Marine Safety (Domestic Commercial Vessel) Levy Bill 2018

No. , 2018

(Infrastructure, Regional Development and Cities)

A Bill for an Act to impose a levy on certain domestic commercial vessels, and for related purposes
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A Bill for an Act to impose a levy on certain domestic commercial vessels, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the Marine Safety (Domestic Commercial Vessel) Levy Act 2018.
Section 2

2 Commencement

(1) Each provision of this Act 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.

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<th>Provisions</th>
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<tr>
<td>1. The whole of this Act</td>
<td>The day after this Act receives the Royal Assent.</td>
<td>Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.</td>
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(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Definitions

In this Act:

AMSA means the Australian Maritime Safety Authority.

certificate of survey has the same meaning as in the Marine Safety (Domestic Commercial Vessel) National Law.

domestic commercial vessel has the same meaning as in the Marine Safety (Domestic Commercial Vessel) National Law.

eligible financial year means:

(a) the financial year beginning on 1 July 2019; or

(b) a later financial year.

leviable domestic commercial vessel has the meaning given by section 4.
Marine Safety (Domestic Commercial Vessel) National Law has the meaning given by section 17 of the Marine Safety (Domestic Commercial Vessel) National Law Act 2012.

owner of a vessel has the same meaning as in the Marine Safety (Domestic Commercial Vessel) National Law.

partnership has the same meaning as in the Marine Safety (Domestic Commercial Vessel) National Law.

trust has the same meaning as in the Marine Safety (Domestic Commercial Vessel) National Law.

trustee has the same meaning as in the Marine Safety (Domestic Commercial Vessel) National Law.

class of domestic commercial vessels specified in rules in force under subsection (2).

leviable domestic commercial vessel means a domestic commercial vessel that is not included in a class of domestic commercial vessels specified in rules in force under subsection (2).

The Minister may, by legislative instrument, make rules for the purposes of subsection (1).

This Act extends to every external Territory.

This Act applies within and outside Australia.

This Act binds the Crown in right of each of the States, of the Australian Capital Territory and of the Northern Territory.
However, it does not bind the Crown in right of the Commonwealth.

8 Imposition of levy

Full-year levy

(1) If a vessel is a leviable domestic commercial vessel on 1 July in an eligible financial year, levy is imposed on the vessel in respect of the financial year.

Pro-rata levy

(2) If:

(a) on 1 July in an eligible financial year, a vessel:
   (i) does not exist; or
   (ii) is not a leviable domestic commercial vessel; and
(b) a later day in the eligible financial year is the first or only day in the eligible financial year on which the vessel is a leviable domestic commercial vessel;

levy is imposed on the vessel in respect of the eligible financial year.

9 Amount of levy

Full-year levy

(1) The amount of levy that subsection 8(1) imposes on a leviable domestic commercial vessel in respect of an eligible financial year is the amount ascertained in accordance with rules in force under subsection (2).

Note: See also subsection 33(3A) of the Acts Interpretation Act 1901.

(2) The Minister may, by legislative instrument, make rules for the purposes of subsection (1).

Note: See also section 16 (disallowance of rules).
Pro-rata levy

(3) The amount of levy that subsection 8(2) imposes on a leviable domestic commercial vessel in respect of an eligible financial year is the amount worked out using the formula:

\[
\frac{\text{Number of days in the pro-rata period}}{\text{Number of days in the eligible financial year}} \times \frac{\text{Full-year amount}}{\text{Number of days in the eligible financial year}}
\]

where:

- **full-year amount** means the amount of levy that would have been worked out under subsection (1) of this section if the vessel:
  - (a) had existed; and
  - (b) had been a leviable domestic commercial vessel;
  on 1 July in the eligible financial year.

- **number of days in the pro-rata period** means the number of days in the period:
  - (a) beginning at the start of the day mentioned in paragraph 8(2)(b); and
  - (b) ending at the end of the eligible financial year.

(4) If the amount worked out using the formula in subsection (3):

- (a) is not an amount of whole dollars; and
- (b) exceeds $1;
the amount is to be rounded to the nearest dollar (rounding 50 cents upwards).

(5) If the amount worked out using the formula in subsection (3) is less than $1, the amount is to be rounded upwards to $1.

**Minister to seek advice**

(6) Before making rules under subsection (2), the Minister must request AMSA to give advice about the rules that should be made.

(7) In deciding whether to make rules under subsection (2), the Minister must have regard to:
Section 10

(a) any relevant advice given by AMSA under section 10; and
(b) such other matters (if any) as the Minister considers relevant.

10 Advice by AMSA

(1) If the Minister requests AMSA, under subsection 9(6), to give
advice, AMSA must give the requested advice to the Minister.

