



Australian Maritime Safety Authority Act 1990

No. 78 of 1990

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SCHEDULE



Australian Maritime Safety Authority Act 1990

No. 78 of 1990

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

[Assented to 22 October 1990]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART 1—PRELIMINARY

Short title

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

Commencement

2. (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.

Interpretation

3. (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;

“**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;

“**Deputy Chairperson**” means the Deputy Chairperson of the Authority;

“**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.

(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*.

Extension to external Territories

4. This Act extends to all external Territories.

PART 2—ESTABLISHMENT, FUNCTIONS AND POWERS OF AUTHORITY

Establishment of Authority

5. (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.

(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.

Functions of Authority

6. (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
- (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.

Functions to be performed in accordance with international agreements

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

Directions

8. (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.

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

Reimbursement of cost of complying with directions

9. (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.

(3) This section does not apply to a direction of the Minister made under subsection 29 (1) or section 38.

Powers of Authority

10. (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
- (f) to invest money not immediately required for the purposes of the Authority in any manner that is consistent with sound commercial practice; and
- (g) to do anything incidental to any of the powers specified in this subsection or otherwise conferred on the Authority.

(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.

Limitations on formation of companies and partnerships

11. (1) The Authority must not:

- (a) subscribe for, or purchase, a major shareholding in a company; or
- (b) join in the formation of a company that would, upon its formation, be a subsidiary of the Authority; or
- (c) enter into a partnership;

unless the Authority has informed the Minister in writing of its intention to do so.

(2) Where:

- (a) the Authority holds a controlling interest in a company; or
- (b) the Authority can control the acts and things done by a partnership of which it is a member;

the Authority must ensure that the company or partnership does not do anything that the Authority cannot do.

Consultation

12. 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

Constitution of Authority

13. (1) The Authority is to consist of:

- (a) a Chairperson; and
- (b) a Deputy Chairperson; and
- (c) the Chief Executive Officer; and
- (d) the person for the time being occupying an office in the Department specified in writing by the Minister for the purpose of this subsection; and
- (e) 3 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.

Period of appointment of members

14. 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.

Remuneration and allowances of members

15. (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*.

Outside employment

16. (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.

Leave of absence

17. (1) The Minister may grant:

- (a) leave of absence to a Chairperson appointed as a full-time member on such terms and conditions as to remuneration or otherwise as the Minister determines in writing; or
- (b) leave to a Chairperson appointed as a part-time member to be absent from a meeting of the Authority.

(2) The Chairperson may grant leave to another member (other than the Chief Executive Officer) to be absent from a meeting of the Authority.

Acting appointments

18. (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.

(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.
- (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.
- (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.
- (5) A person appointed to act during a vacancy must not continue so to act for more than 12 months.
- (6) Anything done by a person purporting to act under an appointment under this section is not invalid merely because:
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in or in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased.

Disclosure of interests

19. (1) A member who has a direct or indirect pecuniary interest in a matter being considered by the Authority must, as soon as possible after the relevant facts have come to the member’s knowledge, disclose the nature of the interest at a meeting of the Authority.
- (2) A disclosure must be recorded in the minutes of the meeting and the member must not, unless the Minister or the Authority otherwise determines:
- (a) be present during any deliberation of the Authority with respect to that matter; or
 - (b) take part in any decision of the Authority with respect to that matter.
- (3) For the purpose of making such a determination by the Authority in relation to a member who has made a disclosure, a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not:
- (a) be present during any deliberation of the Authority for the purpose of making the determination; or
 - (b) take part in making the determination.

Resignation

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

Termination of appointment

21. (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 granted by the Minister, 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 paragraph 17(1)(b) or subsection 17(2), from 3 consecutive meetings of the Authority; or
- (d)** a member fails, without reasonable excuse, to comply with section 19; 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.

(4) This section does not apply to the Chief Executive Officer.

Meetings

22. (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.**
- (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.**

Conduct of meetings

23. (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.

Resolutions without meetings

24. (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

Corporate plan

25. (1) The Authority:

- (a) must develop a corporate plan as soon as practicable after the commencement of Part 2; and

- (b) must review and revise the plan as soon as practicable before the beginning of each financial year (other than the first year covered by the plan); and
- (c) may review and revise the plan at any time.

(2) The plan developed under paragraph (1)(a) must include a statement of the objectives of the Authority for at least 3 years, being:

- (a) if the plan is developed in the first 9 months of a financial year—that year and at least the next 2 financial years; or
- (b) if the plan is developed in the last 3 months of a financial year—at least the next 3 financial years.

(3) The plan as revised under paragraph (1)(b) must include a statement of the objectives of the Authority for at least the 3 financial years next following the revision of the plan.

(4) The plan must outline the strategies and policies that the Authority intends to adopt in order to achieve its objectives.

Corporate plan etc. to be given to Minister

26. (1) As soon as practicable after developing or revising the corporate plan, the Authority must give a copy to the Minister.

