



# **Maritime Transport Security Amendment Act 2005**

**No. 67, 2005**

**An Act to amend the law relating to the security of  
maritime transport and offshore facilities, and for  
related purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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# **Maritime Transport Security Amendment Act 2005**

**No. 67, 2005**

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**An Act to amend the law relating to the security of  
maritime transport and offshore facilities, and for  
related purposes**

[Assented to 26 June 2005]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Maritime Transport Security  
Amendment Act 2005*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| <b>Commencement information</b>   |  |  |
|---|--|--|
| <b>Column 1</b>   | <b>Column 2</b>  | <b>Column 3</b>                        |
| <b>Provision(s)</b>   | <b>Commencement</b>  | <b>Date/Details</b>                    |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day on which this Act receives the Royal Assent.   | 26 June 2005                           |
| 2. Schedule 1, items 1 and 2  | The day after this Act receives the Royal Assent.  | 27 June 2005                           |
| 3. Schedule 1, items 3 to 14  | A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period. | 30 September 2005<br>(see F2005L02681) |
| 4. Schedule 1, items 15 to 21   | The day after this Act receives the Royal Assent.  | 27 June 2005                           |
| 5. Schedule 1, item 22  | At the same time as the provisions covered by table item 3.  | 30 September 2005                      |
| 6. Schedule 1, items 23 to 28   | The day after this Act receives the Royal Assent.  | 27 June 2005                           |
| 7. Schedule 1, items 29 to 32   | At the same time as the provisions covered by table item 3.  | 30 September 2005                      |
| 8. Schedule 1, items 33 to 38   | The day after this Act receives the Royal Assent.  | 27 June 2005                           |
| 9. Schedule 1, item 39  | At the same time as the provisions covered by table item 3.  | 30 September 2005                      |
| 10. Schedule 1, items 40 to 42  | The day after this Act receives the Royal Assent.  | 27 June 2005                           |
| 11. Schedule 1, item 43   | At the same time as the provisions covered by table item 3.  | 30 September 2005                      |

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**Commencement information**

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| <b>Column 1</b>                   | <b>Column 2</b>   | <b>Column 3</b>     |
|-----------------------------------|---|---------------------|
| <b>Provision(s)</b>               | <b>Commencement</b>   | <b>Date/Details</b> |
| 12. Schedule 1, items 44 to 47    | The day after this Act receives the Royal Assent.                             | 27 June 2005        |
| 13. Schedule 1, items 48 to 57    | At the same time as the provisions covered by table item 3.                   | 30 September 2005   |
| 14. Schedule 1, items 58 to 60    | The day after this Act receives the Royal Assent.                             | 27 June 2005        |
| 15. Schedule 1, items 61 to 95    | At the same time as the provisions covered by table item 3.                   | 30 September 2005   |
| 16. Schedule 1, items 96 and 97   | The day after this Act receives the Royal Assent.                             | 27 June 2005        |
| 17. Schedule 1, items 98 to 104   | At the same time as the provisions covered by table item 3.                   | 30 September 2005   |
| 18. Schedule 1, item 105          | The day after this Act receives the Royal Assent.                             | 27 June 2005        |
| 19. Schedule 1, items 106 to 144  | At the same time as the provisions covered by table item 3.                   | 30 September 2005   |
| 20. Schedule 1, items 145 to 155  | The day after this Act receives the Royal Assent.                             | 27 June 2005        |
| 21. Schedule 1, items 156 to 208  | At the same time as the provisions covered by table item 3.                   | 30 September 2005   |
| 22. Schedule 1, items 209 to 214  | The day after this Act receives the Royal Assent.                             | 27 June 2005        |
| 23. Schedule 1, items 215 and 216 | At the same time as the provisions covered by table item 3.                   | 30 September 2005   |
| 24. Schedule 1, items 217 to 225  | The day after this Act receives the Royal Assent.                             | 27 June 2005        |
| 25. Schedule 2                    | Immediately after the commencement of the provisions covered by table item 2. | 27 June 2005        |

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Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

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### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.



## **Schedule 1—Offshore facilities**

### **Part 1—Amendments relating to offshore facilities**

#### *Maritime Transport Security Act 2003*

##### **1 Title**

After “transport”, insert “and offshore facilities”.

##### **2 Section 1**

After “*Transport*”, insert “and *Offshore Facilities*”.

##### **3 Subsection 3(1)**

After “transport”, insert “or offshore facilities”.

##### **4 Subsection 3(2)**

Omit “and other maritime transport operations”, substitute “, other maritime transport operations and offshore facilities”.

##### **5 Paragraph 3(4)(b)**

After “Australia”, insert “, and offshore facilities”.

##### **6 Paragraph 3(4)(c)**

Omit “is” (first occurring), substitute “or offshore facilities are”.

##### **7 Paragraph 3(4)(d)**

Omit “maritime transport security responsibilities”, substitute “security responsibilities for maritime transport and offshore facilities”.

##### **8 Section 4**

After “transport” (first occurring), insert “or offshore facilities”.

##### **9 Section 4**

Omit “and ship security plans”, substitute “, ship security plans and offshore security plans”.

##### **10 Section 4**

**Schedule 1** Offshore facilities

**Part 1** Amendments relating to offshore facilities

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Omit “(International Ship Security Certificates). Regulated Australian ships must have both a ship security plan and an ISSC. These ships”, substitute “(International Ship Security Certificates) for regulated Australian ships. These ships must have both a ship security plan and an ISSC. They”.

**11 Section 4 (after the paragraph relating to Part 5)**

Insert:

Part 5A deals with offshore security plans. Offshore industry participants who are required to have plans must comply with their plans.

Part 5B deals with ISSCs for Australian ships regulated as offshore facilities.

Part 5C deals with foreign ships regulated as offshore facilities. The Secretary can give control directions to foreign ships regulated as offshore facilities to ensure that security standards are maintained.

**12 Section 4**

Omit “and on and around ships”, substitute “on and around ships, and on and around offshore facilities”.

**13 Section 4**

After “transport” (second occurring), insert “or offshore facility”.

**14 Section 6**

Repeal the section, substitute:

**6 Geographical jurisdiction**

- (1) Section 15.2 of the *Criminal Code* (extended geographical jurisdiction—category B) applies to an offence against this Act, other than an offence mentioned in subsection (2).
- (2) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to the following offences:
  - (a) an offence under subsection 39(1) or 40(1) by:

- (i) a person who is given a direction under section 35 because of the person's presence on, or connection with, a security regulated offshore facility; or
- (ii) the offshore facility operator or master of a foreign ship regulated as an offshore facility, where the ship is given a security direction under section 36A;
- (b) an offence under subsection 100ZL(1), 100ZL(2) or 172(1) by a master of a foreign ship regulated as an offshore facility;
- (c) an offence under subsection 120(1), 120(3), 124(1), 127(1), 127(3), 131(1), 143(1), 149(1), 153(3), 154(4), 155(4) or 156(3) where the offence is committed in an offshore security zone;
- (d) an offence under subsection 121(1), 121(3), 128(1) or 128(3) where the screening point is in, or at the edge of:
  - (i) an offshore security zone; or
  - (ii) a foreign ship regulated as an offshore facility;
- (e) an offence under subsection 122(1), section 123, subsection 124(1) or 129(1), section 130, or subsection 131(1), 143(1), 149(1), 153(3) or 156(3) where the offence is committed on a foreign ship regulated as an offshore facility;
- (f) an offence under subsection 143(1) in relation to a maritime security inspector exercising, or attempting to exercise, powers set out in paragraph 140A(2)(e);
- (g) an offence under subsection 175(1) or 184(5) by a person failing to report, or give information, in his or her capacity as an offshore industry participant;
- (h) an offence under subsection 176(1) by an employee of an offshore industry participant;
- (i) an offence under regulations made under section 109, 113D, 119, 126 or 133 where the offence is committed:
  - (i) in, or at the edge of, an offshore security zone or a ship security zone declared under subsection 106(1A); or
  - (ii) on or near a foreign ship regulated as an offshore facility.

## **15 At the end of section 9**

Add:

- (3) A reference in this Act to an offshore industry participant does not include a reference to:

**Schedule 1** Offshore facilities

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---

- (a) the Australian Defence Force; or
- (b) the Australian Customs Service; or
- (c) an Agency of the Commonwealth prescribed in the regulations.

**16 Section 10**

Insert:

*Australian ship regulated as an offshore facility* has the meaning given by subsection 16(3).

**17 Section 10 (at the end of the definition of *baggage*)**

Add:

- ; and (c) possessions of a crew member:
  - (i) that are carried, or intended to be carried, on an offshore facility; and
  - (ii) to which the crew member will have general access while on the offshore facility; and
- (d) possessions of a visitor:
  - (i) that are taken, or intended to be taken, onto an offshore facility; and
  - (ii) to which the visitor will have general access while on the offshore facility.

**18 Section 10**

Insert:

*continental shelf* means the continental shelf within the meaning of the *Seas and Submerged Lands Act 1973*.

**19 Section 10 (definition of *control direction*)**

After “subsection 99(2)”, insert or “or 100ZM(2)”.

**20 Section 10 (definition of *crew*)**

Repeal the definition, substitute:

*crew*:

- (a) in relation to a ship—includes any person employed on the ship; and

- (b) in relation to an offshore facility—includes any person employed on the facility.

**21 Section 10 (definition of *declaration of security*)**

Repeal the definition, substitute:

*declaration of security* means:

- (a) an agreement reached between a ship and another party (a ship or person); or
  - (b) an agreement reached between an offshore facility operator and another party (a ship or person);
- that identifies the security activities or measures that each party will undertake or implement in specified circumstances.

**22 Section 10**

Insert:

*enforcement action* has a meaning affected by subsection 17D(4).

**23 Section 10**

Insert:

*exclusive economic zone* means the exclusive economic zone within the meaning of the *Seas and Submerged Lands Act 1973*.

**24 Section 10**

Insert:

*foreign ship regulated as an offshore facility* has the meaning given by subsection 17(3).

**25 Section 10**

Insert:

*FPSO* (short for Floating Product, Storage and Offtake) means a ship that is:

- (a) constructed or modified to accept petroleum, directly or indirectly, from a sub-sea well or pipeline; and
- (b) capable of storing the petroleum and delivering it to another ship or pipeline; and

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**Part 1** Amendments relating to offshore facilities

---

(c) capable of modifying the petroleum while in storage on the ship to suit it for transport or to fit it for the commercial requirements of consignees; and

(d) designed to be disconnected from its mooring during bad weather, operational emergencies, or for the purposes of maintenance or survey;

but does not include a facility that is designed to remain permanently moored for the production life of the related petroleum field.

**26 Section 10**

Insert:

*FSU* (short for Floating Storage Unit) means a ship that is:

(a) constructed or modified to accept petroleum, directly or indirectly, from a sub-sea well or pipeline; and

(b) capable of storing the petroleum and delivering it to another ship or pipeline, but which is not capable of modifying the petroleum while in storage on the ship; and

(c) designed to be disconnected from its mooring during bad weather, operational emergencies, or for the purposes of maintenance or survey;

but does not include a facility that is designed to remain permanently moored for the production life of the related petroleum field.

