



Marine Navigation (Regulatory Functions) Levy Collection Act 1991

Act No. 41 of 1991 as amended

This compilation was prepared on 7 August 2012
taking into account amendments up to Act No. 54 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

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

Contents

1	Short title [<i>see</i> Note 1].....	1
2	Commencement.....	1
3	Definitions.....	1
4	Application to Crown.....	2
5	Liability to levy.....	2
6	When is levy payable?.....	3
7	To whom is levy payable?.....	4
8	Recovery of levy.....	4
9	Detention of a ship.....	4
10	Right of agent etc. who has paid levy.....	5
11	Regulations.....	5
12	Consequential amendments of other Acts.....	5
	Schedule—Consequential amendments of other Acts	6
	<i>Australian Maritime Safety Authority Act 1990</i>	6
	<i>Marine Navigation Levy Collection Act 1989</i>	6
	Notes	7

An Act to provide for the collection of the levy imposed by the *Marine Navigation (Regulatory Functions) Levy Act 1991*, and for related purposes

1 Short title [see Note 1]

This Act may be cited as the *Marine Navigation (Regulatory Functions) Levy Collection Act 1991*.

2 Commencement

This Act commences on 1 July 1991.

3 Definitions

In this Act, unless the contrary intention appears:

Australian International Shipping Register has the same meaning as in the *Shipping Registration Act 1981*.

Australian port means a place appointed, proclaimed or prescribed as a port under the *Customs Act 1901*, or under a law of a State or the Northern Territory.

authorised person means a person appointed under section 5 of the *Marine Navigation Levy Collection Act 1989*.

Collector means:

- (a) a Collector within the meaning of the *Customs Act 1901*; or
- (b) an authorised person.

exempt ship means a ship declared to be an exempt ship by regulations made under the *Marine Navigation Levy Collection Act 1989*.

home port, in relation to a ship, means an Australian port notified by the ship's owner or agent as the ship's home port in a written notice to a Collector at that Australian port.

levy means the levy payable in accordance with this Act and imposed by the Levy Act.

Levy Act means the *Marine Navigation (Regulatory Functions) Levy Act 1991*.

marine navigational aid has the same meaning as in the *Lighthouses Act 1911*.

officer of Customs has the same meaning as in the *Customs Act 1901*.

quarter means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in any year.

sea-going ship means:

- (a) a ship which, in the course of a voyage to or from an Australian port, passes a marine navigational aid under the control of the Commonwealth; or
- (b) a ship that is registered in the Australian International Shipping Register.

ship has the same meaning as in the *Lighthouses Act 1911*.

4 Application to Crown

This Act binds the Crown in right of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.

5 Liability to levy

- (1) Levy is payable in respect of a sea-going ship, other than an exempt ship.
- (2) The following persons are jointly and separately liable to pay any levy that is payable in respect of a ship:
 - (a) the ship's owner;
 - (b) the ship's master;
 - (c) an agent or consignee of the ship who has paid, or is liable to pay, any charge on account of the ship.

6 When is levy payable?

- (1) Levy in respect of a ship which trades solely between Australian ports (other than a ship to which subsection (2) applies) is payable on the first day of each quarter.
- (2) Levy in respect of a ship that:
 - (a) is being first placed in commission after construction in an Australian port; or
 - (b) is usually employed or moored within the limits of an Australian port; or
 - (c) is an exempt ship on arrival at an Australian port and stops being an exempt ship while in that port; or
 - (d) is placed in commission at an Australian port, or is to be sent to sea from that port, after a period in respect of which levy was remitted under the regulations;is payable on the day the ship leaves that port.
- (3) Levy in respect of a ship (other than a ship to which subsection (1), (2) or (4A) applies) is payable:
 - (a) where levy has not previously been paid in respect of the ship—on the day of its arrival at an Australian port; or
 - (b) where the ship arrives at an Australian port 3 months or more after the day on which levy was last payable in respect of the ship—on the day of its arrival at that port; or
 - (c) where the ship is in an Australian port on the day after the end of the period of 3 months after the day on which levy was last payable in respect of the ship—on the first-mentioned day.
- (4) Levy is not payable in respect of a ship under subsection (3) merely because the ship arrives at, or is in, an Australian port:
 - (a) to take aboard water, provisions or fuel to be used by it for completing a voyage; or
 - (b) to engage or discharge a member of the crew; or
 - (c) to disembark a passenger or a member of the crew for medical treatment; or
 - (d) for shelter, repairs or refitting.