(2) Where the Authority becomes aware of a matter that affects significantly, or might reasonable be expected to affect significantly, the objectives of the Authority as set out in the corporate plan, the Authority must advise the Minister of the matter as soon as possible.

(3) When the Authority gives the Minister a copy of the plan, it must also give the Minister a copy of a financial plan that includes, in relation to each year in the period covered by the corporate plan:

- (a) performance indicators in such terms as the Authority thinks appropriate; and
- (b) estimates of receipts and expenditure and a forecast rate of return and dividend.

Financial targets and performance indicators

27. When preparing the financial plan, the Authority 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) any payments by the Commonwealth to the Authority to fund functions referred to in paragraph (h); 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
- (h) the need to earn a reasonable rate of return on the Authority's assets (other than assets wholly or principally used in the performance of functions that are directly funded by the Commonwealth); and
- (j) the expectation of the Commonwealth that the Authority will pay a reasonable dividend; and
- (k) any other commercial consideration the Authority thinks appropriate.

Estimates

28. Subject to this section, the Authority must:

- (a) prepare estimates of its receipts and expenditure, in such form as the Minister directs, for each financial year and, if the Minister so directs, for any other period; and
- (b) submit those estimates to the Minister not later than:
 - (i) in the case of estimates for a financial year—60 days before the beginning of the year; or
 - (ii) in any other case—such date as the Minister directs.

Minister may direct variation of financial plan

29. (1) The Minister may direct the Authority to vary the financial plan in respect of financial targets, and performance indicators, relating to the provision of services and facilities.

(2) When doing so, the Minister must consider:

- (a) the matters referred to in section 27 (other than paragraph 27 (c)); and
- (b) the objectives and policies of the Commonwealth Government; and
- (c) any other considerations of a commercial nature that the Minister thinks appropriate.

(3) A direction must be in writing and must set out its reasons.

PART 5—FINANCE

Division 1—General

Transfers of certain Commonwealth assets to Authority

30. (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.

Statutory transfer of land etc. to Authority

31. (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.

(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.

Effects of transfers from Commonwealth to Authority

32. (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 Minister for Finance.

(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.

Liabilities in respect of personnel

33. 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.

Money paid in advance to the Commonwealth

34. 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.

Rights in respect of services and facilities formerly provided by Department

35. (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.

Capital of Authority

36. (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.

Exemption from tax

37. (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; or
- (c)** a law of a State or Territory relating to payroll tax.

Payments of dividends to Commonwealth

38. (1) The Authority must, within 4 months after the end of each financial year, by notice in writing given to the Minister, recommend that it:

- (a)** pay to the Commonwealth, in relation to its operations in the financial year, a dividend of an amount specified in the notice; or
- (b)** not pay a dividend to the Commonwealth for the financial year.

(2) In making a recommendation, the Authority must have regard to:

- (a)** the matters specified in section 27; and
- (b)** the extent of the Commonwealth's equity in the Authority.

(3) Subject to subsection (6), the Minister must, within 60 days after receiving the recommendation, give notice in writing to the Authority:

- (a)** where the recommendation is that a dividend be paid:
 - (i)** approving the recommendation; or
 - (ii)** directing the Authority to pay a dividend of a different specified amount; or
- (b)** where the recommendation is that a dividend not be paid:
 - (i)** approving the recommendation; or
 - (ii)** directing the Authority to pay a dividend of a specified amount.

(4) The Minister must, in deciding whether to give such a notice, have regard to:

- (a)** the matters specified in section 27 (other than paragraph (c)); and
- (b)** the objectives and policies of the Commonwealth Government; and
- (c)** the extent of the Commonwealth's equity in the Authority; and
- (d)** any other commercial considerations the Minister thinks appropriate.

(5) Where a dividend for a financial year is approved or directed under subsection (3), the Authority must pay the dividend to the Commonwealth within 8 months after the end of that year.

(6) A payment under this section may be made:

- (a) out of the profits of the Authority for the financial year to which the payment relates; or
- (b) out of the profits of the Authority for a preceding financial year; or
- (c) partly out of the profits of the Authority for the financial year referred to in paragraph (a) and partly out of the profits of the Authority for any preceding financial year.

Borrowings from Commonwealth

39. The Minister for Finance 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.

Borrowings otherwise than from Commonwealth

40. (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.

Guarantee of borrowings by Authority

41. (1) The Treasurer 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.

(2) If the Treasurer 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 Treasurer guarantees such a borrowing, the Treasurer 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 Treasurer considers appropriate.

Authority may give security

42. 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.

Delegation by Treasurer

43. The Treasurer may, by signed instrument, delegate to a person holding or performing the duties of an office in the Department of the Treasury all or any of the powers of the Treasurer under section 41.

Application of Division 2 of Part XI of the Audit Act

44. (1) The Authority is a public authority to which Division 2 of Part XI of the *Audit Act 1901* applies.

(2) In its annual report under Division 2 of Part XI of the *Audit Act 1901*, the Authority must include an evaluation of its overall performance compared with the financial targets and performance indicators for the year.

