

27 May 2025

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s 9(2)(a)

F36898
By email

Dear s 9(2)(a)

Official Information Act request – information re prosecution guidelines and data

I refer to your request under the Official Information Act 1982 (the Act) to Maritime NZ of 15 April 2025 in which you requested the following:

- 1. How many prosecutions has your agency undertaken between 1 January 2020 and the current date (please break down by year/legislation if possible)?*
- 2. What is the recorded ethnicity of people prosecuted by your agency between 1 January 2020 and the current date?*
- 3. How many non-prosecution outcomes, such as warning letters, instant fines, or other mechanisms has your agency implemented/imposed between 1 January 2020 and the current date (please break down by year, legislation and outcome if possible)?*
- 4. What is the recorded ethnicity of people affected by the outcomes in question 3?*
- 5. What is the process for your agency to review files before commencing prosecution action? Under what circumstances would your agency choose not to prosecute an offender?*
- 6. How many prosecutions have been either started and withdrawn, or not started, after ethnic/cultural factors were identified between 1 January 2020 and the current date?*
- 7. How many prosecutions have been either started and withdrawn, or not started, after other factors in the Solicitor General's guidelines were identified as being inappropriate to take prosecution action between 1 January 2020 and the current date?*

On 16 May 2025 we emailed to let you know we were extending the time available to respond to your request, and that we would respond to you by 30 May 2025. We have considered your request under the Act.

Some information has been refused under the following grounds

- | | |
|-------|--|
| 18(e) | that the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found |
| 18(f) | that the information cannot be made available without substantial collation or research |

Where the response to your question contains data, that data has been obtained from our internal records of investigation and prosecution decisions. That data is inputted manually by staff, so the conclusions reported should be accurate but are not verified against operator records. As such, the figures should be taken as an estimate.

Our response to your questions are as follows.

1. *How many prosecutions has your agency undertaken between 1 January 2020 and the current date (please break down by year/legislation if possible)?*

Please see the table attached to this letter as appendix 1.

2. *What is the recorded ethnicity of people prosecuted by your agency between 1 January 2020 and the current date?*

Maritime NZ does not record the ethnicity of people we prosecute; therefore we are refusing this question under s18(e) of the Act as the information requested does not exist. Please note that the ethnicity of an individual plays no part in any decision making process.

3. *How many non-prosecution outcomes, such as warning letters, instant fines, or other mechanisms has your agency implemented/imposed between 1 January 2020 and the current date (please break down by year, legislation and outcome if possible)?*

Please see the table attached to this letter as appendix 2. Note however this data is only for closed investigations and the date is based on when an investigation file is closed. For example an investigation may have been opened in 2021, but administratively closed in 2024 when the final action was completed (such as a final action by an operator being concluded). It does not include outcomes for files that are not yet closed in our systems. Recording outcomes was also not a mandatory field in the past so there are some gaps in the data.

There can be more than one outcome from an investigation – these are listed in the table either individually, or if there was more than one of the same outcome, noted by a number in brackets. Prosecutions are only listed in this table where there was also another investigation outcome.

4. *What is the recorded ethnicity of people affected by the outcomes in question 3?*

As noted in our response to question 3, Maritime NZ does not record the ethnicity of people we prosecute; therefore we are refusing this question under s18(e) of the Act as the information requested does not exist.

5. *What is the process for your agency to review files before commencing prosecution action? Under what circumstances would your agency choose not to prosecute an offender?*

Maritime NZ operates a Compliance Operating Model in our approach to reducing the impact of incidents and accidents. This includes our approach to reviewing files for prosecution, or choosing to take a different approach to managing compliance. This material is publicly available on our website and can be viewed here – [Compliance](#). Reducing harm, putting the greatest focus on the biggest risks, and using an intelligence-led process are the three most important elements of our approach to compliance (and to preventing non-compliance). The Compliance Operating Model includes the process and factors by which Maritime NZ decides how and when to prosecute or pursue alternative compliance options. Maritime NZ is currently reviewing its Compliance Operating Model and Prosecution Policy as it evolves its regulatory approach and considers the new Solicitor-General Guidelines.

6. *How many prosecutions have been either started and withdrawn, or not started, after ethnic/cultural factors were identified between 1 January 2020 and the current date?*

As noted in our response to question 3, Maritime NZ does not record the ethnicity of people we prosecute; therefore we are refusing this question under s18(e) of the Act as the information requested does not exist.

7. *How many prosecutions have been either started and withdrawn, or not started, after other factors in the Solicitor General's guidelines were identified as being inappropriate to take prosecution action between 1 January 2020 and the current date?*

The Solicitor-General's Prosecution Guidelines are considered as part of the decision to prosecute under our Prosecution Policy. That includes considering after proceedings are commenced whether they should be continued or discontinued. Decisions to withdraw or discontinue proceedings occur for a number of reasons, including but not limited to other factors being identified after the proceedings are started.

