

## **Explanatory Statement**

Issued by the Authority of the Minister for Infrastructure, Transport,  
Regional Development and Local Government

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

### **Protection of the Sea (Shipping Levy) Regulations 2024**

#### **Authority**

The Protection of the Sea (Shipping Levy) Regulations 2024 is made under Section 9 of the *Protection of the Sea (Shipping Levy) Act 1981*.

#### **Purpose**

The purpose of the instrument is to set the rate of levy and the minimum amount of levy for the purposes of section 6 and 7 of the *Protection of the Sea (Shipping Levy) Act 1981* respectively.

The rate of levy in respect of a ship for a quarter is prescribed at 11.25 cents per tonne of the net tonnage of the ship.

The minimum amount of levy is prescribed at \$10 for a quarter.

#### **Background**

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. 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 rate of levy is currently prescribed in the Protection of the Sea (Shipping Levy) Regulation 2014 (the 2014 Regulation). The current levy is 11.25 cents per tonne of the net tonnage of a ship per quarter. The minimum amount of levy payable is \$10 per quarter.

The Protection of the Sea (Shipping Levy) Regulations 2024 would remake and replace the sunseting 2014 Regulation at the current levy rate and minimum amount of levy.

The levy rate was last considered in 2014 when the existing 2014 Regulation was made. In 2010 the levy had been increased to 14.25 cents per tonne to fund a shortfall in clean-up costs that were not recoverable from the shipowner of the Pacific Adventurer, which had a fuel oil spill off Brisbane in March 2009. The levy was subsequently decreased back to 11.25 cents per tonne in 2014.

The levy funds the Australian Maritime Safety Authority (AMSA)'s marine environment protection activities, including preventing and combating ship-sourced pollution in the marine environment. The levy is also 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 been used to fund the National Maritime Emergency Response Arrangements.

## **Summary of the Protection of the Sea (Shipping Levy) Regulations 2024**

The Protection of the Sea (Shipping Levy) Regulations 2024 is a legislative instrument for the purposes of the *Legislation Act 2003* and is subject to the default sunseting requirements and disallowance. The Protection of the Sea (Shipping Levy) Regulations 2024 commences the day it is registered.

Details of the instrument are set out in [Attachment A](#).

### **Consultation**

The Department consulted the Australian Maritime Safety Authority and the Office of Impact Analysis.

### **Statement of Compatibility with Human Rights**

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at [Attachment B](#).

## **Details of the *Protection of the Sea (Shipping Levy) Regulations 2024***

### Section 1 – *Protection of the Sea (Shipping Levy) Regulations 2024*

This section provides that the name of the instrument is the *Protection of the Sea (Shipping Levy) Regulations 2024*.

### Section 2 – Commencement

This section provides for the instrument to commence on 1 October 2024.

### Section 3 – Authority

This section provides that the instrument is made under Section 9 of the *Protection of the Sea (Shipping Levy) Act 1981*.

### Section 4 – Schedules

This section provides that each instrument specified in a Schedule to the *Protection of the Sea (Shipping Levy) Regulations 2024* is amended or repealed as set out in the applicable item in the Schedule concerned, and that any other item in a Schedule to the instrument has effect according to its terms.

### Section 5 – Definitions

This section sets out the definitions necessary for interpretation of the *Protection of the Sea (Shipping Levy) Regulations 2024*, including providing for a definition of ‘Act’ to mean the *Protection of the Sea (Shipping Levy) Act 1981*.

### Section 6 – Rate of levy

Section 6 provides for the rate of levy under section 6 of the *Protection of the Sea (Shipping Levy Collection) Act 1981* as 11.25 cents per tonne of the tonnage of a ship from 1 October 2024.

### Section 7 – Minimum amount of levy

Section 7 provides for the minimum amount of levy under section 7 of the *Protection of the Sea (Shipping Levy Collection) Act 1981* as \$10 from 1 October 2024.

## **Schedule 1 – Repeals**

Schedule 1 repeals the *Protection of the Sea (Shipping Levy) Regulation 2014*.

## **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) Regulations 2024**

This Disallowable 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 Disallowable 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) Regulation 2014 (the 2014 Regulation) for the purposes of section 6 of the Act. The current quarterly levy is 11.25 cents per tonne of the net tonnage of a ship. The minimum amount of levy is also currently prescribed in the 2014 Regulation for the purposes of section 7 of the Act. The current minimum amount of levy is \$10.

The Disallowable Legislative Instrument, the Protection of the Sea (Shipping Levy) Regulations 2024 would remake and replace the sunseting 2014 Regulation, keeping the current quarterly levy at 11.25 cents per tonne and the minimum amount of levy at \$10 for all ships to which the Act applies, effective from 1 October 2024.

#### **Human rights implications**

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

#### **Conclusion**

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