Marine Safety (Domestic Commercial Vessel) National Law Amendment Act 2014

No. 118, 2014

An Act to amend the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*, and for related purposes

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No. 118, 2014

An Act to amend the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*, and for related purposes

[*Assented to 20 November 2014*]

The Parliament of Australia enacts:

1 Short title

 This Act may be cited as the *Marine Safety (Domestic Commercial Vessel) National Law Amendment Act 2014*.

2 Commencement

 This Act commences on the day this Act receives the Royal Assent.

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 Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Marine Safety (Domestic Commercial Vessel) National Law Act 2012

1 Section 6 of the Marine Safety (Domestic Commercial Vessel) National Law (definition of *defence vessel*)

Repeal the definition, substitute:

***defence vessel*** means:

 (a) a warship or other vessel that:

 (i) is operated for naval or military purposes by the Australian Defence Force or the armed forces of a foreign country; and

 (ii) is under the command of a member of the Australian Defence Force or of a member of the armed forces of the foreign country; and

 (iii) bears external marks of nationality; and

 (iv) is manned by seafarers under armed forces discipline; or

 (b) a Government vessel that is used only on government non‑commercial service as a naval auxiliary.

2 Section 6 of the Marine Safety (Domestic Commercial Vessel) National Law

Insert:

***Government vessel*** has the same meaning as in the *Navigation Act 2012*.

3 After paragraph 10(c) of the Marine Safety (Domestic Commercial Vessel) National Law

Insert:

 (ca) to survey vessels and deal with matters relating to the survey of vessels by accredited surveyors;

4 Subsection 11(3) of the Marine Safety (Domestic Commercial Vessel) National Law

Omit all the words after “that power or function”, substitute:

to an officer or employee (the ***sub‑delegate***) of:

 (a) if the delegate is an officer or employee of an agency of the Commonwealth—that agency; or

 (b) if the delegate is an officer or employee of an agency of a State—an agency of that State; or

 (c) if the delegate is an officer or employee of an agency of the Northern Territory—an agency of the Northern Territory.

5 Subsection 40(2) of the Marine Safety (Domestic Commercial Vessel) National Law

Repeal the subsection, substitute:

 (2) The National Regulator may vary a certificate of survey on the National Regulator’s initiative if the National Regulator is satisfied that:

 (a) the criteria prescribed by the regulations in relation to variation on the initiative of the National Regulator are met; and

 (b) it is desirable to do so, having regard to the objects of this Law.

6 Subsection 41(2) of the Marine Safety (Domestic Commercial Vessel) National Law

Repeal the subsection, substitute:

 (2) The National Regulator must suspend a certificate of survey on the National Regulator’s initiative if the National Regulator is satisfied that the suspension is necessary for the purpose of:

 (a) protecting human life; or

 (b) securing the safe navigation of vessels; or

 (c) dealing with an emergency involving a serious threat to the environment.

 (2A) The National Regulator may suspend a certificate of survey on the National Regulator’s initiative for a purpose prescribed by the regulations.

7 Subsection 42(2) of the Marine Safety (Domestic Commercial Vessel) National Law

Repeal the subsection, substitute:

 (2) The National Regulator may revoke a certificate of survey on the National Regulator’s initiative if the National Regulator is satisfied that:

 (a) the criteria prescribed by the regulations in relation to revocation on the initiative of the National Regulator are met; and

 (b) it is desirable to do so, having regard to the objects of this Law.

8 Subsection 50(2) of the Marine Safety (Domestic Commercial Vessel) National Law

Repeal the subsection, substitute:

 (2) The National Regulator may vary a certificate of operation on the National Regulator’s initiative if the National Regulator is satisfied that:

 (a) the criteria prescribed by the regulations in relation to variation on the initiative of the National Regulator are met; and

 (b) it is desirable to do so, having regard to the objects of this Law.

9 Subsection 51(2) of the Marine Safety (Domestic Commercial Vessel) National Law

Repeal the subsection, substitute:

 (2) The National Regulator must suspend a certificate of operation on the National Regulator’s initiative if the National Regulator is satisfied that the suspension is necessary for the purpose of:

 (a) protecting human life; or

 (b) securing the safe navigation of vessels; or

 (c) dealing with an emergency involving a serious threat to the environment.

 (2A) The National Regulator may suspend a certificate of operation on the National Regulator’s initiative for a purpose prescribed by the regulations.

