



Marine Navigation (Regulatory Functions) Levy Collection Act 1991

No. 41 of 1991

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

[Assented to 27 March 1991]

The Parliament of Australia enacts:

Short title

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

Commencement

2. This Act commences on 1 July 1991.

*Marine Navigation (Regulatory Functions) Levy
Collection No. 41, 1991*

Definitions

3. In this Act, unless the contrary intention appears:

“**Australian port**” means a port appointed, proclaimed or prescribed 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**” includes 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;

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

Application to Crown

4. 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.

Liability to levy

5. (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.

*Marine Navigation (Regulatory Functions) Levy
Collection No. 41, 1991*

When is levy payable?

6. (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) or (2) 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.

(5) Levy is not payable in respect of a ship more than 4 times in any period of 12 consecutive months.

To whom is levy payable?

7. (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

*Marine Navigation (Regulatory Functions) Levy
Collection No. 41, 1991*

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.

Recovery of levy

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

Detention of a ship

9. 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.

Right of agent etc. who has paid levy

10. 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.

Regulations

11. (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.

Consequential amendments of other Acts

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

SCHEDULE

Section 12

**CONSEQUENTIAL AMENDMENTS OF
OTHER ACTS**

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:

To whom levy is payable

"8. (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."

*Marine Navigation (Regulatory Functions) Levy
Collection No. 41, 1991*

*[Minister's second reading speech made in—
House of Representatives on 21 February 1991
Senate on 12 March 1991]*