



Maritime Legislation Amendment Act 2007

No. 150, 2007

**An Act to amend maritime legislation, and for
other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Maritime Legislation Amendment Act 2007

No. 150, 2007

An Act to amend maritime legislation, and for other purposes

[Assented to 24 September 2007]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Maritime Legislation Amendment Act 2007*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
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.	24 September 2007
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provision(s) do not commence on or before 1 January 2009, they do not commence at all.	1 January 2008 (<i>see</i> F2007L04141)
3. Schedule 2	The day on which this Act receives the Royal Assent.	24 September 2007

Note: This table relates only to the provisions of this Act as originally passed by both Houses of 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.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Integration of the Australian Maritime College with the University of Tasmania

Part 1—Preliminary

1 Definitions

In this Schedule:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

AMC institute means the institute, named the Australian Maritime College, referred to in item 1.1 of the table in subitem 16(2).

AMC institute funding, for a post-integration year, has the meaning given by item 15.

asset means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

To avoid doubt, the **assets** of the College immediately before the integration time include any fees that are payable to the College at that time, including student contribution amounts and tuition fees within the meaning of the *Higher Education Support Act 2003*.

assets official, in relation to an asset other than land, means the person or authority who, under a law of the Commonwealth, a State or a Territory, under a trust instrument or otherwise, has responsibility for keeping a register in relation to assets of the kind concerned.

Board means the Board of the AMC institute referred to in paragraph (d) of item 1.1 of the table in subitem 16(2).

College has the same meaning as in the old law.

Education Minister means the Minister administering the *Higher Education Support Act 2003*.

financial assets has the same meaning as in the accounting standards (made under section 334 of the *Corporations Act 2001*) as in force immediately before the integration time.

Heads of Agreement means the Heads of Agreement in respect of the integration of the Australian Maritime College and the University of Tasmania, entered into by the University and the College in October 2006.

initial post-integration period means the period of 3 months beginning at the integration time.

instrument:

- (a) includes:
 - (i) a contract, deed, undertaking or agreement; and
 - (ii) a notice, authority, order or instruction; and
 - (iii) an instrument made under an Act or regulations; and
 - (iv) regulations; but
- (b) does not include:
 - (i) the Heads of Agreement; or
 - (ii) a Statute (within the meaning of the old law); or
 - (iii) an Act.

integration time means the time when this Schedule commences.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

land means any legal or equitable estate or interest in real property, whether actual, contingent or prospective.

land registration official, in relation to land, means the Registrar of Titles or other proper officer of the State or Territory in which the land is situated.

liability means any liability, duty or obligation, whether actual, contingent or prospective.

members has the same meaning as in the old law.

old law means the *Maritime College Act 1978* as in force immediately before the integration time.

post-integration year means:

- (a) the year beginning at the integration time; or
- (b) any of the next 4 years.

Principal means the Principal of the AMC institute referred to in paragraph (c) of item 1.1 of the table in subitem 16(2).

University means the University of Tasmania.

University funding, for a post-integration year, means the grant payable to the University under Part 2-2 of the *Higher Education Support Act 2003* (Commonwealth Grant Scheme) in respect of the year.

University funding agreement, for a post-integration year, means the funding agreement entered into by the University with the Commonwealth under section 30-25 of the *Higher Education Support Act 2003* in respect of the year, or in respect of a period that includes the year.

Schedule 1 Integration of the Australian Maritime College with the University of Tasmania

Part 2 Repeal of the Maritime College Act 1978

Part 2—Repeal of the Maritime College Act 1978

Maritime College Act 1978

2 The whole of the Act

Repeal the Act.

Part 3—General transitional provisions

Division 1—Assets, liabilities and legal proceedings

3 Vesting of assets of College

- (1) This item applies to the assets of the College immediately before the integration time.
- (2) At the integration time, the assets to which this item applies cease to be assets of the College and become assets of the University without any conveyance, transfer or assignment. The University becomes the successor in law in relation to these assets.

