

MARITIME POWERS BILL: FIRST READING

LEGISLATIVE STATEMENT

Presented to the House in accordance with Standing Order 272

The Maritime Powers Bill provides New Zealand law enforcement agencies with powers to enforce elements of New Zealand's criminal law in international waters. It does this in a manner consistent with our rights and obligations under international law, particularly the United Nations Convention on the Law of the Sea and international human rights obligations. It reflects the fundamental importance of maritime security to New Zealand as an island nation with an extensive maritime domain.

The Bill provides powers to respond to a range of criminal offending in international waters (i.e. in the contiguous zones and exclusive economic zones of New Zealand and other states and on the high seas), including:

- Offences that take place on board a New Zealand vessel in international waters;
- Offences for which New Zealand has extraterritorial jurisdiction that take place on board a foreign vessel in international waters; and
- Situations where an offence has been committed in New Zealand and a suspected offender or evidence of criminal offending is subsequently located on a New Zealand, or foreign vessel in international waters.

Consistent with section 8(2) of the Crimes Act 1961, the Bill does not provide powers that can be used in respect of every offence in New Zealand's criminal law. The powers can only be used when the penalty for the offence is imprisonment for life or two or more years' imprisonment. This threshold reflects that the Bill is intended to respond to serious criminal offending at sea, particularly transnational organised crime.

The Bill provides powers to "enforcement officers", who are defined as Police Constables, Customs Officers, Members of the Armed Forces, Department of Conservation Rangers and Endangered Species Officers. This will enable the powers to be used to address a range of offending, including drugs trafficking and wildlife trafficking.

The powers in the Bill reflect those available under existing legislation, notably the Search and Surveillance Act 2012 and the Customs and Excise Act 2018. Enforcement officers may, if certain conditions are met, including flag-state consent when required, board and search the vessel and arrest suspects. The Bill also contains powers to help manage the situation on board the vessel, such as the power to require persons on board to remain in a particular place. The threshold at which the powers can be used also align with the thresholds under existing legislation: reasonable grounds to suspect or believe that relevant conditions are met. The powers can be exercised without a warrant due to the potentially serious nature of the offending and the reality that these powers will be used at some distance from the shore where safety of

life at sea is paramount. Consistent with existing legislation, the Bill requires that enforcement officers report on the use of these powers to the Commissioner of Police or Chief Executive of the relevant agency, and to the Secretary of Foreign Affairs and Trade.

The Bill contains a broad clause that preserves the functions, duties and powers under other Acts. This means that fisheries enforcement in New Zealand waters and on the high seas will remain subject to the Fisheries Act 1983. It also means that the New Zealand Defence Force will continue to participate in international operations without a law enforcement component in reliance on the royal prerogative.