Audit of subsidiaries

45. (1) The Auditor-General must audit the financial statements of each company that is a subsidiary of the Authority and must prepare and submit to the Minister a report of that audit.

(2) The Auditor-General must inspect and audit the accounts and records of financial transactions of the company, and records relating

to assets of, or in the custody of, the company and must forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify so doing.

(3) The Auditor-General may dispense with all or part of the detailed inspection and audit of any accounts or records.

(4) The Auditor-General must, at least once in each year, report to the Minister the results of the inspection and audit.

(5) The Auditor-General or a person authorised by the Auditor-General:

- (a) is entitled at all reasonable times to full and free access to all accounts and records of the company relating directly or indirectly to the receipt or payment of money by the company or to the acquisition, receipt, custody or disposal of assets by the company; and
- (b) may make copies of, or take extracts from, any such accounts or records.

(6) The Auditor-General or a person authorised by the Auditor-General may require any person to furnish him or her with such information in the possession of the person, or to which the person has access, as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this section, and the person must comply with the requirement.

Penalty: \$200.

(7) Nothing in this section:

- (a) affects the application to the company of any law in force in a State or Territory relating to:
 - (i) the appointment of an auditor of the company; or
 - (ii) the powers and duties of an auditor of the company appointed under such a law; or
- (b) prevents:
 - (i) the appointment, under section 63P of the *Audit Act 1901*, of the Auditor-General as auditor of such a company for the purposes of a law of a State or Territory; or
 - (ii) the inclusion in an arrangement under subparagraph 63P (1) (a) (i) or subsection 63P (2) of that Act relating to such an appointment of provision for the payment of a fee by the company to the Commonwealth in respect of carrying out an audit to which the arrangement relates.

(8) In this section:

“**financial statements**”, in relation to a company, means profit and loss accounts and balance sheets of the company and includes statements,

reports and notes, other than auditors' reports or directors' reports, attached to or intended to be read with any of those profit and loss accounts or balance sheets.

Division 2—Charges and Levies

Interpretation

46. 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*.

Charges for services and facilities

47. (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 the *Prices Surveillance Authority Act 1983*.

(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 paragraph 19 (1) (b) of the *Prices Surveillance Authority Act 1983* that the Prices Surveillance Authority is to hold an inquiry into the supply of services or facilities by the Authority to which the proposed determination relates; or
 - (b) a notice under section 28 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 26 of the *Prices Surveillance Authority Act 1983*, 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 paragraph 19 (1) (b) of the *Prices Surveillance Authority Act 1983* that the Prices Surveillance Authority is to hold 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 Prices Surveillance Authority has given to the Authority notice under section 28 of that Act; or
 - (ii) a copy of the report that the Prices Surveillance Authority gave to the Authority under section 26 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 of the Prices Surveillance Authority under section 26 of the

Prices Surveillance Authority Act 1983 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) ... and penalties may be recovered as debts due to the Authority.

Payment of amounts of levy to Authority

48. (1) There are to be paid to the Authority amounts equal to amounts of levy, and amounts by way of penalty, received by the Commonwealth under the *Marine Navigation Levy Act 1989* or the *Protection of the Sea (Levy) Act 1983*.

(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

Chief Executive Officer

49. (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.

Chief Executive Officer not to engage in other work

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

Terms and conditions of service of Chief Executive Officer

51. The Chief Executive Officer holds office on such terms and conditions (including remuneration and allowances) in relation to matters not provided for by this Act as the Authority determines in writing.

Resignation

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

Term of office

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

Acting Chief Executive Officer

54. (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;

but a person appointed to act during a vacancy must not continue so to act for more than 12 months.

(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
 - (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.
- (4) Anything done by a person purporting to act under an appointment under this section is not invalid merely because:
- (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in or in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased.

Staff of Authority

55. (1) The staff of the Authority are to be persons appointed or employed under the *Public Service Act 1922*.

(2) The Chief Executive Officer has all the powers of a Secretary under the *Public Service Act 1922*, so far as they relate to the branch of the Australian Public Service comprising the staff of the Authority.

(3) The Chief Executive Officer may, on behalf of the Authority, arrange with a Commonwealth authority or another body:

- (a) for the services of officers or employees of the authority or body to be made available for the purposes of the Authority; or
- (b) for the services of an officer to be made available for the purposes of the authority or body.

Consultants

56. The Authority may engage such consultants as it thinks necessary.

PART 7—MISCELLANEOUS

Delegation by Minister

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

- (a) the person holding or performing the duties of the office of Secretary, or Associate Secretary, to the Department; or
- (b) a person holding or performing the duties of a Senior Executive Service office in the Department.

Delegation by Authority

58. (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.

Substitution of Authority for Commonwealth in contracts etc.

59. 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.

Publication of directions

60. Where the Minister gives a direction under section 8, 29 or 38, the Minister must cause a copy of the direction to be published in the *Gazette* within 21 days after it is given.

Regulations

61. 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 8—AMENDMENTS OF OTHER ACTS

Amendments of other Acts

62. The Acts specified in the Schedule are amended as set out in the Schedule.

PART 9—TRANSITIONAL PROVISIONS

Actions etc. under provisions amended or repealed

63. (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.

