy, as they do now (although, percentage-wise, slightly less than they currently do), operators of domestic passenger vessels would pay a slightly larger share than they have in the past. However, domestic operators' costs will be offset by the fact that domestic operators will no longer pay audit fees and seafarer certification fees will be reduced.
22. For a small number of domestic passenger operators that have a high passenger capacity, levies will rise sharply due to the change in levy methodology. The increase is a product of correcting an anomaly in the existing levy methodology under which most domestic passenger vessels are levied on the basis of size, in contrast to interisland ferries and cruise ships, which are levied according to passenger capacity. Despite the levy increases seeming significant, they equate to no more than a few cents per passenger over the course of a year.
23. Tables Two and Three, below, show the maritime levy rates for the next six years.

Table Two – Maritime levy rates (2019/20 – 2021/2022)

2 SOLAS refers to the International Convention for the Safety of Life at Sea.

Frequency	Category	GT/Length	Pax Cap	DWT
Annual	Domestic non-SOLAS < 24m ¹	\$13.8886 (Length)	\$16.0538	\$0.00
	Domestic non-SOLAS 24m and over ²	\$7.5215 (GT)	\$16.0538	\$0.00
	Domestic SOLAS	\$7.1327 (GT)	\$42.7515	\$0.4216
Per Port	Foreign Non-Passenger	\$0.1078 (GT)	\$0.0000	\$0.0087
	Foreign Passenger	\$0.0836 (GT)	\$1.6848	\$0.0075

Table Three – Maritime levy rates (2022/23 – 2024/25)

Frequency	Category	GT/Length	Pax Cap	DWT
Annual	Domestic non-SOLAS < 24m	\$15.1746 (Length)	\$17.5403	\$0.00
	Domestic non-SOLAS 24m and over	\$8.2179 (GT)	\$17.5403	\$0.00
	Domestic SOLAS	\$7.7931 (GT)	\$46.71	\$0.4607
Per Port	Foreign Non-Passenger	\$0.1178 (GT)	\$0.00	\$0.0095
	Foreign Passenger	\$0.1004 (GT)	\$2.0248	\$0.0082

Proposed cost recovery changes

24. The remainder of changes agreed to by Cabinet [DEV-19-MIN-0062] are:

- 24.1. a single hourly rate of \$245 (GST incl) will replace multiple rates between \$235 and \$313, a significant improvement in transparency of charging and reducing the administrative burden of multiple levies for operators and Maritime NZ

Table Four – Revised hourly rate structure

Activity	Current office based hourly rate (GST inclusive)	Current offsite visit hourly rate (GST inclusive)	Proposed hourly rate (GST inclusive)
Work required for MOSS ³	\$231	303	\$245
Seafarer certificates and endorsements (this rate is used to set fixed fees)	\$221		
All other work or services	\$235	\$313	

³ The Maritime Operator Safety System (MOSS) requires commercial operators to operate under a Maritime Transport Operator Certificate issued by the Director.

- 24.2. a fixed fee of \$368 (GST incl) will replace existing seafarer certificate and endorsement fees (which range from \$467 to \$1,105), again a reduction in the administrative burden of multiple fees
- 24.3. charges for routine maritime safety audits and inspections of domestic maritime operators (including the time and cost of travel) will be discontinued, which will reduce costs for many operators and incentivise positive engagement between regulated parties and Maritime NZ (although, if follow-up visits are required – i.e. if compliance issues generate extra work – they will be charged at the hourly rate)
- 24.4. the time and cost of any travel associated with conducting a feeable activity, (except to an offshore installation or to an overseas location) would not be recovered through fees but would be levy funded
- 24.5. any seafarer certification fees not met by the new fees and all routine audit and inspection costs will be levy funded.

Domestic search and rescue vessels

25. Cabinet agreed that vessels used routinely for search and rescue and emergency assistance purposes should not be exempted from the levy. Instead, only vessels that become liable to the maritime levy because they entered New Zealand waters for the specific purpose of providing search and rescue or emergency assistance should be exempted [DEV-19-MIN-0062].

Vessels operated under the Health and Safety at Work (Adventure Activities) Regulations

26. Some domestic non-SOLAS <24m vessels currently regulated by Maritime NZ under the maritime rules are engaged in activities that could alternatively be regulated under the Health and Safety at Work (Adventure Activities) Regulations 2016. In that event, audits of operators' safety management systems would be carried out under the Regulations by independent, WorkSafe-recognised providers, rather than by Maritime NZ under the Maritime Transport Act and maritime rules. It would not be appropriate to continue to impose the maritime levy on such vessels when Maritime NZ no longer incurs costs associated under the Maritime Transport Act with maritime safety oversight of their operations. Maritime NZ would continue to be the designated regulator under the Health and Safety at Work Act for enforcement purposes
27. Cabinet agreed that the Maritime Levies Regulations 2016 should be amended to ensure that the maritime levy will not apply to any vessel that is regulated under the Health and Safety at Work (Adventure Activities) Regulations 2016 [DEV-19-MIN-0062].