4 Vesting of liabilities of College

- (1) This item applies to the liabilities of the College immediately before the integration time.
- (2) At the integration time, the liabilities to which this item applies cease to be liabilities of the College and become liabilities of the University without any conveyance, transfer or assignment. The University becomes the successor in law in relation to these liabilities.

5 Certificates relating to vesting of land

- (1) This item applies if:
 - (a) any land vests in the University under this Division; and
 - (b) there is lodged with a land registration official a certificate that:
 - (i) is signed by the Minister; and
 - (ii) identifies the land, whether by reference to a map or otherwise; and
 - (iii) states that the land has become vested in the University under this Division.

Note: Certificates under paragraph (1)(b) are presumed to be authentic: see item 13.

- (2) The land registration official may:
 - (a) register the matter in a way that is the same as, or similar to, the way in which dealings in land of that kind are registered; and

(b) deal with, and give effect to, the certificate.

6 Certificates relating to vesting of assets other than land

- (1) This item applies if:
- (a) any asset other than land vests in the University under this Division; and
 - (b) there is lodged with an assets official a certificate that:
 - (i) is signed by the Minister; and
 - (ii) identifies the asset; and
 - (iii) states that the asset has become vested in the University under this Division.

Note: Certificates under paragraph (1)(b) are presumed to be authentic: see item 13.

- (2) The assets official may:
- (a) deal with, and give effect to, the certificate as if it were a proper and appropriate instrument for transactions in relation to assets of that kind; and
 - (b) make such entries in the register as are necessary having regard to the effect of this Part.

7 Substitution of University as a party to pending proceedings

If any proceedings to which the College was a party were pending in any court or tribunal immediately before the integration time, the University is substituted for the College, from the integration time, as a party to the proceedings.

8 Transfer of custody of College records

Transfer of custody of College records

- (1) Subitem (2) applies to any records or documents that, immediately before the integration time, were in the custody of the College.
- (2) The records and documents are to be transferred into the custody of the Commonwealth at or after the integration time.

Commonwealth Authorities and Companies Act 1997 records

- (3) The Commonwealth must retain the records and documents that are:
-

- (a) accounting records kept by the College under subsection 20(1) of the *Commonwealth Authorities and Companies Act 1997*; and
 - (b) transferred to the Commonwealth under subitem (2);for at least 7 years after completion of the transactions to which the accounting records relate.
- (4) Section 27L of the *Commonwealth Authorities and Companies Act 1997* continues to apply in relation to records and documents that are:
 - (a) the books of the College (within the meaning of that section as in force immediately before the integration time); and
 - (b) transferred to the Commonwealth under subitem (2);as if the reference in subsection 27L(4) of that Act to a Commonwealth authority were a reference to the Commonwealth.

Division 2—Reference to, and things done by or in relation to, the College

9 References in instruments

References to College taken to be references to University

- (1) If:
 - (a) an instrument is in force immediately before the integration time; and
 - (b) the instrument contains a reference to the College;the instrument has effect from the integration time as if the reference to the College were a reference to the University.

References to staff of College taken to be references to staff of University

- (2) If:
 - (a) an instrument is in force immediately before the integration time; and
 - (b) the instrument contains a reference to a member of the staff of the College;the instrument has effect from the integration time as if the reference to the member of the staff of the College were a reference to a member of the staff of the University.

References to students of College taken to be references to students of University

- (3) If:
- (a) an instrument is in force immediately before the integration time; and
 - (b) the instrument contains a reference to a student of the College;

the instrument has effect from the integration time as if the reference to the student of the College were a reference to a student of the University.

Minister and regulations may provide otherwise

- (4) The Minister may, by writing, determine that subitem (1), (2) or (3) does not apply in relation to a specified reference. A determination under this subitem has effect accordingly.
- (5) The regulations may provide that an instrument containing a reference specified in a determination under subitem (4) has effect from the integration time as if:
- (a) in the case of an instrument covered by subitem (1)—the reference were a reference to a specified person or body other than the University; or
 - (b) in the case of an instrument covered by subitem (2)—the reference were a reference to a specified person or body other than a member of the staff of the University; or
 - (c) in the case of an instrument covered by subitem (3)—the reference were a reference to a specified person or body other than a student of the University.