**27 Section 10 (definition of *interim ISSC*)**

Repeal the definition, substitute:

*interim ISSC* means:

(a) in relation to a security regulated ship—an interim ISSC given under section 86; and

(b) in relation to a ship regulated as an offshore facility—an interim ISSC given under section 100ZC.

**28 Section 10 (definition of *ISSC verified*)**

Repeal the definition, substitute:

*ISSC verified*:

- (a) in relation to a security regulated ship—has the meaning given by subsections 83(1) and (3); and
- (b) in relation to a ship regulated as an offshore facility—has the meaning given by subsections 100Z(1) and (3).

**29 Section 10 (after paragraph (d) of the definition of *maritime industry participant*)**

Insert:

- (da) an offshore industry participant; or

**30 Section 10 (at the end of the definition of *maritime security zone*)**

Add:

- ; or (d) an offshore security zone.

**31 Section 10**

Insert:

*maritime transport or offshore facility security incident* has the meaning given by subsections 170(1) and (2).

**32 Section 10 (definition of *maritime transport security incident*)**

Repeal the definition.

**33 Section 10 (definition of *mobile offshore drilling unit*)**

Omit “ship”, substitute “vessel”.

**34 Section 10**

Insert:

*offshore area* has the meaning given by subsection 17A(7).

**35 Section 10**

Insert:

*offshore facility* has the meaning given by section 17A.

**36 Section 10**

Insert:

*offshore facility operator* has the meaning given by section 17C.

**37 Section 10**

Insert:

*offshore industry participant* means:

- (a) an offshore facility operator; or
- (b) a contractor who provides services to an offshore facility operator; or
- (c) a person who:
  - (i) conducts an enterprise connected with a security regulated offshore facility; and
  - (ii) is prescribed in the regulations.

Note: Neither the Australian Defence Force nor the Australian Customs Service can be an offshore industry participant. The regulations may also exclude other Commonwealth Agencies from being offshore industry participants: see subsection 9(3).

**38 Section 10**

Insert:

*offshore security plan* means a plan prepared for the purposes of Part 5A.

**39 Section 10**

Insert:

*offshore security zone* means an offshore security zone established under subsection 113A(1).

**40 Section 10 (definition of *operational area*)**

Repeal the definition, substitute:

*operational area*:

- (a) in relation to a security regulated ship—has the meaning given by subsection 140(5); and
- (b) in relation to a security regulated offshore facility—has the meaning given by subsection 140B(5).

**41 Section 10**

Insert:

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*petroleum* has the same meaning as in the *Petroleum (Submerged Lands) Act 1967*.

**42 Section 10 (definition of *private living area*)**

Repeal the definition, substitute:

*private living area*:

- (a) in relation to a security regulated ship—has the meaning given by subsection 140(4); and
- (b) in relation to a security regulated offshore facility—has the meaning given by subsection 140B(4).

**43 Section 10 (paragraph (a) of the definition of *prohibited item*)**

After “transport”, insert “or offshore facilities”.

**44 Section 10 (at the end of the definition of *security officer*)**

Add:

; or (c) the participant’s offshore security plan.

**45 Section 10**

Insert:

*security regulated offshore facility* has the meaning given by section 17B.

**46 Section 10**

Insert:

*ship regulated as an offshore facility* means each of the following:

- (a) an Australian ship regulated as an offshore facility;
- (b) a foreign ship regulated as an offshore facility.

**47 Section 10 (definition of *ship security record*)**

After “security regulated ship”, insert “or ship regulated as an offshore facility”.

**48 Section 10 (definition of *ship security zone*)**

After “subsection 106(1)”, insert “or (1A)”.

**49 Section 10 (definition of stores)**

Repeal the definition, substitute:

*stores* means:

- (a) items that are to be carried on board a ship for use, sale or consumption on the ship; and
- (b) items that are to be carried on an offshore facility for use, sale or consumption on the facility.

**50 Section 10 (definition of *unlawful interference with maritime transport*)**

Repeal the definition.

**51 Section 10**

Insert:

*unlawful interference with maritime transport or offshore facilities* has the meaning given by section 11.

**52 Division 5 of Part 1 (heading)**

Repeal the heading, substitute:

**Division 5—Unlawful interference with maritime transport or offshore facilities**

**53 Subsection 11(1)**

After “*transport*” (first occurring), insert “*or offshore facilities*”.

Note: The heading to section 11 is altered by adding at the end “*or offshore facilities*”.

**54 After paragraph 11(1)(a)**

Insert:

- (aa) committing an act, or causing any interference or damage, that puts the safe operation of an offshore facility, or the safety of any person or property at the offshore facility, at risk;

**55 Paragraph 11(1)(b)**

After “ship”, insert “or offshore facility”.

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## 56 After paragraph 11(1)(c)

Insert:

- (ca) destroying an offshore facility;

## 57 Subsection 11(2)

After “*transport*”, insert “*or offshore facilities*”.

## 58 Subsection 16(2)

Repeal the subsection, substitute:

- (2) However, the following ships are not *regulated Australian ships*:
  - (a) an Australian ship regulated as an offshore facility;
  - (b) a ship of a kind prescribed by the regulations.
- (3) In this Act, an *Australian ship regulated as an offshore facility* means a FPSO or FSU that is:
  - (a) an Australian ship; and
  - (b) either a security regulated offshore facility or part of a security regulated offshore facility.

Note: A FPSO or FSU is both a ship and an offshore facility. As it is an offshore facility, the Secretary may declare it to be a security regulated offshore facility. If this happens, the ship ceases to be a security regulated ship.

## 59 Subsection 17(2)

Repeal the subsection, substitute:

- (2) However, the following ships are not *regulated foreign ships*:
  - (a) a foreign ship regulated as an offshore facility;
  - (b) a ship of a kind prescribed by the regulations.
- (3) In this Act, a *foreign ship regulated as an offshore facility* means a FPSO or FSU that is:
  - (a) a foreign ship; and
  - (b) either a security regulated offshore facility or part of a security regulated offshore facility.

Note: A FPSO or FSU is both a ship and an offshore facility. As it is an offshore facility, the Secretary may declare it to be a security regulated offshore facility. If this happens, the ship ceases to be a security regulated ship.

## 60 After Division 7 of Part 1

Insert:

### **Division 7A—Security regulated offshore facilities and offshore facility operators**

#### **17A Meaning of *offshore facility***

- (1) An *offshore facility* is a facility, located in an offshore area, that is used in the extraction of petroleum from the seabed or its subsoil with equipment on, or forming part of, the facility, and includes:
  - (a) any structure, located in the offshore area, used in operations or activities associated with, or incidental to, activities of that kind; and
  - (b) any vessel, located in the offshore area, used in operations or activities associated with, or incidental to, activities of that kind.
- (2) A FPSO located in an offshore area is an *offshore facility*.
- (3) A FSU located in an offshore area is an *offshore facility*.

Note: A FPSO or FSU is both a ship and an offshore facility. As it is an offshore facility, the Secretary may declare it to be a security regulated offshore facility. If this happens, the ship ceases to be a security regulated ship.
- (4) However, a ship is not an *offshore facility*, and does not form part of an offshore facility, if it is:
  - (a) an offtake tanker; or
  - (b) a tug or an anchor handler; or
  - (c) a ship used to supply an offshore facility, or otherwise travel between an offshore facility and the shore.
- (5) An *offshore facility* does not include any pipeline that is beneath the low water mark.
- (6) A mobile offshore drilling unit is not an *offshore facility*, and does not form part of an offshore facility.
- (7) In this Act, an *offshore area* is an area in:
  - (a) Australian waters; or

- (b) the exclusive economic zone of Australia (including its external Territories); or
- (c) the sea over the continental shelf of Australia (including its external Territories).

### **17B Security regulated offshore facilities**

- (1) The Secretary may, by notice published in the *Gazette*, declare that any of the following is a *security regulated offshore facility*:
  - (a) an offshore facility;
  - (b) a part of an offshore facility;
  - (c) a group of offshore facilities;
  - (d) a part of a group of offshore facilities.
- (2) The notice must include information on the location and boundaries of the security regulated offshore facility of the kind and in the form prescribed by the regulations.

### **17C Offshore facility operators**

- (1) The Secretary may, in writing, designate a person as the *offshore facility operator* for a security regulated offshore facility.
- (2) In designating a person as an offshore facility operator, the Secretary must take into account:
  - (a) the ability of the person to undertake the functions of an offshore facility operator; and
  - (b) the physical and operational features of the facility; and
  - (c) the views of the person, or persons, responsible for managing the operations of the facility; and
  - (d) whether the person is the operator in relation to the facility for the purposes of Schedule 7 to the *Petroleum (Submerged Lands) Act 1967*.

## **Division 7B—Offences and enforcement action in relation to non-regulated foreign ships**

### **17D Persons travelling on non-regulated foreign ships**

- (1) This section applies to a person travelling (whether as a passenger or crew) on a foreign ship that is neither a regulated foreign ship, nor a foreign ship regulated as an offshore facility.
- (2) No offence is committed by the person under this Act unless, at the time of the alleged offence:
  - (a) the person is involved in some activity in relation to a security regulated offshore facility; or
  - (b) the ship is involved in some activity in relation to a security regulated offshore facility, or is in Australian waters.
- (3) No enforcement action may be taken against the person unless, at the time of the alleged incident giving rise to the enforcement action:
  - (a) the person is involved in some activity in relation to a security regulated offshore facility; or
  - (b) the ship is involved in some activity in relation to a security regulated offshore facility, or is in Australian waters.
- (4) In this Act, an *enforcement action* includes:
  - (a) action by a maritime security inspector, a duly authorised officer, a law enforcement officer, a maritime security guard or a screening officer under Part 8; and
  - (b) issuing an infringement notice under regulations made under section 187; and
  - (c) making an enforcement order under Division 3 of Part 11; and
  - (d) granting an injunction under Division 5 of Part 11.

### **17E Enforcement action against non-regulated ships**

- (1) This section applies to a foreign ship that is neither a regulated foreign ship, nor a foreign ship regulated as an offshore facility.
  - (2) No enforcement action may be taken against the ship unless, at the time of the alleged incident giving rise to the enforcement action,
-

the ship is involved in some activity in relation to a security regulated offshore facility, or is in Australian waters.

**61 Subparagraph 18(1)(c)(v)**

Omit “and”, substitute “or”.

**62 After subparagraph 18(1)(c)(v)**

Insert:

(vi) an offshore facility; and

**63 Section 20**

Omit “and each regulated Australian ship unless the Secretary declares that maritime security level 2 or 3 is in force for the port, participant or ship”, substitute “, each regulated Australian ship and each security regulated offshore facility unless the Secretary declares that maritime security level 2 or 3 is in force for the port, participant, ship or facility”.

**64 Section 20**

Omit “and security regulated ship”, substitute “, security regulated ship, ship regulated as an offshore facility and security regulated offshore facility”.

**65 Section 20 (after the paragraph relating to regulated foreign ships)**

Insert:

A foreign ship regulated as an offshore facility may also be directed by its flag state to operate at a higher security level.

If maritime security level 2 or 3 is in force for a security regulated offshore facility, that maritime security level is in force for:

- (a) every maritime industry participant within the facility; and
- (b) every security regulated ship in the vicinity of the facility that is engaged in activity in relation to the facility, and for which a lower security level was in force.

**66 Section 20**

After “a security regulated port”, insert “or security regulated offshore facility”.

