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THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

MARINE NAVIGATION LEVY COLLECTION BILL 1989

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister
for Transport and Communications,
the Honourable Ralph Willis MP)

MARINE NAVIGATION LEVY COLLECTION BILL 1989

OUTLINE

This Bill provides for the administration of the levy imposed by the *Marine Navigation Levy Act 1989*.

Because the Levy Act replaces the collection of light dues under the *Lighthouses Act 1911*, the procedures and policies associated with the payment of dues are well settled and understood by the industry. It is not intended that the existing system should change.

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

Levy is not payable on a ship that merely calls at an Australian port for shelter, repairs or refitting, to take on provisions etc., to change crew or to land a crew member for medical treatment. In essence, levy is related to the commercial activities of the ship.

The regulations may exempt ships from the levy. Regulations under the *Lighthouses Act 1911* already exempt from light dues:

- . 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.

It is intended that regulations under the Levy Collection Act will provide similar exemptions.

The Bill provides also for the repeal of superseded provisions of the *Lighthouses Act 1911*.

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 Act to be cited as the *Marine Navigation Levy Collection Act 1989*.

Clause 2 - Commencement

2. Provides that the Act shall come into operation on the same day as the Levy Act. The Levy Act is to come into operation on a day to be fixed by Proclamation or, if not so proclaimed, is to commence with the first collection period following a date 6 months after Royal Assent.

3. The delay is to enable the necessary regulations to be made.

Clause 3 - Definitions

4. This clause defines expressions used in the Bill. The definitions are designed to preserve the meaning of those expressions under existing legislation.

Clause 4 - Application to Crown

5. Allows the provisions of the Act to be applied to ships belonging to the Commonwealth, a State, a mainland territory or Norfolk Island.

Clause 5 - Appointment of authorised person

6. This clause empowers the Minister to appoint a person to be an authorised person. Such authorised person is then able to discharge the functions of a "Collector" by virtue of the definition of "Collector".

7. Clause 5(2) empowers the Minister to delegate this power of appointment to an officer of the Department of Transport and Communications. Such delegation would normally be made only to a senior officer.

Clause 6 - Liability to levy

8. This clause stipulates the ships in respect of which levy is payable (any sea-going ship, unless exempted under the regulations) and the persons who are liable to pay the levy (the owner, master or agent).

Clause 7 - When levy is payable

9. This clause sets out the times at which liability to levy arises. The provision is designed to ensure that every ship that is liable to pay does so at least once every quarter and that no ship is required to pay more than once a quarter.

10. Clause 7(1) deals with ships in continuing coastal trade and provides that levy in respect of this ships is payable on the first day of each quarter (i.e. the first day of January, April, July and October).

11. Clause 7(2) deals with ships that put to sea from an Australian port in circumstances where the ship previously was not liable but now is liable. Examples are where the ship previously operated entirely within the limits of a port but now makes a voyage to sea. The clause provides that levy is payable on the day of departure.

12. Clause 7(3) deals with ships (other than those dealt with in 7(1) and (2) that arrive at, or are in, an Australian port not having paid levy for at least three months. They may have been trading overseas for more than three months, they may be arriving in Australia for the first time or they may be regular overseas traders that are in an Australian port at the time when their last payment expires. The clause provides that levy is payable on the day of arrival or the first day after the previous payment expires, as appropriate.

13. Clause 7(4) provides that ships that would otherwise not be liable for levy do not become liable to levy merely because they call at, or are in, an Australian port for certain stipulated reasons. These are:

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

This preserves the underlying policy that liability to levy is related to the commercial operations of the ship and that emergency diversions should not give rise to liability.

Clause 8 - To whom levy is payable

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

15. The owner or agent of a regular coastal ship may select a 'home port' for the ship and then choose between paying the levy to the Collector at that port (or at the nearest if the home port does not have a Collector) or to any other Collector provided that notice in writing is given of that intention.

16. Levy for any other ship has to be paid at the port that gave rise to the liability to levy.

Clause 9 - Recovery of levy

17. Provides for a Collector to bring an action for the recovery of levy in any court of summary jurisdiction.

Clause 10 - Detention of ship

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

Clause 11 - Right of agent etc. who has paid levy

19. Enables an agent who has paid levy for a ship to deduct the amount from any money received from the owner in respect of that ship. Although normally this would form part of the agency contract, this clause does protect appointed agents when using owners' money to discharge liabilities under the Bill.

Clause 12 - Regulations

20. Provides power to the Governor-General to make regulations. In particular, the regulations may make provision for refunds and remissions of levy. The circumstances in which it is proposed that refunds and remissions will be allowed are where a ship has paid or is liable to pay levy for a three-month period but during that period is unable (for at least a month) to go to sea through industrial action or the need for repairs etc.

21. The regulations will also determine which ships are exempt from levy for the purpose of clause 6(1). It is intended that the following ships, already exempt under the *Lighthouses Act 1911* will continue to be exempt:

- . 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.

Clause 13 - Amendments of *Lighthouses Act 1911*

22. This clause repeals those parts of the *Lighthouses Act 1911* that impose light dues.

