



Maritime Transport Amendment Act 2005

Public Act 2005 No 59

Date of assent 16 May 2005

Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Maritime Transport Amendment Act 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 Claims subject to limitation of liability

Section 86(2)(a)(ii) of the principal Act is amended by inserting, after the word “damage”, the words “with respect to CLC ships”.

4 Liability to the Crown and marine agencies for costs of cleaning up pollution

- (1) Section 344 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(1) Subject to subsection (2), section 348, and Part VII, the owner of a ship must pay to the Crown (or marine agency) the cost, including goods and services tax (if any), reasonably incurred by or on behalf of the Crown (or marine agency) in dealing with—
- “(a) a harmful substance that is discharged or escapes, or any waste or other matter that is dumped, from that ship into the internal waters of New Zealand or into New Zealand marine waters or on to the beds below those internal or marine waters; or
- “(b) a harmful substance, if that harmful substance poses a grave and imminent threat of being discharged or escaping from that ship into the internal waters of New Zealand or into New Zealand marine waters or on to the beds below those internal or marine waters.”
- (2) Section 344 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:
- “(4) For the purposes of subsection (1), **dealing with** means any reasonable action taken in relation to the discharge or escape of a harmful substance, or the dumping of any waste or other matter, including (but not limited to)—
- “(a) the removing, containing, and rendering harmless the harmful substance, or the waste or other matter, or doing any of those things; and
- “(b) any reasonable measures taken to prevent or minimise the discharge or escape of a harmful substance.”

5 New section 345 substituted

The principal Act is amended by repealing section 345, and substituting the following section:

“345 Liability of shipowners for pollution damage

- “(1) Subject to sections 347 and 348 and Part VII, the owner of a ship is liable in damages, including goods and services tax (if any), for—
- “(a) all pollution damage in New Zealand or the internal waters of New Zealand or in New Zealand marine

waters or on to the beds below those internal or marine waters caused by—

- “(i) a harmful substance that is discharged or escapes from a ship; or
 - “(ii) any waste or other matter that is dumped from a ship; and
- “(b) the costs reasonably incurred for any reasonable preventive measures taken by the Crown (or marine agency) to eliminate or reduce a grave and imminent threat that a harmful substance may be discharged or escape from that ship into the internal waters of New Zealand or into New Zealand marine waters or on to the beds below those internal or marine waters.
- “(2) The recovery of costs by the Crown (or marine agency) under section 344(1) does not preclude a claim for costs under subsection (1) if that claim relates to matters that are different from the matters for which costs were recovered under section 344(1).”

6 Maximum amount of liability of shipowners for pollution damage

- (1) Section 347(1) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:
- “(a) a harmful substance is discharged or escapes, or any waste or other matter is dumped, or there is a grave and imminent threat of the discharge or escape of a harmful substance from a CLC ship; and”.
- (2) Section 347(1)(b) of the principal Act is amended by inserting, after the word “owner”, the words “of the CLC ship”.
- (3) Section 347 of the principal Act is amended by adding the following subsection:
- “(6) The liability limits applicable to the owner of a non-CLC ship are specified in Part VII.”

7 Defences to shipowner’s liability for pollution damage

- (1) Section 348(1) of the principal Act is amended by—
- (a) omitting the words “in damages for pollution damage”; and

- (b) omitting the words “section 345 or section 346 of this Act”, and substituting the words “section 344, section 345, or section 346”; and
 - (c) inserting, after the words “discharge or escape”, the words “, or the grave and imminent threat of the discharge or escape.”.
- (2) Section 348(2) of the principal Act is amended by—
- (a) omitting the words “section 345 or section 346”, and substituting the words “section 344, section 345, or section 346”; and
 - (b) omitting the words “pollution damage suffered by that claimant”, and substituting the words “discharge or escape, or the grave and imminent threat of the discharge or escape.”.

8 Proceedings against third parties in respect of pollution from ships

Section 350(1) of the principal Act is amended by—

- (a) omitting the words “in damages for pollution damage under” and substituting the words “under section 344 or”; and
- (b) omitting the words “for pollution damage” in the second place that they appear.

9 Liability to the Crown and marine agencies for costs of cleaning up pollution

- (1) Section 355 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(1) Subject to section 358 and Part VII, the person in charge of a marine operation or the owner of a marine structure must pay to the Crown (or marine agency) the cost, including goods and services tax (if any), reasonably incurred by or on behalf of the Crown (or marine agency) in dealing with—
- “(a) a harmful substance that is discharged or escapes, or any waste or other matter that is dumped, from that marine operation or marine structure into the internal waters of New Zealand or into New Zealand continental waters or on to the beds below those internal or continental waters; or
 - “(b) a harmful substance, if that harmful substance poses a grave and imminent threat of being discharged or

escaping from that marine operation or marine structure into the internal waters of New Zealand or into New Zealand continental waters or on to the beds below those internal or continental waters.”

- (2) Section 355 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:
- “(3) For the purposes of subsection (1), **dealing with** means any reasonable action taken in relation to the discharge or escape of a harmful substance, or the dumping of any waste or other matter, including (but not limited to)—
- “(a) removing, containing, and rendering harmless the harmful substance, or the waste or other matter, or doing any of those things; and
- “(b) any reasonable measures taken to prevent or minimise the discharge or escape of a harmful substance.”

10 New section 356 substituted

The principal Act is amended by repealing section 356, and substituting the following section:

- “356 Liability for pollution damage from marine operations and structures**
- “(1) Subject to sections 357 and 358 and Part VII, the person in charge of a marine operation or the owner of a marine structure is liable in damages, including goods and services tax (if any), for—
- “(a) all pollution damage in New Zealand or the internal waters of New Zealand or New Zealand continental waters or the beds below those internal or continental waters caused by—
- “(i) a harmful substance that is discharged or escapes from that operation or structure; or
- “(ii) any waste or other matter that is dumped from that operation or structure; and
- “(b) the costs reasonably incurred for any reasonable preventive measures taken by the Crown (or marine agency) to eliminate or reduce a grave and imminent threat that a harmful substance may be discharged or escape from that operation or structure into the internal waters of New Zealand or into New Zealand continental waters or on to the beds below those internal or continental waters.

“(2) The recovery of costs by the Crown (or marine agency) under section 355(1) does not preclude a claim for costs under subsection (1) if that claim relates to matters that are different from the matters for which costs were recovered under section 355(1).”

11 Defences in respect of liability for pollution damage from marine structures and operations

- (1) Section 358(1) of the principal Act is amended by—
- (a) omitting the words “in damages for pollution damage”; and
 - (b) omitting the words “section 356 or section 357”, and substituting the words “section 355, section 356, or section 357”; and
 - (c) omitting the words “, escape,”, and substituting the words, “or escape, or the grave and imminent threat of the discharge or escape.”.
- (2) Section 358(2) of the principal Act is amended by—
- (a) omitting the words “in damages”; and
 - (b) omitting the words “section 356 or section 357 of this Act”, and substituting the words “section 355, section 356, or section 357”; and
 - (c) omitting the words “pollution damage suffered by that claimant”, and substituting the words “discharge or escape, or the grave and imminent threat of the discharge or escape”.

Legislative history

10 May 2005	Divided from Statutes Amendment Bill (No 4), third reading
16 May 2005	Royal assent

This Act is administered in the Ministry of Transport.
