



Marine Navigation Levy Collection Regulations 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 13 September 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Michael McCormack
Deputy Prime Minister and Minister for Infrastructure, Transport and Regional
Development

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1 Name

This instrument is the *Marine Navigation Levy Collection Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument 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
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 October 2018.	1 October 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Marine Navigation Levy Collection Act 1989*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Australian port;
- (b) Levy Act;
- (c) quarter.

In this instrument:

Act means the *Marine Navigation Levy Collection Act 1989*.

prevented from putting to sea: see section 10.

property of any kind belonging to a State: see subsection 6(2).

tonnage length: see subsection 6(2).

6 Exempt ships

- (1) 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 owned or operated by a foreign country, other than a ship being used in trade or carrying goods under freight or charter;
 - (b) a ship belonging to the Australian Defence Force;
 - (c) a ship belonging to, or requisitioned or chartered by, the Commonwealth;
 - (d) a ship that is property of any kind belonging to a State;
 - (e) any other ship being used for the purposes of a State or Territory, or an authority of a State or Territory, other than a ship being used in trade or carrying goods under freight or charter;
 - (f) a ship only being used in fishing or searching for, or taking, sedentary organisms within the meaning of the *Fisheries Management Act 1991*;
 - (g) a ship only being used in attending upon a ship covered by paragraph (f);
 - (h) a ship, other than a tug, that:
 - (i) is only carrying ballast; and
 - (ii) arrives at an Australian port for a purpose not involving loading cargo or taking on passengers;
 - (i) a recreational vessel within the meaning of the *Navigation Act 2012*;
 - (j) a ship that is less than 24 metres in tonnage length;
 - (k) a ship only being used for a charitable purpose (see Part 3 of the *Charities Act 2013*);
 - (l) a ship only being used in laying or repairing submarine cables;
 - (m) a hospital ship, other than a ship being used in trade or carrying goods under freight or charter;
 - (n) a sailing ship with a tonnage (within the meaning of the Levy Act) of less than 500 tons.
- (2) In this instrument:

property of any kind belonging to a State has the same meaning as in section 114 of the Constitution.

tonnage length, of a ship, means the length of the ship for the purposes of the International Convention on Load Lines, done at London on 5 April 1966, as amended and in force for Australia on 1 October 2018.

Note: The Convention is in Australian Treaty Series 1968 No. 23 ([1968] ATS 23) and could in 2018 be viewed in the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

- (3) For the purposes of paragraph (1)(d), assume that a reference in section 114 of the Constitution to a State includes a reference to the Australian Capital Territory and the Northern Territory.

7 Refund of levy

- (1) A Collector must refund an amount of levy, worked out under subsection (2), if:
- (a) levy is paid under subsection 7(1), or paragraph 7(2)(d) or (3)(c), of the Act in respect of a ship; and

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- (b) the ship is prevented from putting to sea on more than 30 consecutive days; and
 - (c) any of those days is in the 3 month period beginning on the day the levy became payable.
- (2) The amount to be refunded is worked out in accordance with the formula:

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

where:

A means the amount of levy paid as mentioned in paragraph (1)(a).

N means the number of days mentioned in paragraph (1)(b) that are in the 3 month period mentioned in paragraph (1)(c).

P means the number of days in the 3 month period mentioned in paragraph (1)(c).

8 Remission of levy

- (1) A Collector must remit levy payable in respect of a ship for which levy has most recently been paid under subsection 7(1) of the Act if the ship is prevented from putting to sea:
 - (a) on the day the levy becomes payable; and
 - (b) on more than 30 consecutive days up to and including the day before the levy becomes payable.
- (2) A Collector must remit an amount of levy, worked out under subsection (3), if:
 - (a) the levy is payable in respect of a ship under subsection 7(1) of the Act; and
 - (b) the levy becomes payable before the end of 3 months beginning on the day levy paid in respect of the ship under subsection 7(2) or (3) of the Act became payable.
- (3) The amount to be remitted under subsection (2) is worked out 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 start of the day the levy becomes payable under subsection 7(1) of the Act to the end of the 3 month period mentioned in paragraph (2)(b).

Q means the number of days in the quarter beginning on the day the levy becomes payable.

9 Payment of levy

For the purposes of paragraph 8(4)(c) of the Act, payment of levy may be made by electronic funds transfer to a Collector.

10 When a ship is prevented from putting to sea

For the purposes of this instrument, a ship is *prevented from putting to sea* on a day if, at any time during that day, the ship:

- (a) is moored in a harbour and not engaged in the ordinary employment of a merchant ship for hire or reward, including the loading and unloading of passengers or cargo; or
- (b) is wrecked or stranded; or
- (c) is laid up for repairs; or
- (d) is prevented from putting to sea as a result of an industrial dispute.

Schedule 1—Repeals

Marine Navigation Levy Collection Regulations 1990

1 The whole of the instrument

Repeal the instrument.