Determinations are not legislative instruments

- (6) A determination under subitem (4) is not a legislative instrument.

10 Operation of laws

Things done by College taken to be done by University

- (1) If, before the integration time, a thing was done by, or in relation to, the College, then, for the purposes of the operation of any law of the Commonwealth after the integration time, the thing is taken to have been done by, or in relation to, the University.
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Minister and regulations may provide otherwise

- (2) The Minister may, by writing, determine that subitem (1) does not apply in relation to a specified thing done by, or in relation to, the College. A determination under this subitem has effect accordingly.
- (3) The regulations may provide for a thing specified in a determination under subitem (2) to be taken to have been done by, or in relation to, a specified person or body other than the University.

Meaning of doing

- (4) To avoid doubt, for the purposes of this item, **doing** a thing includes making an instrument.

Determinations are not legislative instruments

- (5) A determination made under subitem (2) is not a legislative instrument.

11 Financial statements and other reporting requirements

Reporting requirements

- (1) If:
 - (a) immediately before the integration time, a law required the College (including the members) to provide a report (whether financial statements or otherwise) for a period; and
 - (b) the period ends after the integration time;the Board must provide the report, as required, for so much of the period as occurs before the integration time.

Outstanding reporting requirements

- (2) If:
 - (a) a law required the College (including the members) to provide a report (whether financial statements or otherwise) for a period that ended before the integration time; and
 - (b) the report has not been provided by the integration time;the Board must provide the report as required.

Application of law to Board

- (3) To avoid doubt, if, under this item, the Board is required to provide a report under a law, the law applies to the Board in respect of the report in the same way as the law would have applied to the College (including the members) in respect of the report.

Division 3—Miscellaneous

12 Exemption from stamp duty and other State or Territory taxes

No stamp duty or other tax is payable by the Commonwealth under a law of a State or Territory in respect of, or in respect of anything connected with:

- (a) the transfer of an asset or liability under this Part; or
- (b) the operation of this Part in any other respect.

13 Certificates taken to be authentic

A document that appears to be a certificate made or issued under a particular provision of this Part:

- (a) is taken to be such a certificate; and
- (b) is taken to have been properly given;

unless the contrary is established.

14 Regulations

- (1) The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Part to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.
- (2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the repeal made by Part 2.

Part 4—Transitional provisions relating to the AMC institute

15 AMC institute funding

- (1) The University funding agreement for a post-integration year must specify, or specify a method of calculating, the portion of the University funding for the year that is to be AMC institute funding for the year.
- (2) For the purposes of this Schedule, *AMC institute funding* for the year is the portion so specified or calculated.

16 Review of integration after 3 months

AMC institute funding for first 5 years after integration

- (1) For the purposes of the *Higher Education Support Act 2003*, the University receives AMC institute funding for a post-integration year on condition that the Minister does not give, or has not given, the Education Minister a certificate under paragraph (2)(b) during the period of 28 days immediately following the initial post-integration period.

Note: If the Minister gives a certificate to the Education Minister under paragraph (2)(b), the Education Minister may require the University to repay AMC institute funding for a post-integration year: see Part 2-5 of the *Higher Education Support Act 2003*.

Conditions and ministerial certificate

- (2) During the period of 28 days immediately following the initial post-integration period, the Minister must consider whether all of the conditions in the following table are met and:
 - (a) if the Minister is satisfied that all of the conditions are met:
 - (i) certify this in writing; and
 - (ii) give the certificate to the Education Minister; or
 - (b) if the Minister is not satisfied that all of the conditions are met:
 - (i) certify this in writing; and
 - (ii) state, in writing, his or her reasons for not being satisfied; and

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Part 4 Transitional provisions relating to the AMC institute

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- (iii) give the certificate and statement to the Education Minister.