**67 After paragraph 21(b)**

Insert:

(ba) security regulated offshore facility; and

**68 After paragraph 22(1)(b)**

Insert:

(ba) a security regulated offshore facility;

**69 Paragraph 22(1)(e)**

After “port”, insert “or a security regulated offshore facility”.

**70 Subsection 22(3)**

After “ship,”, insert “facility,”.

**71 Subsection 22(3)**

After “transport”, substitute “or offshore facilities”.

**72 After subsection 22(3)**

Insert:

(4) If:

- (a) a foreign ship regulated as an offshore facility is registered in another country (the *flag state*); and
- (b) the ship is directed by the flag state to implement a higher level of security than would otherwise apply under this Division;

then:

- (c) that higher security level is taken to have been declared by the Secretary under subsection (1) to be in force for the ship; and
- (d) the declaration is taken to have been made on the day on which the direction is given; and
- (e) that higher security level is in force for the ship until it ceases to be in force under the law of the flag state; and



- (f) if the ship is part of a security regulated offshore facility—the security level of the remainder of the facility is not affected.

**73 Section 22 (note)**

Omit “and ship security plans (see Parts 3 and 4)”, substitute “, ship security plans and offshore security plans (see Parts 3, 4 and 5A)”.

**74 Section 23**

After “ship,”, insert “facility,”.

**75 Paragraphs 24(a) and (b)**

Repeal the paragraphs, substitute:

- (a) every area; and
- (b) every security regulated ship; and
- (c) every ship regulated as an offshore facility; and
- (d) every security regulated offshore facility; and
- (e) any operations conducted by a maritime industry participant;

**76 After section 24**

Insert:

**24A Maritime security level declaration for an offshore facility covers ships and operations in the vicinity**

If the Secretary declares that a maritime security level is in force for a security regulated offshore facility, that maritime security level is in force for:

- (a) every security regulated ship:
  - (i) in the vicinity of the facility that is engaged in any activity in relation to the facility; and
  - (ii) for which (but for this section) a lower maritime security level is in force; and
- (b) any operations conducted by a maritime industry participant within the boundaries of the facility.

**77 At the end of section 25**

Add:

*Offshore security plans*

- (3) For the purposes of subsection 100D(1), if:
- (a) an offshore industry participant is required to comply with an offshore security plan; and
  - (b) the Secretary makes a declaration under subsection 22(1) or is taken to have made such a declaration because of subsection 22(4); and
  - (c) the effect of the declaration is that maritime security level 2 or 3 is in force for:
    - (i) the participant; or
    - (ii) particular operations of the participant;
- the participant does not comply with the plan unless the participant implements the measures set out in the plan for the participant or operations, as required, for that maritime security level.

**78 After paragraph 26(b)**

Insert:

- (ba) a ship regulated as an offshore facility; or
- (bb) a security regulated offshore facility; or

**79 Section 26**

After “ship,” (second occurring), insert “facility,”.

**80 At the end of subsection 27(1)**

Add:

- ; and (c) each offshore industry participant who is required to have an offshore security plan and who operates within the boundaries of the security regulated port.

**81 After section 28**

Insert:

**28A Notifying declarations covering security regulated offshore facilities**

- (1) If the Secretary declares that a maritime security level is in force for a security regulated offshore facility (and the declaration is not one that, under subsection 22(4), is taken to have been made), the Secretary must, as soon as practicable, notify:

- (a) the offshore facility operator; and
  - (b) each offshore industry participant who is required to have an offshore security plan and who operates within the boundaries of the security regulated offshore facility.
- (2) If the Secretary gives an offshore facility operator notice of a declaration under subsection (1), the operator must, as soon as practicable, give notice of the declaration to:
- (a) every offshore industry participant who is covered by the operator's offshore security plan and who operates within the boundaries of the facility; and
  - (b) the ship operator or master of every security regulated ship located in the vicinity of the facility that is engaged in any activity in relation to the facility; and
  - (c) where the security regulated offshore facility, or part of the facility, is a ship regulated as an offshore facility—the master of the ship.

Penalty: 10 penalty units.

- (3) Subsection (2) does not apply if the offshore facility operator has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) Subsection (2) is an offence of strict liability.

## **82 At the end of section 30**

Add:

- ; and (c) if the maritime industry participant conducts operations covered by the declaration within a security regulated offshore facility and is not the offshore facility operator—the offshore facility operator.

## **83 Paragraph 31(1)(a)**

After “28,”, insert “28A,”.

Note 1: The following heading to subsection 31(1) is inserted “*Secretary must notify of revocations*”.

Note 2: The following heading to subsection 31(2) is inserted “*When port operators must then notify others*”.

## **84 At the end of section 31**

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Add:

*When offshore facility operators must then notify others*

(5) If:

(a) an offshore facility operator has notified a person under subsection 28A(2) that a maritime security level is in force; and

(b) the Secretary revokes the declaration concerned; the offshore facility operator must, as soon as practicable, notify the person of the revocation.

Penalty: 10 penalty units.

(6) Subsection (5) does not apply if the offshore facility operator has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6) (see subsection 13.3(3) of the *Criminal Code*).

(7) Subsection (5) is an offence of strict liability.

**85 Subsection 33(3)**

After “transport”, insert “or offshore facilities”.

**86 At the end of subsection 35(1)**

Add:

; (d) persons, other than persons mentioned in paragraphs (a) and (b), who are within the boundaries of a security regulated offshore facility.

Note: The following heading to subsection 35(1) is inserted “*Persons to whom Secretary may give security directions*”.

**87 Subsection 35(2)**

Omit “or (c)”, substitute “, (c) or (d)”.

Note: The following heading to subsection 35(3) is inserted “*Port operator may be required to communicate security directions*”.

**88 At the end of section 35**

Add:

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*Offshore facility operator may be required to communicate security directions*

- (8) The Secretary may, in a security direction given to the offshore facility operator for a security regulated offshore facility, require the operator to communicate all or a part of the direction to specified maritime industry participants:
- (a) who are on board a security regulated ship that is in the vicinity of the facility and that is engaged in any activity in relation to the facility; or
  - (b) who operate within the facility.
- (9) If the Secretary gives an offshore facility operator a direction under subsection (8) that requires the operator to communicate all or a part of the direction to specified maritime industry participants, the operator must, as soon as practicable, communicate the direction, or the part of the direction, to the specified maritime industry participants.
- Penalty: 50 penalty units.
- (10) Subsection (9) does not apply if the offshore facility operator has a reasonable excuse.
- Note: A defendant bears an evidential burden in relation to the matter in subsection (10) (see subsection 13.3(3) of the *Criminal Code*).
- (11) Subsection (9) is an offence of strict liability.
- (12) If a direction is given to a maritime industry participant by an offshore facility operator as mentioned in subsection (8), the direction is taken to have been given to the participant by the Secretary.

**89 After section 36**

Insert:

**36A Secretary may give security directions to ships regulated as offshore facilities**

- (1) The Secretary may give a security direction to a ship regulated as an offshore facility by giving the direction to:
- (a) the offshore facility operator for the ship; or
  - (b) the master of the ship.

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- (2) If the Secretary gives an offshore facility operator a direction under subsection (1), the offshore facility operator must, as soon as practicable, communicate the direction to the master of the ship covered by the direction.

Penalty: 50 penalty units.

- (3) Subsection (2) does not apply if the offshore facility operator has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) Subsection (2) is an offence of strict liability.

- (5) If a direction is given to a master by an offshore facility operator as mentioned in subsection (2), the direction is taken to have been given to the master by the Secretary.

**90 Subsection 38(1)**

After “transport”, insert “or offshore facilities”.

**91 Paragraph 38(2)(a)**

Omit “(including a direction given to the ship operator for, or the master of, a security regulated ship under section 36)”, substitute “(including a direction given under section 36 to the ship operator for, or the master of, a security regulated ship, or a direction given under section 36A to the offshore facility operator for, or the master of, a ship regulated as an offshore facility)”.

**92 Subsection 39(1) (penalty)**

Omit “or port facility operator” (wherever occurring), substitute “, port facility operator or offshore facility operator”.

**93 Subsection 40(1)**

Omit “(including the ship operator for, or the master of, a security regulated ship when a direction has been given to the ship under section 36)”, substitute “(including a person to whom a security direction to a ship is given under section 36 or 36A)”.

**94 Subsection 51(3)**

After “transport”, insert “, and offshore facility,”.

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**95 Subparagraphs 55(1)(b)(i) and (ii)**

After “transport”, insert “, or offshore facility,”.

**96 Part 4 (heading)**

Repeal the heading, substitute:

**Part 4—Ship security plans and ISSCs for regulated Australian ships**

**97 Section 60**

Omit “for ships”, substitute “for those ships”.

**98 Subsection 70(3)**

After “transport”, insert “, and offshore facility,”.

**99 Subparagraphs 74(1)(b)(i) and (ii)**

After “transport”, insert “, or offshore facility,”.

Note: The heading to section 79 is replaced by the heading “**Regulated Australian ship to have ISSC**”.

**100 Subsection 83(1) (note)**

Omit “ship inspection powers of maritime security inspectors”, substitute “inspection powers of maritime security inspectors in relation to regulated Australian ships”.

**101 After subsection 97(2)**

Insert:

(2A) The operations of a regulated foreign ship must not hinder or obstruct compliance with the offshore security plan of an offshore industry participant in a way that compromises the security of the operations of the participant.

Note: The heading to section 97 is altered by omitting “**and ship security plans**” and substituting “, **ship and offshore security plans**”.

**102 Subsection 97(3)**

Omit “or (2)”, substitute “, (2) or (2A)”.

**103 After subsection 98(1)**

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Insert:

- (1A) The master of a regulated foreign ship commits an offence if:
- (a) the master is notified by an offshore facility operator that maritime security level 2 or 3 is in force for the facility; and
  - (b) section 24A applies to the ship so that the maritime security level in force for the facility is also in force for the ship; and
  - (c) the master fails to acknowledge the notification to the Secretary.

Penalty: 25 penalty units.

**104 After paragraph 99(4)(c)**

Insert:

- (ca) removing the ship from an offshore security zone;
- (cb) if the ship is located in the vicinity of a security regulated offshore facility and is engaged in any activity in relation to the facility—removing the ship from the vicinity of the facility;

**105 After Part 5**

Insert:

**Part 5A—Offshore security plans**

**Division 1—Simplified overview of Part**

**100A Simplified overview of Part**

Offshore security plans identify security measures to be implemented when different maritime security levels are in force.

Various offshore industry participants are required to have, and comply with, offshore security plans.

Various other persons and ships are required to comply with offshore security plans. This is dealt with in Division 3.



The content and form of offshore security plans is dealt with in Division 4.

The approval of offshore security plans by the Secretary is dealt with in Division 5. That Division also deals with the variation and revision of plans, and with the cancellation of the approval of plans.

## **Division 2—Offshore industry participants required to have offshore security plans**

### **100B Who must have offshore security plans**

The following offshore industry participants are required to have an offshore security plan:

- (a) an offshore facility operator;
- (b) a participant of a kind prescribed in the regulations;
- (c) a particular participant prescribed in the regulations.

### **100C Offence—operating without an offshore security plan**

- (1) An offshore industry participant commits an offence if:
  - (a) the participant is required under section 100B to have an offshore security plan; and
  - (b) there is no offshore security plan in force for the participant.

