

# **New Zealand Nuclear Free Zone Extension Bill**

Member's Bill

## **Explanatory note**

### *General Policy Statement*

The Nuclear Free Zone, Disarmament and Arms Control Act 1987 is severely limited in its ability to protect New Zealand from possible nuclear accidents which would devastate our waters and coastline.

This legislation controls only up to 12 miles from the New Zealand shore.

It is primarily concerned with controlling nuclear weapons and nuclear testing within the New Zealand nuclear free zone, and prohibiting nuclear powered ships from entering New Zealand ports. It does not prevent the transit of nuclear powered ships or ships carrying radioactive wastes.

International shipments of high level nuclear wastes and reprocessed fuel have greatly increased in frequency and size. Reprocessed fuel can be adapted for use in nuclear weapons.

New Zealand has the right and the duty to protect the marine environment and its living resources in its exclusive economic zone, up to 200 miles from shore. Under the Law of the Sea, ships have some rights of navigation through this zone; yet if those ships carry a cargo which could contaminate marine resources for centuries, this creates a conflict with the purpose of the exclusive economic zone. This bill resolves that conflict, for New Zealand, in favour of environmental protection, and brings New Zealand into line with the practice of other concerned states and developing international law.

This bill extends the New Zealand nuclear free zone up to 200 miles and specifically prohibits the passage through it of nuclear propelled

ships or ships carrying radioactive wastes, or reprocessed nuclear fuels.

#### *Clause By Clause Analysis*

*Clause 4* inserts into the principal Act definitions of exclusive economic zone of New Zealand and radioactive waste.

*Clause 5* extends the nuclear free zone to coincide with the exclusive economic zone.

*Clause 6* extends the prohibition on transport of nuclear weapons from just inland and internal waters to the full nuclear free zone.

*Clause 7* extends the prohibition on nuclear powered ships from just internal waters (i.e. harbours) to the nuclear free zone.

*Clause 8* prohibits the passage through the zone of ships carrying radioactive wastes or the types of highly radioactive materials which are destined for, or produced by, nuclear fuel reprocessing. Radioactive waste has been defined in terms of the International Atomic Energy Agency Code for Transboundary Movement of Radioactive Waste. The Code exempts low level wastes of the type produced by medical and scientific uses of radionuclides by providing for countries to set exemption levels. New Zealand has not yet done so, but the National Radiation Laboratory is equipped to set radiological limits and has done so for other purposes.

*Clause 9* repeals the right of innocent passage for ships carrying prohibited materials but allows the Prime Minister to grant approval for a ship in distress where this will avert a potential accident.

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**The Parliament of New Zealand enacts as follows:**

### **1 Title**

- (1) This Act is the New Zealand Nuclear Free Zone Extension Act **2000**.
- (2) In this Act, the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987 is called "the principal Act". 5

### **2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent. 10

### **3 Purpose**

The purpose of this Act is to extend the New Zealand nuclear free zone to coincide with the New Zealand exclusive economic zone and prohibit the transit of high level nuclear waste, nuclear weapons and nuclear powered ships through the zone. 15

- 4 Interpretation**  
 Section 2 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:  
 “**exclusive economic zone** has the same meaning as it has in section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 5  
 “**radioactive waste** has the same meaning as it has in the International Atomic Energy Agency Code of Practice on the International Transboundary Movement of Radioactive Waste, as adopted by the General Conference 10  
 (GC(XXXIV)/RRES/530) of 21 September 1990”.
- 5 New Zealand Nuclear Free Zone**  
 Section 4 of the principal Act is amended by adding the following new paragraph:  
 “(e) the exclusive economic zone of New Zealand.” 15
- 6 Prohibition on stationing of nuclear explosive devices**  
 Section 6 of the principal Act is amended by omitting the words “on land or waters or internal waters”.
- 7 New section 11 substituted**  
 Section 11 of the principal Act is repealed, and the following section substituted: 20
- “11 **Visits by nuclear powered ships**  
 Entry into or transit through the New Zealand Nuclear Free Zone by any ship whose propulsion is wholly or partly dependent on nuclear power is prohibited.” 25
- 8 New section 11A inserted**  
 The principal Act is amended by inserting, after section 11, the following new section:
- “11A **Passage by ships carrying radioactive waste**  
 Entry into or transit through the nuclear free zone of New Zealand is prohibited to any ship or aircraft carrying— 30  
 “(a) radioactive waste; or  
 “(b) irradiated nuclear fuel; or  
 “(c) plutonium as an oxide or nitrate; or  
 “(d) mixed plutonium and uranium fuel.” 35

**9 New section 12 substituted**

Section 12 of the principal Act is repealed and the following section substituted:

**“12 Ships in distress**

- “(1) Any ship in distress prohibited by sections 6, **11, and 11A** may seek approval from the Prime Minister to enter the New Zealand nuclear free zone. 5
- “(2) The Prime Minister may grant approval for the entry of such a ship into the New Zealand nuclear free zone if the Prime Minister is satisfied, having regard to all relevant information and advice available, that entry is necessary to render assistance which may reduce risk to human life or the environment. 10
- “(3) In granting approval under **subsection (2)**, the Prime Minister must have regard to— 15
- “(a) the safety precautions that are in place or will be in place:
- “(b) liability in case of an accident:
- “(c) international legal obligations:
- “(d) the risk to New Zealand of an accident and the possible consequences of an accident. 20
- “(4) Where a distressed ship has entered the New Zealand nuclear free zone and is a ship prohibited by sections 6, **11, and 11A**, the Prime Minister must give public notice in the *Gazette* as soon as practicable. 25
- “(5) The notice referred to in **subsection (4)** must contain the following information:
- “(a) the name of the ship and details of its cargo:
- “(b) the location of the ship:
- “(c) the nature of the distress: 30
- “(d) the measures taken to aid the ship and to avoid a nuclear accident:
- “(e) the possible risk to New Zealand and consequences of a nuclear accident:
- “(f) the arrangements for liability.” 35