

Maritime Transport Amendment Act 2004

Public Act 2004 No 98
Date of assent 30 November 2004

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Maritime Transport Amendment Act 2004.
- (2) In this Act, the Maritime Transport Act 1994 is called “the principal Act”.

2 Commencement

- (1) Section 11 comes into force on 1 July 2005.
- (2) The rest of this Act comes into force on 1 December 2004.

3 Interpretation

- (1) Section 2(1) of the principal Act is amended by repealing the definitions of **Minister** and **Ministry**.
- (2) Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or the relevant Part or provision of this Act

“**Ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

“**Secretary** means the chief executive of the Ministry”.

4 New sections 5 and 5A substituted

The principal Act is amended by repealing section 5, and substituting the following sections:

“5 Objectives of Minister

The objectives of the Minister under this Act are—

- “(a) to undertake the Minister’s functions in a way that contributes to an integrated, safe, responsive, and sustainable transport system; and
- “(b) to ensure that New Zealand’s obligations under the conventions are implemented.

“5A Functions of Minister

The functions of the Minister under this Act are—

- “(a) to promote safety in maritime transport:
- “(b) to promote protection of the marine environment:
- “(c) to administer New Zealand’s participation in the conventions and any other international maritime or marine protection convention, agreement, or understanding to which the Government of New Zealand is a party:
- “(d) to ensure New Zealand’s preparedness for, and ability to respond to, marine oil pollution spills:
- “(e) to make maritime rules and marine protection rules under this Act.”

5 Maritime rules relating to other matters

Section 36(1) is amended by repealing paragraph (v), and substituting the following paragraphs:

- “(v) assisting maritime safety and security, including (but not limited to) personal security:
- “(w) assisting economic development:
- “(x) improving access and mobility:
- “(y) protecting and promoting public health:
- “(z) ensuring environmental sustainability:
- “(za) any matter related, or reasonably incidental, to any of the following:
 - “(i) the Minister’s objectives under section 5:
 - “(ii) the Minister’s functions under section 5A:
 - “(iii) the Authority’s objective under section 430:
 - “(iv) the Authority’s functions under section 431:
 - “(v) the Director’s functions under section 439:
- “(zb) any other matter contemplated by a provision of this Act.”

6 Matters to be taken into account in making maritime rules

Section 39(2) of the principal Act is amended by repealing paragraphs (e) and (f), and substituting the following paragraphs:

- “(e) the need to maintain and improve maritime safety and security, including (but not limited to) personal security:
- “(f) whether the proposed rule—
 - “(i) assists economic development:

- “(ii) improves access and mobility:
 - “(iii) promotes and protects public health:
 - “(iv) ensures environmental sustainability:
- “(fa) the costs of implementing measures for which the rule is being proposed:”.

7 Matters to be taken into account in making marine protection rules

- (1) Section 392 of the principal Act is amended by repealing paragraph (a), and substituting the following paragraphs:
- “(a) the need to—
 - “(i) protect the marine environment:
 - “(ii) maintain and improve maritime safety:
 - “(ab) whether the proposed rule—
 - “(i) assists economic development:
 - “(ii) improves access and mobility:
 - “(iii) promotes and protects public health:
 - “(iv) ensures environmental sustainability:”.
- (2) Section 392 of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:
- “(c) the costs of implementing measures for which the rule is being proposed:”.

8 New section 430 substituted

The principal Act is amended by repealing section 430, and substituting the following section:

“430 Objective of Authority

The objective of the Authority is to undertake its safety, security, marine protection, and other functions in a way that contributes to the aim of achieving an integrated, safe, responsive, and sustainable transport system.”

9 Functions of Authority

- (1) Section 431(1) of the principal Act is amended by omitting the words “In the furtherance of its principal objective, the Authority shall also have the following functions:”, and substituting the words “The Authority has the following functions:”.

- (2) Section 431(1) of the principal Act is amended by repealing paragraphs (a) to (d), and substituting the following paragraphs:
- “(a) to promote maritime safety and security, and protection of the marine environment in New Zealand:
 - “(b) to promote maritime safety and security, and protection of the marine environment beyond New Zealand in accordance with New Zealand’s international obligations:”.
- (3) Section 431(1) of the principal Act is amended by repealing paragraph (i), and substituting the following paragraphs:
- “(i) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the Minister and the Authority are satisfied that the performance of the Authority’s functions and duties will not be compromised:
 - “(ia) to provide information and advice with respect to maritime transport and marine protection, and to foster appropriate information education programmes with respect to maritime transport and marine protection, that promote its objective:”.
- (4) Section 431 of the Maritime Transport Act 1994 is amended by adding the following subsection:
- “(3) The Authority must, if directed by the Minister under section 14C of the Civil Aviation Act 1990, do any or all of the following:
 - “(a) maintain and operate the search and rescue co-ordination centre established under section 14B(1)(a) of the Civil Aviation Act 1990:
 - “(b) co-ordinate, or participate in the co-ordination of, any search and rescue operation specified in section 14B(1)(a) of the Civil Aviation Act 1990:
 - “(c) perform, or participate in the performance of, any search and rescue operation specified in section 14B(1)(a) of the Civil Aviation Act 1990:
 - “(d) exercise any or all of the powers of the Minister under section 14B(1)(b) and (c) and section 14B(2) of the Civil Aviation Act 1990.”