Penalty: For an offshore facility operator—200 penalty units.

For any other offshore industry participant—100 penalty units.

- (2) Subsection (1) does not apply if the participant has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) Subsection (1) is an offence of strict liability.

### **100D Offence—failing to comply with offshore security plan**

- (1) An offshore industry participant commits an offence if:

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- (a) the participant is required under section 100B to have an offshore security plan; and
- (b) there is an offshore security plan for the participant in force; and
- (c) the participant fails to comply with the plan.

Penalty: For an offshore facility operator—200 penalty units.

For any other offshore industry participant—100 penalty units.

- (2) Subsection (1) does not apply if the participant has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) Subsection (1) is an offence of strict liability.

### **Division 3—Complying with other plans**

#### **100E Complying with offshore security plans of offshore industry participants**

- (1) A maritime industry participant must not engage in conduct that hinders or obstructs compliance with an offshore security plan of an offshore industry participant.
- (2) If:
  - (a) an offshore security plan (the *covering plan*) for an offshore industry participant covers the activities of another offshore industry participant; and
  - (b) the other participant:
    - (i) is not required to have an offshore security plan; and
    - (ii) has been given the relevant parts of the covering plan;the other offshore industry participant must take all reasonable steps to comply with the covering plan.
- (3) If:
  - (a) an offshore security plan (the *covering plan*) for an offshore industry participant covers the activities of another offshore industry participant; and
  - (b) the other participant:

- (i) is required to have an offshore security plan; and
- (ii) has been given the relevant parts of the covering plan;  
and
- (iii) has agreed in writing to those activities being covered  
by the covering plan;

the other offshore industry participant must take all reasonable steps to comply with the covering plan.

- (4) If a maritime industry participant contravenes subsection (1), (2) or (3), the participant does not commit an offence but may be subject to an enforcement order (see section 189) or an injunction under section 197.

#### **100F Regulated Australian ships must not hinder or obstruct compliance with offshore security plans**

- (1) The operations of a regulated Australian ship must not hinder or obstruct compliance with an offshore security plan.
- (2) If the operations of a regulated Australian ship hinder or obstruct compliance with an offshore security plan, either or both of the following may be subject to a ship enforcement order (see section 195) or an injunction under section 197:
  - (a) the ship operator for the ship;
  - (b) the master of the ship.

Note: Obligations on regulated foreign ships are set out in Division 2 of Part 5.

### **Division 4—Content and form of offshore security plans**

#### **100G Content of offshore security plans**

- (1) An offshore security plan for an offshore industry participant must:
  - (a) include a security assessment for the participant's operation;  
and
  - (b) set out the security activities or measures to be undertaken or implemented by the participant for maritime security levels 1, 2 and 3; and
  - (c) include contact details for the participant's security officer;  
and
  - (d) make provision for the use of declarations of security; and

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- (e) demonstrate that the implementation of the plan will make an appropriate contribution towards the achievement of maritime security outcomes; and
- (f) complement, to the fullest extent possible, the occupational health and safety requirements under the laws of the Commonwealth, a State or Territory applying at the facility.

Note: The maritime security outcomes are set out in subsection 3(4).

- (2) The security assessment under paragraph (1)(a) must:
  - (a) take into account any documents required in writing by the Secretary to be taken into account; and
  - (b) address any matters prescribed in the regulations.

**100H Prescribed content for offshore security plans**

The regulations may prescribe specific matters that are to be dealt with in one or more of the following:

- (a) each offshore security plan;
- (b) each offshore security plan for a particular kind of offshore industry participant;
- (c) each offshore security plan for a particular class of a particular kind of offshore industry participant.

**100I Form of offshore security plans**

- (1) An offshore security plan must be:
  - (a) in writing; and
  - (b) prepared in accordance with any requirements set out in the regulations.
- (2) An offshore security plan must be accompanied by:
  - (a) information on the location of the facility; and
  - (b) information on each offshore security zone covered by the plan; and
  - (c) if the participant proposes changes to an offshore security zone—information on the proposed change;of the kind and in the form prescribed by the regulations.

## **Division 5—Approving, revising and cancelling offshore security plans**

### **100J Providing offshore security plans for approval**

An offshore industry participant may give the Secretary an offshore security plan for the participant and request the Secretary to approve the plan.

### **100K Approval of offshore security plans**

- (1) If the Secretary is satisfied that the plan adequately addresses the relevant requirements under Division 4, the Secretary must:
  - (a) approve the plan; and
  - (b) give the participant written notice of the approval.
- (2) If the Secretary is not satisfied that the plan adequately addresses the relevant requirements under Division 4, the Secretary must:
  - (a) refuse to approve the plan; and
  - (b) give the participant written notice of the refusal including reasons for the refusal.
- (3) In determining whether the plan adequately addresses the relevant requirements under Division 4, the Secretary may take account of existing circumstances as they relate to the security of maritime transport and offshore facilities.
- (4) If:
  - (a) an offshore industry participant gives the Secretary an offshore security plan; and
  - (b) the Secretary does not approve, or refuse to approve, the plan within the period of 90 days after the plan was given;the Secretary is taken to have refused to approve the plan.

Note: An offshore industry participant may apply to the Administrative Appeals Tribunal for review of a decision to refuse to approve an offshore security plan under subsection (2) or (4): see section 201.

### **100L When an offshore security plan is in force**

- (1) If the Secretary approves the offshore security plan, the plan comes into force at the time specified in the notice of approval.

- (2) However, if:
  - (a) the time specified in the notice is earlier than the time at which the notice was given; or
  - (b) no time is specified in the notice as the time when the plan comes into force;the plan comes into force when the notice is given.
- (3) The plan remains in force until:
  - (a) the plan is replaced under subsection 100N(2); or
  - (b) the approval of the plan is cancelled under this Division.

**100M Secretary may direct variations of offshore security plans**

- (1) If:
  - (a) an offshore security plan for an offshore industry participant is in force; and
  - (b) the Secretary is no longer satisfied that the plan adequately addresses the relevant requirements under Division 4;the Secretary may, by written notice given to the participant, direct the participant to vary the plan.
- (2) However, the Secretary must not give a direction under subsection (1) unless the Secretary is satisfied that the plan, as varied, would adequately address the relevant requirements under Division 4.
- (3) In the notice, the Secretary must:
  - (a) set out the variation; and
  - (b) specify the period within which the participant must give the Secretary the plan as varied.
- (4) If the participant does not give the Secretary the plan:
  - (a) varied in accordance with the direction; and
  - (b) within the specified period, or within any further period allowed by the Secretary;the Secretary must, by written notice given to the participant, cancel the approval of the plan.

**100N Participants may revise offshore security plans**

- (1) If:
-

- (a) an offshore industry participant has given the Secretary an offshore security plan; and
  - (b) the participant gives the Secretary another offshore security plan (the *revised plan*);
- sections 100K and 100L apply in relation to the revised plan.
- (2) If a revised plan for an offshore industry participant comes into force, it replaces any other plan for the participant in force at that time.

### **100O Secretary may direct participants to revise offshore security plans**

- (1) If:
- (a) an offshore security plan for an offshore industry participant (the *existing plan*) is in force; and
  - (b) the Secretary is no longer satisfied that the existing plan adequately addresses the relevant requirements under Division 4:
    - (i) because there is a change in circumstances that relate to the security of maritime transport or offshore facilities; or
    - (ii) because there is a change in circumstances that could impact on the security of maritime transport or offshore facilities; or
    - (iii) for some other reason;
- the Secretary may, by written notice given to the participant, direct the participant to give the Secretary a revised plan under section 100N.
- (2) The notice must specify the period within which the revised plan must be given.
- (3) If the participant does not give the Secretary the revised plan within the specified period, or within any further period allowed by the Secretary, the Secretary must, by written notice given to the participant, cancel the approval of the existing plan.

### **100P Offshore security plans must be revised every 5 years**

If:

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- (a) an offshore security plan for an offshore industry participant (the *existing plan*) has been in force for a period of 5 years; and
  - (b) the Secretary has not approved a revised plan for the participant under section 100N within that period;
- the approval of the existing plan is cancelled by force of this section.

**100Q Cancelling inadequate offshore security plans**

If:

- (a) an offshore security plan for an offshore industry participant is in force; and
- (b) the Secretary is no longer satisfied that the plan adequately addresses the relevant requirements under Division 4; and
- (c) the Secretary is satisfied that it is not appropriate to direct the participant to:
  - (i) vary the plan under section 100M; or
  - (ii) revise the plan under section 100O;

the Secretary must, by written notice given to the participant, cancel the approval of the plan.

**100R Cancelling for failure to comply with offshore security plans**

(1) If:

- (a) an offshore security plan for an offshore industry participant is in force; and
- (b) the participant has accumulated the number of demerit points prescribed by the regulations as the number necessary for the Secretary to be able to cancel the approval of the plan;

the Secretary may, by written notice given to the participant, cancel the approval of the plan.

Note: For the demerit points system, see Division 6 of Part 11.

- (2) Before cancelling the approval of a plan under subsection (1), the Secretary may, by written notice given to the participant, request the participant to show cause why the approval of the plan should not be cancelled.



**100S Cancelling offshore security plans where facility moved**

If:

- (a) an offshore security plan for an offshore industry participant is in force; and
- (b) the plan relates, in whole or in part, to a particular offshore facility; and
- (c) that facility is moved to a new location for the purpose of extracting petroleum from the seabed or its subsoil at that location;

the Secretary may, by written notice given to the participant, cancel the approval of the plan.

**100T Cancelling offshore security plans on request**

If:

- (a) an offshore security plan for an offshore industry participant is in force; and
- (b) the participant makes a written request to the Secretary for the approval of the plan to be cancelled;

the Secretary must, by written notice given to the participant, cancel the approval of the plan.

**Part 5B—ISSC for an Australian ship regulated as an offshore facility**

**Division 1—Simplified overview of Part**

**100U Simplified overview of Part**

An Australian ship regulated as an offshore facility is required to have an ISSC (International Ship Security Certificate).

Division 2 provides for the Secretary to issue ISSCs and interim ISSCs for those ships.

Division 3 allows the Secretary to delegate his or her powers under this Part to registered security organisations.

## Division 2—ISSC obligations

### 100V Australian ship regulated as an offshore facility to have ISSC

An Australian ship regulated as an offshore facility must have an ISSC.

### 100W Offence—operating without an ISSC

- (1) The offshore facility operator for an Australian ship regulated as an offshore facility commits an offence if:
  - (a) the ship is being used for maritime transport or the extraction of petroleum from the seabed or its subsoil; and
  - (b) there is no ISSC or interim ISSC in force for the ship.

Penalty: 200 penalty units.

- (2) Subsection (1) does not apply if the offshore facility operator has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) Subsection (1) is an offence of strict liability.

### 100X Applying for an ISSC

- (1) The offshore facility operator for an Australian ship regulated as an offshore facility may apply to the Secretary for an ISSC for the ship.
- (2) The application must be in accordance with any requirements prescribed in the regulations. The regulations may prescribe requirements in relation to the form and content of the application, and the way in which the application is made.

