



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. New headings and sections inserted</p> <p style="text-align: center;"><i>Provisions Relating to Special Maritime Events</i></p> <p>200A. Minister may notify maritime event where special enforcement powers exercisable</p>	<p>200B. Special enforcement powers may be exercised when this section applies</p> <p style="text-align: center;"><i>Dangerous Goods</i></p> <p>200C. Opening and testing of packages containing dangerous goods</p> <p>3. Regulations</p> <p>4. Proceedings for offences</p> <p>5. Infringement offences</p> <p>6. Infringement notices</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

1998, No. 116

An Act to amend the Maritime Transport Act 1994

[18 December 1998]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Maritime Transport Amendment Act (No. 2) 1998, and is part of the Maritime Transport Act 1994 (“the principal Act”).

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

2. New headings and sections inserted—The principal Act is amended by inserting, after section 200, the following headings and sections:

“Provisions Relating to Special Maritime Events

“200A. Minister may notify maritime event where special enforcement powers exercisable—(1) On application made by—

“(a) A regional council that has navigational safety jurisdiction over the area or areas concerned under the Local Government Act 1974; or

“(b) Any other person or organisation, if no regional council has such jurisdiction in that case,—

the Minister may, by notice in the *Gazette*, declare a major maritime event or occasion to be an event or occasion to which section 200B applies.

“(2) A notice under subsection (1)—

“(a) Must describe the event or occasion to which it applies; and

“(b) Must describe the waters (‘the designated area’) to which it applies; and

“(c) Must specify the period during which the notice applies; and

“(d) May set out requirements for the purposes of navigation safety and to enable the event or occasion to be properly managed, including requirements specifying the classes of ships that are authorised to enter the designated area, and the conditions and requirements to be complied with by persons in the designated area; and

“(e) May authorise the regional council in whose region the maritime event or occasion is being held to determine, in accordance with the notice, which ships may enter the designated area and to specify and vary conditions for the day to day management and conduct of activities within the designated area (such as varying the hours of racing, closing and opening the course, and changing the course); and

“(f) May contain such other information as may be necessary to explain the effect of the notice.

“(3) A notice under subsection (1) may not be given unless the Minister—

“(a) Is satisfied that—

“(i) The application is reasonable; and

“(ii) The applicant has provided the information referred to in paragraphs (a), (b), and (c) of subsection (2); and

“(iii) The applicant has provided any information required for the purposes of paragraphs (d), (e), and (f) of subsection (2); and

“(b) Is satisfied that the application of section 200B is in the interests of navigation safety or is an appropriate

way to manage and control the event or occasion;
and

“(c) Is satisfied that the applicant has considered the needs of commercial shipping; and

“(d) Has published in the *Gazette*, and in such daily newspapers as the Minister considers appropriate, a notice stating the Minister’s intention to give the notice under subsection (1) and specifying a period (which may not be less than 10 days) within which interested persons and organisations may make written representations about the proposal; and

“(e) Has considered all representations received within the specified time.

“(4) The Minister may from time to time, by notice in the *Gazette*,—

“(a) Extend the period during which a notice under subsection (1) applies:

“(b) Amend any description or correct any obvious mistake in a notice under subsection (1).

“(5) Subsection (3) does not apply to a notice under subsection (4).

“(6) An applicant must pay the costs and expenses of the notices referred to in subsection (3) that are published for the purposes of that person’s application under this section; and a regional council may recover from the event organisers the costs and expenses the council incurs in relation to applications it makes under this section on their behalf.

“(7) This section applies only to specified maritime events and occasions that are to be held in or on New Zealand waters.

“200B. Special enforcement powers may be exercised when this section applies—(1) This section applies to a major maritime event or occasion that is subject to a notice under section 200A.

