



Foreign Fishing Boats Levy Act 1981

Act No. 179 of 1981 as amended

This compilation was prepared on 18 October 2000
taking into account amendments up to Act No. 112 of 1985

The text of any of those amendments not in force
on that date is appended in the Notes section

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An Act to impose a levy on the grant of certain licences in respect of foreign fishing boats

1 Short title [see Note 1]

This Act may be cited as the *Foreign Fishing Boats Levy Act 1981*.

2 Commencement [see Note 1]

This Act shall come into operation on a day to be fixed by Proclamation.

3 Interpretation

In this Act, unless the contrary intention appears:

Australian fishing zone has the same meaning as in the *Fisheries Act 1952*.

fish has the same meaning as in the *Fisheries Act 1952*.

foreign fishing boat, in relation to the grant of a licence, means:

- (a) in a case of the grant of a licence under subsection 9(2) or (3) of the *Fisheries Act 1952*—a boat that is a foreign boat for the purposes of that Act or a boat in respect of which an instrument is in force under subsection 4(2) of that Act; and
- (b) in a case of the grant of a licence under subsection 13(2) of the *Continental Shelf (Living Natural Resources) Act 1968*—a boat that is a foreign ship for the purposes of that Act.

licence means a licence under subsection 9(2) or (3) of the *Fisheries Act 1952* or a licence under subsection 13(2) of the *Continental Shelf (Living Natural Resources) Act 1968*.

sedentary organism has the same meaning as in the *Continental Shelf (Living Natural Resources) Act 1968*.

4 Imposition of levy

- (1) Subject to this section, a levy is imposed on the grant to a person of a licence in respect of a foreign fishing boat.

- (2) Levy is not imposed on the grant of a licence in respect of a foreign fishing boat included in a prescribed class of foreign fishing boats, being a foreign fishing boat that has been imported into Australia for a limited period.
- (3) Where there is in force an agreement between Australia and the government of another country that contains a provision under which licences are agreed to be granted in respect of foreign fishing boats (whether or not the provision also provides for the payment of an amount or amounts to Australia), levy is not imposed on the grant of any of the licences to which the provision relates.
- (4) Where:
 - (a) a licence is granted in respect of a foreign fishing boat other than a boat lawfully imported into Australia for a limited period; and
 - (b) the Minister is satisfied that:
 - (i) the boat is operated by, on behalf of, or in accordance with the instructions of, a resident of Australia; and
 - (ii) the operations of the boat in the Australian fishing zone will confer benefits on Australia;the Minister may, by notice in writing published in the Gazette, declare the boat to be a boat to which this subsection applies and, if such a declaration is made, levy is not payable in respect of the boat.
- (5) Where the Minister makes a declaration under subsection (4), the Minister shall cause a copy of the notice containing the declaration to be laid before each House of the Parliament within 15 sitting days of that House after the notice was published.

5 Amount of levy

- (1) Subject to subsection (2), the amount of the levy imposed by section 4 on the grant of a licence in respect of a foreign fishing boat is such amount as is prescribed by the regulations or as is calculated in accordance with the regulations.
- (2) Where:

- (a) the Minister has entered into an agreement with a person other than the government of another country or with persons none of whom is the government of another country; and
 - (b) the agreement contains a provision under which licences are agreed to be granted in respect of foreign fishing boats if an amount specified in the provision is paid to Australia;
- the amount of the levy imposed by section 4 on the grant of all those licences is the amount specified in the provision.

6 By whom levy payable

- (1) Subject to subsection (2), the amount of the levy imposed by section 4 on the grant of a licence in respect of a foreign fishing boat is payable by the person to whom the licence is granted.
- (2) The amount of the levy imposed by section 4 on the grant of licences in respect of foreign fishing boats, being licences granted in accordance with an agreement of a kind referred to in subsection 5(2), is payable by the person, or jointly and severally by the persons, as the case may be, with whom the Minister entered into the agreement.

7 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Regulations made for the purposes of subsection 5(1) may prescribe different amounts of, or different methods of calculating the amounts of, levy imposed by this Act on the grant of licences in respect of different boats or different classes or kinds of boats, and may prescribe the amount of, or a method of calculating the amount of, levy imposed by this Act on the grant of a licence in respect of a boat by reference to a matter or matters specified in the regulations, being a matter or matters relating to the boat or to the operations of the boat, or, without limiting the generality of the foregoing, by reference to any one or more of the following matters:

- (a) the fact that the boat is included in a class or kind of boats in respect of which an agreement relating to the operations or proposed operations of boats of that class or kind is in force, being an agreement to which the Commonwealth is a party;
- (b) the size or tonnage of the boat, measured as prescribed, or the power of the main engine of the boat;
- (c) the quantity or kind of equipment permitted by the licence to be carried on the boat for the purpose of taking, processing or carrying fish or sedentary organisms;
- (d) the quantity of the fish or sedentary organisms, measured as prescribed, that the licence authorizes to be taken or processed with the use of the boat or carried by the boat;
- (e) the kind of fish or sedentary organisms that the licence authorizes to be taken or processed with the use of the boat or carried by the boat;
- (f) the conditions to which the licence is subject;
- (g) the method or methods by which the licence authorizes fish or sedentary organisms to be taken, processed or carried;
- (h) the degree of control that persons who are residents of Australia or of an external Territory have over the operations of the boat.

Table of Acts**Notes to the *Foreign Fishing Boats Levy Act 1981*****Note 1**

The *Foreign Fishing Boats Levy Act 1981* as shown in this compilation comprises Act No. 179, 1981 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Foreign Fishing Boats Levy Act 1981</i>	179, 1981	8 Dec 1981	1 Nov 1982 (see <i>Gazette</i> 1982, No. G43, p. 2)	
<i>Foreign Fishing Boats Levy Amendment Act 1985</i>	112, 1985	21 Oct 1985	21 Oct 1985	—

Table of Amendments

Table of Amendments

ad. = added or inserted	am. = amended	rep. = repealed	rs. = repealed and substituted
Provision affected		How affected	
Ss. 3-7		am. No. 112, 1985	