

1991

THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

MARINE NAVIGATION (REGULATORY FUNCTIONS)
LEVY COLLECTION BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for
Transport and Communications, the Honourable
Kim Beazley MP)



MARINE NAVIGATION (REGULATORY FUNCTIONS) LEVY COLLECTION
BILL 1991

OUTLINE

This Bill provides for the administration of the levy imposed by the *Marine Navigation (Regulatory Functions) Levy Act 1991*.

The procedures associated with the payment of the levy have been taken from the *Marine Navigation Levy Collection Act 1989*. The opportunity has been taken however to clarify procedures relating payment and, to ensure consistency, a consequential amendment has been included in this Bill to clarify the same procedures under the *Marine Navigation Levy Collection Act 1989*.

In summary, the levy is paid quarterly to a Collector. A regular coastal ship pays on the first day of each quarter. Other ships are liable to the levy on either the day of their arrival at an Australian port or on the day of their departure, depending on the circumstances. No ship pays the levy more than four times in a year.

Levy will not be payable if the ship arrives or is in an Australian port merely for repairs or refitting, to take on provisions etc, to change crew or to land a crew member or passenger for medical treatment.

The levy is not payable by exempt ships. An exempt ship has been defined as a ship which has been declared exempt by regulations made under *Marine Navigation Levy Collection Act 1989*. These are:

- . ships belonging to or on charter to Australian or foreign military forces
- . Commonwealth, State or Territory ships (other than those in commercial use)
- . fishing vessels (including support vessels) and pleasure craft
- . a ship in ballast or otherwise not earning freight
- . a ship under 24 metres in length
- . missionary and hospital ships
- . ships laying submarine cables.

FINANCIAL IMPACT STATEMENT

There will be no costs, revenues or savings to the Commonwealth arising from the Bill.

NOTES ON CLAUSES

Clause 1 - Short Title

1. Provides for the short title of this Act to be the Marine Navigation (Regulatory Functions) Levy Collection Act 1991.

Clause 2 - Commencement

2. Provides for the Act to commence on 1 July 1991.

Clause 3 - Definitions

3. Defines expressions used in the Bill. Of note is the definition of "Collector" which means either a Collector of Customs within the meaning of the Customs Act 1901, or a person appointed under section 5 of the *Marine Navigation Levy Collection Act 1989*.

4. "Exempt Ship" under this Bill mirrors those exemptions provided by regulations made under *Marine Navigation Levy Collection Act 1989*. These are:

- . ships belonging to or on charter to Australian or foreign military forces
- . Commonwealth, State or Territory ships (other than those in commercial use)
- . fishing vessels (including support vessels) and pleasure craft
- . a ship in ballast or otherwise not earning freight
- . a ship under 24 metres in length
- . missionary and hospital ships
- . ships laying submarine cables.

5. Other definitions in this Bill are designed to preserve the meaning of expressions under existing legislation.

Clause 4 - Application to Crown

6. Applies the provisions of this Act to the Commonwealth, the States, the internal Territories and Norfolk Island.

Clause 5 - Liability to Levy

7. This clause specifies the ships in respect to which the levy is payable (a sea-going ship other than one exempted by regulation) and who is liable to pay the levy (the ships owner, master, or an agent or consignee of the ship).

Clause 6 - When is Levy payable

8. This clause specifies the time at which liability to the levy occurs. The provision is designed so that every ship that is liable to pay does so once, but not more than once, each quarter.

9. Subclause 6(1) provides that a ship that trades solely between Australian ports is liable to pay the levy on the first day of each quarter (i.e. the first day of January, April, July and October).

10. Subclause 6(2) provides for a previously exempt ship becoming liable to pay the levy.

11. Subclause 6(3) imposes the levy on a ship, other than a ship dealt with under Subclause 6(1) or 6(2), that arrives at, or is in an Australian port and has not paid the levy for at least three months. Such a ship may have been trading overseas for more than three months, it may be arriving in Australia for the first time or it may be a regular overseas trader that is in an Australian port at the time when its last payment expires. The clause applies the levy on either the day of its arrival at an Australian port or on the day after the previous payment expires, whichever is applicable.

12. Subclause 6(4) provides that ships that would not otherwise be liable to the levy do not become liable merely because they are in or call at an Australian port to:

- . to take on board water, provisions or fuel during the course of the voyage.
- . to change crew
- . to land a person for medical treatment
- . to take shelter or to undergo repairs or refitting.

This preserves the policy that liability to the levy is related to the commercial operations of the ship.

Clause 7 - To whom is levy payable?

13. This clause sets out the procedures for payment and clarifies to whom the levy is payable. Generally, the levy is paid to a Collector of Customs, but there is provision for other persons to be authorised (see definition of "Collector").

14. The owner or agent of a ship that trades solely between Australian ports may select a 'home port' for the ship and then elect to pay the levy to a collector at that port or another Australian port as specified in writing to the Collector at the ship's home port.

15. Levy in respect of other ships is required to be paid to a Collector at the Australian port that the ship is in, or to a Collector at another Australian port as specified in writing to the Collector at that port prior to the levy being due.

Clause 8 - Recovery of Levy

16. This clause provides that proceedings in court may be undertaken to recover any levy payable.

Clause 9 - Detention of a ship

17. Empowers any officer of customs to detain a ship at any Australian port until the levy is paid.

18. This power, which may be exercised at short notice by a Collector, is intended for use in cases where a ship liable to the levy is in danger of being removed from Australian jurisdiction with a view to frustrating recovery action.

Clause 10 - Right of agent etc. who has paid levy

19. This allows the agent or consignee of a ship to recover the cost of the levy out of any money received on account of the ship. The amount that can be recovered must be no more than the amount of levy paid by the agent or consignee.

20. This clause protects appointed agents when using owners' money to discharge liabilities under the Bill.

Clause 11 - Regulations

21. Subclause 11(1) provides that the Governor-General may make regulations under the Act. In particular regulations may be made to provide for a refund or remission of an amount of levy paid or payable.

Clause 12 - Consequential amendments of other Acts

22. This clause details in an attached Schedule consequential amendments of other Acts.

23. The Schedule amends the *Australian Maritime Safety Authority Act 1990* to appropriate to the Authority amounts of levy that are paid under the Bill.

24. The Schedule also amends the *Marine Navigation Levy Collection Act 1989* by substituting a new section to clarify procedures relating to whom the levy is payable. By adopting these provisions it will remove a previous deficiency where, under previous legislation, certain ships were unable to comply with the legislation because they were unable to identify a home port.