10 Director of Maritime Safety

Section 439 of the principal Act is amended by inserting, after subsection (3)(b), the word “; and” and the following paragraphs:

- “(c) monitor adherence, within the maritime transport system, to any regulatory requirements relating to—
 - “(i) safety and security, including (but not limited to) personal security:
 - “(ii) access and mobility:
 - “(iii) public health:
 - “(iv) environmental sustainability:
 - “(v) any other matter; and
- “(d) ensure regular reviews of the maritime transport system to promote the improvement and development of its safety and security; and
- “(e) promote compliance with safety and maritime pollution standards in the maritime transport system.”

11 Transitional provisions relating to references to Maritime Safety Authority and Director of Maritime Safety

- (1) Unless the context otherwise requires, in any enactment, agreement, deed, instrument, application, or notice, or in any other document in force immediately before the commencement of this section,—
 - (a) every reference to the Maritime Safety Authority is, on and after that commencement, to be read as a reference to Maritime New Zealand:
 - (b) every reference to the Director of Maritime Safety is, on and after that commencement, to be read as a reference to the Director of Maritime New Zealand.
- (2) The principal Act is amended in the manner indicated in Part 1 of the Schedule.
- (3) The Acts specified in Part 2 of the Schedule are amended in the manner indicated in that Part.
- (4) The regulations specified in Part 3 of the Schedule are amended in the manner indicated in that Part.

12 Transitional provisions relating to rules

- (1) Nothing in this Act affects the validity of a rule that—

- (a) was in force immediately before the commencement of this Act; or
 - (b) has been made but is to come into force after the commencement of this Act.
- (2) If a notice to make a rule has been published under section 446(a) of the principal Act as in force immediately before the commencement of this Act, but has not been made before that commencement,—
- (a) the proposed rule may be made in accordance with the law in force immediately before that commencement; or
 - (b) if the Minister so directs, a new rule may be prepared, notified, and made in accordance with the law in force on the commencement of this Act.

Schedule Enactments amended

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1

Technical amendments to the principal Act

Section 2(1)

Repeal the definition of **Authority** and substitute:

“**Authority** means the authority continued by section 429.”

Omit from the definition of Director the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Part 5 heading

Omit the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Section 282

Repeal subsection (3)(g) and substitute:

“(g) Maritime New Zealand.”

Section 319

Omit from subsection (3) the words “Maritime Safety”.

1—*continued*

Part 29 heading

Omit the words “Safety Authority or”.

Heading to section 429

Omit the words “Safety Authority or”.

Section 429

Omit from subsection (1) the words “Safety Authority of”.

Heading to section 438

Insert, after the words “Maritime Safety Authority”, the words “and Maritime New Zealand”.

Section 438(1)

Insert, after the words “Maritime Safety Authority”, the words “or Maritime New Zealand”.

Heading to section 439

Omit the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Section 439(1)

Omit the word “Safety” and substitute the words “New Zealand”.

Heading to section 440

Omit the word “Safety” and substitute the words “New Zealand”.

Heading to Schedule 1

Omit the words “Safety Authority of”.

Schedule 2

Omit from clause 17 the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

2

Amendments to Acts

Civil Aviation Act 1990 (1990 No 98)

Omit from section 14C the words “Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Health and Safety in Employment Act 1992 (1992 No 96)

Omit from section 54(3) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Local Government Act 1974 (1974 No 66)

Repeal the definition of **Director of Maritime Safety** in section 2(1) and substitute:

“**Director of Maritime New Zealand** means the person for the time being holding the office of Director of Maritime New Zealand under section 439 of the Maritime Transport Act 1994”

Repeal the definition of **Maritime Safety Authority** in section 2(1) and substitute:

“**Maritime New Zealand** means the authority continued by section 429 of the Maritime Transport Act 1994.”

Omit from section 650H the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Omit from section 650H the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Omit from section 684F the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Ombudsmen Act 1975 (1975 No 9)

Omit from Part 2 of Schedule 1 the item “The Maritime Safety Authority of New Zealand”.

Insert in Part 2 of Schedule 1, in its appropriate alphabetical order, the item “Maritime New Zealand”.

