



# **Australian Maritime Safety Authority Act 1990**

**Act No. 78 of 1990 as amended**

This compilation was prepared on 2 November 2012  
taking into account amendments up to Act No. 136 of 2012

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# An Act to establish an Australian Maritime Safety Authority, and for related purposes

## Part 1—Preliminary

### 1 Short title *[see Note 1]*

This Act may be cited as the *Australian Maritime Safety Authority Act 1990*.

### 2 Commencement *[see Note 1]*

- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (2) Sections 35, 48, 62 and 63 commence on 1 January 1991.

### 2A Main objects of this Act

The main objects of this Act are:

- (a) to promote maritime safety; and
- (b) to protect the marine environment from:
  - (i) pollution from ships; and
  - (ii) other environmental damage caused by shipping; and
- (ba) to provide for a national search and rescue service; and
- (c) to promote the efficient provision of services by the Authority.

### 3 Interpretation

- (1) In this Act, unless the contrary intention appears:

*appoint* includes re-appoint.

*assets* means property of any description, other than rights referred to in sections 32 and 35.

*Authority* means the Australian Maritime Safety Authority established by this Act.

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**borrowing** includes raising money or obtaining credit, whether by dealing in securities or otherwise, but does not include obtaining credit in a transaction forming part of the day-to-day operations of the Authority or a subsidiary of the Authority.

**Chairperson** means the Chairperson of the Authority.

**charge** means a charge referred to in section 46.

**Chicago Convention** means:

- (a) the Convention on International Civil Aviation done at Chicago on 7 December 1944, whose English text is set out in Schedule 1 to the *Air Navigation Act 1920*; and
- (b) the Protocols amending that Convention, being the Protocols referred to in subsection 3A(2) of that Act, whose English text is set out in Schedules to that Act; and
- (c) the Annexes to that Convention relating to international standards and recommended practices, being Annexes adopted in accordance with that Convention.

**Deputy Chairperson** means the Deputy Chairperson of the Authority.

**Finance Minister** means the Minister administering the *Financial Management and Accountability Act 1997*.

**member** means a member of the Authority and includes the Chairperson and Deputy Chairperson.

**officer** means a member of the staff of the Authority.

**payable**, in relation to a charge, means due and payable.

**share** means share in the share capital of a corporation, and includes stock.

**the Safety Convention** has the same meaning as in the *Navigation Act 1912*.

- (2) A reference in this Act to services provided by the Authority is a reference to services provided as described in subsection 10(3).

- (3) The question whether a company is a subsidiary of the Authority is to be determined in the same way as the question whether a corporation is a subsidiary of another corporation is determined for the purposes of the *Companies Act 1981*.

#### **4 Extension to external Territories**

This Act extends to all external Territories.

## Part 2—Establishment, functions and powers of Authority

### 5 Establishment of Authority

- (1) An Authority called the Australian Maritime Safety Authority is established.
- (2) The Authority:
  - (a) is a body corporate with perpetual succession; and
  - (b) has a seal; and
  - (c) may sue and be sued in its corporate name.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the Authority. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (3) All courts, judges and persons acting judicially must take judicial notice of the imprint of the seal of the Authority appearing on a document and must presume that the document was duly sealed.

### 6 Functions of Authority

- (1) The functions of the Authority are:
  - (a) to combat pollution in the marine environment; and
  - (b) to provide a search and rescue service; and
  - (c) to provide, on request, services to the maritime industry on a commercial basis; and
  - (ca) to provide on request services of a maritime nature, on a commercial basis, to:
    - (i) the Commonwealth, a State, the Australian Capital Territory or the Northern Territory; or
    - (ii) an authority or agency of the Commonwealth, a State or either of those Territories; and
  - (cb) to cooperate with the Australian Transport Safety Bureau in relation to investigations under the *Transport Safety Investigation Act 2003* that relate to aircraft and ships; and



- (d) to perform such other functions as are conferred on it by or under any other Act; and
  - (e) to provide consultancy and management services relating to any of the matters referred to in this subsection; and
  - (f) to perform any other prescribed functions relating to any of the matters referred to in this subsection; and
  - (g) to perform functions incidental to any of the previously described functions.
- (2) The Authority may provide its services both within and outside Australia.
  - (3) Subject to section 8, the functions to provide services may be performed at the discretion of the Authority.
  - (4) The Authority must not perform any of its functions otherwise than for a purpose in respect of which the Parliament has the power to make laws.
  - (5) The provision of a search and rescue service must be in a manner that is consistent with Australia's obligations under:
    - (a) the Chicago Convention; and
    - (b) the Safety Convention; and
    - (c) the International Convention on Maritime Search and Rescue 1979 done at Hamburg on 27 April 1979.

### **7 Functions to be performed in accordance with international agreements**

The Authority must perform its functions in a manner consistent with the obligations of Australia under any agreement between Australia and another country.

### **8 Directions**

- (1) The Minister may give the Authority written directions as to the performance of its functions.
- (2) Directions as to the performance of functions that are conferred on the Authority by or under another Act are to be only of a general nature.

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- (3) Particulars of any directions given in a financial year are to be included in the annual report of the Authority for that year.

**9 Reimbursement of cost of complying with directions**

- (1) Where the Authority satisfies the Minister that it has suffered financial detriment as a result of complying with a direction given by the Minister under section 8, the Authority is entitled to be reimbursed by the Commonwealth the amount that the Minister determines in writing to be the amount of that financial detriment.
- (2) The reference in subsection (1) to suffering financial detriment includes a reference to:
- (a) incurring costs that are greater than those that would otherwise have been incurred; and
  - (b) forgoing revenue that would otherwise have been received.

**9A Minister may give Authority notices about its strategic direction etc.**

- (1) The Minister may, from time to time, by notice in writing to the Authority, advise the Authority of his or her views in relation to the following matters:
- (a) the appropriate strategic direction of the Authority;
  - (b) the manner in which the Authority should perform its functions.
- (2) The Authority must, in performing its functions, take account of notices given to it under subsection (1).
- (3) The members must, in preparing each corporate plan, take account of notices given to the Authority under subsection (1).
- (4) The members must include in their annual report under section 9 of the *Commonwealth Authorities and Companies Act 1997* for a financial year:
- (a) a summary of notices given to the Authority, in that financial year, under subsection (1); and
  - (b) a summary of action taken in that financial year by the Authority because of notices given to the Authority under subsection (1) in that or any other financial year.

**9B Minister may direct Authority to give documents and information to nominee**

- (1) In this section:

*ministerial nominee* means a person whose responsibilities or duties include advising the Minister about the performance and strategies of the Authority.