SCHEDULE

Section 62

AMENDMENTS OF ACTS

Lighthouses Act 1911

Section 3:

Insert the following definition:

“ ‘**Authority**’ means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*;”.

Paragraph 7 (a):

Omit “Commonwealth” (first occurring), substitute “Authority”.

Paragraphs 7 (b) and (c):

Omit “Commonwealth”, substitute “Authority”.

Subsection 8 (1):

- (a) Omit “The Minister or any officer thereto authorized by the Minister”, substitute “The Authority or a person authorised in writing by the Authority”.
- (b) Omit “in his opinion”, substitute “in the opinion of Authority or authorised person”.
- (c) Omit “Commonwealth”, substitute “Authority”.
- (d) Omit “Minister” (last occurring), substitute “Authority”.

Subsection 8 (2):

- (a) Omit “The Minister or any authorized officer”, substitute “The Authority or authorised person”.
- (b) Omit “his”.

Subsection 10 (1):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “his”, substitute “its”.
- (c) Omit “he” (wherever occurring), substitute “the Authority”.

Subsection 10 (3):

Omit “Minister”, substitute “Authority”.

Subsection 10 (4):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “Commonwealth” (wherever occurring), substitute “Authority”.

SCHEDULE—continued

Section 12:

- (a) Omit “against the Commonwealth, or the Minister, or any officer of the Commonwealth”, substitute “against the Authority, a member of the Authority, the Minister or any officer of the Authority or the Commonwealth”.
- (b) Omit “Commonwealth” (last occurring), substitute “Authority”.

Sections 19 to 19B (inclusive):

Omit “Commonwealth” (wherever occurring), substitute “Authority”.

Navigation Act 1912

Subsection 6 (1):

Insert the following definition:

“ ‘Authority’ means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*.”

Subsection 6 (1) (definition of “order”):

Omit “or in pursuance of the regulations”.

Subsection 6 (1) (definition of “survey authority”):

Omit “Minister”, substitute “Authority”.

Subsection 6 (1) (definition of “this Act”):

Omit “or in pursuance of the regulations”.

Sections 8A and 8AA:

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 8B (2):

Insert “or the Authority” after “Minister”.

Section 13 and subsection 14 (1):

Omit “Minister”, substitute “Authority”.

Subsection 14 (2):

Omit the subsection.

Subsection 14 (3):

Omit the subsection, substitute the following subsection:

“(3) The Authority is not to exercise its powers under subsection (1) except to the extent that it appears to it necessary or expedient in the interests of safety or the protection of the marine environment.”

SCHEDULE—continued

Subsection 14 (6):

Omit “Minister”, substitute “Authority”.

Subsection 14 (9):

Omit “Minister” (wherever occurring), substitute “Authority”.

Paragraph 15 (2) (h):

Omit the paragraph.

Subsection 15 (4):

Omit the subsection.

Subsection 46 (2A):

Omit “Minister may, if he”, substitute “Authority may, if it”.

Section 52:

Omit “Minister”, substitute “Authority”.

Paragraph 70 (3) (a):

Omit “Minister”, substitute “Authority”.

Subsections 76 (1), (4) and (5):

Omit “Minister”, substitute “Authority”.

Subsection 110 (1):

Omit “Minister”, substitute “Authority”.

Subsection 116 (2):

(a) Omit “Minister”, substitute “Authority”.

(b) Omit “he”, substitute “it”.

Subsections 116 (4) and (5):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 120 (1):

(a) Omit “Minister”, substitute “Authority”.

(b) Omit “he”, substitute “it”.

Section 122:

Omit “Minister”, substitute “Authority”.

Subsection 123 (1):

Omit “Minister”, substitute “Authority”.

Subsections 124 (3) and (4):

Omit the subsections.

SCHEDULE—continued

Subsection 126 (1):

Omit “Minister”, substitute “Authority”.

Section 137:

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsections 148C (3) and 148D (1), (3), (4), (5) and (6):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsections 152 (1) and 154 (1):

Omit “Minister”, substitute “Authority”.

Section 155A:

Omit “Minister”, substitute “Authority”.

Subsection 156 (1):

(a) Omit “Minister” (wherever occurring), substitute “Authority”.

(b) Omit “he” (wherever occurring), substitute “it”.

Subparagraph 156 (1) (b) (i):

Omit “his”, substitute “its”.

Subsection 156 (3):

Omit “Minister” (wherever occurring), substitute “Authority”.

Section 157:

Omit “Minister” (wherever occurring), substitute “Authority”.

Section 158:

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 158 (5):

Omit “he”, substitute “it”.

Section 158A:

(a) Omit “Minister” (wherever occurring), substitute “Authority”.

(b) Omit “his”, substitute “its”.

Section 159:

(a) Omit “Minister” (wherever occurring), substitute “Authority”.

(b) Omit “his”, substitute “its”.

Subsection 162 (1):

Omit “such official as the Minister authorizes”, substitute “the Authority”.

