

# Short-Form Departmental Disclosure Statement

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Marine Legislation Bill
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Supplementary Order Paper No 347
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A short form disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

There was no original disclosure statement for this Bill.

This disclosure statement was prepared by the Ministry for the Environment.

The Ministry for the Environment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

28 August 2013

## Significant Legislative Features

### Offences, penalties and court jurisdictions

<b>1. Do the proposed amendments create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?</b>	<b>YES</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>
<p>Clause 96, new section 24FA of the EEZ Act – provides for the regulation of emergency dumping in the exclusive economic zone and on the continental shelf under the EEZ Act.</p> <p>Breaching the EEZ Act in relation to emergency dumping activities is an offence; however the offence and penalties provisions in the EEZ Act are not being amended by this SOP.</p>	

<b>1.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>NO</b>
<p>The transfer of emergency dumping was the most recent amendment made to the SOP, and involved consultation with the Ministry of Transport, the Environmental Protection Authority and Maritime New Zealand. The Ministry of Justice was not consulted on the transfer of emergency dumping from the Maritime Transport Act 1994 to the EEZ Act, as the nature of offences and penalties in the EEZ has not changed; they will now apply to emergency dumping.</p> <p>The Ministry of Justice was consulted on the existing offences and penalties in the EEZ Act when the Act was originally drafted, and has been consulted on all other aspects of the SOP.</p>	

### Privacy issues

<b>2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?</b>	<b>YES</b>
<p>Clause 110B, new section 158B of the EEZ Act – EPA may provide information to other regulatory agencies for the purposes of this Act.</p> <p>New section 158B allows for greater information sharing between EPA and other government departments and consent authorities to assist in the performance of duties under specified marine management Acts, including the EEZ Act.</p>	

<b>2.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>YES</b>
<p>The Privacy Commissioner's office was provided information on the policy intent of this clause, and did not raise any specific concerns.</p>	

### Compulsory acquisition of private property

<b>3. Do the proposed amendments contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>NO</b>

### Charges in the nature of a tax

<b>4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?</b>	<b>NO</b>
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### Retrospective effect

<b>5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?</b>	<b>NO</b>

### Strict liability or reversal of the burden of proof for offences

<b>6. Do the proposed amendments:</b>	
<b>(a) create or amend a strict or absolute liability offence?</b>	<b>NO</b>
<b>(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?</b>	<b>NO</b>

### Civil or criminal immunity

<b>7. Do the proposed amendments create or amend a civil or criminal immunity for any person?</b>	<b>NO</b>

### Significant decision-making powers

<b>8. Do the proposed amendments create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?</b>	<b>YES</b>
<p>The following clauses create decision-making powers to make a determination directly about an individual's right to be heard as a submitter or to appeal</p> <p>Clause 100, which inserts new section 29C of the EEZ Act. This allows for regulations to prescribe certain discretionary activities as non-notified activities being activities for which an application for a marine consent is not publicly notifiable.</p> <p>New clause 102A, which amends section 33 of the EEZ Act. This section sets out the matters that the Minister for the Environment must consider when he or she is developing regulations. The amendment requires the Minister, when recommending whether regulations should provide for a discretionary activity to be a non-notified activity, to take into account the desirability of allowing the public to be heard in relation to an application for a marine consent.</p> <p>New clause 106C inserts new sections 44A to 44C in the EEZ Act. These sections prescribe the notification and hearing process for non-notified activities, and state that the existing notification and hearing process is the process for publicly notifiable activities.</p>	

### Powers to make delegated legislation

<b>9. Do the proposed amendments create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>NO</b>

<b>10. Do the proposed amendments create or amend any other powers to make delegated legislation?</b>	<b>YES</b>
<p>Clause 100, which inserts new section 29C of the EEZ Act – the amendment will allow for regulations to be made that prescribe certain discretionary activities as non-notified activities, being activities for which an application for a marine consent is not publicly notifiable.</p> <p>Clause 100, which inserts new section 29AB in the EEZ Act – this amendment allows for regulations to be made in relation to emergency dumping.</p>	

**Any other unusual provisions or features**

<b>11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>