- (2) The Minister may direct the Authority to give to a specified ministerial nominee any documents or information relating to the operations of the Authority that the nominee requests.
- (3) The Authority must comply with a direction by the Minister under subsection (2).
- (4) The members must include in their annual report under section 9 of the *Commonwealth Authorities and Companies Act 1997* for a financial year particulars of any directions given to the Authority by the Minister under subsection (2) in that financial year.

**10 Powers of Authority**

- (1) In addition to any other powers conferred on it by this or any other Act, the Authority has, subject to this Act, power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting the generality of subsection (1), the powers include, subject to this Act, power:
- (a) to enter into contracts; and
  - (b) to acquire, hold and dispose of real and personal property; and
  - (c) to join in the formation of companies; and
  - (d) to enter partnerships; and
  - (e) to let on hire plant, machinery, equipment or goods of the Authority not immediately required by the Authority; and
  - (g) to do anything incidental to any of the powers specified in this subsection or otherwise conferred on the Authority.

Note: Subsection 18(3) of the *Commonwealth Authorities and Companies Act 1997* gives the Authority power to invest its surplus money.

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- (3) Where the Authority may provide a facility or service, or discharge a function, the Authority may do so:
- (a) itself; or
  - (b) in co-operation with another person; or
  - (c) by arranging for another person to do so on its behalf.
- (4) In subsection (3):
- person* includes:
- (a) the Commonwealth; and
  - (b) a State or Territory; and
  - (c) the government or an agency of the government of a foreign country.

## 11 Disclosure of information

- (1) This section applies to information (including personal information, within the meaning of the *Privacy Act 1988*), obtained by the Authority at any time (whether before or after the commencement of this section) and by any means, including information required to be given to the Authority by law.
- (2) The Authority may disclose the information to any person, subject to such terms and conditions (if any) as the Authority specifies, for any of the following purposes:
- (a) maritime domain awareness, including maritime security;
  - (b) maritime safety;
  - (c) protection of the marine environment;
  - (d) efficiency of maritime transportation;
  - (e) the administration or enforcement of a law of the Commonwealth that relates to coastal trading.

## 12 Consultation

In the performance of its functions and the exercise of its powers, the Authority must, where appropriate, consult with government, commercial, industrial, consumer and other relevant bodies and organisations.

## **Part 3—Constitution of Authority**

### **13 Constitution of Authority**

- (1) The Authority is to consist of:
  - (a) a Chairperson; and
  - (b) a Deputy Chairperson; and
  - (c) the Chief Executive Officer; and
  - (d) if the Minister specifies in writing an office in the Department for the purposes of this subsection—the person for the time being occupying that office; and
  - (e) 4 other members.
- (2) The Chairperson may be appointed as a full-time member or as a part-time member.
- (3) The members (other than the Chairperson and the Chief Executive Officer) are to be appointed as part-time members.
- (4) The members (other than the Chief Executive Officer and the member referred to in paragraph (1)(d)) are to be appointed by the Minister, and hold office on such terms and conditions in respect of matters not provided for by this Act as are determined by the Minister in writing.
- (5) The performance of the functions and the exercise of the powers of the Authority are not affected merely because of a vacancy in the membership of the Authority.

### **14 Period of appointment of members**

Subject to this Part, a member (other than the Chief Executive Officer and the member referred to in paragraph 13(1)(d)) holds office for the period, not exceeding 5 years, specified in the instrument of appointment, but is eligible for re-appointment.

### **15 Remuneration and allowances of members**

- (1) A member (other than the Chief Executive Officer and the member referred to in paragraph 13(1)(d)) is to be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, is to be paid such remuneration as is prescribed.
- (2) A member is to be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### **16 Outside employment**

- (1) Where the Chairperson has been appointed as a full-time member, he or she must not engage in paid employment outside the duties of his or her office without the approval of the Minister.
- (2) A member appointed as a part-time member must not engage in any paid employment that, in the opinion of the Minister, conflicts with the proper performance of the duties of the member.

### **17 Leave of absence**

- (1) A Chairperson appointed as a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant a Chairperson referred to in subsection (1) leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines in writing.
- (3) The Minister may grant leave to a Chairperson appointed as a part-time member to be absent from a meeting or meetings of the Authority.
- (4) The Chairperson may grant leave to another member (other than the Chief Executive Officer) to be absent from a meeting or meetings of the Authority.

**18 Acting appointments**

- (1) The Minister may appoint the Deputy Chairperson or another member (other than the Chief Executive Officer) to act as the Chairperson:
- (a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (2) The Minister may appoint a member (other than the Chief Executive Officer) to act as the Deputy Chairperson:
- (a) during a vacancy in the office of Deputy Chairperson, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the Deputy Chairperson is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (3) The Minister may appoint a person to act as a member referred to in paragraph 13(1)(e) (in this section called an **ordinary member**):
- (a) during a vacancy in the office of the ordinary member, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when an ordinary member is absent from Australia or is, for any other reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (4) Where the Chairperson is a part-time member, a person appointed under paragraph (1)(b) to act as the Chairperson must be appointed on a part-time basis.

## 20 Resignation

A member other than the Chief Executive Officer may resign by instrument in writing sent to the Minister.

## 21 Termination of appointment

- (1) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.
  - (2) If:
    - (a) a member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
    - (b) a member, being a Chairperson who has been appointed as a full-time member:
      - (i) engages, except with the approval of the Minister, in paid employment outside the duties of his or her office; or
      - (ii) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
    - (c) a member, not being a Chairperson who has been appointed as a full-time member:
      - (i) engages in paid employment that, in the opinion of the Minister, conflicts with the proper performance of the duties of the member; or
      - (ii) is absent, except on leave of absence granted under section 17, from 3 consecutive meetings of the Authority; or
    - (d) a member fails, without reasonable excuse, to comply with section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*; or
    - (e) the Minister is of the opinion that the performance of a member has been unsatisfactory for a significant period of time;
- the Minister may terminate the appointment of the member.



- (3) If the Minister is of the opinion that the performance of the Authority has been unsatisfactory for a significant period of time, the Minister may terminate the appointment of all members or specified members.
- (3A) If the Minister is of the opinion that:
- (a) the Authority has failed to comply with section 9B of this Act; or
  - (b) the members have failed to comply with:
    - (i) subsection 25(4) of this Act; or
    - (ii) subsection 13(2) or 15(1) of the *Commonwealth Authorities and Companies Act 1997*; or
    - (iii) paragraph 16(1)(a) or (b) of the *Commonwealth Authorities and Companies Act 1997*;
- the Minister may terminate the appointment of all members or specified members.
- (4) This section does not apply to the Chief Executive Officer.