Ship registration fees

28. Maritime NZ operates the New Zealand Ship Register under the Ship Registration Act 1992, with fees for registration services set by the Ship Registration (Fees) Regulations 2013. A redesign of registration processes, with an emphasis on electronic processes, has produced significant efficiencies. As a result, based on the

new \$245 hourly rate for fees, most ship registration fees (all of which are a fixed fee) can be reduced, some by as much as 50 percent.

Maritime security fees

29. Maritime NZ is the designated authority responsible for implementation of the Maritime Security Act 2004. Fees for the performance of maritime security work and services are specified in the Maritime Security (Charges) Regulations 2016. Applying the new \$245 hourly rate for fees requires changes to those regulations.

Legislative Implications

30. The following regulations will need to be amended to provide for the changes to maritime funding regime described in this paper:
 - 30.1. Maritime Levies Regulations 2016
 - 30.2. Maritime Security (Charges) Regulations 2016
 - 30.3. Ship Registration (Fees) Regulations 2013, and
 - 30.4. Shipping (Charges) Regulations 2014.
31. The Amendment Regulations give effect to the policy proposals by:
 - 31.1. implementing the revised methodology for the maritime levy
 - 31.2. implementing a single hourly rate that is applied to all feeable work and services
 - 31.3. implementing a single fixed fee for seafarer certificate and endorsement fees
 - 31.4. discontinuing charges for routine audit and inspection of domestic maritime operators (including the time and cost of any travel)
 - 31.5. discontinuing cost recovery of the time and cost of any travel associated with conducting a feeable activity (except to an offshore installation or to an overseas location)
 - 31.6. simplifying the structure for chargeable activities
 - 31.7. exempting vessels used for search and rescue or emergency assistance from the maritime levy only if they become liable for the levy because they entered New Zealand waters for the specific purpose of providing search and rescue or emergency assistance
 - 31.8. ensuring that the maritime levy will not apply to any vessel that is regulated under the Health and Safety at Work (Adventure Activities) Regulations 2016.
32. The Amendment Regulations are consistent with the policy intent agreed to by Cabinet Economic Development Committee on 3 April 2019 [DEV-19-MIN-0062], which is to ensure Maritime NZ's regulatory and compliance activities are suitably

funded and the basis on which the cost of those activities is recovered from the maritime sector is clear, consistent and transparent.

Timing and 28-day rule

33. The Amendment Regulations have a proposed in-force date of 1 July 2019. No waiver of the 28-day rule is sought.

Compliance

34. The Amendment Regulations comply with each of the following:
- 34.1. the principles of the Treaty of Waitangi
 - 34.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
 - 34.3. the principles and guidelines set out in the Privacy Act 1993
 - 34.4. relevant international standards and obligations
 - 34.5. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

35. There are no grounds for the Regulations Review Committee to draw the Amendment Regulations to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

36. The Parliamentary Counsel Office has certified the Amendment Regulations as being in order for submission to Cabinet.

Impact Analysis

37. Maritime NZ completed a Cost Recovery Impact Statement (CRIS).
38. The CRIS and associated supporting material has been assessed by the Ministry of Transport RIS Panel, and assessed as meeting the quality assurance criteria. The paper thoroughly details the reasoning for the proposed funding changes.

Publicity

39. The Amendment Regulations will be published in the *New Zealand Gazette*.

Proactive release

40. I intend to pro-actively release this Cabinet paper shortly after decisions are made on this paper. Release will be subject to appropriate redactions.

Consultation

41. The Ministry of Transport consulted the following agencies in drafting this paper: Maritime NZ, the Ministry of Business, Innovation and Employment, WorkSafe New Zealand, the New Zealand Customs Service, the Ministry for Primary Industries, the Ministry of Foreign Affairs and Trade, the Ministry for the Environment, the Treasury, and the Parliamentary Counsel Office. The Department of the Prime Minister and Cabinet has been informed.

Recommendations

42. I recommend that the Cabinet Legislation Committee:
1. **note** that on 3 April 2019 the Cabinet Economic Development Committee agreed to implement levy and fee changes proposed by the Maritime Funding Review [DEV-19-MIN-0062]
 2. **note** that the:
 - Maritime Levies Amendment Regulations 2019
 - Maritime Security (Charges) Amendment Regulations 2019
 - Ship Registration (Fees) Amendment Regulations 2019, and
 - Maritime (Charges) Amendment Regulations 2019will give effect to the decision referred to in paragraph 1 above;
 3. **authorise** the submission to the Executive Council of the:
 - Maritime Levies Amendment Regulations 2019
 - Maritime Security (Charges) Amendment Regulations 2019
 - Ship Registration (Fees) Amendment Regulations 2019, and
 - Maritime (Charges) Amendment Regulations 2019.
 4. **note** that the regulations listed in paragraph 3 will come into force on 1 July 2019.

Authorised for lodgement

Hon Phil Twyford
Minister of Transport