- (4A) Levy in respect of a ship that is registered in the Australian International Shipping Register is payable on the first day of each quarter.
- (5) Levy is not payable in respect of a ship more than 4 times in any period of 12 consecutive months.

7 To whom is levy payable?

- (1) Levy payable under subsection 6(1) must be paid:
 - (a) to a Collector at the ship's home port; or
 - (b) to a Collector at such other Australian port as the owner or agent of the ship has specified in a written notice given, before the day on which the levy is payable, to a Collector at the ship's home port.
- (2) Levy payable under subsection 6(2) must be paid:
 - (a) to a Collector at the Australian port referred to in that subsection; or
 - (b) to a Collector at such other Australian port as the owner or agent of the ship has specified in a written notice given, before the day on which the levy is payable, to the Collector at that port.
- (3) Levy payable under subsection 6(3) must be paid to a Collector at the Australian port referred to in that subsection.
- (4) The payment of levy may be made:
 - (a) personally; or
 - (b) by post addressed to the Collector; or
 - (c) as otherwise prescribed.

8 Recovery of levy

Levy payable in respect of a ship may be recovered in any court of summary jurisdiction by proceedings in the name of a Collector.

9 Detention of a ship

- (1) Any ship in respect of which levy is payable may be detained by any officer of Customs at any Australian port until the levy is paid.

- (2) While a ship is detained under subsection (1), a person does not have the power of seizure provided for by section 123 of the *Personal Property Securities Act 2009* in relation to the ship.

10 Right of agent etc. who has paid levy

The agent or consignee of a ship who has paid an amount of levy in respect of the ship may, out of any money received on account of the ship, or belonging to the owner of it, retain an amount that is not more than the amount of levy so paid.

11 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:
- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the regulations may provide for the refund or remission (in whole or in part) of an amount of levy paid or payable in respect of a ship in such circumstances as are specified in the regulations.

12 Consequential amendments of other Acts

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

Schedule—Consequential amendments of other Acts

Section 12

Australian Maritime Safety Authority Act 1990

Subsection 48(1):

After “*Marine Navigation Levy Act 1989*”, insert “, the *Marine Navigation (Regulatory Functions) Levy Act 1991*”.

Marine Navigation Levy Collection Act 1989

Section 8:

Repeal the section, substitute:

8 To whom levy is payable

- (1) Levy payable under subsection 7(1) must be paid:
 - (a) to a Collector at the ship’s home port; or
 - (b) to a Collector at such other Australian port as the owner or agent of the ship has specified in a written notice given, before the day on which the levy is payable, to a Collector at the ship’s home port.
- (2) Levy payable under subsection 7(2) must be paid:
 - (a) to a Collector at the Australian port referred to in that subsection; or
 - (b) to a Collector at such other Australian port as the owner or agent of the ship has specified in a written notice given, before the day on which the levy is payable, to the Collector at that port.
- (3) Levy payable under subsection 7(3) must be paid to a Collector at the Australian port referred to in that subsection.
- (4) The payment of levy may be made:
 - (a) personally; or
 - (b) by post addressed to the Collector; or
 - (c) as otherwise prescribed.

Table of Acts

Notes to the *Marine Navigation (Regulatory Functions) Levy Collection Act 1991*

Note 1

The *Marine Navigation (Regulatory Functions) Levy Collection Act 1991* as shown in this compilation comprises Act No. 41, 1991 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Marine Navigation (Regulatory Functions) Levy Collection Act 1991</i>	41, 1991	27 Mar 1991	1 July 1991	
<i>Protection of the Sea Legislation Amendment Act 2008</i>	94, 2008	3 Oct 2008	Schedule 3 (item 2): Royal Assent	—
<i>Personal Property Securities (Consequential Amendments) Act 2009</i>	131, 2009	14 Dec 2009	Schedule 3 (items 4, 5): 30 Jan 2012 (see F2011L02397)	—
<i>Shipping Registration Amendment (Australian International Shipping Register) Act 2012</i>	54, 2012	21 June 2012	Schedule 4 (items 2–5): 1 July 2012	—

Table of Amendments

Table of Amendments

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

Provision affected	How affected
S. 3	am. No. 94, 2008; No. 54, 2012
S. 6	am. No. 54, 2012
S. 9	am. No. 131, 2009