## **22 Meetings**

- (1) The Authority is to hold such meetings as are necessary for the efficient performance of its functions.
- (2) The Chairperson:
- (a) may convene a meeting at any time; and
  - (b) must convene a meeting on receipt of a written request signed by not less than 2 other members.
- (3) The Minister may convene a meeting at any time.
- (4) The Chairperson is to preside at all meetings at which he or she is present.
- (5) Where the Chairperson is not present at a meeting:
- (a) the Deputy Chairperson is to preside; or
  - (b) if the Deputy Chairperson is not present—the members present are to appoint one of their number to preside.
- (6) At a meeting 4 members constitute a quorum.

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- (7) Questions arising at a meeting are to be determined by a majority of the votes of the members present and voting.
- (8) The person presiding at a meeting has a deliberative vote and, if necessary, also has a casting vote.

**23 Conduct of meetings**

- (1) The Authority may, subject to this Part, regulate proceedings at its meetings as it considers appropriate.
- (2) Without limiting subsection (1), the Authority may permit members to participate in a particular meeting, or all meetings, by telephone, closed-circuit television or any other means of communication, and a member who so participates is to be regarded as being present at the meeting.
- (3) Without limiting subsection (1), the Authority may invite a person to attend a meeting for the purpose of advising or informing it on any matter.

**24 Resolutions without meetings**

- (1) Where the Authority so determines, a resolution is to be taken to have been passed at a meeting of the Authority if, without meeting, 4 or more members indicate agreement with the resolution in accordance with the method determined by the Authority.
- (2) Such a resolution is taken to have been passed on a day determined in accordance with that method.

## **Part 4—Operation of Authority**

### **25 Corporate plan**

- (1) The members must prepare a corporate plan at least once a year and give it to the Minister.
- (2) If the Minister asks the members to give the plan to the Minister by a specified day, the members must give the plan to the Minister by that day.
- (3) The plan must cover a period of at least 3 years.
- (4) The members must keep the Minister informed about:
  - (a) significant changes to the plan; and
  - (b) matters that arise that might significantly affect the achievement of the objectives of the plan.
- (5) The plan must include details of the following matters:
  - (a) assumptions about the Authority's operational environment;
  - (b) the Authority's strategies;
  - (c) performance indicators for the Authority;
  - (d) review of performance against previous corporate plans;
  - (e) analysis of risk factors likely to affect safety in the maritime industry;
  - (f) human resource strategies and industrial relations strategies.
- (6) The plan must also cover any other matters required by the Minister, which may include further details about the matters in subsection (5).
- (7) In preparing the plan, the members must take account of notices given under section 9A.

### **26 Minister's response to corporate plan**

- (1) The Minister must respond to a corporate plan within 60 days of being given the plan.

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- (2) The Minister's response may include a direction to the members to vary the plan.
- (3) A direction under subsection (2) must be in writing and must set out its reasons.
- (4) If directing a variation of the corporate plan, the Minister must consider:
  - (a) the objectives and policies of the Commonwealth Government; and
  - (b) the objects of this Act; and
  - (c) any other considerations the Minister thinks appropriate.
- (5) If the Minister's response includes a direction to vary the corporate plan, the members must prepare a revised plan and give it to the Minister within 28 days of being given the response.

**27 Performance indicators**

When including details of the performance indicators for the Authority in the corporate plan, the members must consider:

- (a) the need for high standards of maritime safety; and
- (b) the need for a high standard of protection for the marine environment; and
- (c) the objectives and policies of the Commonwealth Government known to the Authority; and
- (d) any directions given by the Minister under section 8; and
- (e) the performance of functions of the Authority that are directly funded by the Commonwealth; and
- (f) the need to maintain a reasonable level of reserves, having regard to estimated future infrastructure requirements; and
- (g) the need to maintain the extent of the Commonwealth's equity in the Authority; and
- (k) any other consideration affecting the performance of the Authority that the members think appropriate.

## **Part 5—Finance**

### **Division 1—General**

#### **30 Transfers of certain Commonwealth assets to Authority**

- (1) Where, immediately before the commencement of this section:
  - (a) a function of the Authority was being performed by the Department; and
  - (b) an asset was held or used by the Department in connection with the performance of that function;the Minister may, at any time, cause the asset to be transferred to the Authority.
- (2) Subsection (1) does not prevent the Commonwealth from transferring any asset to the Authority otherwise than under that subsection.

#### **31 Statutory transfer of land etc. to Authority**

- (1) In this section:

*interest* includes any estate, right or title, whether legal or equitable.

*land* includes buildings and fixed structures.
- (2) Where the Minister, by notice published in the *Gazette* for the purposes of this section:
  - (a) describes any land in which the Commonwealth holds an interest; and
  - (b) describes that interest;the following provisions have effect.
- (3) The interest is transferred to the Authority on the day specified in the notice, not being earlier than the day of publication of the notice.
- (4) Where the interest of the Commonwealth is of such a kind that it is not held from another person, the transfer has effect as a grant to the authority of an estate in fee simple.

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- (5) The Minister must cause to be lodged with the Registrar-General, Registrar of Titles or other appropriate officer of the relevant State or Territory a copy of the notice, certified in writing signed by an officer of the Department authorised by the Minister for the purpose.
- (6) The officer with whom a copy is lodged may register the transfer as nearly as possible as if it were a dealing in land and may deal with and give effect to the copy as if it were a grant or conveyance duly executed under the laws in force in the relevant State or Territory.
- (7) A notice must not be published under this section after one year from the commencement of this section.

**32 Effects of transfers from Commonwealth to Authority**

- (1) Where any assets are transferred from the Commonwealth to the Authority, subsections (2) to (5) (inclusive) apply.
- (2) The Minister:
  - (a) must, for the purposes of subsection (3) and section 36, determine the value of the assets as on the day of the transfer or as on such day or days prior to the transfer as the Minister determines; and
  - (b) may determine an amount, not exceeding that value, for the purposes of subsection (3).
- (3) If an amount is determined under paragraph (2)(b), the Commonwealth is to be taken to have made, on the day of the transfer, a loan to the Authority equal to that amount.
- (4) The terms and conditions of the loan as to interest and otherwise are as determined by the Finance Minister.
- (5) Where, immediately before the transfer:
  - (a) a right of the Commonwealth arising out of a debt, liability or obligation of any other person in favour of the Commonwealth existed in respect of the assets; or

- (b) a debt, liability or obligation of the Commonwealth existed in respect of the assets;  
the right, debt, liability or obligation, as the case may be, of the Commonwealth is transferred to the Authority to the extent determined by the Minister.
- (6) A determination under this section must be in writing.

