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Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The main aims of the Bill in relation to the Maritime Transport Act 1994 (the MTA) are 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;

- ensure that New Zealand continues to act consistency with two international conventions to which it is party: MARPOL and the London Convention (the International Convention for the Prevention of Pollution from Ships (1973) as modified by the Protocol of 1978; and the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping Wastes and Other Matters (1972)) (see Schedules 8 and 9 (Schedule 1, inserting new schedules 8 and 9 into the MTA);

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

- make amendments relating to the making of maritime and marine protection rules; and

- make amendments in relation to other miscellaneous matters.

The main aim of the Bill in relation to the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ Act) is 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).

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).

The Bill as introduced is described in Bills Digest No 1995.

Main changes

Maritime Transport Act 1994

Regional councils to regulate maritime safety and maritime-related activities

The Bill as introduced makes regional councils responsible for the regulation of 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 of Maritime New Zealand 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).

The bar-2 Bill amends the Bill in the following manner:

- it is provided that only “commercial ports” are regulated under the Act and that term is defined as a port operated by a port company” or “any port that services commercial ships (whether or not it also services ships that are not commercial ships” (this makes it clear that the regulatory power relates to ports that service recreational craft provided the port also services commercial ships (amending New Section 33B by deleting the definitions of “port” and “port facility”, and inserting definitions of “commercial port” and “port company”);

- the exercise of the new power of regional councils to regulate ports is made discretionary rather than “must take all reasonable and practical steps”) and this sort of discretionary approach is also related to the appointment of harbourmasters and amendments are made to prevent such powers of appointment and to make (or delegate the power to make) bylaws from being transferred from a regional council to a council-controlled organisation or a port operator (amending New Sections 33C and 33D; amending New Section 33S);

- regional councils the power to remove abandoned ships that may become a hazard or impediment to port operations but are not necessarily a hazard to navigation (substituting New Section 33L; cf. New Sections 33J and 33K);

Operation of ships

Instead of specifying an offence and prescribing a penalty for overloading a ship, the bar-2 Bill requires that a ship’s load lines not to be submerged when the ship proceeds to sea, is at sea, or
arrives in port and provides for an appropriate offence and for appropriate penalties (Part 1, Part 4A, Clause 19, amending New Section 67A).

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

Offences and defences

The Bar-2 Bill provides for an offence relating to the disposal of human remains (which expression does not include “human remains that are ashes resulting from the cremation of human remains”) in the exclusive economic zone, or on the continental shelf (Part 2, Clause 96, inserting New Part 2, (“Duties, restrictions, and prohibitions”) into the Act, New Section 24H). The Bar-2 Bill further provides that the following persons each commit an offence if human remains are disposed of in breach of in breach of New Section 24H:

- the owner and master of a ship, if the remains are disposed of from the ship;
- the person in possession of, and the owner of, an aircraft, if the remains are disposed of from the aircraft;
- the owner of a structure, if the remains are disposed of from the structure (Part 2, Clause 108, inserting new subsection (5) into New Section 134D).