

ARTHUR ROBINSON & HEDDERWICKS
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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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SEAFARERS REHABILITATION AND COMPENSATION
LEVY COLLECTION BILL 1992

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport and
Communications, Senator the Hon. Bob Collins)



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SEAFARERS REHABILITATION AND COMPENSATION LEVY COLLECTION
BILL 1992

GENERAL OUTLINE

This Bill provides for the administration of the levy imposed by the proposed Seafarers Rehabilitation and Compensation Levy Act 1992.

The proposed Seafarers Rehabilitation and Compensation Levy Act 1992 will only take effect if the Minister does not approve the corporate body Fund under section 96 of the proposed Seafarers Rehabilitation and Compensation Act 1992 or if the Minister revokes the approval of the corporate body Fund under section 99 of the proposed Seafarers Rehabilitation and Compensation Act 1992.

This Bill establishes the procedures associated with the collection of the levy.

The Bill requires employers of seafarers to lodge returns relating to the number of seafarer berths aboard a prescribed ship and to make due levy payments quarterly.

If the levy is not paid, the Bill provides for the ship to be detained until the levy is paid.

The Bill also provides for authorised persons to have access to premises and books for the purpose of examining matters relating to a seafarer berth on a prescribed ship on which a levy is, or may be, payable.

FINANCIAL IMPACT STATEMENT

The Bill effectively substitutes a levy on liable employers if the employers' own arrangements, ie the corporate body Fund, fail to satisfy the criteria imposed under section 96 of the proposed Seafarers Rehabilitation and Compensation Act 1992. Accordingly, there will be no significant net financial impact on the industry if the levy is imposed.

The number of crew on a particular ship does not normally fluctuate significantly. Consequently, a levy based on seafarer berths will be simple and inexpensive to administer.

SEAFARERS REHABILITATION AND COMPENSATION LEVY COLLECTION
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Clause 1: Short title

This clause provides that the short title may be cited as the Seafarers Rehabilitation and Compensation Levy Collection Act 1992.

Clause 2: Commencement

This clause provides for the date of commencement of the Bill to be the day on which section 2 of the proposed Seafarers Rehabilitation and Compensation Act 1992 commences. That is, the day the proposed Seafarers Rehabilitation and Compensation Act 1992 receives Royal Assent.

Clause 3: Interpretation

This clause contains the principal definitions of terms used in the Bill. Important terms defined in this Bill include:

"employer" which is defined to mean any person who employs or engages one or more seafarers on a prescribed ship.

"levy" which is defined to mean an amount of levy imposed by the proposed Seafarers Rehabilitation and Compensation Levy Act 1992.

"premises" which include a structure, building, vehicle or vessel, a place (whether enclosed or built on or not) and a part of those premises.

"quarter" which is defined to mean the period beginning on the day on which this Act commences and ending on the last day of March, June, September or December, whichever occurs first after the commencement of the Act and each later period of 3 months.

Clause 4: Number of seafarer berths on which levy is payable

This clause provides that a reference to the number of seafarer berths on a prescribed ship is to be taken to be a reference to the number of seafarer berths on a prescribed ship on the first day of each quarter.

Clause 5: Due date for payment

This clause provides that the levy is payable at the end of each quarter within which an employer is required to give a return under clause 6.

Clause 6: Employers to give returns and information

This clause provides that an employer must lodge a return within 14 days after the beginning of each quarter with a person prescribed by the regulations. The return must be made in accordance with a form approved by the Secretary and contain a statement of the number of seafarer berths on each prescribed ship, and such other information relating to those berths as is specified in the form.

Clause 7: Offences relating to returns

This clause provides penalties for employers who, without reasonable excuse, knowingly refuse or fail to provide a return or information, or who provide an inadequate return, or give false or misleading information.

Under subclause 7(3), a return must be provided by the employer, even if the return might tend to incriminate the employer. However, that return will not be admissible as evidence against the employer in criminal proceedings, other than proceedings for an offence against subclause (2).

Clause 8: Recovery of levy

This clause provides that levy may be recovered as a debt due to the Commonwealth.

Clause 9: Detention of ship

This clause provides that, if any levy in relation to a particular prescribed ship remains unpaid after it becomes payable, an authorised person may detain that ship until the levy is paid.

Clause 10: Levy taken to be levy in relation to ship for certain purposes of the Admiralty Act

This provision makes the levy a proprietary maritime claim under the Admiralty Act 1988. By this provision, the Commonwealth will have the right to proceed *in rem* against the ship or other property to recover unpaid levy.

Clause 11: Appointment of authorised persons

This clause provides that for the purposes of a specified provision, the Secretary may appoint as an authorised person a person who holds, or performs the duties of, a Senior Executive Service office or a Senior Officer Grade A, B or C of the Department.

Clause 12: Access to premises and books

This clause provides that an authorised person may enter premises, with the consent of the occupier or in accordance with a warrant, to conduct a search for documents and things relating to seafarer berths on a prescribed ship, on which levy is, or may be, payable.

Clause 13: Warrants to enter premises

This clause provides for the issuing of a warrant by a Magistrate to an authorised person for the purposes of inspecting identified premises for information relating to the number of seafarer berths.

Clause 14: Identity cards

Subclause 14(1) provides for the issuing of identity cards to authorised persons.

Subclause 14(3) provides that, except where a warrant has been issued, an authorised person must produce his or her identity card to the occupier of the premises. If the authorised person does not produce his or her identity card, he or she is not entitled to enter the premises.

Clause 15: Delegation by Secretary

This clause provides that the Secretary may delegate any or all of his or her powers to a person who holds, or performs the duties of a Senior Executive office or a Senior Officer Grade A, B or C in the Department, other than his or her power to appoint an authorised person.

Subclause 15(2) provides that a delegate is to be subject to the directions of the Secretary when exercising a delegated power.

Clause 16: Regulations

Subclause 16(1) provides that the Governor-General may make regulations under the Act.

Subclause 16(2) identifies matters that may be prescribed by regulation as including (but not limited to):

- . manner of payment of levy to the Commonwealth under clause 8;
- . repayment of overpayments;
- . requirements for records to be kept by employers relating to seafarer berths on prescribed ships;
- . provision of information by employers relating to seafarer berths;
- . form of warrant for the purposes of clause 13; and
- . penalties, not exceeding 10 penalty units, for offences against the regulations.