### 100Y Conditions for giving an ISSC

The Secretary must give an offshore facility operator an ISSC for an Australian ship regulated as an offshore facility if:

- (a) the operator has applied for an ISSC for the ship; and

- (b) there is an offshore security plan in force for the ship, or the security regulated offshore facility of which the ship forms a part; and
- (c) the ship is ISSC verified.

### **100Z ISSC verification**

- (1) An Australian ship regulated as an offshore facility is **ISSC verified** if:
  - (a) a maritime security inspector has inspected the ship; and
  - (b) the maritime security inspector has verified that the ship meets the requirements determined in writing by the Secretary; and
  - (c) the period, determined in writing by the Secretary, within which the ship must be next inspected has not ended.

Note: Sections 138 and 140A set out the inspection powers of maritime security inspectors in relation to Australian ships regulated as offshore facilities.

- (2) In making a determination under subsection (1), the Secretary must have regard to the obligations set out in the ISPS Code.
- (3) If:
  - (a) there is an ISSC in force for an Australian ship regulated as an offshore facility; and
  - (b) a maritime security inspector inspects the ship; and
  - (c) the inspector finds that the ship does not meet the requirements determined under paragraph (1)(b); and
  - (d) the ship does not meet those requirements within any period allowed in writing by the inspector;the ship is no longer **ISSC verified**.

### **100ZA When an ISSC is in force**

If the Secretary gives an ISSC to the offshore facility operator for an Australian ship regulated as an offshore facility, the ISSC comes into force when it is given and remains in force until any of the following occurs:

- (a) the Secretary cancels the ISSC;
- (b) the offshore facility operator is no longer the offshore facility operator for the ship;

- (c) the period of 5 years after the ISSC is given expires.

### **100ZB Cancelling ISSCs**

The Secretary must, by written notice given to the offshore facility operator for an Australian ship regulated as an offshore facility, cancel the ISSC for the ship if either of the following occurs:

- (a) there is no longer an offshore security plan in force for the ship, or the security regulated offshore facility of which the ship forms a part;
- (b) the ship is no longer ISSC verified.

### **100ZC Interim ISSCs**

(1) If:

- (a) the offshore facility operator for an Australian ship regulated as an offshore facility has applied to the Secretary for an ISSC for the ship; and
- (b) there is an offshore security plan in force for the ship, or the security regulated offshore facility of which the ship forms a part; and
- (c) the ship is not ISSC verified; and
- (d) the Secretary reasonably believes that, were the ship to be inspected as mentioned in subsection 100Z(1), the ship would be ISSC verified;

the Secretary may give the operator an interim ISSC for the ship.

(2) If:

- (a) the Secretary has given an offshore facility operator an ISSC for an Australian ship regulated as an offshore facility; and
- (b) while the ISSC is in force, another offshore facility operator becomes the offshore facility operator for the ship;

the Secretary may give the other offshore facility operator an interim ISSC for the ship.

- (3) An interim ISSC is in force for the period, not exceeding 6 months, specified in the interim ISSC.

**100ZD Offence—false or misleading statements in relation to having an ISSC**

- (1) The master of an Australian ship regulated as an offshore facility commits an offence if:
- (a) the master makes a statement (whether orally, in a document or in any other way); and
  - (b) the master does so knowing that the statement:
    - (i) is false or misleading; or
    - (ii) omits any matter or thing without which the statement is misleading; and
  - (c) the statement is made in connection with whether an ISSC or interim ISSC is in force for the ship; and
  - (d) any of the following subparagraphs applies:
    - (i) the statement is made to a maritime industry participant;
    - (ii) the statement is made to a person who is authorised by a Contracting state to the SOLAS Convention to request information about, or in connection with, whether a valid ISSC or interim ISSC is in force for the ship;
    - (iii) the statement is made to a person who is exercising powers or performing functions under, or in connection with, a law of the Commonwealth;
    - (iv) the statement is made in compliance or purported compliance with a law of the Commonwealth.

Penalty: 50 penalty units.

- (2) Absolute liability applies to each of the subparagraph (1)(d)(i), (ii), (iii) and (iv) elements of the offence.
- (3) Subsection (1) does not apply as a result of subparagraph (1)(b)(i) if the statement is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) Subsection (1) does not apply as a result of subparagraph (1)(b)(ii) if the statement did not omit any matter or thing without which the statement is misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

### **Division 3—Recognised security organisations**

#### **100ZE Secretary may delegate powers and functions under this Part**

- (1) The Secretary may, by writing, delegate all or any of his or her powers and functions under Part 5B to a person who:
  - (a) satisfies the criteria prescribed in the regulations; and
  - (b) is engaged by a recognised security organisation.

Note: The Secretary may determine that an organisation is a recognised security organisation under subsection 88(2).

- (2) In exercising powers or functions delegated under subsection (1), the delegate must comply with any directions of the Secretary.

#### **100ZF Recognised security organisations may conduct ISSC inspections**

- (1) The Secretary may, by writing, authorise a person to whom powers and functions can be delegated under subsection 100ZE(1) to conduct inspections of ships for the purposes of verifying that ships meet the requirements necessary for ISSC verification.
- (2) If a person authorised under subsection (1) conducts a ship inspection, the person is taken to be a maritime security inspector for the purposes of subsection 100Z(1).

### **Part 5C—Foreign ships regulated as offshore facilities**

#### **Division 1—Simplified overview of Part**

##### **100ZG Simplified overview of Part**

Division 2 sets out the obligations to be met by foreign ships regulated as offshore facilities and requires offshore facility operators for, and the masters of, those ships to acknowledge certain communications.

Division 3 provides for the Secretary to give control directions to foreign ships regulated as offshore facilities to ensure that security standards are maintained.

## **Division 2—Obligations on regulated foreign ships**

### **100ZH Foreign ship regulated as an offshore facility to have ISSC**

- (1) The offshore facility operator for a foreign ship regulated as an offshore facility must:
  - (a) have a valid ISSC, or an approved ISSC equivalent, for the ship; and
  - (b) ensure that the ship carries the required ship security records.
- (2) If the offshore facility operator for a foreign ship regulated as an offshore facility contravenes subsection (1), the offshore facility operator or the master of the ship may be given a control direction under Division 3.

### **100ZI Foreign ship regulated as an offshore facility must provide pre-arrival information**

- (1) The master of a foreign ship regulated as an offshore facility that is:
  - (a) in Australian waters; or
  - (b) intending to proceed to an Australian port;must provide pre-arrival information in accordance with the regulations.
- (2) The regulations may prescribe:
  - (a) the person or persons to whom pre-arrival information must be given; and
  - (b) the circumstances in which pre-arrival information must be given; and
  - (c) the form and manner in which pre-arrival information must be given.
- (3) The regulations may provide that different pre-arrival information is to be provided before entering different places or areas as mentioned in paragraphs 92(3)(a) to (d).

- (4) If the master of a ship contravenes subsection (1), the master or the offshore facility operator for the ship may be given a control direction under Division 3.

**100ZJ Foreign ship regulated as an offshore facility must allow inspections etc.**

- (1) The master of a foreign ship regulated as an offshore facility must allow a maritime security inspector to board and inspect the ship in accordance with Division 2 of Part 8.
- (2) The master of a foreign ship regulated as an offshore facility must provide a maritime security inspector with any ship security records kept on the ship when requested by the maritime security inspector to do so.
- (3) If the master of a ship contravenes subsection (1) or (2), the master or the offshore facility operator for the ship may be given a control direction under Division 3.

**100ZK Foreign ship regulated as an offshore facility must comply with security directions**

- (1) If the Secretary gives a security direction to a foreign ship regulated as an offshore facility under section 36A, the ship must comply with the direction.
- (2) If a foreign ship regulated as an offshore facility does not comply with a security direction, the offshore facility operator for, or the master of, the ship may be given a control direction under Division 3.

Note: In addition, the offshore facility operator for, or the master of, a foreign ship regulated as an offshore facility may commit an offence if the ship fails to comply with a security direction: see subsection 39(1).

**100ZL Acknowledging level notifications and directions**

*Masters of ships*

- (1) The master of a foreign ship regulated as an offshore facility commits an offence if:



- (a) the master is notified by the Secretary, a port operator or the offshore facility operator that maritime security level 2 or 3 is in force for the ship; and
- (b) the master fails to acknowledge the notification to the Secretary.

Penalty: 25 penalty units.

- (2) The master of a foreign ship regulated as an offshore facility commits an offence if:
  - (a) the master is given:
    - (i) a security direction by the Secretary that relates to the operations of the ship; or
    - (ii) a control direction that relates to the ship; and
  - (b) the master fails to acknowledge the direction to the Secretary.

Penalty: 25 penalty units.

*Offshore facility operators*

- (3) The offshore facility operator for a foreign ship regulated as an offshore facility commits an offence if:
  - (a) the offshore facility operator is notified by the Secretary or a port operator that maritime security level 2 or 3 is in force for the ship; and
  - (b) the offshore facility operator fails to acknowledge the notification to the Secretary.

Penalty: 100 penalty units.

- (4) The offshore facility operator for a foreign ship regulated as an offshore facility commits an offence if:
  - (a) the offshore facility operator is given:
    - (i) a security direction by the Secretary that relates to the operations of the ship; or
    - (ii) a control direction that relates to the ship; and
  - (b) the offshore facility operator fails to acknowledge the direction to the Secretary.

Penalty: 100 penalty units.

- (5) Subsections (1) to (4) are offences of strict liability.

## Division 3—Control directions

### 100ZM Secretary may give control directions

- (1) The Secretary may give a direction to:
  - (a) the offshore facility operator for a foreign ship regulated as an offshore facility; or
  - (b) the master of the ship;requiring the offshore facility operator or master to take specified action, or refrain from taking specified action, in relation to the ship.
- (2) A direction under subsection (1) is a *control direction*.
- (3) However, the Secretary must not give a control direction unless the direction is:
  - (a) necessary for ensuring compliance with Division 2 of this Part; or
  - (b) a direction of a kind that can be given, under Chapter XI-2 of the SOLAS Convention or the ISPS Code, by a port state to a foreign flagged ship.
- (4) The action that an offshore facility operator or master may be directed to take under subsection (1) includes, but is not limited to, the following:
  - (a) removing the ship from Australian waters;
  - (b) removing the ship from a security regulated port;
  - (c) moving the ship within a security regulated port;
  - (d) removing the ship from an offshore security zone;
  - (e) moving the ship within or around an offshore security zone;
  - (f) holding the ship in a particular position for a specified period or until a specified event occurs;
  - (g) taking particular actions, or ensuring that particular actions are taken, on board the ship;
  - (h) allowing a maritime security inspector on board the ship to inspect the ship or ship security records carried by the ship.
- (5) A control direction has no effect until the Secretary commits the direction to writing.

Note: This requires the Secretary to have a written record of a direction that is given orally.

- (6) The direction must not require the payment of money to the Secretary (or any other person) other than an amount of money that is already recoverable at law.
- (7) The regulations may prescribe requirements for, or in relation to, the giving of control directions.

#### **100ZN Enforcing control directions**

- (1) The offshore facility operator for a foreign ship regulated as an offshore facility must not engage in conduct that contravenes a control direction that relates to the ship.
- (2) If an offshore facility operator contravenes subsection (1), the offshore facility operator may be subject to an injunction under section 197.
- (3) The master of a foreign ship regulated as an offshore facility must not engage in conduct that contravenes a control direction that relates to the ship.
- (4) If the master of a ship contravenes subsection (3), the master may be subject to an injunction under section 197.

