

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time, 14 October 1992

(Parliamentary Secretary to the Minister for Employment, Education and Training)

A BILL

FOR

**An Act relating to the collection of levy imposed by the
*Seafarers Rehabilitation and Compensation Levy Act 1992***

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*.

5 **Commencement**

2. This Act commences on the day on which section 2 of the Compensation Act commences.

Interpretation

10 3. In this Act, unless the contrary intention appears:
“authorised person” means a person appointed as an authorised person under section 11;

“Authority” has the same meaning as in the Compensation Act;

“Compensation Act” means the *Seafarers Rehabilitation and Compensation Act 1992*;

“employer” means a person who employs or engages one or more seafarers on a prescribed ship; 5

“levy” means an amount of levy imposed by the *Seafarers Rehabilitation and Compensation Levy Act 1992*;

“premises” includes:

- (a) a structure, building, vehicle or vessel; and
- (b) a place (whether enclosed or built on or not); and 10
- (c) a part of premises (including premises of a kind referred to in paragraph (a) or (b));

“prescribed ship” has the same meaning as in the Compensation Act;

“quarter” means:

- (a) 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 this Act; and 15
- (b) each later period of 3 months;

“seafarer” has the same meaning as in the Compensation Act; 20

“seafarer berth” has the same meaning as in the Compensation Act.

Number of seafarer berths on which levy is payable

4. A reference in this Act to the number of seafarer berths on a prescribed ship is a reference to the number of seafarer berths on the ship on the first day of each quarter. 25

Due date for payment

5. Levy on a seafarer berth is payable at the end of the period within which an employer is required by this Act to give a return under section 6.

Employers to give returns and information 30

6. An employer must, within 14 days after the beginning of each quarter, give to the person prescribed by the regulations a return in accordance with a form approved by the Secretary containing:

- (a) a statement of the number of seafarer berths on each prescribed ship in respect of which the employer employed or engaged seafarers on the first day of the quarter; and 35
- (b) such other information, relating to those berths as is specified in the form.

Offences relating to returns

7.(1) A person must not, without reasonable excuse, knowingly refuse or fail to give a return that he or she is required to give under section 6.

5 Penalty: 5 penalty units.

(2) A person must not, without reasonable excuse:

(a) knowingly give a return that does not contain all or any of the information required by section 6 to be included in the return; or

10 (b) give, for the purposes of this Act, a return that contains a statement that the person knows to be false or misleading in a material particular.

Penalty: 20 penalty units.

15 (3) A person is not excused from giving a return on the ground that the return might tend to incriminate the person, but any return given, and any information or thing (including any document) obtained as a direct or indirect consequence of the giving of the return, is not admissible in evidence against the person in criminal proceedings, other than proceedings for an offence against subsection (2).

20 **Recovery of levy**

8. Levy payable on a seafarer berth may be recovered by the Commonwealth as a debt due to the Commonwealth.

Detention of ship

25 9. If any levy imposed on a seafarer berth on a prescribed ship remains unpaid after it becomes payable the ship may be detained by an authorised person until the levy is paid.

Levy taken to be levy in relation to a ship for certain purposes of the Admiralty Act

30 10. Levy is taken to be a levy in relation to a ship for the purposes of paragraph 4(3)(q) of the *Admiralty Act 1988*.

Note: paragraph 4(3)(q) of the *Admiralty Act 1988* provides that certain claims in relation to a ship may be dealt with as claims *in rem*.

Appointment of authorised persons

11. The Secretary may, in writing, appoint a person who holds, or performs the duties of:

(a) a Senior Executive Service office; or

35 (b) a Senior Officer Grade A, B or C;

in the Department to be an authorised person for the purposes of a specified provision of this Act.

Access to premises and books

12.(1) An authorised person may, with the consent of the occupier of premises, or in accordance with a warrant issued under subsection 13(2), enter the premises for the purpose of exercising the powers of an authorised person under this section. 5

(2) The powers of an authorised person under this section are to:

- (a) search for, examine, take extracts from and make copies of any document; and
 - (b) search for and examine a thing;
- relating to a berth on a prescribed ship, on which levy is, or may be, payable. 10

Warrants to enter premises

13.(1) If an authorised person suspects on reasonable grounds that there is on particular premises a book, document or thing relating to a seafarer berth, the person may apply to a Magistrate for a warrant under this section. 15

(2) If the Magistrate is satisfied, by information on oath or affirmation, that:

- (a) there are reasonable grounds for believing that there is on the premises a book, document or thing relating to a berth on a prescribed ship, on which levy is, or may be, payable; and 20
 - (b) the issue of a warrant is reasonably required for the purposes of this Act;
- the Magistrate may issue a warrant authorising the applicant to enter the premises with such assistance, and using such force, as is necessary and reasonable for the purpose of exercising some or all of the powers of an authorised person under subsection 12(2). 25

(3) The Magistrate must not issue a warrant unless:

- (a) the informant or some other person has given to the Magistrate, either orally or by affidavit, such further information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is being sought; and 30
- (b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(4) There must be stated in the warrant: 35

- (a) the purpose for which the warrant is issued; and
- (b) the powers exercisable under subsection 12(2) by the authorised person to whom the warrant is issued; and
- (c) a day (not more than 7 days after the day of issue of the warrant) on which the warrant ceases to have effect; and 40

- (d) whether entry is authorised to be made at any time of the day or night, or during specified hours of the day or night; and
- (e) a description of the book, document or thing that the applicant suspects are on the premises.

5 Identity cards

14.(1) The Secretary may cause an identity card to be issued to an authorised person.

(2) An identity card must:

- 10 (a) contain a recent photograph of the authorised person to whom it is issued; and
- (b) be in a form approved by the Secretary.

15 **(3)** If an authorised person proposes to enter premises otherwise than in accordance with a warrant issued under subsection 13(2), the authorised person must produce his or her identity card to the occupier of the premises for the occupier's inspection and, if the authorised person fails to do so, the authorised person is not entitled to enter the premises under subsection 12(1).

20 **(4)** If a person to whom an identity card has been issued ceases to be an authorised person, the person must immediately return the identity card to a person designated, in writing, by the Secretary.

(5) A person who, without reasonable excuse, contravenes subsection (4) is guilty of an offence punishable upon conviction by a fine not exceeding one penalty unit.

Delegation by Secretary

25 **15.(1)** The Secretary may delegate, in writing, to a person who holds, or performs the duties of:

(a) a Senior Executive office; or

(b) a Senior Officer Grade A, B or C;

30 in the Department, all or any of his or her powers under this Act other than his or her powers under section 11.

(2) A delegate is, in the exercise of a delegated power, subject to the directions of the Secretary.

Regulations

35 **16.(1)** The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act or for facilitating the collection or

recovery of amounts of levy payable to the Commonwealth under section 8.

(2) The matters that may be prescribed under subsection (1) include but are not limited to:

- (a) providing for the manner of payment of levy to the Commonwealth under section 8; and 5
- (b) providing for the repayment of overpayments; and
- (c) requiring employers to keep records relating to seafarer berths on prescribed ships; and
- (d) requiring employers to give information relating to seafarer berths on prescribed ships to such persons as are prescribed; and 10
- (e) the form of warrant for the purposes of section 13; and
- (f) penalties, not exceeding 10 penalty units, for offences against the regulations. 15



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