SCHEDULE—continued

Subsection 164 (1):

Omit “Minister”, substitute “Authority”.

Subsections 173 (2) and 180 (1):

Omit “Minister”, substitute “Authority”.

Section 183:

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 187AA (2):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 187A (1) (definition of “classification certificate”):

Omit “Minister”, substitute “Authority”.

Subsection 187A (4):

Omit “Minister”, substitute “Authority”.

Section 187B:

Omit “Minister”, substitute “Authority”.

Section 187BA:

Omit “Minister”, substitute “Authority”.

Subsection 188 (1):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he”, substitute “it”.
- (c) Omit “his”, substitute “its”.

Subsection 188 (2):

Omit “Minister”, substitute “Authority”.

Section 190:

Omit “Minister”, substitute “Authority”.

Subsection 190AA (3):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he” (wherever occurring), substitute “it”.

Subsection 190AA (4):

Omit “Minister”, substitute “Authority”.

Subsection 190A (2):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he” (wherever occurring), substitute “it”.

SCHEDULE—continued

(c) Omit “it can proceed”, substitute “the ship can proceed”.

Subsections 190A (3) and (4):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 191A (2):

(a) Omit “Minister”, substitute “Authority”.

(b) Omit “he”, substitute “it”.

Subsections 192A (1), 192C (3), 194 (1) and (2):

Omit “Minister”, substitute “Authority”.

Subsection 194 (4):

(a) Omit “Minister”, substitute “Authority”.

(b) Omit “him”, substitute “it”.

Subsection 194 (5):

(a) Omit “Minister”, substitute “Authority”.

(b) Omit “he”, substitute “it”.

Subsection 194 (6):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 195 (1A):

(a) Omit “Minister” (wherever occurring), substitute “Authority”.

(b) Omit “him”, substitute “it”.

Subsection 195 (2):

(a) Omit “Minister”, substitute “Authority”.

(b) Omit “he” (wherever occurring), substitute “it”.

Subsections 202 (3) and 203 (2):

Omit “Minister”, substitute “Authority”.

Subsection 204 (3):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 204 (4):

(a) Omit “Minister”, substitute “Authority”.

(b) Omit “he”, substitute “it”.

Subsection 204 (5):

Omit “Minister” (wherever occurring), substitute “Authority”.

SCHEDULE—continued

Section 204A:

Omit “in pursuance of regulations made under paragraph 425 (1) (fb)”, substitute “under subsection 425 (1AA)”.

Section 206D and subsection 206E (1):

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “he” (wherever occurring), substitute “it”.

Subsection 206E (2):

- (a) Omit “the authority” (wherever occurring), substitute “the survey authority”.
- (b) Omit “Minister”, substitute “Authority”.

Sections 206F to 206K (inclusive):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he” (wherever occurring), substitute “it”.

Subsection 206L (1):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 206M (1):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he”, substitute “it”.

Subsection 206P (1):

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “him”, substitute “it”.

Subsections 206P (3) and 206V (2):

Omit “Minister”, substitute “Authority”.

Subsection 206V (3):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “his”, substitute “its”.
- (c) Omit “he” (wherever occurring), substitute “it”.

Subsection 208 (3):

Omit the subsection.

Section 210:

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 211 (1):

Omit “Minister”, substitute “Authority”.

SCHEDULE—continued

Subsection 211 (2):

- (a) Omit “Minister, or to such person as the Minister directs,”, substitute “Authority”.
- (b) Omit “Minister, or by a person authorized by the Minister to sue for them,”, substitute “Authority”.

Subsection 213 (1):

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “he” (wherever occurring), substitute “it”.
- (c) Omit “his”, substitute “its”.

Subsection 213 (2):

Omit “Minister” (wherever occurring), substitute “Authority”.

Section 214:

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “him”, substitute “it”.

Subsection 216A (1):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “him”, substitute “it”.

Subsection 216A (2):

Omit “Minister”, substitute “Authority”.

Section 219:

Omit “Minister”, substitute “Authority”.

Subsections 221 (1), (1A), (1B), (1C), (2), (3) and (4):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 221 (5):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he”, substitute “it”.
- (c) Omit “his”, substitute “its”.

Subsection 221 (6):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he” (wherever occurring), substitute “it”.

Subsections 221 (7) and (8):

Omit “Minister”, substitute “Authority”.

Sections 222 and 223:

Omit “Minister” (wherever occurring), substitute “Authority”.

SCHEDULE—continued

Subsections 224 (5) and (6):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 226 (1):

(a) Omit “Minister” (wherever occurring), substitute “Authority”.

(b) Omit “he”, substitute “it”.

Section 227 and subsection 227A (1AA):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 227A (2):

(a) Omit “Minister”, substitute “Authority”.

(b) Omit “he” (wherever occurring), substitute “it”.

Subsection 227B (2):

(a) Omit “Minister may, by writing under his hand, certify”, substitute “Authority may certify in writing”.

(b) Omit “him”, substitute “it”.

(c) Omit “he”, substitute “it”.

