



Maritime Transport (MARPOL Annex VI) Amendment Act 2021

Public Act 2021 No 45
Date of assent 15 November 2021
Commencement see section 2

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**Part 2
Amendment to Maritime Transport (Marine Protection Conventions) Order 1999**

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Maritime Transport (MARPOL Annex VI) Amendment Act 2021.

2 Commencement

This Act comes into force on the day after the date of Royal assent.

**Part 1
Amendments to Maritime Transport Act 1994**

3 Principal Act

This Part amends the Maritime Transport Act 1994.

4 Section 222 amended (Interpretation)

(1) In section 222(1), insert in their appropriate alphabetical order:

Annex VI means Annex VI of MARPOL (regulations for the prevention of air pollution from ships)

Annex VI requirements means requirements imposed for the purposes of Annex VI under this Act, or under any regulations or rules made under this Act

Annex VI substance means any substance specified as an Annex VI substance for the purposes of this definition by the marine protection rules

fuel oil means any fuel delivered to and intended for combustion purposes for propulsion or operation on board a ship, including gas, distillate, and residual fuels

(2) In section 222(1), replace the definition of **discharge** with:

discharge—

- (a) includes any release, disposal, spilling, leaking, pumping, emitting, or emptying; but
- (b) does not include—
 - (i) dumping in accordance with a permit issued by the Director under section 262; or
 - (ii) the release of harmful substances for the purposes of legitimate scientific research into pollution abatement and control

- (3) In section 222(1), replace the definition of **marine protection product** with:

marine protection product means—

- (a) anything or any substance specified as a marine protection product for the purposes of this definition by the marine protection rules; and
- (b) anything that comprises, or is intended to comprise, any part of a ship, offshore installation, or pipeline, or that is or is intended to be installed on or fitted or supplied to a ship, offshore installation, or pipeline for the purpose of preventing, limiting, or controlling a discharge or the escape of a harmful substance, ballast water, or an Annex VI substance, including (but not limited to)—
 - (i) any plant or equipment that treats or is intended to treat a harmful substance, ballast water, or an Annex VI substance; and
 - (ii) any plant or equipment that monitors or is intended to monitor the discharge or escape of a harmful substance, ballast water, or an Annex VI substance; and
- (c) any substance used or intended to be used for the dispersal or emulsification of a harmful substance or ballast water in the sea

- (4) In section 222(1), repeal the definition of **reception facility**.

- (5) After section 222(1), insert:

- (1A) In this Part and in Parts 19 to 30, unless the context otherwise requires,—

reception facility means a facility for the reception of—

- (a) harmful substances from ships (as defined in section 2(1)); or
- (b) sediment (as defined in section 444A(3)); or
- (c) Annex VI substances from ships (within the meaning of MARPOL)

ship, for the purposes of implementing Annex VI, means a ship within the meaning of Article 2(4) of MARPOL.

5 Section 223 amended (Application of Parts 19 to 27 to ships of New Zealand Defence Force)

In section 223, insert as subsection (2):

(2) Despite subsection (1), Annex VI requirements do not apply to ships referred to in that subsection.

6 Section 225 amended (Interpretation)

In section 225, repeal the definitions of **discharge**, **marine protection product**, and **reception facility**.

7 Section 236 repealed (Power to require reception facilities)

Repeal section 236.

8 Section 242 amended (Failure to comply with requirement of Director)

In section 242, replace “236” with “444A”.

9 Section 271 amended (Acceptance of documents)

In section 271(2)(c), replace “marine environment” with “environment, including the marine environment”.

10 Section 272 amended (Suspension of marine protection documents or imposition of conditions)

After section 272(1)(e), insert:

(ea) is satisfied that the holder has failed to take corrective action to ensure the condition of the ship’s equipment (including the ship’s systems, fittings, arrangements, and materials) corresponds substantially to the particulars of the relevant marine protection document; or

11 Section 388 amended (Marine protection rules in relation to harmful and other substances)

After section 388(n), insert:

(o) prescribing requirements, procedures, and standards relating to the prevention of air pollution from ships for the purposes of implementing Annex VI.

12 Section 395 amended (Director may grant exemptions from marine protection rules)

(1) After section 395(2)(b)(iii), insert:

(iiia) compliance with the requirement could impede research into the development of emission reduction and control technologies and engine design programmes in relation to ships:

(2) In section 395(2)(d)(i), after “ballast water”, insert “or for the purposes of implementing Annex VI”.