#### **106 Section 101**

Omit “and on ships”, substitute “, on and around ships, and on and around offshore facilities”.

#### **107 Section 101**

After “security regulated port” (second occurring), insert “or near a security regulated offshore facility”.

#### **108 Section 101 (after the paragraph relating to Division 4)**

Insert:

|  |
|--|
| Division 5 allows the Secretary to establish one or more offshore security zones on and around a security regulated offshore facility. |
|--|

#### **109 Section 101**

Omit “and on-board”, substitute “, on-board and offshore”.

**110 At the end of paragraph 104(c)**

Add:

- ; and (iii) the offshore facility operator for each security regulated offshore facility (if any), all or part of which is to be included within the boundaries of the zone.

**111 Subsection 105(1)**

After “transport”, insert “or offshore facilities”.

**112 Paragraph 105(3)(a)**

Omit “or port facility operator”, substitute “, port facility operator or offshore facility operator”.

Note: The following heading to subsection 106(1) is inserted “*Ships within a port*”.

**113 After subsection 106(1)**

Insert:

*Ships near an offshore facility*

(1A) The Secretary may, by written notice given to:

- (a) the ship operator for, or the master of, a security regulated ship; and
- (b) the offshore facility operator for a security regulated offshore facility;

declare that a *ship security zone* is to operate around the ship while the ship is in the vicinity of the facility and is engaged in any activity in relation to the facility. The ship security zone must be of a type prescribed under section 107.

Note: The following heading to subsection 106(2) is inserted “*Purpose of ship security zones*”.

**114 At the end of subsection 106(2)**

Add “or offshore facilities”.

**115 Section 108**

Before “In”, insert “(1)”.

**116 Section 108**

Omit “In declaring that a ship security zone”, substitute “In declaring under subsection 106(1) that a ship security zone”.

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Note: The following heading to subsection 108(1) is inserted “*Ship within a port*”.

### **117 At the end of section 108**

Add:

*Ships near an offshore facility*

- (2) In declaring under subsection 106(1A) that a ship security zone is to operate around a security regulated ship, the Secretary must have regard to the purpose of the zone, and take into account:
- (a) the operational features of the ship; and
  - (b) the existing physical features of the offshore facility or offshore facilities to be serviced by the ship; and
  - (c) the existing operational features of the offshore facility or offshore facilities to be serviced by the ship.

### **118 Subsection 109(1)**

After “transport”, insert “or offshore facilities”.

### **119 Paragraph 109(3)(a)**

Omit “or port facility operator”, substitute “, port facility operator or offshore facility operator”.

### **120 Subsection 113(1)**

After “transport”, insert “or offshore facilities”.

### **121 Paragraph 113(3)(a)**

Omit “or port facility operator”, substitute “, port facility operator or offshore facility operator”.

### **122 At the end of Part 6**

Add:

## **Division 5—Offshore security zones**

### **113A Establishing offshore security zones**

- (1) The Secretary may, by written notice given to the offshore facility operator for a security regulated offshore facility, establish one or more *offshore security zones* within and around the facility. Each

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offshore security zone must be of a type prescribed under section 113B.

- (2) The notice must include information about the location and boundaries of the offshore security zones of the kind and in the form prescribed by the regulations.
- (3) If the Secretary establishes an offshore security zone under subsection (1), the offshore facility operator must, by writing, notify the establishment to each maritime industry participant (other than the offshore facility operator) who conducts operations within the zone. The notice must include information about the location and boundaries of the zone of the kind and in the form prescribed by the regulations.
- (4) The purpose of offshore security zones is to subject those zones to additional security requirements.

**113B Types of offshore security zones**

- (1) The regulations may prescribe different types of offshore security zones.
- (2) The purposes for which different types of offshore security zones may be prescribed include, but are not limited to, the following:
  - (a) limiting contact with security regulated offshore facilities;
  - (b) controlling the movement of people within a security regulated offshore facility;
  - (c) controlling the movement of ships and other things within and around a security regulated offshore facility;
  - (d) providing cleared areas within and around security regulated offshore facilities;
  - (e) preventing interference with security regulated offshore facilities;
  - (f) preventing interference with people or goods (including petroleum) that have been, or are to be, transported to or from security regulated offshore facilities.

**113C Matters to be considered in establishing offshore security zones**

In establishing an offshore security zone, the Secretary must:

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- (a) have regard to the purpose of the zone; and
- (b) take into account:
  - (i) the existing physical features of the security regulated offshore facility; and
  - (ii) the existing operational features of the facility; and
  - (iii) the views of the offshore facility operator and, if all or part of the zone is within a security regulated port, the port operator for that port; and
- (c) act consistently with Australia's obligations under international law.

### **113D Requirements for offshore security zones**

- (1) The regulations may, for the purposes of safeguarding against unlawful interference with maritime transport or offshore facilities, prescribe requirements in relation to each type of offshore security zone.
- (2) The following matters may be dealt with by regulations made under subsection (1):
  - (a) access to offshore security zones (including conditions of access, the issue and use of security passes and other identification systems);
  - (b) the identification or marking of offshore security zones;
  - (c) the movement, management or operation of ships and other vessels and vehicles and other things in offshore security zones;
  - (d) the maintenance of the integrity of offshore security zones;
  - (e) the management of people and goods (including the management of unaccompanied, unidentified or suspicious goods) in offshore security zones;
  - (f) the management (including the sale or disposal) of ships, other vessels, vehicles or goods abandoned in offshore security zones;
  - (g) when prescribed requirements are to be met;
  - (h) the suspension of the existence of an offshore security zone in prescribed circumstances.
- (3) Regulations made under this section may prescribe penalties for offences against those regulations. The penalties must not exceed:

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- (a) for an offence committed by a port operator, ship operator, port facility operator or offshore facility operator—200 penalty units; or
- (b) for an offence committed by a maritime industry participant, other than a participant covered by paragraph (a)—100 penalty units; or
- (c) for an offence committed by any other person—50 penalty units.

Note: If a body corporate is convicted of an offence against regulations made under this section, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose fines of up to 5 times the penalties stated above.

- (4) Regulations made under subsection (1) may provide for the recovery by a person of costs and expenses reasonably incurred by the person in relation to the performance of functions, or the exercise of powers, by the person in relation to a security identification card scheme set out in those regulations. An amount recoverable under those regulations must not be such as to amount to taxation.
- (5) Regulations made under subsection (1) may authorise the use or disclosure of information (including personal information within the meaning of the *Privacy Act 1988*) for the purposes of, or in relation to, assessing the security risk posed by a person.

**123 Section 114**

Omit “and on board regulated Australian ships”, substitute “, on board regulated Australian ships and on board ships regulated as offshore facilities”.

**124 Paragraph 115(1)(b)**

After “port”, insert “or an offshore security zone”.

**125 Paragraph 116(1)(b)**

After “port”, insert “or an offshore security zone”.

**126 Paragraph 117(1)(b)**

After “port”, insert “or an offshore security zone”.

**127 Paragraph 118(1)(b)**

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After “port”, insert “or an offshore security zone”.

**128 Subsection 119(1)**

After “transport”, insert “or offshore facilities”.

**129 Subparagraphs 119(2)(d)(ii), (e)(ii), (f)(ii), (g)(ii), (h)(ii) and (i)(ii)**

After “port”, insert “or an offshore security zone”.

**130 Paragraph 119(4)(a)**

Omit “or port facility operator”, substitute “, port facility operator or offshore facility operator”.

**131 Paragraph 122(1)(a)**

After “regulated Australian ship”, insert “or a ship regulated as an offshore facility”.

Note: The heading to section 122 is altered by omitting “**regulated Australian ships**” and substituting “**certain ships**”.

**132 Paragraph 123(a)**

After “regulated Australian ship”, insert “or a ship regulated as an offshore facility”.

Note: The heading to section 123 is altered by omitting “**regulated Australian ships**” and substituting “**certain ships**”.

**133 Paragraph 124(1)(a)**

Omit “or on board a regulated Australian ship”, substitute “, on board a regulated Australian ship or on board a ship regulated as an offshore facility”.

**134 Subsection 126(1)**

After “transport”, insert “or offshore facilities”.

**135 Subsection 126(1)**

Omit “or on board a regulated Australian ship”, substitute “, on board a regulated Australian ship or on board a ship regulated as an offshore facility”.

**136 Paragraphs 126(2)(a), (b) and (c)**

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Omit “or on board a regulated Australian ship”, substitute “, on board a regulated Australian ship or on board a ship regulated as an offshore facility”.

**137 Paragraph 126(3)(a)**

Omit “or port facility operator”, substitute “, port facility operator or offshore facility operator”.

**138 Paragraph 129(1)(a)**

After “regulated Australian ship”, insert “or a ship regulated as an offshore facility”.

Note: The heading to section 129 is altered by omitting “**regulated Australian ships**” and substituting “**certain ships**”.

**139 Paragraph 130(a)**

After “regulated Australian ship”, insert “or a ship regulated as an offshore facility”.

Note: The heading to section 130 is altered by omitting “**regulated Australian ships**” and substituting “**certain ships**”.

**140 Paragraph 131(1)(a)**

Omit “or on board a regulated Australian ship”, substitute “, on board a regulated Australian ship or on board a ship regulated as an offshore facility”.

**141 Subsection 133(1)**

After “transport”, insert “or offshore facilities”.

**142 Subsection 133(1)**

Omit “or on board a regulated Australian ship”, substitute “, on board a regulated Australian ship or on board a ship regulated as an offshore facility”.

**143 Paragraphs 133(2)(a), (b) and (c)**

Omit “or on board a regulated Australian ship”, substitute “, on board a regulated Australian ship or on board a ship regulated as an offshore facility”.

**144 Paragraph 133(3)(a)**

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Omit “or port facility operator”, substitute “, port facility operator or offshore facility operator”.

**145 Section 135**

After “ships,”, insert “offshore facilities,”.

**146 Section 135**

Omit “a ship inspection warrant to inspect private living areas on a ship”, substitute “an inspection warrant to inspect private living areas on a ship or offshore facility”.

**147 Paragraph 138(1)(a)**

After “regulated Australian ship”, insert “or a ship regulated as an offshore facility”.

**148 Subsection 138(1) (note)**

After “subsections 83(1) and (3)”, insert “and 100Z(1) and (3)”.

Note: The heading to section 139 is altered by omitting “ships” and substituting “security regulated ships”.

**149 Section 140**

Omit “a ship” (wherever occurring), substitute “a security regulated ship”.

Note: The heading to section 140 is altered by omitting “ships” and substituting “security regulated ships”.

**150 After section 140**

Insert:

**140A Maritime security inspector powers—security regulated offshore facilities**

- (1) A maritime security inspector may exercise the powers set out in subsection (2) for the following purposes:
  - (a) determining whether a person or a ship is complying with this Act;
  - (b) investigating a possible contravention of this Act.
- (2) For the purposes set out in subsection (1), a maritime security inspector may do one or more of the following:

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- (a) enter and inspect a security regulated offshore facility (including any restricted access area on the facility);
  - (b) inspect and photograph equipment on the facility;
  - (c) observe and record operating procedures for the facility (whether carried out by the crew or some other person);
  - (d) discuss those procedures with a person carrying them out or with another maritime industry participant;
  - (e) inspect, photograph or copy a document or record made or kept by a maritime industry participant that relates to the security of the facility;
  - (f) operate equipment on the facility for the purposes of gaining access to a document or record relating to the facility.
- (3) In exercising a power under this section, a maritime security inspector must not subject a person to greater indignity than is necessary and reasonable for the exercise of the power.
- (4) Also, in exercising a power under this section within the boundaries of a security regulated offshore facility, a maritime security inspector must take account of occupational health and safety requirements under the laws of the Commonwealth, a State or Territory applying at the facility.