10 Subsection 51(4) of the Marine Safety (Domestic Commercial Vessel) National Law

Omit “subparagraph”, substitute “subsection”.

11 Subsection 52(2) of the Marine Safety (Domestic Commercial Vessel) National Law

Repeal the subsection, substitute:

 (2) The National Regulator may revoke a certificate of operation on the National Regulator’s initiative if the National Regulator is satisfied that:

 (a) the criteria prescribed by the regulations in relation to revocation on the initiative of the National Regulator are met; and

 (b) it is desirable to do so, having regard to the objects of this Law.

12 Subsection 62(2) of the Marine Safety (Domestic Commercial Vessel) National Law

Repeal the subsection, substitute:

 (2) The National Regulator may vary a certificate of competency on the National Regulator’s initiative if the National Regulator is satisfied that:

 (a) the criteria prescribed by the regulations in relation to variation on the initiative of the National Regulator are met; and

 (b) it is desirable to do so, having regard to the objects of this Law.

13 Subsection 63(2) of the Marine Safety (Domestic Commercial Vessel) National Law

Repeal the subsection, substitute:

 (2) The National Regulator must suspend a certificate of competency on the National Regulator’s initiative if the National Regulator is satisfied that the suspension is necessary for the purpose of:

 (a) protecting human life; or

 (b) securing the safe navigation of vessels; or

 (c) dealing with an emergency involving a serious threat to the environment.

 (2A) The National Regulator may suspend a certificate of competency on the National Regulator’s initiative for a purpose prescribed by the regulations.

14 Subsection 63(4) of the Marine Safety (Domestic Commercial Vessel) National Law

Omit “subparagraph”, substitute “subsection”.

15 Subsection 64(2) of the Marine Safety (Domestic Commercial Vessel) National Law

Repeal the subsection, substitute:

 (2) The National Regulator may revoke a certificate of competency on the National Regulator’s initiative if the National Regulator is satisfied that:

 (a) the criteria prescribed by the regulations in relation to revocation on the initiative of the National Regulator are met; and

 (b) it is desirable to do so, having regard to the objects of this Law.

16 Section 72 of the Marine Safety (Domestic Commercial Vessel) National Law

Omit “41(2)(b), 51(2)(b) or 63(2)(b)”, substitute “41(2A), 51(2A) or 63(2A)”.

17 Paragraph 104(2)(h) of the Marine Safety (Domestic Commercial Vessel) National Law

Omit “, (6) and (7)”, substitute “and (6)”.

18 Section 139 of the Marine Safety (Domestic Commercial Vessel) National Law

Before “The”, insert “(1)”.

19 At the end of subparagraphs 139(a)(ii) and (iii) of the Marine Safety (Domestic Commercial Vessel) National Law

Add “or (2)”.

20 At the end of subparagraphs 139(g)(i), (ii) and (iii) of the Marine Safety (Domestic Commercial Vessel) National Law

Add “or (2A)”.

21 At the end of subparagraphs 139(i)(ii) and (iii) of the Marine Safety (Domestic Commercial Vessel) National Law

Add “or (3)”.

22 Paragraphs 139(m), (n) and (o) of the Marine Safety (Domestic Commercial Vessel) National Law

Repeal the paragraphs.

23 At the end of section 139 of the Marine Safety (Domestic Commercial Vessel) National Law

Add:

 (2) The following decisions of a marine safety inspector are ***reviewable decisions***:

 (a) to detain a vessel under section 101(1);

 (b) to issue an improvement notice under section 110(1);

 (c) to issue a prohibition notice under section 111(2).

24 Subsection 140(1) of the Marine Safety (Domestic Commercial Vessel) National Law

Omit “The National Regulator must, as soon as practicable after a reviewable decision is made in relation to a person, give a written notice”, substitute “As soon as practicable after a reviewable decision is made in relation to a person, a written notice must be given”.

25 Subsection 140(4) of the Marine Safety (Domestic Commercial Vessel) National Law

Omit “Regulator” (second occurring), substitute “Regulator’s”.

26 After subsection 159(5) of the Marine Safety (Domestic Commercial Vessel) National Law

Insert:

 (5A) The regulations may make provision for and in relation to the conduct of the survey of vessels.

[*Minister’s second reading speech made in—*

*House of Representatives on 16 July 2014*

*Senate on 25 September 2014*]

(161/14)