Subsection 227E (2):

Omit “Minister” (wherever occurring), substitute “Authority”.

Section 230:

Omit “in pursuance of regulations made under paragraph 425 (1) (fc)”, substitute “under subsection 425 (1AA)”.

Section 231:

Omit “in pursuance of regulations made under paragraph 425 (1) (fd)”, substitute “under subsection 425 (1AA)”.

Section 231D:

(a) Omit “Minister” (wherever occurring), substitute “Authority”.

(b) Omit “he”, substitute “it”.

Subsections 232 (3) and (4):

Omit the subsections.

Subsection 238 (1):

Omit “Minister”, substitute “Authority”.

Subsections 240 (2) and (4):

Omit the subsections.

SCHEDULE—continued

Subsection 253A (2):

Omit “Minister”, substitute “Authority”.

Subsection 254 (1):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he”, substitute “it”.

Subsection 254 (2):

Omit “Minister”, substitute “Authority”.

Subsections 258 (3) and (5):

Omit “in pursuance of regulations made under paragraph 425 (1) (fe)”, substitute “under subsection 425 (1AA)”.

Subsections 267A (2) and (3):

Omit the subsections.

Subsection 267B (1):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he”, substitute “it”.

Section 267C:

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “he”, substitute “it”.

Subsection 267D (5):

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “he”, substitute “it”.
- (c) Omit “under his hand”.

Subsections 267D (6) and (7):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 267K (1):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 267K (2):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “his”, substitute “its”.
- (c) Omit “him”, substitute “it”.

Subsections 267P (2) and (3):

Omit the subsections.

SCHEDULE—continued

Subsection 267Q (1):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he”, substitute “it”.

Section 267R:

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “he”, substitute “it”.

Subsection 267S (5):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he”, substitute “it”.

Subsections 267S (6) and (7):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 267Y (1):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 267Y (2):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “his”, substitute “its”.
- (c) Omit “him”, substitute “it”.

Section 269:

Omit “Minister”, substitute “Authority”.

Subsection 269A (2):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “him”, substitute “it”.

Section 269B (definition of “prescribed area”):

Omit “paragraph 269E (a)”, substitute “section 269E”.

Section 269B (definition of “prescribed officer”):

Omit the definition.

Section 269E:

Repeal the section, substitute the following section:

Prescribed area

“269E. For the purposes of this Division, the regulations may prescribe an area of sea (including the territorial sea) around Australia as the prescribed area.”.

SCHEDULE—continued

Sections 269F and 269G:

Omit “a prescribed officer” (wherever occurring), substitute “the Authority”.

Subsection 269H (3):

Omit the subsection, substitute the following subsection:

“(3) A position report or deviation report under this section is to be furnished:

- (a) in the prescribed manner; and
- (b) not earlier than 2 hours before, and not later than, the time to which the report relates.”.

Section 269J:

Omit “a prescribed officer” (wherever occurring), substitute “the Authority”.

Subsection 269L (1):

Omit “Minister”, substitute “Authority”.

Section 269M:

Repeal the section.

Subsections 283A (3) and (4):

Omit the subsections.

Subsections 283D (3) and (4):

Omit the subsections.

Subsections 283E (3) and (4):

Omit the subsections.

Subsection 283F (1):

Omit “Minister”, substitute “Authority”.

Subsection 283F (2):

Omit “in pursuance of those regulations”, substitute “under subsection 425 (1AA)”.

Subsection 283G (2):

Omit “Minister”, substitute “Authority”.

Subsection 283K (1):

Omit “in pursuance of those regulations”, substitute “under subsection 425 (1AA)”.

SCHEDULE—continued

Section 294 (definition of “receiver”):

Omit the definition, substitute the following definition:

“‘receiver’ means the Authority or a person appointed by the Authority to be a receiver of wreck in any assigned district;”.

Subsection 300 (1):

Omit “a person employed in the Department that deals with matters arising under this Act,”.

Subsections 301 (2) and (3):

Omit “Minister” (wherever occurring), substitute “Authority”.

Paragraph 307 (d):

Omit the paragraph.

Subsection 329 (1):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “his” (wherever occurring), substitute “its”.
- (c) Omit “he”, substitute “it”.
- (d) Omit “him”, substitute “it”.

Subsections 329 (3) and (3A):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “his”, substitute “its”.

Subsection 388 (1):

Insert “or the Authority” after “Minister”.

Section 405C:

Omit “Minister”, substitute “Authority”.

Section 405F:

- (a) Omit “made for the purposes of section 405E, or under the orders made in pursuance of regulations made under section 405PA”, substitute “or orders”.
- (b) Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 405G (2):

Omit “made by virtue of paragraph (1) (b) and the orders made in pursuance of regulations made under section 405PA”, substitute “or orders”.

Subsection 405G (4):

Omit “Minister” (wherever occurring), substitute “Authority”.

SCHEDULE—continued

Subsection 405H (1):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “made for the purposes of section 405E, or under the orders made in pursuance of regulations made under section 405PA”, substitute “or orders”.