### **33 Liabilities in respect of personnel**

The Minister is, as soon as practicable after the commencement of this section, to determine in writing for the purposes of paragraph 36(1)(h) the total amount of the provisions to be made by the Authority on account of liabilities transferred from the Commonwealth in respect of personnel transferred from the Commonwealth.

### **34 Money paid in advance to the Commonwealth**

Where:

- (a) a function of the Authority was formerly performed by the Department; and
- (b) an amount received by the Commonwealth is or includes an amount paid in advance on account of anything to be done by the Commonwealth in performing that function; and
- (c) that thing was not done by the Commonwealth before the commencement of this section;

there is payable to the Authority by the Commonwealth an amount that the Minister, having regard to all matters that he or she considers relevant, determines in writing as being payable because of the receipt of the first-mentioned amount.

### **35 Rights in respect of services and facilities formerly provided by Department**

- (1) Where, immediately before the commencement of this section:
- (a) a function of the Authority was being performed by the Department; and
  - (b) a right of the Commonwealth existed, arising out of a debt, liability or obligation of any other person in favour of the

Commonwealth in respect of a service or facility provided by the Department in the performance of that function; the right of the Commonwealth is transferred to the Authority to the extent determined in writing by the Minister.

- (2) Where, immediately before the commencement of this section:
- (a) proceedings by the Commonwealth were pending in a court; and
  - (b) the proceedings related to such a debt, liability or obligation;
- then, to the extent that the proceedings so relate, they may be continued by the Authority and the Authority is to be substituted for the Commonwealth.

### **36 Capital of Authority**

- (1) The capital of the Authority is the sum of:
- (a) the value of assets that have been transferred to the Authority by the Commonwealth as determined under section 32; and
  - (b) the net realisable value of any rights transferred to the Authority under this Act; and
  - (c) any amounts paid to the Authority out of money appropriated by the Parliament for the purpose of providing capital; and
  - (d) any reserves resulting from the operations of the Authority (whether because of the retention of profits or otherwise) or from the revaluation of the Authority's assets; and
  - (e) any retained profits other than reserves; and
  - (f) any operating results affecting the capital of the Authority, not being reserves or retained profits;
- less:
- (g) amounts taken to be loans under section 32; and
  - (h) the amount determined under section 33; and
  - (j) debts, liabilities and obligations of the Commonwealth transferred to the Authority by subsection 32(5); and
  - (k) any amounts of capital repaid to the Commonwealth by the Authority.



- (2) Interest is not payable to the Commonwealth on the capital of the Authority, but the capital of the Authority is repayable to the Commonwealth at such times, and in such amounts, as the Minister determines in writing.
- (3) In making such a determination, the Minister must have regard to any advice that the Authority has given to the Minister in relation to its financial affairs.

### **37 Exemption from tax**

- (1) The Authority is not liable to pay tax under any law of the Commonwealth or of a State or Territory.
- (2) Subsection (1) does not apply to:
  - (a) customs duties; or
  - (b) a law of the Commonwealth relating to sales tax.

### **39 Borrowings from Commonwealth**

The Finance Minister may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend money to the Authority on such terms and conditions as he or she determines in writing.

### **40 Borrowings otherwise than from Commonwealth**

- (1) The Authority may borrow money otherwise than from the Commonwealth.
- (2) Money may be borrowed under subsection (1) wholly or partly in foreign currency.

### **41 Guarantee of borrowings by Authority**

- (1) The Finance Minister may, on behalf of the Commonwealth, enter into a contract guaranteeing:
  - (a) the performance by the Authority of obligations incurred by it under section 40; or
  - (b) the performance by a company that is a wholly owned subsidiary of the Authority of obligations arising out of a borrowing by the company.

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- (2) If the Finance Minister determines in writing that:
- (a) obligations incurred by the Authority under section 40; or
  - (b) obligations arising out of a borrowing by a company that is a wholly owned subsidiary of the Authority;
- are guaranteed by the Commonwealth, the obligations become so guaranteed.
- (3) A contract under subsection (1) may include:
- (a) a provision agreeing that proceedings under the contract may be taken in courts of a foreign country; or
  - (b) a provision waiving the immunity of the Commonwealth from suit in courts of a foreign country.
- (4) For the purposes of this section, a company is a wholly owned subsidiary of the Authority if the company is a subsidiary of the Authority and none of the members of the company is a person other than:
- (a) the Authority; or
  - (b) a nominee of the Authority; or
  - (c) a subsidiary of the Authority none of whose members is a person other than the Authority or a nominee of the Authority; or
  - (d) a nominee of a subsidiary referred to in paragraph (c).
- (5) Where the Finance Minister guarantees such a borrowing, the Finance Minister must cause to be laid before each House of Parliament, within 15 sitting days of that House after the contract is entered into or the determination made, a notice specifying the amount and term of the borrowing and such other information relating to the borrowing or the guarantee as the Finance Minister considers appropriate.
- (6) The Finance Minister may, by written instrument, delegate any of the Finance Minister's powers or functions under this section to an official (within the meaning of the *Financial Management and Accountability Act 1997*). In exercising powers or functions under a delegation, the official must comply with any directions of the Finance Minister.

#### **42 Authority may give security**

The Authority may give security over the whole or part of its assets for:

- (a) the performance by the Authority of any obligation incurred under section 39 or 40; or
- (b) the payment to the Commonwealth of amounts equal to amounts paid by the Commonwealth under a guarantee under section 41.

## Division 2—Charges and levies

### 46 Interpretation

In this Division:

*charge* means:

- (a) a charge for a service or facility provided by the Authority;  
or
- (b) a fee or other charge in respect of a matter in relation to which expenses are incurred by the Authority under this Act or the regulations, including, but without being limited to, a fee or other charge in respect of, or for an application for:
  - (i) the grant, issue, renewal or variation of a certificate, licence, approval, permission, permit, registration or exemption under an Act or regulations under an Act; or
  - (ii) the grant or variation of an authorisation, or the cancellation, suspension, variation or imposition of a condition, relating to anything referred to in subparagraph (i); or
- (c) a fee in respect of a matter referred to in regulations or orders made under:
  - (i) the *Navigation Act 1912*; or
  - (ii) the *Shipping Registration Act 1981*; or
  - (iii) the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*; or
  - (iv) the *Protection of the Sea (Civil Liability) Act 1981*; or
  - (v) the *Lighthouses Act 1911*; or
- (d) a fee in respect of a matter referred to in section 15, 15C, 15D or 57 of the *Shipping Registration Act 1981*.

