

**Ballast Water Research and
Development Funding Levy Collection
Act 1998**

No. 38, 1998

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**An Act to provide for the collection of the levy
imposed by the *Ballast Water Research and
Development Funding Levy Act 1998*, and for
related purposes**

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[Assented to 4 June 1998]

The Parliament of Australia enacts:

Part 1—Preliminary

Section 1

1 Short title

This Act may be cited as the *Ballast Water Research and Development Funding Levy Collection Act 1998*.

2 Commencement

This Act commences on 1 July 1998.

3 Definitions

In this Act, unless the contrary intention appears:

Australian port means a port appointed, proclaimed or prescribed under the *Customs Act 1901* or under a law of a State or the Northern Territory.

authorised person means a person appointed under section 5.

exempt ship means a ship declared by the regulations to be an exempt ship.

home port, in relation to a ship, means an Australian port notified by the ship's owner or agent as the ship's home port in a written notice to an authorised person at that Australian port.

levy means the levy payable in accordance with this Act and imposed by the Levy Act.

Levy Act means the *Ballast Water Research and Development Funding Levy Act 1998*.

quarter means a period of 3 months starting on 1 January, 1 April, 1 July or 1 October in any year.

Reserve means the Strategic Ballast Water Research and Development Reserve established under section 11.

ship means a vessel of any kind that is used in navigation, other than a vessel that is ordinarily propelled only by oars.

4 Application to Crown

This Act binds the Crown in right of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.

5 Appointment of authorised person

- (1) The Minister may, in writing published in the *Gazette*, appoint a person to be an authorised person for the purposes of this Act.
- (2) The Minister may, in writing, delegate the power of appointment under subsection (1) to an officer of the Department.

Part 2—Liability for, and recovery of, levy

6 Liability for levy

- (1) Levy is payable in respect of a ship, other than an exempt ship.
- (2) The following persons are jointly and separately liable to pay any levy that is payable in respect of a ship:
 - (a) the ship's owner;
 - (b) the ship's master;
 - (c) an agent or consignee of the ship who has paid, or is liable to pay, any charge on account of the ship.

7 When is levy payable?

- (1) Levy in respect of a ship that trades solely between Australian ports (other than a ship to which subsection (2) applies) is payable on the first day of each quarter.
- (2) Levy in respect of a ship that:
 - (a) is being first placed in commission after construction in an Australian port; or
 - (b) is usually employed or moored within the limits of an Australian port; or
 - (c) is an exempt ship on arrival at an Australian port and stops being an exempt ship while in that port; or
 - (d) is placed in commission at an Australian port, or is to be sent to sea from an Australian port, after a period in respect of which levy was remitted under the regulations;is payable on the day when the ship leaves that port.
- (3) Levy in respect of a ship (other than a ship to which subsection (1) or (2) applies) is payable:

- (a) if levy has not previously been paid in respect of the ship—on the day of its arrival at an Australian port; or
 - (b) if the ship arrives at an Australian port 3 months or more after the day on which levy was last payable in respect of the ship—on the day of its arrival at that port; or
 - (c) if the ship is in an Australian port on the day after the end of the period of 3 months after the day on which levy was last payable in respect of the ship—on the first-mentioned day.
- (4) Levy is not payable in respect of a ship under subsection (3) merely because the ship arrives at, or is in, an Australian port because of an emergency.
- (5) In subsection (4):
- emergency** includes, but is not limited to, the occurrence of a need:
- (a) to take aboard water, provisions or fuel to be used by the ship for completing a voyage; or
 - (b) to engage or discharge a member of the crew; or
 - (c) to disembark a passenger or a member of the crew for medical treatment; or
 - (d) for shelter, repairs or refitting.
- (6) To avoid doubt, levy is not payable in respect of a ship more than once in any quarter.

8 To whom is levy payable?

- (1) Levy payable under subsection 7(1) must be paid:
- (a) to an authorised person at the ship's home port; or
 - (b) to an authorised person at such other Australian port as the owner or agent of the ship has specified in a written notice given, before the day on which the levy is payable, to an authorised person at the ship's home port.
- (2) Levy payable under subsection 7(2) must be paid:
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- (a) to an authorised person at the Australian port referred to in that subsection; or
 - (b) to an authorised person at such other Australian port as the owner or agent of the ship has specified in a written notice given, before the day on which the levy is payable, to an authorised person at that port.
- (3) Levy payable under subsection 7(3) must be paid to an authorised person at the Australian port referred to in that subsection.
- (4) The payment of levy may be made:
- (a) personally; or
 - (b) by post addressed to the authorised person; or
 - (c) as otherwise prescribed.

9 Recovery of levy

Levy payable in respect of a ship may be recovered in any court of summary jurisdiction by proceedings in the name of an authorised person.

10 Right of agent etc. who has paid levy

The agent or consignee of a ship who has paid an amount of levy in respect of the ship may, out of any money received on account of the ship, or belonging to the owner of it, retain an amount that is not more than the amount of levy so paid.

Part 3—The Strategic Ballast Water Research and Development Reserve

11 Establishment of Reserve

- (1) There is established a Strategic Ballast Water Research and Development Reserve.
- (2) The purpose of the Reserve is to provide funding for the Strategic Ballast Water Research and Development Program.
- (3) The Reserve is a component of the Reserved Money Fund.
- (4) If interest is received by the Commonwealth from the investment of money from the Reserve, an amount equal to the interest must be transferred to the Reserve from the Consolidated Revenue Fund.

12 Transfers to Reserve

There is to be transferred to the Reserve from the Consolidated Revenue Fund amounts equal to the amounts of levy received by the Commonwealth.

Part 4—Miscellaneous

13 Regulations

- (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.
- (2) Without limiting subsection (1), the regulations may provide for the refund or remission (in whole or in part) of an amount of levy paid or payable in respect of a ship in such circumstances as are set out in the regulations.

14 Expiry of Act

This Act ceases to have effect on a day to be fixed by Proclamation.

*[Minister's second reading speech made in—
House of Representatives on 24 September 1997
Senate on 25 November 1997]*

(140/97)
