Marine Legislation Bill 2012

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by John McSoriley BA LL.B, Barrister Legislative Analyst
P: (04) 817-9626 (Ext. 9626)

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Purpose

The aim of this Bill, which is an omnibus Bill, is to amend the Maritime Transport Act 1994 (the MTA) and the Exclusive Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ Act).

Background

Maritime Transport Act 1994

The Bill amends the MTA to make:

- changes relating to port and harbour safety, including the transfer of provisions from the Local Government Act 1974 to the MTA regarding local regulation of navigation safety;

- amendments to enable New Zealand to accede to three international maritime conventions,
  - the Convention on the Limitation of Liability for Maritime Claims (LLMC Convention),
  - the Convention on the Limitation of Liability for Maritime Claims (1976),
  - the LLMC Convention as amended by the Protocol of 1996 to the Convention (LLMC Protocol) (see Schedules 8 and 9 (Schedule 1, inserting new schedules 8 and 9 into the MTA);

- amendments implementing changes to another international maritime convention to which New Zealand is a party;

- changes relating to the making of maritime and marine protection rules; and
• other miscellaneous amendments\(^1\).

**Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012**

This Bill amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ Act) in order to transfer from Maritime New Zealand (MNZ) to the Environmental Protection Authority (EPA) the regulation of:

• discharges of production and displacement water, and offshore processing drainage;
• discharges of chemicals involved in drilling, production, and maintenance activities;
• discharges of oily waste and garbage from offshore installations;
• discharges from production facilities on board mineral mining ships; and
• dumping of waste (except emergency dumping)\(^2\).

Two further international conventions are added to the Act: the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) and the Convention on the Prevention of Marine Pollution by Dumping Wastes and Other Matter, 1972 (the London Convention).

*There are many amendments made to the Acts. The following appear to be the more noteworthy.*

**Main Provisions**

**Maritime Transport Act 1994**

Regional regulation of maritime safety and maritime-related activities

The Bill provides for the responsibility of regional councils to regulate maritime safety and maritime-related activities in their regions. Many of the provisions are derived from Parts 39A and 43 of the Local Government Act 1974. Regional Councils must appoint suitably qualified harbourmasters for ports and harbours that require harbourmasters and the duties and functions of harbourmasters are prescribed. The powers of enforcement officers, Police, and authorised regional council officials in relation to maritime safety and maritime-related activities in the regions are set out. Specific provision is made for powers of entry to ships, buildings, and other places. Regional councils are given powers to erect, place, and maintain navigation aids, and to remove obstructions and impediments to navigation. Regional council and the Director are empowered to remove or require the removal of wrecks in the regional waters. The responsibilities of port operators to ensure that port operations do not endanger maritime safety are set out. Offences in relation to dangerous activities at ports or port facilities are provided for (Part 1, Clause 6, inserting New Part 3A into the MTA, New Sections 33A-33S).

**Regulation of alcohol consumption by seafarers**

The Bill provides that seafarers who perform certain duties while exceeding specified alcohol limits commit an offence carrying maximum penalties of 12 months imprisonment or a fine not exceeding $10,000. Other offences are created such as failing or refusing to remain at a specified place or to accompany an enforcement officer or failing or refusing to permit a blood specimen to be taken when required to do so. These carry the same penalties. The Bill specifies the defences that are and are not available in certain proceedings. Provision is made for breath and blood testing and a power to stop

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\(^2\) Ibid., p. 7.
and board ships is provided as is a power for the arrest of seafarers for certain alcohol-related offences (Part 1, Clause 11, inserting New Part 4A, New Sections 40A-40W).

Operation of a ship

The Bill creates offences and prescribes penalties for overloading a ship, causing a ship to be overloaded, operating an overloaded ship, operating a ship without the required number of personnel, operating a ship outside its prescribed operating limits, and breaching a requirement in the Act, or in regulations or rules, relating to the carriage of dangerous goods (Part 1, Clause 19, inserting New Sections 67A and 67B).

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

International obligations

The Bill adds to two further conventions to this Act, namely the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) and the Convention on the Prevention of Marine Pollution by Dumping Wastes and Other Matter, 1972 (the London Convention) (Part 2, Clause 93, amending Section 11).

Discharges and dumping

The Bill makes new provision in relation to discharges and dumping. In particular, it:

- restricts the discharge of harmful substances (a term to be defined in regulations);
- prohibits the dumping of radioactive waste or other radioactive matter;
- prohibits the dumping of toxic or hazardous waste (also to be defined in regulations);
- restricts the dumping of other waste or other matter;
- prohibits the incineration at sea of waste or other matter;
- restricts burial at sea (Part 2, Clause 96 substituting Part 2 of the Act, substituted Sections 20-26).

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