Section 405J:

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 405M (2):

Omit “given by the Minister by instrument in writing”, substitute “given in writing by the Authority”.

Sections 405N and 405P:

Omit “made for the purposes of section 405E, or under the orders made in pursuance of regulations made under section 405PA” (wherever occurring), substitute “or orders”.

Section 405PA:

Repeal the section.

Subsection 407 (2):

Omit the subsection, substitute the following subsection:

“(2) Subsection (1) does not apply:

- (a) to fees or moneys recovered or received in respect of a function performed by the Authority; or
- (b) to fees that, under the regulations, are payable to the Authority.”.

Section 412:

Repeal the section, substitute the following section:

Search of vessels

“412. A person authorised by the Minister or by the Authority may, with such assistance as is reasonably necessary, search a ship in a port where the person has reasonable grounds for believing the search to be necessary for the purposes of this Act.”.

Subsection 413 (1):

Omit “him”, substitute “the Minister or the Authority”.

Subsection 417 (3):

- (a) Omit “official as the Minister”, substitute “person as the Authority”.
- (b) Omit “Minister” (second occurring), substitute “Authority”.

SCHEDULE—continued

Subsection 417 (4):

Omit “Minister”, substitute “Authority”.

Subsection 418A (1):

Insert “or the Authority, as appropriate,” after “Minister”.

Subsection 421 (1):

- (a) Insert “or the Authority” after “Minister”.
- (b) Omit “under his hand”.

Sections 423A and 423B:

Insert “or the Authority” after “Minister”.

Paragraph 424 (2) (a):

Omit the paragraph, substitute the following paragraph:
“(a) an employee of the Authority;”.

Paragraphs 425 (1) (f) to (ff) (inclusive):

Omit the paragraphs.

Paragraph 425 (1) (h):

Omit “in pursuance of the regulations”, substitute “under subsection (1AA)”.

After subsection 425 (1):

Insert the following subsection:

“(1AA) The Authority may make orders with respect to any matter in Part II, III, IV, V, VA, VB or XA for or in relation to which provision may be made by the regulations, other than matters referred to in paragraph (1) (h).”.

Subsections 425 (2) and (3):

Omit “, and the power to make orders in pursuance of the regulations,” (wherever occurring).

Subsection 425 (5):

Omit the subsection.

Subsection 425 (5A):

Omit “made in pursuance of the regulations”.

Subsection 425 (5B):

- (a) Omit “made in pursuance of the regulations” (wherever occurring).
- (b) Omit “and the regulations” (wherever occurring).

SCHEDULE—continued

Subsection 425 (5C):

Omit “made in pursuance of the regulations”.

Subsection 425 (6):

Omit the subsection, substitute the following subsection:

“(6) Orders are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

Subsection 425 (6A):

Omit “made in pursuance of the regulations”.

Subsection 425 (7):

Omit “or in pursuance of the regulations”.

Subsection 425 (8):

Omit the subsection.

Section 426:

Omit the section.

Section 426A:

Omit “the regulations”, substitute “subsection 425 (1AA)”.

Subsection 427 (2):

Omit “annexed to” (wherever occurring), substitute “referred to in”.

Protection of the Sea (Powers of Intervention) Act 1981

Subsection 3 (1):

Insert the following definition:

“ ‘**Authority**’ means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*;”.

Subsections 4 (2) and (3):

After “the Commonwealth”, insert “, the Authority”.

Subsection 8 (1):

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “he”, substitute “it”.

Subsection 8 (2):

Omit “Minister”, substitute “Authority”.

SCHEDULE—continued

After subsection 8 (2):

Insert the following subsection:

“(2A) The Authority must not exercise its powers under subparagraph (2) (a) (iv) without the approval of the Minister.”.

Subsection 8 (4):

- (a) After “Minister”, insert “and the Authority”.
- (b) Omit “his”.

Subsection 9 (1):

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “he”, substitute “it”.

Subsection 9 (2):

Omit “Minister”, substitute “Authority”.

After subsection 9 (2):

Insert the following subsection:

“(2A) The Authority must not exercise its powers under subparagraph (2) (a) (iv) without the approval of the Minister.”.

Subsection 9 (4):

- (a) After “Minister”, insert “and the Authority”.
- (b) Omit “his”.

Subsection 10 (2):

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “he”, substitute “it”.

Subsection 10 (3):

Omit “Minister”, substitute “Authority”.

After subsection 10 (3):

Insert the following subsection:

“(3A) The Authority must not exercise its powers under subparagraph (3) (a) (iv) without the approval of the Minister.”.

Subsection 10 (4):

- (a) After “Minister”, insert “and the Authority”.
- (b) Omit “his”.

SCHEDULE—continued

After subsection 11 (1):

Insert the following subsection:

“(1A) The Authority must not issue a direction under paragraph (1) (d) without the approval of the Minister.”.

Section 15:

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsection 17 (7):

Omit “Minister”, substitute “Authority”.

Section 18:

Omit “Minister” (wherever occurring), substitute “Authority”.