Funding conditions relating to the initial post-integration period

Item Condition

- 1.1 During the initial post-integration period and in accordance with the Heads of Agreement, the University established an institute within the University:
- (a) named the Australian Maritime College; and
 - (b) having the objectives of:
 - (i) providing maritime and related education and training suitable for seafarers and other participants in the maritime industry; and
 - (ii) conducting examinations and assessments for marine competency under the *Navigation Act 1912*; and
 - (iii) conducting research activities and programs relating to maritime and related education and training, including pure and applied research, consultancies for government and industry and research training; and
 - (c) having a Principal; and
 - (d) having a Board:
 - (i) that reports to the Council of the University; and
 - (ii) that has the right to advise the Council of the University on matters relating to the AMC institute; and
 - (iii) to which the Council of the University has delegated sufficient authority and autonomy to enable the Board to set the priorities, and determine the strategies, for achieving the objectives of the AMC institute.
-
- 2.1 During the initial post-integration period, each person who:
- (a) immediately before the integration time, was a student of the College; and
 - (b) apart from the integration of the College with the University, would have been a student of the College at the integration time;
- became a student of the University.
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- 2.2 Throughout the initial post-integration period:
- (a) the persons referred to in item 2.1; and
 - (b) other former students of the College;
- had the same rights and privileges as current students or former students, as applicable, of the University.
-
- 3.1 At the integration time, each person who:
- (a) immediately before the integration time, was a member of the staff of the College; and
-

Funding conditions relating to the initial post-integration period

Item Condition

	(b) apart from the integration of the College with the University, would have been a member of the staff of the College at the integration time; became a member of the staff of the University on terms and conditions that did not provide a less favourable outcome for the person than the terms and conditions that applied to the person immediately before the integration time.
4.1	During the initial post-integration period, financial assets equivalent to the financial assets of the College transferred to the University under Part 3 were set apart for the purposes of the AMC institute.
5.1	Throughout the initial post-integration period, the AMC institute had priority access to the land and other assets of the College transferred to the University under Part 3 and not disposed of during the period.

17 Annual review of integration during first 5 years

AMC institute funding for first 5 years after integration

- (1) For the purposes of the *Higher Education Support Act 2003*, the University receives AMC institute funding for a post-integration year on condition that the Minister does not give the Education Minister a certificate under paragraph (2)(b) in relation to the year during the period of 60 days immediately following the year.

Note: If the Minister gives a certificate to the Education Minister under paragraph (2)(b) in relation to a post-integration year, the Education Minister may require the University to repay AMC institute funding for the year: see Part 2-5 of the *Higher Education Support Act 2003*.

Conditions and ministerial certificates

- (2) During the period of 60 days immediately following each post-integration year, the Minister must consider whether all of the conditions in the following table are met in relation to the year and:
- (a) if the Minister is satisfied that all of the conditions are met in relation to the year:
 - (i) certify this in writing; and
 - (ii) give the certificate to the Education Minister; and
 - (b) if the Minister is not satisfied that all of the conditions are met in relation to the year:
 - (i) certify this in writing; and

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Part 4 Transitional provisions relating to the AMC institute

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- (ii) state, in writing, his or her reasons for not being satisfied; and
 - (iii) give the certificate and statement to the Education Minister.
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Funding conditions relating to a post-integration year

Item Condition

- 1.1 Throughout the year (other than, in the case of the first post-integration year, the period before the establishment of the AMC institute) and in accordance with the Heads of Agreement, there was an institute within the University:
- (a) named the Australian Maritime College; and
 - (b) having the objectives of:
 - (i) providing maritime and related education and training suitable for seafarers and other participants in the maritime industry; and
 - (ii) conducting examinations and assessments for marine competency under the *Navigation Act 1912*; and
 - (iii) conducting research activities and programs relating to maritime and related education and training, including pure and applied research, consultancies for government and industry and research training; and
 - (c) having a Principal; and
 - (d) having a Board:
 - (i) that reports to the Council of the University; and
 - (ii) that has the right to advise the Council of the University on matters relating to the AMC institute; and
 - (iii) to which the Council of the University has delegated sufficient authority and autonomy to enable the Board to set the priorities, and determine the strategies, for achieving the objectives of the AMC institute.
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- 2.1 The Board consisted of the following members appointed by the Council of the University:
- (a) the Principal;
 - (b) a person with both:
 - (i) expertise in the shipping industry; and
 - (ii) knowledge of issues affecting seafarers;
 - (c) a person with expertise in both:
 - (i) national and international shipping safety; and
 - (ii) the certification of seafarer training;
 - (d) up to 5 other members.
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- 2.2 The Board included members with skills in all of the following areas:
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Funding conditions relating to a post-integration year