### 47 Charges for services and facilities

- (1) Subject to this section, the Authority may make determinations:
  - (a) fixing charges and specifying the persons by whom, and the times when, the charges are payable; and
  - (b) fixing the penalty for the purposes of subsection (14).

- (2) This section has effect subject to Part VIIA of the *Competition and Consumer Act 2010*.
- (3) Before making a determination, the Authority must give the Minister notice in writing of the proposed determination:
- (a) specifying the day from which the determination is intended to operate; and
  - (b) if it fixes a charge or penalty—specifying the basis of the charge or penalty; and
  - (c) if it varies a charge or penalty—specifying the reason for the variation.
- (4) Where the Authority receives:
- (a) a notice under subsection 95L(3) of the *Competition and Consumer Act 2010* about an inquiry into the supply of services or facilities by the Authority to which the proposed determination relates; or
  - (b) a notice under section 95ZJ of that Act withdrawing such a notice;
- the Authority must inform the Minister in writing of the notice and its contents.
- (5) Where the Authority is given, under section 95P of the *Competition and Consumer Act 2010*, a report of an inquiry held under that Act in relation to the supply of services or facilities by the Authority, it must give a copy of the report to the Minister.
- (6) The Minister may, within the period referred to in subsection (7), give the Authority notice in writing approving or disapproving the proposed determination, but in doing so, the Minister must have regard to the duties and responsibilities of the Authority.
- (7) The period within which the Minister may give a notice is:
- (a) if the Authority has received a notice under subsection 95L(3) of the *Competition and Consumer Act 2010* about an inquiry into the supply of services or facilities by the Authority to which the proposed determination relates—within 30 days after the Minister receives from the Authority:
    - (i) a notice under subsection (4) that the Authority has received a notice under section 95ZJ of that Act; or

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- (ii) a copy of the report given to the Authority under section 95P of that Act in relation to the supply of services or facilities concerned; or
  - (b) in any other case—within 60 days after the Minister receives a notice of the proposed determination.
- (8) A notice under subsection (6) disapproving a proposed determination may recommend an alternative determination.
- (9) The Authority may make a determination only if:
  - (a) the Minister has approved it; or
  - (b) the period within which the Minister may give a notice to the Authority under subsection (6) has expired without the Minister having given such a notice.
- (10) Where the Minister receives from the Authority a copy of a report under section 95P of the *Competition and Consumer Act 2010* in relation to the supply of services or facilities to which the proposed determination relates, the Minister may, in the notice under subsection (6), disapprove the proposed determination and substitute a fresh determination.
- (11) A determination so substituted has effect as if it had been made by the Authority in accordance with subsection (9).
- (12) The amount or rate of a charge must be reasonably related to the expenses incurred or to be incurred by the Authority in relation to the matters to which the charge relates and must not be such as to amount to taxation.
- (13) A determination is to be made public in such manner as the Authority thinks appropriate.
- (14) Subject to subsection (15), where a charge is not paid within the period determined by the Authority, being a period beginning on the day on which the charge became due and payable, the person liable for the charge is liable to pay to the Authority, in addition to the charge, a penalty calculated upon the unpaid amount of the charge from the day on which the charge became due and payable, and compounded.
- (15) The penalty must not exceed a penalty equivalent to 1.5%, or such other percentage as is prescribed, of the unpaid amount of the charge for each month or part of a month during which it is unpaid,

calculated from the day on which the charge became due and payable, and compounded.

- (16) Subsection (15) does not require the penalty to be calculated on a monthly basis.
- (17) Charges and penalties may be recovered as debts due to the Authority.

#### **48 Payment of amounts of levy to Authority**

- (1) There are to be paid to the Authority amounts equal to:
  - (a) amounts of levy received, or purportedly received, by the Commonwealth under:
    - (i) the *Marine Navigation Levy Act 1989*; and
    - (ii) the *Marine Navigation (Regulatory Functions) Levy Act 1991*; and
    - (iii) the *Protection of the Sea (Shipping Levy) Act 1981*; and
  - (b) amounts received, or purportedly received, by the Commonwealth, under section 8 of the *Protection of the Sea (Shipping Levy Collection) Act 1981*, as amounts on account of levy; and
  - (c) amounts of penalty received, or purportedly received, by the Commonwealth under:
    - (i) the *Marine Navigation Levy Collection Act 1989*; and
    - (ii) the *Marine Navigation (Regulatory Functions) Levy Collection Act 1991*; and
    - (iii) the *Protection of the Sea (Shipping Levy Collection) Act 1981*.
- (1A) If an amount referred to in paragraph (1)(a), (b) or (c) is refunded, the Authority must pay to the Commonwealth an amount equal to the refund.
- (1B) The Minister may, on behalf of the Commonwealth, set off an amount payable by the Authority under subsection (1A) against an amount that is payable to the Authority under subsection (1).
- (2) Amounts payable under subsection (1) are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

## **Part 6—Chief Executive Officer, staff and consultants**

### **49 Chief Executive Officer**

- (1) There is to be a Chief Executive Officer of the Authority, who is to be appointed by the Minister after receiving a recommendation from the Authority.
- (2) Subject to this Part, a person appointed as Chief Executive Officer holds office for the period, not exceeding 5 years, specified in the instrument of appointment, but is eligible for re-appointment.
- (3) The Chief Executive Officer is, under the Authority, to manage the Authority.
- (4) Anything done in the name of, or on behalf of, the Authority by the Chief Executive Officer is to be taken to have been done by the Authority.

### **50 Chief Executive Officer not to engage in other work**

The Chief Executive Officer must not engage in paid employment outside the duties of his or her office without the approval of the Authority.

### **51 Remuneration and allowances of Chief Executive Officer**

- (1) The Chief Executive Officer is to be paid the remuneration that is determined by the Remuneration Tribunal. However, if no determination of that remuneration by the Tribunal is in operation, the Chief Executive Officer is to be paid the remuneration that is prescribed by the regulations.
- (2) The Chief Executive Officer is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.



**51A Leave of absence**

- (1) The Chief Executive Officer has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Minister may grant the Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

**52 Resignation**

The Chief Executive Officer may resign by instrument in writing sent to the Minister.

**53 Term of office**

The Chief Executive Officer holds office during the Authority's pleasure.