Public Finance Act 1989 (1989 No 44)

Omit from Schedules 4, 5, and 6, the item “Maritime Safety Authority of New Zealand”.

2—continued

Insert in Schedules 4, 5, and 6, in its appropriate alphabetical order, the item “Maritime New Zealand”.

Resource Management Act 1991 (1991 No 69)

Repeal the definition of **Director of Maritime Safety** or **Director** in section 2(1) and substitute:

“**Director of Maritime New Zealand** or **Director** means the person for the time being holding the office of Director of Maritime New Zealand under section 439 of the Maritime Transport Act 1994”

Repeal the definition of **Maritime Safety Authority of New Zealand** in section 2(1) and substitute:

“**Maritime New Zealand** means the authority continued by section 429 of the Maritime Transport Act 1994”

Omit from section 38(1)(b) the words “the Maritime Safety Authority of New Zealand” and substitute the words “Maritime New Zealand”.

Omit from section 138A(6) the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Omit from section 325B(1)(a) and (2) the words “Maritime Safety” and substitute in each case the words “Maritime New Zealand”.

Omit from section 360(1)(he) the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Ship Registration Act 1992 (1992 No 89)

Omit from the definition of **Director** in section 2(1) the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Submarine Cables and Pipelines Protection Act 1996 (1996 No 22)

Omit from the definition of **Director** in section 2 the words “Maritime Safety” and substitute the words “Maritime New Zealand”

*2—continued***Transport Accident Investigation Commission Act 1990 (1990 No 99)**

Repeal the definition of **Maritime Safety Authority** in section 2 and substitute in its appropriate alphabetical order:

“**Maritime New Zealand** means the authority continued by section 429 of the Maritime Transport Act 1994”

Omit from section 8(2)(f) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Omit from section 9(1)(c) the words “The Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Omit from section 10 the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Omit from section 13(7) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Omit from section 14(3) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

3

Amendments to regulations

Fisheries (Commercial Fishing) Regulations 2001 (SR 2001/253)

Omit from the definition of **New Zealand authorities** in regulation 3 the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90)

Omit from regulation 5(2)(b)(i) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Omit from regulation 8(4)(a) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Marine Protection (Offences) Regulations 1998 (SR 1998/205)

Omit from the Marine Protection Infringement Offence Notice in Schedule 2 the words “Director of Maritime Safety” in both places

3—continued

where they appear and substitute in each case the words “Director of Maritime New Zealand”.

Omit from the Marine Protection Infringement Offence Notice in Schedule 2 the words “Maritime Safety Authority of New Zealand” and substitute the words “Maritime New Zealand”.

Omit from the Marine Protection Infringement Offence Notice in Schedule 2 the words “the Maritime Safety Authority of New Zealand” and substitute the words “Maritime New Zealand”.

Marine Safety Charges Regulations 2000 (SR 2000/268)

Omit from the definition of Director in regulation 3 the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Maritime (Offences) Regulations 1998 (1998 No 444)

Omit from the Maritime Infringement Offence Notice in Schedule 2 the words “Director of Maritime Safety” in both places where they appear and substitute in each case the words “Director of Maritime New Zealand”.

Omit from the Maritime Infringement Offence Notice in Schedule 2 the words “Maritime Safety Authority of New Zealand” and substitute the words “Maritime New Zealand”.

Omit from the Maritime Infringement Offence Notice in Schedule 2 the words “the Maritime Safety Authority of New Zealand” and substitute the words “Maritime New Zealand”.

Maritime Security (Designated Authority) Order 2004 (SR 2004/94)

Omit from clause 3 the words “The Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Maritime Transport (Fund Convention) Levies Order 1996 (SR 1996/337)

Omit from clause 7(1) and (2) the words “Maritime Safety” and substitute in each case the words “Maritime New Zealand”.

3—*continued***Maritime Transport (Infringement Fees for Offences Relating to Major Maritime Events) Regulations 1999 (SR 1999/243)**

Omit from the Maritime Transport Infringement Offence Notice in the Schedule the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Oil Pollution Levies Order 1998 (SR 1998/356)

Omit from the definition of Director in clause 2(1) the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Resource Management (Marine Pollution) Regulations 1998 (SR 1998/208)

Omit from regulation 7(2) the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Ship Registration (Fees) Regulations 1992 (SR 1992/298)

Omit from the definition of Director in regulation 2 the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Shipping (Charges) Regulations 2000 (SR 2000/269)

Revoke the definition of **Authority** in regulation 3 and substitute: “**Authority** means Maritime New Zealand.”

Omit from the definition of **Director** in regulation 3 the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Omit from the heading to Schedule 1 the words “Safety Authority of”.

Legislative history

16 November 2004

Divided from Transport Legislation Bill (Bill 172-2) as Bill 172-3D

30 November 2004

Third reading