13 Section 396 amended (Inspections and audits)

- (1) Replace the heading to section 396 with “**Inspections and audits (other than in relation to Annex VI)**”.
- (2) After section 396(3), insert:
- (4) This section does not apply to inspections and audits for the purposes of implementing Annex VI.

14 New section 396A inserted (Inspections and audits in relation to Annex VI)

After section 396, insert:

396A Inspections and audits in relation to Annex VI

- (1) The Director may, in writing, require any person described in subsection (2) to undergo, or carry out, such inspections or audits, or both, as the Director considers necessary in the interests of—
 - (a) protecting the environment, including the marine environment, from harm from discharges from ships that are subject to the provisions of Annex VI; or
 - (b) verifying whether a ship has discharged any substance that is subject to the provisions of Annex VI in contravention of the regulations and rules made under this Act; or
 - (c) facilitating and reviewing trials of ship emission reduction and control technologies; or
 - (d) monitoring compliance with conditions of exemptions.
- (2) This section applies to a person who—
 - (a) holds any marine protection document; or
 - (b) is required to hold any marine protection document by this Act or any regulations or marine protection rules made under this Act; or
 - (c) operates, maintains, or services, or does any other act in respect of, any ship, marine protection product, or reception facility.
- (3) The Director may, in respect of any person described in subsection (2), carry out such inspections or audits, or both, as the Director considers necessary in the interests of 1 or more of the matters specified in subsection (1)(a) to (d).
- (4) For the purposes of any inspection or audit carried out in respect of any person under subsection (3), the Director may, in writing,—
 - (a) require that person to provide to the Director such information as the Director considers relevant to the inspection or audit;
 - (b) in respect of a ship, require the person to—
 - (i) allow the Director to take a sample of the ship’s fuel oil for the purposes of testing the sample in accordance with any requirements specified in the marine protection rules;

- (ii) demonstrate to the Director the familiarity of the master or crew with essential shipboard procedures for the prevention of marine pollution:
- (iii) demonstrate to the Director that any operational, maintenance, or servicing procedure in respect of a ship or a marine protection product is capable of being carried out in a competent manner.

15 Section 397 amended (Detention, etc, of ships and seizure of marine protection products)

- (1) In section 397(2)(g), replace “marine environment” with “environment, including the marine environment”.
- (2) After section 397(2)(g), insert:
 - (ga) there is likely to be a contravention of Annex VI requirements under this Act or regulations or rules made under this Act; or
- (3) After section 397(3), insert:
- (3A) The powers under subsection (1) may also be exercised if the Director believes on clear grounds that the master or crew are not familiar with essential shipboard procedures relating to the prevention of air pollution from ships for the purposes of implementing Annex VI.

16 Section 399 amended (Failure to comply with Director’s inspection or audit requirements)

In section 399, replace “subsection (1) or subsection (3) of section 396” with “section 396(1) or (3) or 396A(1) or (4)”.

17 New section 444A inserted (Power to require reception facilities)

After section 444, insert:

444A Power to require reception facilities

- (1) The Director may, by notice in writing, require any person who operates a port in New Zealand or in New Zealand continental waters to provide at that port a reception facility to receive from ships all or any of the following:
 - (a) harmful substances:
 - (b) sediment:
 - (c) Annex VI substances.
- (2) A person required by the Director to provide a reception facility under subsection (1) must comply with the requirements of the marine protection rules.
- (3) In this section,—
 - Annex VI substance** has the meaning given to it by section 222(1)
 - harmful substance** has the meaning given to it by section 225
 - marine protection rules** has the meaning given to it by section 222(1)

New Zealand continental waters has the meaning given to it by section 222(1)

reception facility has the meaning given to it by section 222(1A)

sediment means matter that has settled out of ballast water (as defined in section 246A(1)) within a ship (as defined in section 246A(3)(a)).

Part 2

Amendment to Maritime Transport (Marine Protection Conventions) Order 1999

18 Principal order

This Part amends the Maritime Transport (Marine Protection Conventions) Order 1999.

19 Clause 3 amended (Certain international conventions declared to be marine protection conventions)

After clause 3(b), insert:

(ba) Annex VI of the International Convention for the Prevention of Pollution from Ships, 1973:

Legislative history

19 May 2021	Introduction (Bill 37–1)
1 June 2021	First reading and referral to Transport and Infrastructure Committee
14 September 2021	Reported from Transport and Infrastructure Committee (Bill 37–2)
28 September 2021	Second reading
26 October 2021	Committee of the whole House
10 November 2021	Third reading
15 November 2021	Royal assent

This Act is administered by the Ministry of Transport.