**54 Acting Chief Executive Officer**

- (1) The Minister may, after receiving a recommendation from the Authority, appoint a person to act as Chief Executive Officer:
  - (a) during a vacancy in the office of Chief Executive Officer, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the Chief Executive Officer is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (2) A person, other than a member of the staff, who is acting as Chief Executive Officer is to be paid the same remuneration and allowances as are payable to the Chief Executive Officer.
- (3) A member of the staff who is acting as Chief Executive Officer is to continue to be paid the remuneration and allowances payable to the person as such a member but is also to be paid:
  - (a) so much of any remuneration payable to the Chief Executive Officer as exceeds the person's usual remuneration; and

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- (b) so much of any allowance payable to the Chief Executive Officer as exceeds the corresponding allowance payable to the person; and
- (c) if an allowance is payable to the Chief Executive Officer but is not payable to the person—that allowance.

**55 Staff of Authority**

The staff of the Authority are to be persons appointed or employed by the Authority on such terms and conditions as are determined by the Authority in writing.

**56 Consultants**

The Authority may engage such consultants as it thinks necessary.

## **Part 7—Miscellaneous**

### **57 Delegation by Minister**

The Minister may, by signed instrument, delegate all or any of the powers of the Minister under section 30, 31, 34, 48 or 59 to:

- (a) the person holding or performing the duties of the office of Secretary of the Department; or
- (b) an SES employee, or acting SES employee, in the Department.

### **58 Delegation by Authority**

- (1) Subject to subsection (2), the Authority may, by written instrument, delegate to a person all or any of its powers under this or any other Act.
- (2) The powers of the Authority under subsection 40(1), section 42, subsection 47(1) and section 56, may be delegated only to a member or officer of the Authority.

### **59 Substitution of Authority for Commonwealth in contracts etc.**

If the Minister so declares in writing, a specified contract or other instrument:

- (a) to which the Commonwealth or the Commonwealth Government is a party; and
- (b) that related to an asset immediately before the transfer of that asset under this Act;

has effect after the transfer as if, to the extent to which the contract or instrument so relates:

- (c) the Authority were substituted for the Commonwealth or the Commonwealth Government as a party; and
- (d) any reference to the Commonwealth or the Commonwealth Government were, in relation to matters occurring after the transfer, a reference to the Authority.

### **60 Publication of directions**

Where the Minister gives a direction under section 8, the Minister must cause a copy of the direction to be published in the *Gazette* within 21 days after it is given.

### **61 Regulations**

The Governor-General may make regulations, not inconsistent with this Act:

- (a) prescribing matters required or permitted by this Act to be prescribed; and
- (b) prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## **Part 9—Transitional provisions**

### **63 Actions etc. under provisions amended or repealed**

- (1) Where this Act:
  - (a) amends a provision of another Act; or
  - (b) repeals and re-enacts a provision of another Act;  
any instrument made, act done, step taken or decision made by a person under that provision (being an instrument, act, step or decision in effect immediately before the amendment or repeal) continues to have effect as if it had been made, done or taken by the appropriate person under that provision as so amended or re-enacted.
- (2) In an instrument that, by virtue of subsection (1), continues to have effect in the manner provided in that subsection:
  - (a) a reference to the Secretary to the Department; and
  - (b) a reference to the Department (other than a reference mentioned in paragraph (a));is to be read as a reference to the Authority.
- (3) An order made by the Minister pursuant to regulations under:
  - (a) the *Navigation Act 1912*; or
  - (b) the *Protection of the Sea (Powers of Intervention) Act 1981*;  
or
  - (c) the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*;and in force immediately before the amendment of that Act by this Act continues in force as if it were an order made by the Authority under the relevant provision of that Act as so amended.



**Table of Acts****Notes to the *Australian Maritime Safety Authority Act 1990*****Note 1**

The *Australian Maritime Safety Authority Act 1990* as shown in this compilation comprises Act No. 78, 1990 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 22 February 2005 is not included in this compilation. For subsequent information *see* Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian Maritime Safety Authority Act 1990</i>	78, 1990	22 Oct 1990	Ss. 35, 48, 62 and 63: 1 Jan 1991 Remainder: Royal Assent	
<i>Marine Navigation (Regulatory Functions) Levy Collection Act 1991</i>	41, 1991	27 Mar 1991	1 July 1991	—
<i>Transport Legislation Amendment Act 1991</i>	101, 1991	27 June 1991	Part 2 (ss. 4–6): 10 Dec 1991 ( <i>see Gazette</i> 1991, No. S332) (a)	—
<i>Transport and Communications Legislation Amendment Act 1991</i>	173, 1991	25 Nov 1991	S. 56: (b)	—
<i>Transport and Communications Legislation Amendment Act (No. 2) 1992</i>	71, 1992	26 June 1992	Part 3 (ss. 7, 8): Royal Assent (c)	—
<i>Transport and Communications Legislation Amendment Act (No. 2) 1993</i>	5, 1994	18 Jan 1994	Schedule (item 9): 22 Oct 1990 (d)	—
<i>Competition Policy Reform Act 1995</i>	88, 1995	20 July 1995	S. 77: 6 Nov 1995 ( <i>see Gazette</i> 1995, No. S423) (e)	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Transport Legislation Amendment Act 1995</i>	95, 1995	27 July 1995	Schedule 1 (Part C [items 1–3, 6, 8–20]): Royal Assent Schedule 1 (Part C [items 4, 5, 7]): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (f)	Ss. 4–7 S. 2(4) (as am. by 152, 1997, Sch. 3 [item 30])
<b>as amended by</b>				
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 3 (items 30, 32): 27 July 1995 (g)	—
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 3 (item 4): 22 Oct 1990 (h)	—
<i>Transport Legislation Amendment (Search and Rescue Service) Act 1997</i>	130, 1997	17 Sept 1997	1 Nov 1997 (see <i>Gazette</i> 1997, No. S438)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 368–374): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (i) Schedule 3 (item 3): Royal Assent (i)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 203–206): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (j)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 10 (item 41): 13 Mar 2000 (see <i>Gazette</i> 2000, No. S114) (k)	—
<i>Transport Safety Investigation (Consequential Amendments) Act 2003</i>	19, 2003	11 Apr 2003	Schedule 1 (item 4): (l)	—
<i>Trade Practices Legislation Amendment Act 2003</i>	134, 2003	17 Dec 2003	Schedules 1 and 2: 1 Mar 2004 (see <i>Gazette</i> 2004, No. GN8) Remainder: Royal Assent	—
<i>Financial Framework Legislation Amendment Act 2005</i>	8, 2005	22 Feb 2005	Schedule 2 (items 51–55, 174): Royal Assent	Sch. 2 (item 174) [see Table A]
<i>Maritime Legislation Amendment Act 2007</i>	150, 2007	24 Sept 2007	Schedule 2: Royal Assent	—



