

Legislative Statement: for the third reading of the Maritime Powers Bill

The Maritime Powers Bill provides New Zealand law enforcement agencies with powers to enforce New Zealand's criminal law in international waters (the oceans and seas beyond New Zealand's territorial sea, including New Zealand's Exclusive Economic Zone). The Bill does this in a manner consistent with New Zealand's rights and obligations under international law, particularly the United Nations Convention on the Law of the Sea 1982 and international human rights law. 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 against New Zealand law in international waters, including—

- offences that take place on board a New Zealand vessel in international waters; and
- offences that take place on board a foreign vessel in international waters; and
- situations where an alleged offender or evidence of criminal offending is located on a New Zealand or foreign vessel in international waters.

The Bill does not create any new substantive offences or expand the jurisdiction of any existing offences. It only creates powers exercisable in respect of serious criminal offences against New Zealand law, which the Bill defines as offences punishable by 2 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 constables, Customs officers, members of the Armed Forces and Department of Conservation Rangers and Endangered Species Officers. This will enable the powers to be used to address a range of offending, including trafficking of humans, drugs, arms and wildlife.

The powers in the Bill are comparable to those under existing legislation, notably the Search and Surveillance Act 2012 and the Customs and Excise Act 2018. They include the power to stop, board and search a vessel and arrest suspects. The Bill also contains powers to help manage the situation on board a vessel, such as the power to require persons on board to remain in a particular place.

The powers do not require a warrant to be exercised. The Bill's approach to warrants is consistent with existing domestic legislation which confers comparable powers in international waters that are exercisable without warrant.¹ It recognises the unpredictable nature of the maritime environment, where there will always be a risk of evidence being destroyed or made irretrievable. It also reflects the unique challenges of exercising enforcement powers in international waters, particularly in respect of foreign ships, where the consent of the flag State is required.

The Bill contains a broad clause that preserves the functions, duties, and powers under other Acts. This means that fisheries enforcement in New Zealand fisheries waters and on the high seas will remain subject to the Fisheries Act 1996. 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.

¹ See the Maritime Crimes Act 1999, Schedule 5A of the Customs and Excise Act 2018 and the Fisheries Act 1996.