**140B When powers may be exercised—security regulated offshore facilities**

*Operational areas*

- (1) A maritime security inspector may exercise a power mentioned in section 138 or 140A in an operational area of a security regulated offshore facility:
- (a) if the power is exercised within the boundaries of a security regulated port—at any time and without notice; or
  - (b) otherwise—after giving reasonable notice to the offshore facility operator for the facility.

*Private living areas*

- (2) A maritime security inspector may exercise a power mentioned in section 138 or 140A in a private living area of a security regulated offshore facility if:

- (a) both the offshore facility operator for the facility and any person or persons who occupy the private living area consent to the inspection; or
  - (b) the inspector has a warrant, issued under section 145A, to search the private living area.
- (3) In addition, a maritime security inspector may only exercise a power mentioned in section 138 or 140A in a private living area of a security regulated offshore facility if the inspector is accompanied by the offshore facility operator for the facility or a person nominated by the offshore facility operator.

*Definitions*

- (4) A **private living area** of a security regulated offshore facility is an area:
- (a) used for the purposes of providing accommodation for crew of, or visitors to, the facility; and
  - (b) to which neither all crew nor visitors have general access.
- (5) An **operational area** of a security regulated offshore facility is an area that is not a private living area.

**151 Subsection 144(1)**

Omit “a ship”, substitute “a security regulated ship”.

Note 1: The heading to section 144 is replaced by the heading “**Inspection warrants—security regulated ships**”.

Note 2: The heading to section 145 is replaced by the heading “**Inspection warrants by telephone, fax etc.—security regulated ships**”.

**152 At the end of Division 2 of Part 8**

Add:

**145A Inspection warrants—security regulated offshore facilities**

*Application for warrant*

- (1) A maritime security inspector may apply to a magistrate for a warrant to inspect a private living area on a security regulated offshore facility.

*Issue of warrant*

- (2) The magistrate may issue the warrant if the magistrate is satisfied, by information on oath or affirmation, that it is necessary to inspect the private living area for one or more of the following purposes:
  - (a) where all or part of the facility is a ship regulated as an offshore facility—determining whether the ship meets the requirements necessary for ISSC verification;
  - (b) determining whether a person or a ship is complying with this Act;
  - (c) investigating a possible contravention of this Act.
- (3) However, the magistrate must not issue the warrant unless the maritime security inspector or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought.

*Content of warrant*

- (4) The warrant must:
  - (a) authorise the maritime security inspector to inspect the private living area, using such assistance and such force to enter the area as is necessary and reasonable; and
  - (b) state whether the inspection is authorised to be made at any time of the day or night or during specified hours of the day or night; and
  - (c) specify the day (not more than one week after the issue of the warrant) on which the warrant ceases to have effect; and
  - (d) state the purpose for which the warrant is issued.

**145B Inspection warrants by telephone, fax etc.—security regulated offshore facilities**

*Application for warrant*

- (1) If, in an urgent case, a maritime security inspector considers it necessary to do so, the maritime security inspector may apply to a magistrate by telephone, fax or other electronic means for a warrant under section 145A.
  - (2) The magistrate may:
-

- (a) require communication by voice to the extent that it is practicable in the circumstances; and
  - (b) make a recording of the whole or any part of any such communication by voice.
- (3) Before applying for the warrant, the maritime security inspector must prepare an information of the kind mentioned in subsection 145A(2) that sets out the grounds on which the warrant is sought.
- (4) If it is necessary to do so, the maritime security inspector may apply for the warrant before the information is sworn or affirmed.

*Issue of warrant*

- (5) If the magistrate is satisfied:
- (a) after having considered the terms of the information; and
  - (b) after having received such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought;
- that there are reasonable grounds for issuing the warrant, the magistrate may complete and sign the same warrant that the magistrate would issue under section 145A if the application had been made under that section.

*Obligations of magistrate and maritime security inspector once warrant issued*

- (6) If the magistrate completes and signs the warrant:
- (a) the magistrate must:
    - (i) tell the maritime security inspector what the terms of the warrant are; and
    - (ii) tell the maritime security inspector the day on which and the time at which the warrant was signed; and
    - (iii) tell the maritime security inspector the day (not more than one week after the magistrate completes and signs the warrant) on which the warrant ceases to have effect; and
    - (iv) record on the warrant the reasons for issuing the warrant; and
  - (b) the maritime security inspector must:

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- (i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and
  - (ii) write on the form the name of the magistrate and the day on which and the time at which the warrant was signed.
- (7) The maritime security inspector must also, not later than the day after the day of expiry or execution of the warrant, whichever is the earlier, send to the magistrate:
  - (a) the form of warrant completed by the maritime security inspector; and
  - (b) the information referred to in subsection (3), which must have been duly sworn or affirmed.
- (8) When the magistrate receives those documents, the magistrate must:
  - (a) attach them to the warrant that the magistrate completed and signed; and
  - (b) deal with them in the way in which the magistrate would have dealt with the information if the application had been made under section 145A.

*Authority of warrant*

- (9) A form of warrant duly completed under subsection (6) is authority for the same powers as are authorised by the warrant signed by the magistrate.
- (10) If:
  - (a) it is material, in any proceedings, for a court to be satisfied that an exercise of a power was authorised by this section; and
  - (b) the warrant signed by the magistrate authorising the exercise of the power is not produced in evidence;the court must assume, unless the contrary is proved, that the exercise of the power was not authorised by such a warrant.

**153 Section 146**

Omit “ship”, substitute “security regulated ship or security regulated offshore facility”.

**154 Subsection 148(1)**

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Omit “a ship” (first occurring), substitute “a security regulated ship”.

Note: The heading to section 148 is altered by omitting “ships” and substituting “security regulated ships”.

## **155 After section 148**

Insert:

### **148A Duly authorised officer powers—operational areas of security regulated offshore facilities**

- (1) A duly authorised officer may exercise the powers set out in subsection (2) in an operational area of a security regulated offshore facility for the purposes of determining whether a person or a ship is complying with this Act.
- (2) For the purposes set out in subsection (1), a duly authorised officer may do one or more of the following:
  - (a) enter a security regulated offshore facility and inspect its operational areas (including any restricted access area in the operational area of the facility);
  - (b) observe and record operating procedures for the facility (whether carried out by the crew or some other person);
  - (c) inspect, photograph or copy any security record for the facility;
  - (d) if all or part of the facility is a ship regulated as an offshore facility—inspect, photograph or copy the ship’s ISSC;
  - (e) operate equipment in the operational area of a security regulated offshore facility for the purposes of gaining access to a document or record relating to the facility.
- (3) A duly authorised officer may exercise a power mentioned in subsection (2):
  - (a) if the power is exercised within the boundaries of a security regulated offshore facility—at any time and without notice; or
  - (b) otherwise—after giving the offshore facility operator for the facility concerned reasonable notice.
- (4) However, in exercising a power under this section, a duly authorised officer must not subject a person to greater indignity than is necessary and reasonable for the exercise of the power.

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- (5) Also, in exercising a power under this section within the boundaries of a security regulated offshore facility, a duly authorised officer must take account of occupational health and safety requirements under the laws of the Commonwealth, a State or Territory applying at the facility.

**156 Section 150**

After “security regulated ships”, insert “and on ships regulated as offshore facilities”.

**157 Section 151**

After “port”, insert “or security regulated offshore facility”.

**158 After section 152**

Insert:

**152A Access to offshore facilities by law enforcement officers**

- (1) A law enforcement officer may enter, and remain in, any part of a security regulated offshore facility at any time.
- (2) However, before entering a part of a security regulated offshore facility that is under the control of an offshore industry participant, the law enforcement officer must:
- (a) identify himself or herself as a law enforcement officer to the participant; and
  - (b) tell the participant why the officer is entering that part of the security regulated offshore facility.

**159 Subsection 153(1)**

After “transport”, insert “or offshore facilities”.

**160 Subsection 153(1)**

Omit “or on a security regulated ship”, substitute “, on a security regulated ship or on a ship regulated as an offshore facility”.

**161 Subsection 154(1)**

After “transport”, insert “or offshore facilities”.

**162 Subsection 155(1)**

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After “transport”, insert “or offshore facilities”.

**163 Subsection 156(1)**

After “security regulated ship”, insert “or on a ship regulated as an offshore facility”.

**164 Paragraph 158(1)(a)**

After “transport”, insert “, or offshore facility,”.

**165 Paragraph 159(1)(a)**

After “transport”, insert “, or offshore facility,”.

**166 Paragraph 162(1)(b)**

Omit “or on a security regulated ship”, substitute “, on a security regulated ship or on a security regulated offshore facility”.

**167 Part 9 (heading)**

Repeal the heading, substitute:

**Part 9—Reporting maritime transport or offshore facility security incidents**

**168 Section 169**

Omit “maritime transport security” (first occurring), substitute “the security of maritime transport and offshore facilities”.

**169 Section 169**

Omit “maritime transport security incidents” (wherever occurring), substitute “maritime transport or offshore facility security incidents”.

**170 Division 2 of Part 9 (heading)**

Repeal the heading, substitute:

**Division 2—Meaning of maritime transport or offshore facility security incident**

**171 Subsection 170(1)**

After “transport” (first occurring), insert “or offshore facilities”.

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Note: The heading to section 170 is altered by inserting “*or offshore facility*” after “*transport*”.

**172 Subsection 170(1)**

Omit “*maritime transport security incident*”, substitute “*maritime transport or offshore facility security incident*”.

**173 Subsection 170(2)**

After “transport” (first occurring), insert “or offshore facilities”.

**174 Subsection 170(2)**

Omit “*maritime transport security incident*”, substitute “*maritime transport or offshore facility security incident*”.

**175 Paragraph 171(1)(a)**

After “transport”, insert “or offshore facility”.

**176 Subsection 172(1)**

After “security regulated ship”, insert “or a ship regulated as an offshore facility”.

**177 Paragraph 172(1)(a)**

After “transport”, insert “or offshore facility”.

**178 Paragraph 173(1)(a)**

After “transport”, insert “or offshore facility”.

**179 Paragraph 174(1)(a)**

After “transport”, insert “or offshore facility”.

**180 After section 174**

Insert:

**174A Offshore facility operators**

- (1) An offshore facility operator commits an offence if:
    - (a) the offshore facility operator becomes aware of a maritime transport or offshore facility security incident; and
    - (b) the offshore facility operator fails to report the incident as required by section 179A as soon as possible.
-

Penalty: 200 penalty units.

- (2) Subsection (1) does not apply in relation to a report that must be made to a particular person if:
- (a) the offshore facility operator believes, on reasonable grounds, that the person is already aware of the incident; or
  - (b) the offshore facility operator has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) Subsection (1) is an offence of strict liability.