**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Transport Safety Investigation Amendment Act 2009</i>	20, 2009	26 Mar 2009	Schedule 1 (item 69): 1 July 2009	—
<i>Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010</i>	103, 2010	13 July 2010	Schedule 6 (items 1, 27–31): 1 Jan 2011	—
<i>Statute Law Revision Act 2011</i>	5, 2011	22 Mar 2011	Schedule 5 (items 30–33) and Schedule 7 (item 22): 19 Apr 2011	—
<i>Acts Interpretation Amendment Act 2011</i>	46, 2011	27 June 2011	Schedule 2 (items 189–194) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11) [see Table A]
<i>Shipping Registration Amendment (Australian International Shipping Register) Act 2012</i>	54, 2012	21 June 2012	Schedule 4 (item 1): 1 July 2012	—
<i>Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012</i>	56, 2012	21 June 2012	Schedule 1 (item 1): (m)	—
<i>Financial Framework Legislation Amendment Act (No. 2) 2012</i>	82, 2012	28 June 2012	Schedule 1 (items 24–26): 29 June 2012	Sch. 1 (item 26) [see Table A]
<i>Marine Safety (Domestic Commercial Vessel) National Law (Consequential Amendments) Act 2012</i>	122, 2012	12 Sept 2012	Schedule 1: [see (n) and Note 2]	—
<i>Navigation (Consequential Amendments) Act 2012</i>	129, 2012	13 Sept 2012	Schedule 2 (items 7–10): [see s. 2(1) and Note 3]	—
<i>Statute Law Revision Act 2012</i>	136, 2012	22 Sept 2012	Schedule 6 (items 13, 14): Royal Assent	—

## Act Notes

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- (a) The *Australian Maritime Safety Authority Act 1990* was amended by Part 2 (sections 4–6) only of the *Transport Legislation Amendment Act 1991*, subsection 2(3) of which provides as follows:
- (3) Part 2 and sections 3, 13, 14, 20 and 21 commence:
    - (a) on the same day as the Schedule to the *Industrial Relations Legislation Amendment Act 1991* commences; or
    - (b) if that Schedule has commenced before the day on which this Act receives the Royal Assent—on the day on which this Act receives the Royal Assent.
- (b) The *Australian Maritime Safety Authority Act 1990* was amended by section 56 only of the *Transport and Communications Legislation Amendment Act 1991*, subsection 2(9) of which provides as follows:
- (9) The amendment of subsection 48(1) of the *Australian Maritime Safety Authority Act 1990* in the Schedule is taken to have commenced immediately after section 48 of that Act commenced.
- Section 48 commenced on 1 January 1991.
- (c) The *Australian Maritime Safety Authority Act 1990* was amended by Part 3 (sections 7 and 8) only of the *Transport and Communications Legislation Amendment Act (No. 2) 1992*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (d) The *Australian Maritime Safety Authority Act 1990* was amended by the Schedule (item 9) only of the *Transport and Communications Legislation Amendment Act (No. 2) 1993*, subsection 2(7) of which provides as follows:
- (7) The amendment contained in item 9 of the Schedule is taken to have commenced on 22 October 1990.
- (e) The *Australian Maritime Safety Authority Act 1990* was amended by section 77 only of the *Competition Policy Reform Act 1995*, subsection 2(2) of which provides as follows:
- (2) Part 3 commences on a day to be fixed by Proclamation. However, if Part 3 does not commence by Proclamation within the period of 6 months beginning on the day on which this Act receives the Royal Assent, then it commences on the first day after the end of that period.
- (f) The *Australian Maritime Safety Authority Act 1990* was amended by Schedule 1 (Part C [items 1–20]) only of the *Transport Legislation Amendment Act 1995*, subsections 2(3) and (4) of which provide as follows:
- (3) The following provisions commence on the day on which this Act receives the Royal Assent or 1 July 1995, whichever is later:
    - (a) Part C of Schedule 1 (except items 4, 5 and 7);
  - (4) Items 4, 5 and 7 of Part C of Schedule 1 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (g) The *Transport Legislation Amendment Act 1995* was amended by Schedule 3 (items 30 and 32) of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, paragraph (3)(h) of which provides as follows:
- (h) the amendments of the *Transport Legislation Amendment Act 1995* are taken to have commenced on the day on which that Act received the Royal Assent.
- (h) The *Australian Maritime Safety Authority Act 1990* was amended by Schedule 3 (item 4) only of the *Statute Law Revision Act 1996*, subsection 2(3) of which provides as follows:
- (3) Each item in Schedule 3 is taken to have commenced when the Act containing the provision amended by the item received the Royal Assent.

**Act Notes**

- (i) The *Australian Maritime Safety Authority Act 1990* was amended by Schedule 2 (items 368–374) and Schedule 3 (item 3) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsections 2(2) and (3)(c) of which provide as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
  - (3) Schedule 3 commences as follows
    - (c) the amendments of the *Australian Maritime Safety Authority Act 1990* commence on the day on which this Act receives the Royal Assent.
- (j) The *Australian Maritime Safety Authority Act 1990* was amended by Schedule 1 (items 203–206) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999* subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.
- (k) The *Australian Maritime Safety Authority Act 1990* was amended by Schedule 10 (item 41) only of the *Corporate Law Economic Reform Program Act 1999* subsection 2(2)(c) of which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
    - (c) the items in Schedules 10, 11 and 12.
- (l) Subsection 2(1) (item 2) of the *Transport Safety Investigation (Consequential Amendments) Act 2003* provides as follows:

**Commencement information**

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
2. Schedule 1	Immediately after the commencement of section 3 of the <i>Transport Safety Investigation Act 2003</i>	1 July 2003 (see <i>Gazette</i> 2003, No. S229)

- (m) Subsection 2(1) (item 2) of the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
2. Schedules 1 and 2	Immediately after the commencement of section 2 of the <i>Coastal Trading (Revitalising Australian Shipping) Act 2012</i> .	1 July 2012

- (n) Subsection 2(1) (item 2) of the *Marine Safety (Domestic Commercial Vessel) National Law (Consequential Amendments) Act 2012* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

## Act Notes

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<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
2. Schedule 1	Immediately after the commencement of section 3 of the <i>Marine Safety (Domestic Commercial Vessel) National Law Act 2012</i> .	[see Note 2]