Item Condition

	(a) governance;
	(b) business or finance;
	(c) law;
	(d) higher and further education.
3.1	Before the end of the year, the Board:
	(a) prepared a report:
	(i) in consultation with the Council of the University; and
	(ii) in a format agreed between the Board and the Minister during the period of 6 months beginning at the integration time; and
	(b) gave a copy of the report to the Minister.
3.2	The report included the following:
	(a) performance indicators against which the performance of the AMC institute is to be assessed, agreed between the Board and the Minister in consultation with the Council of the University during the period of 6 months beginning at the integration time;
	(b) details of the performance of the AMC institute during the year, evaluated against the performance indicators;
	(c) in relation to the next 3 years or a longer period:
	(i) details of assumptions about the operational environment of the AMC institute; and
	(ii) details of the strategic directions of the AMC institute; and
	(iii) analysis of risk factors affecting the performance of the AMC institute.
3.3	The Minister is satisfied with the report.
4.1	Throughout the year (other than, in the case of the first post-integration year, the period before the establishment of the AMC institute), the AMC institute had priority access to the land and other assets of the College transferred to the University under Part 3 and not disposed of before or during the year.
5.1	If, during the year, the University disposed of any of the land or other assets of the College transferred to the University under Part 3:
	(a) the University consulted with the Board before the disposal; and
	(b) the University complied with any agreements in force between the University and the Commonwealth relating to the disposal of such land or other assets.
6.1	If, during the year, the University significantly reduced the operations of the AMC institute, the University had notified the Minister in writing at least 12 months before the reduction.

18 Review of integration before the end of the first 5 years

Review

- (1) The Minister must cause a review of:
 - (a) the integration of the College with the University; and
 - (b) the objectives, effectiveness and efficiency of the AMC institute;to be undertaken:
 - (c) after the end of the period of 4 years and 6 months beginning at the integration time; but
 - (d) before the end of the period of 5 years beginning at the integration time.

Manner and form of review

- (2) The review must be undertaken in the manner and form determined by the Minister.
- (3) Before the Minister makes a determination under subitem (2), the Minister must consult with the University.

Report

- (4) The persons who undertake the review must give the Minister a written report of the review.
- (5) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

19 Delegation by Minister

- (1) The Minister may, in writing, delegate all or any of his or her functions or powers under this Part to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or an acting SES employee, of the Department.
- (2) In performing a delegated function or exercising a delegated power, a delegate must comply with any written directions of the Minister.

Part 5—Consequential amendments

Higher Education Support Act 2003

20 Subsection 16-15(1) (table item dealing with the Australian Maritime College)

Repeal the item.

Legislative Instruments Act 2003

21 Subsection 44(2) (table item 25)

Repeal the item.

22 Subsection 54(2) (table item 23)

Repeal the item.

Public Works Committee Act 1969

23 At the end of paragraphs 6A(2)(a) and (b)

Add “or”.

24 Paragraph 6A(2)(ba)

Repeal the paragraph.

Remuneration Tribunal Act 1973

25 Subsection 3(1) (definition of *executive education office*)

Repeal the definition, substitute:

executive education office means an office of the Vice-Chancellor,
or Deputy Vice-Chancellor, of the Australian National University.

26 Subsection 5(2)

Omit “, the University of Canberra and the Australian Maritime College”, substitute “and the University of Canberra”.

Schedule 2—Information sharing by the Australian Maritime Safety Authority

Australian Maritime Safety Authority Act 1990

1 After section 10

Insert:

11 Disclosure of information

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

*[Minister's second reading speech made in—
House of Representatives on 8 August 2007
Senate on 16 August 2007]*

(150/07)

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