

Statutory Rules
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Marine Navigation Levy Collection Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 4 of the *Acts Interpretation Act 1901*, hereby make the following Regulations under the *Marine Navigation Levy Collection Act 1989*.

Dated 26 June 1990.

BILL HAYDEN
Governor-General

By His Excellency's Command.

Bob Collins

Minister of State for Shipping
 and Aviation Support

Citation

1. These Regulations may be cited as the Marine Navigation Levy Collection Regulations.

Commencement

2. These Regulations commence on 1 July 1990.

Interpretation

3. (1) In these Regulations, unless the contrary intention appears: "out of commission", in relation to a ship, means:

- (a) being moored in a harbour and not engaged in the ordinary employment, including the loading and unloading of passengers or cargo, of a merchant ship for hire or reward; or
- (b) being wrecked or stranded while proceeding from 1 Australian port to another;

"Load Line Convention" has the same meaning as in Part IV of the *Navigation Act 1912*;

"the Act" means the *Marine Navigation Levy Collection Act 1989*;

“**tonnage length**”, in relation to a ship, means the length of the ship for the purposes of the Load Line Convention as in force with respect to Australia at the commencement of these Regulations.

(2) For the purposes of these Regulations, if:

(a) the net tonnage of a ship is not shown on its certificate of registration; and

(b) the tonnage of the ship has not been measured:

the net tonnage of the ship is taken to be the tonnage calculated in accordance with the formula:

$$5.6L - 50$$

where:

“**L**” means the length of the vessel ascertained in accordance with section 10 of the *Shipping Registration Act 1981*.

Exempt ships

4. For the purposes of the definition of “exempt ship” in section 3 of the Act, the following are declared to be exempt ships:

- (a) a ship belonging to the naval, military or air forces of Australia or a foreign country, not being a ship engaged in trade or carrying goods under freight or charter;
- (b) a ship belonging to, or requisitioned or chartered by, the Commonwealth or the government of a foreign country that is engaged only in carrying members of, or goods intended for the use of, the naval, military or air forces of Australia or that country;
- (c) a ship belonging to the Commonwealth or a State or Territory or a public authority of the Commonwealth or of a State or Territory, not being a ship engaged in trade or carrying goods under freight or charter;
- (d) a ship only engaged in fishing or searching for, or taking, sedentary organisms within the meaning of the *Continental Shelf (Living Natural Resources) Act 1968*;
- (e) a ship only engaged in attending upon a ship specified in paragraph (d);
- (f) a ship wholly in ballast, other than a tug, engaged in a commercial operation but on which no freight is earned and that is not carrying a passenger;
- (g) a pleasure craft;
- (h) a ship that is less than 24 metres in tonnage length;
- (i) a ship belonging to a religious missionary society;
- (j) a ship engaged only in laying or repairing submarine cables;
- (k) a hospital ship not engaged in trade or carrying goods under freight or charter;
- (l) a sailing ship the tonnage of which is less than 500.

Refund of levy

5. (1) If a ship in respect of which levy has been paid for a quarter under subsection 7 (1) or paragraph 7 (2) (d) of the Act has subsequently been prevented from putting to sea:

- (a) for more than 30 consecutive days; and
- (b) any 1 of the days is in the quarter;

a Collector must refund for that day, or each of those days, an amount calculated by dividing the amount of levy so paid by a number equal to the number of days in that quarter for which levy was paid.

(2) If:

- (a) levy has been paid in respect of a ship under paragraph 7 (3) (a) or (b) of the Act; and
- (b) levy has been paid in respect of the ship under paragraph 7 (3) (c) of the Act; and
- (c) the ship has subsequently been prevented from putting to sea from a port in Australia:
 - (i) for more than 30 consecutive days; and
 - (ii) any 1 of the days is in the period of 3 months beginning on the day on which the levy under paragraph 7 (3) (c) of that Act became payable;

a Collector must refund for that day, or each of those days, in that period an amount calculated by dividing the amount payable under paragraph 7 (3) (c) of the Act for the period referred to in subparagraph (c) (ii) by a number equal to the number of days in that period of 3 months for which levy was paid.

(3) In this regulation, a reference to a ship that has been prevented from putting to sea is a reference to a ship that has been prevented from putting to sea:

- (a) because it was out of commission; or
- (b) because it was laid up for repairs; or
- (c) as a result of an industrial dispute.

Remission of levy

6. (1) If:

- (a) levy is payable in a quarter in respect of a ship under subsection 7 (2) of the Act; and
- (b) the ship is not leaving an Australian port, either directly or after calling at 1 or more other Australian ports, for a place outside Australia;

a Collector must remit an amount calculated in accordance with the formula:

$$A \times \frac{N}{Q}$$

where:

- “A” means the amount of levy payable;
- “N” means the number of days from the beginning of the quarter to the day immediately before the day on which the ship leaves an Australian port;
- “Q” means the number of days in the quarter for which levy was paid.

(2) If:

- (a) levy has been paid in respect of a ship under subsection 7 (3) of the Act; and
- (b) levy is payable under subsection 7 (1) of the Act before the end of a period of 3 months from the day on which levy referred to in paragraph (a) became payable;

a Collector must remit an amount calculated in accordance with the formula:

$$A \times \frac{N}{Q}$$

where:

- “A” means the amount of levy payable;
- “N” means the number of days remaining in the period after the beginning of the quarter in which that period ends;
- “Q” means the number of days in the quarter for which levy was paid.

(3) If a ship in respect of which levy has been paid under subsection 7 (1) of the Act:

- (a) has been, at the end of a quarter, for more than 30 consecutive days; and
- (b) is on the first day of the next succeeding quarter; prevented from putting to sea:
 - (c) because it was, or is, out of commission; or
 - (d) because it was laid up for repairs; or
 - (e) as a result of an industrial dispute;

a Collector must remit further payment of levy until the ship is able to put to sea.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

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1990. 29 June/