

Maritime Transport Amendment Act (No 2) 2005

Public Act 2005 No 108
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The Parliament of New Zealand enacts as follows:

- 1 Title**
(1) This Act is the Maritime Transport Amendment Act (No 2) 2005.

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

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Interpretation

Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**demise charter** has the same meaning as in section 2(1) of the Ship Registration Act 1992

“**New Zealand-based operator** means—

- “(a) a New Zealand national who is ordinarily resident or carries on business in New Zealand; or
- “(b) a New Zealand national who is ordinarily resident in New Zealand and any other person where the New Zealand national is in a position to control the exercise of the rights and powers of the charterers under the charterparty

“**New Zealand national** has the same meaning as in section 2(1) of the Ship Registration Act 1992”.

4 New section 4A inserted

The principal Act is amended by inserting, after section 4, the following section:

“4A Application of Parts 3 and 5

Parts 3 and 5 apply, subject to section 42, with all necessary modifications, to each ship that carries coastal cargo under section 198(1)(b) as if that ship were a New Zealand ship.”

5 Criteria for action under section 43 or section 44

Section 49 of the principal Act is amended by repealing subsection (7), and substituting the following subsection:

- “(7) If the Director determines not to disclose any information in reliance on subsection (6), the Director must inform the person of the fact of non-disclosure and the following provisions apply:

- “(a) in the case of non-disclosure to an individual of information about the individual,—
 - “(i) the Director must inform the individual that he or she may, under the Privacy Act 1993, complain to the Privacy Commissioner about that non-disclosure; and
 - “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 27(1)(d) of that Act; and
- “(b) in any other case,—
 - “(i) the Director must inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and
 - “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 6(d) of that Act.”

6 Criteria for fit and proper person

Section 50 of the principal Act is amended by repealing subsection (7), and substituting the following subsection:

- “(7) If the Director determines not to disclose any information in reliance on subsection (6), the Director must inform the person of the fact of non-disclosure and the following provisions apply:
 - “(a) in the case of non-disclosure to an individual of information about the individual,—
 - “(i) the Director must inform the individual that he or she may, under the Privacy Act 1993, complain to the Privacy Commissioner about that non-disclosure; and
 - “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 27(1)(d) of that Act; and

- “(b) in any other case,—
- “(i) the Director must inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and
 - “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 6(d) of that Act.”

7 Maritime Registry

Section 189 of the principal Act is amended by adding the following subsection:

- “(4) Subsection (3) is subject to the Privacy Act 1993.”

8 Recovery in certain cases where marine safety charges not paid

Section 195(2) of the principal Act is amended by omitting the word “Collector”, and substituting the words “Chief Executive of the New Zealand Customs Service”.

9 Coastal shipping

- (1) Section 198 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) No ship shall carry coastal cargo, unless the ship is—
- “(a) a New Zealand ship; or
 - “(b) a foreign ship on demise charter to a New Zealand-based operator who employs or engages a crew to work on board the ship under an employment agreement or contract for services governed by New Zealand law; or
 - “(c) a foreign ship that—
 - “(i) has disembarked at a port in New Zealand passengers who embarked at a foreign port or unloaded at a port in New Zealand goods loaded at a foreign port, and has not visited a foreign port since that disembarkation or unloading; or
 - “(ii) will, before departing from a port in New Zealand for a foreign port, disembark such passengers or unload such goods; or

- “(d) a foreign ship that—
 - “(i) has embarked at a port in New Zealand passengers who are to be disembarked at a foreign port or loaded at a port in New Zealand goods to be unloaded at a foreign port, and has not visited a foreign port since that embarkation or loading; or
 - “(ii) will, before departing from a port in New Zealand for a foreign port, embark such passengers or load such goods.”
- (2) Section 198(2) of the principal Act is amended by omitting the words “paragraph (a) or paragraph (b) or paragraph (c) of subsection (1)”, and substituting the words “paragraph (a), (b), (c), or (d) of subsection (1)”.

10 Criteria for action under section 272 or section 273

Section 276 of the principal Act is amended by repealing subsection (7), and substituting the following subsection:

- “(7) If the Director determines not to disclose any information in reliance on subsection (6), the Director must inform the person of the fact of non-disclosure and the following provisions apply:
 - “(a) in the case of non-disclosure to an individual of information about the individual,—
 - “(i) the Director must inform the individual that he or she may, under the Privacy Act 1993, complain to the Privacy Commissioner about that non-disclosure; and
 - “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 27(1)(d) of that Act; and
 - “(b) in any other case,—
 - “(i) the Director must inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and
 - “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act

for the information withheld, the information had been withheld under section 6(d) of that Act.”

11 Preparation and review of response strategy

Section 283 of the principal Act is amended by omitting the words “every 3 years”, and substituting the words “every 5 years”.

Legislative history

8 December 2005

Divided from Statutes Amendment Bill (No 5)
(Bill 249-2), third reading