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**Table of Amendments****Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Part 1</b>	
S. 2A .....	ad. No. 95, 1995 am. No. 130, 1997
S. 3 .....	am. No. 130, 1997; No. 5, 2011
<b>Part 2</b>	
Note to s. 5(2) .....	ad. No. 152, 1997
S. 6 .....	am. No. 71, 1992; No. 130, 1997; No. 19, 2003; No. 20, 2009
S. 9 .....	am. No. 95, 1995
Ss. 9A, 9B .....	ad. No. 95, 1995 am. No. 95, 1995 (as am. by No. 152, 1997)
S. 10 .....	am. No. 152, 1997
Note to s. 10(2) .....	ad. No. 152, 1997
S. 11 .....	rep. No. 152, 1997 ad. No. 150, 2007 am. No. 56, 2012
<b>Part 3</b>	
S. 13 .....	am. No. 130, 1997
S. 17 .....	rs. No. 101, 1991 am. No. 146, 1999
S. 18 .....	am. No. 46, 2011
Notes to s. 18(1)–(3) .....	ad. No. 46, 2011
S. 19 .....	rep. No. 152, 1997
S. 21 .....	am. No. 101, 1991; No. 95, 1995 (as am. by No. 152, 1997); No. 152, 1997; No. 156, 1999
<b>Part 4</b>	
S. 25 .....	rs. No. 95, 1995
S. 26 .....	am. No. 5, 1994 rs. No. 95, 1995
Heading to s. 27 .....	am. No. 95, 1995
S. 27 .....	am. No. 95, 1995
S. 28 .....	rep. No. 152, 1997
S. 29 .....	rep. No. 95, 1995
<b>Part 5</b>	
<b>Division 1</b>	
S. 32 .....	am. No. 5, 2011
S. 37 .....	am. No. 95, 1995
S. 38 .....	rep. No. 95, 1995
S. 39 .....	am. No. 5, 2011
S. 41 .....	am. No. 8, 2005; No. 5, 2011
S. 43 .....	rep. No. 8, 2005

## Table of Amendments

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ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
S. 44 .....	am. No. 95, 1995 rep. No. 152, 1997
S. 45 .....	rep. No. 152, 1997
<b>Division 2</b>	
S. 46 .....	am. No. 54, 2012
S. 47 .....	am. No. 88, 1995; No. 134, 2003; No. 103, 2010
S. 48 .....	am. Nos. 41 and 173, 1991; No. 82, 2012
<b>Part 6</b>	
S. 51 .....	rs. No. 95, 1995
S. 51A .....	ad. No. 95, 1995 am. No. 146, 1999
S. 54 .....	am. No. 46, 2011
Note to s. 54(1) .....	ad. No. 46, 2011
S. 55 .....	rs. No. 95, 1995
<b>Part 7</b>	
S. 57 .....	am. No. 146, 1999; No. 5, 2011; No. 82, 2012
S. 60 .....	am. No. 95, 1995
Part 8 .....	rep. No. 136, 2012
S. 62 .....	rep. No. 136, 2012
Schedule .....	rep. No. 136, 2012

**Note 2**

*Marine Safety (Domestic Commercial Vessel) National Law (Consequential Amendments) Act 2012* (No. 122, 2012)

The following amendments commence immediately after the commencement of section 3 of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*:

**Schedule 1**

**1 Subsection 3(1)**

Insert:

*domestic commercial vessel* has the same meaning as in the Marine Safety (Domestic Commercial Vessel) National Law of the Commonwealth.

Note: For *Marine Safety (Domestic Commercial Vessel) National Law of the Commonwealth*, see paragraph 4(b) of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*.

**2 Paragraph 13(1)(e)**

Omit “4”, substitute “5”.

**3 After subsection 13(4)**

Insert:

(4A) The Minister must use his or her best endeavours to ensure that at least one of the members referred to in paragraph (1)(e) is a person who the Minister is satisfied has knowledge of, or experience relevant to, the construction or operation of domestic commercial vessels.

**4 Subsection 22(6)**

Omit “4”, substitute “5”.

As at 2 November 2012 the amendments are not incorporated in this compilation.

### **Note 3**

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### **Note 3**

*Navigation (Consequential Amendments) Act 2012* (No. 129, 2012)

The following amendments commence at the same time as section 3 of the *Navigation Act 2012*:

#### **Schedule 2**

#### **7 Subsection 3(1) (definition of *the Safety Convention*)**

Omit “in the *Navigation Act 1912*”, substitute “*Safety Convention* has in the *Navigation Act 2012*”.

#### **8 Section 46 (subparagraph (c)(i) of the definition of *charge*)**

Omit “1912”, substitute “2012”.

#### **9 Section 46 (subparagraph (c)(v) of the definition of *charge*)**

Repeal the subparagraph.

#### **10 Paragraph 63(3)(a)**

Repeal the paragraph.

As at 2 November 2012 the amendments are not incorporated in this compilation.



**Table A**

**Application, saving or transitional provisions**

*Financial Framework Legislation Amendment Act 2005* (No. 8, 2005)

**Schedule 2**

**174 Saving provision—provisions that formerly referred to the Treasurer**

- (1) Any thing that:
- (a) was done by the Treasurer, or by a delegate of the Treasurer, before the commencing time under an affected provision; and
  - (b) was in effect immediately before the commencing time;
- continues to have effect after the commencing time as if it had been done by the Finance Minister under the affected provision.

- (2) In this item:
- affected provision*** means a provision that is amended by an item in this Schedule so as to replace references to the Treasurer with references to the Finance Minister.

***commencing time*** means the day this Act receives the Royal Assent.

***Finance Minister*** means the Minister who administers the *Financial Management and Accountability Act 1997*.

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*Acts Interpretation Amendment Act 2011* (No. 46, 2011)

**Schedule 3**

**10 Saving—appointments**

The amendments made by Schedule 2 do not affect the validity of an appointment that was made under an Act before the commencement of this item and that was in force immediately before that commencement.

**Table A**

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**11 Transitional regulations**

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments and repeals made by Schedules 1 and 2.

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*Financial Framework Legislation Amendment Act (No. 2) 2012*  
(No. 82, 2012)

**Schedule 1**

**26 Application—section 48 of the *Australian Maritime Safety Authority Act 1990***

- (1) Despite the repeal of subsection 48(1) of the *Australian Maritime Safety Authority Act 1990* by this Schedule, that subsection continues to apply, after the commencement of this item, in relation to amounts received by the Commonwealth before the commencement of this item, as if that repeal had not happened.
- (2) Subsection 48(1) of the *Australian Maritime Safety Authority Act 1990* as amended by this Schedule applies in relation to amounts received by the Commonwealth after the commencement of this item.