**181 Paragraph 175(1)(a)**

After “transport”, insert “or offshore facility”.

**182 After subparagraph 175(4)(e)(iii)**

Insert:

- (iia) an offshore facility operator; or

**183 Paragraph 176(1)(a)**

After “transport”, insert “or offshore facility”.

**184 Subsection 177(1)**

After “transport”, insert “or offshore facility”.

**185 At the end of subsection 177(2)**

Add:

- ; and (f) if all or part of a security regulated offshore facility is within the port—the offshore facility operator for the facility.

**186 At the end of section 177**

Add:

- (6) An incident that relates to a security regulated offshore facility must be reported to the offshore facility operator for the facility.

**187 Subsection 178(1)**

After “security regulated ship”, insert “or a ship regulated as an offshore facility”.

**188 Subsection 178(1)**

After “transport”, insert “or offshore facility”.

**189 At the end of subsection 178(2)**

Add:

- ; and (e) if the ship is located in the vicinity of a security regulated offshore facility and is engaged in any activity in relation to the facility—the offshore facility operator for the facility.

**190 At the end of section 178**

Add:

- (5) An incident that relates to a security regulated offshore facility must be reported to the offshore facility operator for the facility.

**191 Subsection 179(1)**

After “transport”, insert “or offshore facility”.

**192 At the end of subsection 179(2)**

Add:

- ; and (e) if the ship is located in the vicinity of a security regulated offshore facility and is engaged in any activity in relation to the facility—the offshore facility operator for the facility.

**193 At the end of section 179**

Add:

- (5) An incident that relates to a security regulated offshore facility must be reported to the offshore facility operator for the facility.

**194 After section 179**

Insert:

**179A Reporting by offshore facility operators**

- (1) The offshore facility operator for a security regulated offshore facility must report maritime transport or offshore facility security incidents in accordance with this section.

- (2) An incident that relates to a security regulated offshore facility of the offshore facility operator must be reported to:
  - (a) the Secretary; and
  - (b) the Australian Federal Police or the police force of a State or a Territory; and
  - (c) if the facility is within a security regulated port—the port operator for the port; and
  - (d) if a security regulated ship is located in the vicinity of the facility and is engaged in any activity in relation to the facility—the ship operator for, or master of, the ship.
- (3) An incident that relates to a port must be reported to the port operator for the port.
- (4) An incident that relates to a security regulated ship must be reported to:
  - (a) the ship operator for the ship; or
  - (b) the master of the ship.

**195 Subsection 180(1)**

After “transport”, insert “or offshore facility”.

**196 At the end of section 180**

Add:

- (6) An incident that relates to a security regulated offshore facility must be reported to the offshore facility operator for the facility.

**197 Subsection 181(1)**

After “transport”, insert “or offshore facility”.

**198 At the end of section 181**

Add:

- (5) An incident that relates to a security regulated offshore facility must be reported to the offshore facility operator for the facility.

**199 Paragraph 182(3)(a)**

After “transport”, insert “or offshore facility”.

**200 Section 183**

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Omit “maritime transport security”, substitute “the security of maritime transport and offshore facilities”.

**201 Subsection 187(1)**

After “62(1),”, insert “100C(1),”.

**202 At the end of paragraph 189(2)(b)**

Add “or offshore facilities”.

**203 At the end of subsection 191(2)**

Add “or offshore facilities”.

**204 Paragraph 191(3)(a)**

After “transport”, insert “or offshore facilities”.

**205 At the end of paragraph 195(3)(b)**

Add “or offshore facilities”.

**206 After paragraph 195(5)(c)**

Insert:

- (ca) removing the ship from an offshore security zone;
- (cb) if the ship is located in the vicinity of a security regulated offshore facility and is engaged in any activity in relation to the facility—removing the ship from the vicinity of the facility;

**207 Section 198**

Omit “or a ship security plan”, substitute “, a ship security plan or an offshore security plan”.

**208 At the end of Division 6 of Part 11**

Add:

**200A Demerit points—offshore security plans**

- (1) The demerit points system may provide that the approval of the offshore security plan of an offshore industry participant may be cancelled if the offshore industry participant accrues a prescribed number of demerit points.



Note: Section 100R deals with the cancellation of the approval of offshore security plans under the demerit points system.

- (2) Demerit points must only be accrued if the offshore industry participant:
- (a) is convicted or found guilty of an offence against this Act; or
  - (b) under a scheme established under regulations made under section 187, pays a penalty to the Commonwealth as an alternative to prosecution.
- (3) Without limiting the scheme that may be established under section 198, the scheme may provide that different provisions apply to different kinds of offshore industry participants or to different classes of participants within a kind of offshore industry participant.

**209 Paragraph 201(a)**

Omit “or a ship security plan under subsection 70(2) or (4)”, substitute “, a ship security plan under subsection 70(2) or (4) or an offshore security plan under subsection 100K(2) or (4)”.

**210 Paragraph 201(b)**

Omit “or 72”, substitute “, 72 or 100M”.

**211 Paragraph 201(c)**

Omit “or 74”, substitute “, 74 or 100O”.

**212 Paragraph 201(d)**

Repeal the paragraph, substitute:

- (d) to cancel a maritime security plan, a ship security plan or an offshore security plan under section 57, 58, 76, 77, 100Q or 100R; or

**213 Paragraph 201(e)**

After “section 86”, insert “or 100ZC”.

**214 After paragraph 201(g)**

Insert:

- (ga) to declare that one of the following is a security regulated offshore facility under subsection 17B(1):

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- (i) an offshore facility;
  - (ii) a part of an offshore facility;
  - (iii) a group of offshore facilities;
  - (iv) parts of a group of offshore facilities; or
- (gb) to designate a person as an offshore facility operator under section 17C; or

**215 After paragraph 201(j)**

Insert:

; or (k) to establish an offshore security zone under section 113A.

**216 Paragraph 203(1)(a)**

Omit “141 or 148”, substitute “140A, 141, 148 or 148A”.

**217 At the end of section 208**

Add:

- (8) This Act also has the effect that it would have if the provisions of this Act relating to security regulated offshore facilities or the acts or omissions of persons in, around or in relation to a security regulated offshore facility were expressly confined to cases where the facility is:
- (a) engaged or used in trade or commerce:
    - (i) between Australia and places outside Australia; or
    - (ii) among the States; or
    - (iii) within a Territory, between a State and a Territory or between 2 Territories; or
  - (b) operated or controlled by a corporation, or corporations, to which paragraph 51(xx) of the Constitution applies.

## **Part 2—Application and transitional provisions relating to offshore facilities**

### **218 Definitions**

In this Part:

*amended Act* means the *Maritime Transport Security Act 2003*, as amended by this Act.

*current Act* means the *Maritime Transport Security Act 2003*, as in force immediately before the commencement of the provisions covered by item 2 of the table in subsection 2(1) of this Act.

*proclamation day* means the day on which the provisions covered by item 3 of the table in subsection 2(1) of this Act commence.

### **219 Regulations made for the purposes of subsections 16(2) and 17(2) of the current Act**

- (1) Regulations made for the purposes of subsection 16(2) of the current Act have effect on and after the commencement of the provisions covered by item 14 of the table in subsection 2(1) of this Act, as if they were made under paragraph 16(2)(b) of the amended Act.
- (2) Regulations made for the purposes of subsection 17(2) of the current Act have effect on and after the commencement of the provisions covered by item 14 of the table in subsection 2(1) of this Act, as if they were made under paragraph 17(2)(b) of the amended Act.

### **220 Application of compliance provisions**

The following provisions of the amended Act only apply on or after the proclamation day:

- (a) Division 7B of Part 1;
- (b) sections 100C to 100F;
- (c) section 100R;
- (d) section 100W;
- (e) section 100ZD;
- (f) Part 5C.

### **221 Application of section 100G of the amended Act**

Section 100G of the amended Act applies as if the amendments made by items 5 to 7 of this Schedule commenced on the day on which item 105 of this Schedule commences.

**222 Offshore security plans given for approval before the proclamation day**

- (1) This item applies in relation to an offshore security plan given, before the proclamation day, by an offshore industry participant to the Secretary under section 100J of the amended Act.
- (2) Paragraph 100G(1)(c) of that Act has effect as if the person designated in the plan as the person to implement and maintain the plan were the participant's security officer.
- (3) Paragraph 100I(2)(b) of that Act has effect as if each zone:
  - (a) covered by the plan; and
  - (b) proposed to be established as an offshore security zone on or after the proclamation day;were an offshore security zone covered by the plan.

**223 Directions before the proclamation day to vary or revise offshore security plans**

- (1) This item applies in relation to each of the following directions if the direction is given before the proclamation day:
  - (a) a direction under section 100M of the amended Act to an offshore industry participant to vary an offshore security plan;
  - (b) a direction under section 100O of the amended Act to an offshore industry participant to revise an offshore security plan.
- (2) Paragraphs 201(b) and (c) of the amended Act have effect as if the offshore industry participant were a maritime industry participant.

**224 Exercise of certain powers by maritime security inspectors**

- (1) A maritime security inspector may only exercise the powers mentioned in section 138 of the amended Act, to the extent that those powers relate

to the inspection of a foreign ship regulated as an offshore facility, on or after the proclamation day.

- (2) A maritime security inspector may only exercise the powers mentioned in section 140A of the amended Act on or after the proclamation day.

**225 Exercise of certain powers by duly authorised officers**

A duly authorised officer may only exercise the powers mentioned in section 148A of the amended Act on or after the proclamation day.

## **Schedule 2—Amendments relating to maritime security identification cards**

### ***Maritime Transport and Offshore Facilities Security Act 2003***

#### **1 At the end of section 105**

Add:

- (4) Regulations made under subsection (1) may provide for the recovery by a person of costs and expenses reasonably incurred by the person in relation to the performance of functions, or the exercise of powers, by the person in relation to a security identification card scheme set out in those regulations. An amount recoverable under those regulations must not be such as to amount to taxation.
- (5) Regulations made under subsection (1) may authorise the use or disclosure of information (including personal information within the meaning of the *Privacy Act 1988*) for the purposes of, or in relation to, assessing the security risk posed by a person.

#### **2 At the end of section 109**

Add:

- (4) Regulations made under subsection (1) may provide for the recovery by a person of costs and expenses reasonably incurred by the person in relation to the performance of functions, or the exercise of powers, by the person in relation to a security identification card scheme set out in those regulations. An amount recoverable under those regulations must not be such as to amount to taxation.
- (5) Regulations made under subsection (1) may authorise the use or disclosure of information (including personal information within the meaning of the *Privacy Act 1988*) for the purposes of, or in relation to, assessing the security risk posed by a person.

#### **3 At the end of section 113**

Add:

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- (4) Regulations made under subsection (1) may provide for the recovery by a person of costs and expenses reasonably incurred by the person in relation to the performance of functions, or the exercise of powers, by the person in relation to a security identification card scheme set out in those regulations. An amount recoverable under those regulations must not be such as to amount to taxation.
  - (5) Regulations made under subsection (1) may authorise the use or disclosure of information (including personal information within the meaning of the *Privacy Act 1988*) for the purposes of, or in relation to, assessing the security risk posed by a person.
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*[Minister's second reading speech made in—  
House of Representatives on 25 May 2005  
Senate on 14 June 2005]*

(80/05)

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