“(2) During the period specified for the purpose in the notice under section 200A that applies to the event or occasion, an enforcement officer who has reasonable cause to believe that the action is necessary to maintain public order, or to preserve the safety of any person or ship, craft, or seaplane, or to enforce the provisions of the notice may do all or any of the following things:

“(a) Stop and detain any ship, craft, or seaplane in the designated area:

“(b) Remove any ship, craft, or seaplane or person from the designated area:

“(c) Prevent any ship, craft, or seaplane or person from entering the designated area:

“(d) Prohibit the use of a ship, craft, or seaplane in the designated area, if the enforcement officer considers its use in the designated area would pose an unreasonable risk to the safety of those on board or of other persons:

“(e) Board a ship, craft, or seaplane, give directions for the purposes of this section to the person appearing to be in charge, and require that person to give his or her name and address:

“(f) Exercise any power that a harbourmaster may exercise for the purposes of navigation safety under the Local Government Act 1974.

“(3) The exercise of any power conferred by subsection (2) does not prevent an enforcement officer or any other person from taking any further action against a person under some other provision of this Act or under any other enactment.

“(4) An enforcement officer exercising any power under this section must produce evidence of identity and evidence that he or she is an enforcement officer, whenever reasonably requested to do so.

“(5) The person in charge of a ship, craft, or seaplane commits an infringement offence and is liable to the penalty prescribed by regulations made under section 201 if—

“(a) The ship, craft, or seaplane enters or remains in a designated area in contravention of a notice given under section 200A or otherwise contravenes the notice; or

“(b) The person obstructs an enforcement officer while the officer is lawfully exercising a power under subsection (2); or

“(c) The person fails to comply with the lawful exercise by an enforcement officer of a power under subsection (2).

“(6) For the purposes of this section, the following persons are enforcement officers:

“(a) All sworn members of the Police; and all non-sworn members of the Police authorised for the purpose by the Commissioner of Police:

“(b) All members of the New Zealand Defence Force authorised for the purpose by the Chief of Defence Force:

“(c) Harbourmasters employed or engaged by any harbour controlling authority:

“(d) Such other persons as may for the time being be authorised for the purpose by the regional council within whose region the event or occasion is being held.

“Dangerous Goods

“200c. Opening and testing of packages containing dangerous goods—(1) This section applies to—

“(a) New Zealand ships; and

“(b) Other ships in a port in New Zealand or in New Zealand waters that load or unload cargo or fuel or embark or disembark passengers.

“(2) A person referred to in subsection (3) may require a package or container to be opened and subjected to such tests as may be necessary to identify the contents, if—

“(a) The package or container is, or is intended to be, loaded or carried on a ship to which this section applies; and

“(b) The person reasonably believes the package or container contains dangerous goods (as defined in rules made under this Act) that are not marked or packed in accordance with the rules.

“(3) The persons referred to in subsection (2) are—

“(a) The owner, master, or charterer of a ship to which this section applies;

“(b) The agent of the owner or charterer;

“(c) The consolidator of any freight container or other form of secondary containment intended for shipment on the ship;

“(d) A person authorised by the Director or by the chief executive of the Department of Labour or of the New Zealand Customs Service or of the Ministry of Fisheries or of the Ministry of Agriculture and Forestry.

“(4) The shipper of the package or container is liable for the costs of inspections and tests carried out under subsection (2), and of any delay caused by the inspections and tests.”

3. Regulations—Section 201 (1) (d) of the principal Act is amended by inserting, after the words “paragraph (b) of this subsection”, the words “and for infringement offences against section 200B”.

4. Proceedings for offences—Section 419 (2) of the principal Act is repealed.

5. Infringement offences—Section 422 (1) of the principal Act is amended by inserting, after the words “specified as such in”, the words “this Act or”.

6. Infringement notices—Section 423 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) An infringement notice for an infringement offence against section 200B may be issued by the Director, a person duly authorised by the Director, a member of the Police, or a person duly authorised by the regional council or other local authority in whose region or district the offence was committed.”

This Act is administered in the Ministry of Transport.