(2) In giving advice under subsection (1), AMSA must have regard to
the principle that amounts received on behalf of the
Commonwealth by way of levy imposed by this Act should be
sufficient, over time, to offset expenditure that:
(a) has been, or is likely to be, incurred on or after 1 July 2019
by AMSA in connection with things done under the Marine
Safety (Domestic Commercial Vessel) National Law; and
(b) is not offset by fees charged, or likely to be charged, under
section 150 of the Marine Safety (Domestic Commercial
Vessel) National Law.

(3) For the purposes of subsection (2), if an amount is paid to AMSA,
on behalf of the Commonwealth, by way of an advance on account
of levy imposed by this Act, the advance (to the extent to which it
discharges liability for the levy) is taken to be an amount received
on behalf of the Commonwealth by way of levy imposed by this
Act.

Exceptions

(4) The Minister may, by legislative instrument, make rules that
provide that, for the purposes of the application of subsection (2) to
expenditure incurred, or likely to be incurred, by AMSA during a
specified period, so much of the expenditure as equals a specified
amount is to be disregarded.

(5) The Minister may, by legislative instrument, make rules that
provide that paragraph (2)(a) does not apply to one or more
specified things done under the Marine Safety (Domestic
Commercial Vessel) National Law.
11 Persons liable to pay levy

Certificate of survey in force for vessel

(1) If:
(a) a certificate of survey is in force for a leviable domestic commercial vessel; and
(b) a particular person is:
   (i) the holder of the certificate; and
   (ii) the sole owner of the vessel;
the person is liable to pay levy imposed by this Act on the vessel.

(2) If:
(a) a certificate of survey is in force for a leviable domestic commercial vessel; and
(b) subsection (1) does not apply to the vessel;
the following persons are jointly and severally liable to pay levy imposed by this Act on the vessel:
(c) the holder of the certificate;
(d) the owner, or each of the owners, of the vessel.

Other vessels

(3) If:
(a) none of the preceding subsections of this section applies to a leviable domestic commercial vessel; and
(b) a particular person is the sole owner of the vessel;
the person is liable to pay levy imposed by this Act on the vessel.

(4) If none of the preceding subsections of this section applies to a leviable domestic commercial vessel, the owners of the vessel are jointly and severally liable to pay levy imposed by this Act on the vessel.

12 Treatment of partnerships

(1) This Act applies to a partnership as if it were a person, but with the changes set out in this section.
Section 13

(2) A liability that would otherwise be imposed on the partnership by this Act is imposed on each partner instead, but may be discharged by any of the partners.

(3) For the purposes of this Act, a change in the composition of a partnership does not affect the continuity of the partnership.

13 Treatment of unincorporated associations

(1) This Act applies to an unincorporated association as if it were a person, but with the changes set out in this section.

(2) A liability that would otherwise be imposed on the association by this Act is imposed on each member of the association’s committee of management instead, but may be discharged by any of the members.

14 Treatment of trusts with multiple trustees

(1) If a trust has 2 or more trustees, this Act applies to the trust as if it were a person, but with the changes set out in this section.

(2) A liability that would otherwise be imposed on the trust by this Act is imposed on each trustee instead, but may be discharged by any of the trustees.

15 Act does not impose a tax on property of a State

(1) This Act has no effect to the extent (if any) to which it imposes a tax on property of any kind belonging to a State.

(2) In this section, property of any kind belonging to a State has the same meaning as in section 114 of the Constitution.

16 Disallowance of certain rules

Scope

(1) This section applies to rules made under subsection 9(2).
Disallowance

(2) Either House of the Parliament may, following a motion upon notice, pass a resolution disallowing the rules. For the resolution to be effective:

(a) the notice must be given in that House within 15 sitting days of that House after the copy of the rules was tabled in the House under section 38 of the *Legislation Act 2003*; and

(b) the resolution must be passed, in pursuance of the motion, within 15 sitting days of that House after the giving of that notice.

(3) If neither House passes such a resolution, the rules take effect on the day immediately after the last day upon which such a resolution could have been passed if it were assumed that notice of a motion to disallow the rules was given in each House on the last day of the 15 sitting day period of that House mentioned in paragraph (2)(a).

(4) If:

(a) notice of a motion to disallow the rules is given in a House of the Parliament within 15 sitting days of that House after the copy of the rules was tabled in that House under section 38 of the *Legislation Act 2003*; and

(b) at the end of 15 sitting days of that House after the giving of that notice of motion:

(i) the notice has not been withdrawn and the motion has not been called on; or

(ii) the motion has been called on, moved and (where relevant) seconded and has not been withdrawn or otherwise disposed of;

the rules are then taken to have been disallowed, and subsection (3) does not apply to the rules.

(5) Section 42 (disallowance) of the *Legislation Act 2003* does not apply to the rules.