Please see a table attached to this letter as appendix 3 for a list of the number of prosecutions started and withdrawn. We are refusing to provide further breakdown of the reasons for withdrawing proceedings in specific cases under s18(f) of the Act, as the information cannot be made available without substantial collation or research.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that this response (with your personal details removed) may be published on Maritime New Zealand's website.

If you wish to discuss this decision, please feel free to email us at ministerial.services@maritimenz.govt.nz.

Yours sincerely

A handwritten signature in black ink that reads "CRoss". The letters are cursive and somewhat stylized.

Christine Ross
Manager, Communications and Ministerial Services

Appendix 1 - Question 1 - Prosecutions by year/legislation

| By Calendar years: Prosecutions completed | | | | | |
|---|-----|------|------------|-------|---|
| Year | MTA | HSWA | MTA & HSWA | HSEA* | |
| 2025 | | 1 | 1 | 0 | 0 |
| 2024 | | 9 | 7 | 4 | 0 |
| 2023 | | 10 | 11 | 0 | 0 |
| 2022 | | 9 | 15 | 6 | 0 |
| 2021 | | 7 | 5 | 2 | 0 |
| 2020 | | 13 | 11 | 1 | 1 |

[*] charges were laid in 2016

MTA – Maritime Transport Act 1994

HSWA – Health and Safety at Work Act 2015

HSEA - Health and Safety in Employment Act 1992 (repealed in 2016)

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Appendix 2 - Question 3 - Non-prosecution outcomes

| Type of outcome | 2020 | 2021 | 2022 | 2023 | 2024 | 2025* |
|---|------|------|------|------|------|-------|
| Assisted Compliance | | 28 | 24 | 19 | 11 | 4 |
| Enforceable Undertaking: Prosecution | | | | 1 | | |
| HSWA Notice | | 5 | 1 | 2 | 1 | 1 |
| HSWA Notice (x2) | | 1 | | | | |
| HSWA Notice: Industry Wide Safety Notice/Website Guidance | | 1 | | | | |
| HSWA Notice; Prosecution | | | 2 | 1 | 1 | |
| HSWA Notice; Warning Letter | | | | | | 1 |
| Industry Wide Safety Notice/Website Guidance | | | 2 | 3 | | |
| Infringement | | 4 | 2 | 2 | | |
| Infringement; HSWA Notice | | 1 | | | | |
| Infringement (x2) | | 5 | 7 | 7 | 6 | 2 |
| Infringement (x3) | | | 1 | 3 | 3 | |
| Maritime NZ Learnings | | 2 | 2 | 3 | | 3 |
| MTA Notice | | 9 | 6 | 4 | 4 | 3 |
| MTA Notice; Assisted Compliance | | | | | | 1 |
| MTA Notice; HSWA Notice | | | | | | 1 |
| MTA Notice (x2); Prosecution | | 1 | | 2 | | |
| MTA Notice (x3) | | | | 1 | | |
| MTA Notice (x6) | | | | 1 | | |
| MTA Notice (x2); Prosecution | | | | | | 2 |
| MTA Notice; No further action | | 1 | | | 1 | |
| MTA Notice; Prosecution | | | | 1 | | |
| MTA Notice (x4); Prosecution | | | | 1 | | |
| MTA Notice (x3); Referred to other Organisation; | | | | 1 | | |
| No further action | 1 | 99 | 77 | 56 | 52 | 16 |
| No further action; Industry Wide Safety Notice/Website Guidance | | | | | 1 | |
| Referred to other Organisation | | 6 | 10 | 4 | 3 | 2 |
| Voluntary agreement** | | | | | 34 | 19 |
| Warning letter | | 6 | 3 | 4 | 6 | 1 |
| Warning letter; No further action | | | | 1 | | |
| No outcome recorded | 66 | 4 | 5 | 4 | 4 | 4 |

* As at 8 April 2025

** No data prior to July 2024 as Maritime NZ only became the primary regulator for the country's 13 major ports from 1 July 2024.

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Appendix 3 - Question 7 - Prosecutions started/withdrawn

| By Calendar years: 2020-2025 | |
|------------------------------|-------------|
| Prosecutions | 113 |
| 2020 | 26 |
| | 5 withdrawn |
| 2021 | 14 |
| | 2 withdrawn |
| 2022 | 30 |
| | 6 withdrawn |
| 2023 | 21 |
| | 3 withdrawn |
| 2024 | 20 |
| | 3 withdrawn |
| 2025 (current) | 2 |

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