

EXPLANATORY STATEMENT

Select Legislative Instrument No. 85, 2014

Issued by the authority of the Minister for Infrastructure and Regional Development

Subject: *Protection of the Sea (Shipping Levy) Act 1981*

Protection of the Sea (Shipping Levy) Regulation 2014

Section 9 of the *Protection of the Sea (Shipping Levy) Act 1981* (the Act) provides that the Governor-General may make regulations for the purposes of sections 6 and 7 of the Act. Section 6 of the Act enables the regulations to prescribe the rate of levy and section 7 enables the regulations to prescribe a minimum amount of levy payable for a ship for a quarter.

The Act imposes a quarterly levy on ships of 24 metres or more in length and having on board a quantity of 10 tonnes or more of oil in bulk as fuel or cargo. The rate of levy is currently prescribed in the *Protection of the Sea (Shipping Levy) Regulations 1982* (the 1982 Regulations) for the purposes of section 6 of the Act. The current quarterly levy is 14.25 cents per ton of the net tonnage of a ship.

The Regulation replaces the 1982 Regulations in order to decrease the quarterly levy from 14.25 cents to 11.25 cents per ton on all ships to which the Act applies, effective from 1 July 2014, and remake the Regulation in the modern drafting style. The minimum levy prescribed in the Principal Regulations for the purposes of section 7 of the Act will remain at its current level of \$10.

The levy is payable once in every quarter that a ship to which the Act applies is in an Australian port. The levy is used to fund the operations and management of the National Plan for Maritime Environmental Emergencies (the National Plan). Since 1 July 2007, the levy has also been used to fund the National Maritime Emergency Response Arrangements.

The National Plan incurred costs as a result of the fuel oil spill from the *Pacific Adventurer* off Queensland in March 2009. The levy was increased from 1 April 2010 by three cents per ton to fund the shortfall in the actual clean-up costs that were not able to be recovered from the shipowner. These costs have now been fully collected, and the levy will decrease to its former rate of 11.25 cents per ton.

The Act specifies no conditions that need to be satisfied before the power to make the proposed Regulations may be exercised. The proposed Regulations would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations will commence on 1 July 2014.

The Australian Maritime Safety Authority was consulted in relation to this Proposal.

Details of the regulation are set out in the Attachment.

Authority: Section 9 of the *Protection of the Sea (Shipping Levy) Act 1981*

Protection of the Sea (Shipping Levy) Regulation 2014

Regulation 1 – Name of Regulation

Regulation 1 provides that the title of the Regulation is the Protection of the Sea (Shipping Levy) Regulation 2014.

Regulation 2 – Commencement

Regulation 2 provides that the Regulation commences on 1 July 2014.

Regulation 3 – Authority

Regulation 3 provides that the Regulation is made under the *Protection of the Sea (Shipping Levy) Act 1981*.

Regulation 4 – Schedule (s)

Regulation 4 provides for amendment or repeal of instruments as specified in the Schedule.

Regulation 5 – Definitions

Regulation 5 provides for a definition of ‘Act’ to mean *Protection of the Sea (Shipping Levy) Act 1981*.

Regulation 6 – Rate of Levy

Regulation 6 provides for the rate of levy to be paid under section 6 of the Act to be 11.25 cents per ton of the tonnage of a ship from 1 July 2014.

Regulation 7 – Minimum amount of levy

Regulation 7 provides that for section 7 of the Act, the minimum amount of levy for a quarter from 1 July 2014 is \$10.

Schedule 1 – Repeal

Schedule 1 repeals the *Protection of the Sea (Shipping Levy) Regulations 1982*.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Protection of the Sea (Shipping Levy) Regulation 2014

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill/Legislative Instrument

The *Protection of the Sea (Shipping Levy) Act 1981* (the Act) imposes a quarterly levy on ships of 24 metres or more in length and having on board a quantity of 10 tonnes or more of oil in bulk as fuel or cargo. The rate of levy is currently prescribed in the *Protection of the Sea (Shipping Levy) Regulations 1982* (the 1982 Regulations) for the purposes of section 6 of the Act. The current quarterly levy is 14.25 cents per ton of the net tonnage of a ship.

This Regulation replaces the 1982 Regulations in order to decrease the quarterly levy from 14.25 cents to 11.25 cents per ton on all ships to which the Act applies, effective from 1 July 2014, and remake the Regulation in the modern drafting style.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Warren Truss

Minister for Infrastructure and Regional Development