

Report 13.1003
Date 12 November 2013
File E/01/01/09

Committee Council
Author Margaret Meek, Senior Democratic Services Advisor

Maritime Transport Amendment Act 2013

1. Purpose

To advise the Council of the implications of the new Maritime Transport Amendment Act 2013.

2. Maritime Transport Amendment Act

The Maritime Transport Amendment Act 2013 (the Amendment Act) came into force on 23 October 2013.

The Amendment Act incorporates Parts 39A and 43, and sections 699A to 699D of the Local Government Act 1974 (LGA 1974), which govern the local regulation of navigation by regional councils, into the Maritime Transport Act 1994 (the Maritime Act).

The Amendment Act includes a description of regional council and harbour masters' roles in respect of maritime safety, neither of which are explicitly stated in the LGA 1974. The new provisions are set out in more detail below.

2.1 Newly created provisions in the Amendment Act

The Amendment Act made a number of changes to the navigation provisions as they were in the LGA 1974; these changes, mostly minor, are listed below:

- A harbourmaster's powers of entry are now subject to reasonable constraints.
- The Amendment Act provides a right of appeal against directions given by a harbourmaster.
- Powers of harbourmasters, enforcement officers and constables have changed. In addition to enforcing bylaws, harbourmasters, enforcement officers and constables are now able to enforce regulations and rules made under the Maritime Act.

- On occasion enforcement officers (appointed by a regional council) or constables can exercise the powers of a harbourmaster. This power is limited to when specially requested or authorised by a regional council (the power to direct vessels was previously given directly to enforcement officers under the LGA 1974; the ability to exercise this power now requires authorisation by Council for enforcement officers and constables).
- Constables are now able to serve infringement notices for breaches of navigation bylaws or rules and resolutions relating to safety. Previously members of the Maritime Police Unit were appointed as enforcement officers, which enabled them to issue infringement notices.
- Regional councils have the power to remove any abandoned ship, not just ships that may be a hazard to navigational safety. There is also now a clear process for how this can be done (the process in the LGA 1974 lacked clarity).
- The Amendment Act provides a general penalty for breach of navigation bylaws.
- Fees and charges relating to functions of the regional council are able to be prescribed in accordance with provisions of the Local Government Act 2002 — meaning that a regional council could introduce or amend fees and charges through a Council resolution rather than a bylaw.
- A regional council may transfer responsibilities other than bylaw-making or the appointment of a harbourmaster to a council-controlled organisation.
- The area of jurisdiction of Part 91 of the Maritime Rules (Navigation Safety rules) has been altered to include areas covered by navigation and safety bylaws. This means that there are two sets of mostly identical rules in place within our regional waters (there has been a suggestion that in the future councils may exclude Part 91 Rules from their bylaws).

2.2 Impact on current regulation of navigation

Section 85(2) of the Amendment Act repeals Parts 39A and 43, and sections 699A to 699D of the LGA 1974. However, section 87(1) of the Amendment Act provides that navigation matters exercised under the LGA 1974 continue to be in force as if they had been made under the Maritime Act.

Section 87(1) of the Amendment Act provides that:

- (1) All regulations and bylaws, liability for fees, charges, or expenses, appointments, notices, directions, delegations, transfers, agreements, leases, licences, instruments, rights, other liabilities, and other acts of authority that originated under Part 39A, Part 43, or section 699A, 699B, 699C, or 699D of the Local Government Act 1974 and existed or were in force at the time of the repeal of those provisions by section 85 continue as if they had been made, and are deemed where necessary to have been made, under the corresponding provisions of the Maritime Transport Act 1994.

In addition, section 87(3) sets out that the regulations, which set out infringement fines that Greater Wellington Regional Council may issue, remain valid.

Delegations, warrants and the Navigation and Safety Bylaws will be progressively reviewed and amended to reflect the provisions in the Maritime Act.

3. Communication

No communications are necessary as a result of this report.

4. The decision-making process and significance

No decision is being sought in this report.

5. Recommendations

That the Council:

1. ***Receives the report.***
2. ***Notes the content of the report.***

Report prepared by:

Margaret Meek
Senior Democratic Services
Advisor

Report prepared by:

Grant Nalder
Harbour ranger

Report approved by:

Mike Pryce
Harbourmaster

Report approved by:

Nigel Corry
General Manager
Environmental Management