

15 May 2019

Hon David Parker, Attorney-General

**Consistency with the New Zealand Bill of Rights Act 1990: Maritime Transport (Offshore Installations) Amendment Bill**

**Purpose**

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1. We have considered whether the Maritime Transport (Offshore Installations) Amendment Bill ('the Bill') is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act'). This advice has been prepared in relation to the final version of the Bill (PCO 21600/2.6).

**The Bill**

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2. The Bill amends the Maritime Transport Act 1994 ("the Principal Act") to clarify and strengthen the requirements under the Principal Act on owners of offshore oil and gas installations to hold insurance or other financial security in relation to their liability for clean-up and compensation resulting from an oil spill.
3. The Principal Act implements a polluter-pays regime, under which owners have unlimited liability for the cost of pollution damage resulting from a spill at their facilities in New Zealand waters. The Principal Act also requires owners to hold insurance or other financial security in respect of their liability.
4. The Bill amends the Principal Act to provide certainty in relation to the liability of insurers (or, in the case of financial security, the persons providing the financial security) to the Crown and to other third parties who are affected by the pollution. The Bill does not change the owner's liability. However, the Bill provides that an insurer can be sued directly by a claimant who has a claim against the owner in respect of pollution damage. The Bill also clarifies that the insurer's liability to a claimant is limited to the amount and type of insurance that the insurer has provided to the owner.
5. The Bill also makes provision for marine protection rules to be made specifying in more detail the types of liability that will need to be insured against and set insurance or other financial security requirements to cover the costs of complying with marine oil spill contingency plans.

**Conclusion**

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6. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

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