Section 23:

Omit all the words after “Act” (fourth occurring).

Subsection 24 (1):

Omit the subsection, substitute the following subsections:

“(1) The Authority may make orders with respect to any matter for or in relation to which provision may be made by the regulations by virtue of the definition of ‘noxious substance’ in subsection 10 (8).

“(1A) Orders are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

Subsection 24 (4):

(a) Omit “made in pursuance of the regulations”.

(b) Omit “and the regulations” (second and third occurring).

Subsections 24 (5) and (7):

Omit “made in pursuance of the regulations”.

Subsection 24 (6):

Omit the subsection.

Protection of the Sea (Prevention of Pollution from Ships) Act 1983

Subsection 3 (1):

Insert the following definition:

“ ‘Authority’ means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*.”.

SCHEDULE—continued

Subsection 3 (1) (definition of “inspector”):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “by writing under his hand”, substitute “in writing”.

Subsection 3 (1) (definition of “the regulations”):

Omit “pursuant to the regulations”, substitute “under section 34”.

Subsection 3 (1) (definition of “this Act”):

Omit “in pursuance to the regulations”, substitute “under section 34”.

Subsection 3 (2):

Omit the subsection, substitute the following subsection:

“(2) A reference in a section of this Act to a prescribed officer is a reference to the Authority or such person, or the holder of such office in the Authority, as is prescribed for the purposes of that section.”.

Section 7:

Omit the section.

Section 19:

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “by instrument in writing under his hand”, substitute “in writing”.

Subsection 31 (1):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “by instrument in writing under his hand”, substitute “in writing”.

Paragraph 33 (1) (d):

Omit the paragraph.

Paragraph 33 (1) (f):

Omit “in pursuance of the regulations”, substitute “under section 34”.

Subsections 33 (2) and (2A):

Omit “pursuant to the regulations”, substitute “under section 34”.

Subsections 34 (1), (2), (3) and (3A):

Omit the subsections, substitute the following subsections:

“(1) The Authority may make orders with respect to any matter for or in relation to which provision may be made by the regulations, other than matters referred to in paragraph 33 (1) (f).

SCHEDULE—continued

“(2) Orders are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

Shipping Registration Act 1981

Subsection 3 (1):

Insert the following definition:

“ ‘**Authority**’ means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*.”.

Subsection 12 (2):

Omit “Minister”, substitute “Authority”.

Subsection 23 (1):

(a) Omit “Minister”, substitute “Authority”.

(b) Omit “he”, substitute “it”.

Subsection 48 (1):

Omit “Secretary of the Department administered by the Minister”, substitute “Authority”.

Subsection 48 (2):

Omit “Minister”, substitute “Authority”.

Paragraph 50 (b):

Omit the paragraph, substitute the following paragraph:

“(b) be members of the staff of the Authority.”.

Subsection 51 (1):

Omit “Minister may appoint an officer of or employee in the Australian Public Service”, substitute “Authority may appoint a person”.

Subsection 51 (3):

Omit “Minister”, substitute “Authority”.

Paragraph 54 (1) (b):

Omit “Minister”, substitute “Authority”.

Subsections 54 (2), 56 (2) and 58 (2):

Omit “Minister” (wherever occurring), substitute “Authority”.

Subsections 58 (2A) and (3):

(a) Omit “Minister” (wherever occurring), substitute “Authority”.

(b) Omit “he”, substitute “it”.

SCHEDULE—continued

Subsection 67 (1):

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “he”, substitute “it”.

Subsection 67 (2):

Omit “Minister” (wherever occurring), substitute “Authority”.

Paragraph 78 (2) (a) and subsection 78 (3):

Omit “Minister”, substitute “Authority”.

Subsection 92 (2):

- (a) Omit “Minister”, substitute “Authority”.
- (b) Omit “he”, substitute “it”.
- (c) Omit “him”, substitute “it”.

Subsection 92 (3):

Omit “Minister”, substitute “Authority”.

Subsection 92 (4):

- (a) Omit “Minister” (wherever occurring), substitute “Authority”.
- (b) Omit “he” (third occurring), substitute “it”.
- (c) Omit “him”, substitute “it”.

NOTE

On 1 January 1991, the headings to the sections of the *Navigation Act 1912* specified in the following table are altered as shown in that table.

Table

<i>Section</i>	<i>New Heading</i>
148D	Wages and effects to be held in trust
155A	Transmission of money and effects
156	Right to dispose of effects of deceased seamen
191A	Discretions relating to regulations giving effect to Conventions
206L	Issue of certificates at request of Safety Convention Countries
206M	Requests for issue of certificates to Safety Convention Countries
226	Issue of certificates at request of Load Line Convention Countries
227	Requests for issue of certificates to Load Line Convention Countries
254	Prohibition on carriage of cargo
405H	Issue of certificates at request of Tonnage Measurement Countries
405J	Requests for issue of certificates to Tonnage Measurement Countries

[*Minister's second reading speech made in—
House of Representatives on 22 August 1990
Senate on 20 September 1990*]