

EXPOSURE DRAFT

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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

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

4 The Parliament of Australia enacts:
5

6 **1 Short title**

7 This Act is the *Marine Safety (Domestic Commercial Vessel) Levy*
8 *Act 2018*.

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Section 2

1 **2 Commencement**

- 2 (1) Each provision of this Act specified in column 1 of the table
3 commences, or is taken to have commenced, in accordance with
4 column 2 of the table. Any other statement in column 2 has effect
5 according to its terms.

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Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	

- 7 Note: This table relates only to the provisions of this Act as originally
8 enacted. It will not be amended to deal with any later amendments of
9 this Act.

- 10 (2) Any information in column 3 of the table is not part of this Act.
11 Information may be inserted in this column, or information in it
12 may be edited, in any published version of this Act.

13 **3 Definitions**

14 In this Act:

15 *AMSA* means the Australian Maritime Safety Authority.

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

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

20 *eligible financial year* means:

- 21 (a) the financial year beginning on 1 July 2019; or
22 (b) a later financial year.

23 *leviable domestic commercial vessel* has the meaning given by
24 section 4.

1 *Marine Safety (Domestic Commercial Vessel) National Law* has
2 the meaning given by section 17 of the *Marine Safety (Domestic*
3 *Commercial Vessel) National Law Act 2012*.

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

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

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

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

12 *vessel* has the same meaning as in the Marine Safety (Domestic
13 Commercial Vessel) National Law.

14 **4 Leviable domestic commercial vessel**

15 (1) For the purposes of this Act, *leviable domestic commercial vessel*
16 means a domestic commercial vessel that is not included in a class
17 of domestic commercial vessels specified in rules in force under
18 subsection (2).

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

21 **5 Extension to external Territories**

22 This Act extends to every external Territory.

23 **6 Extraterritorial operation**

24 This Act applies within and outside Australia.

25 **7 Act to bind Crown**

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

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Section 8

1 However, it does not bind the Crown in right of the
2 Commonwealth.

3 **8 Imposition of levy**

4 *Full-year levy*

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

8 *Pro-rata levy*

9 (2) If:

10 (a) on 1 July in an eligible financial year, a vessel:

11 (i) does not exist; or

12 (ii) is not a leviable domestic commercial vessel; and

13 (b) a later day in the eligible financial year is the first or only day
14 in the eligible financial year on which the vessel is a leviable
15 domestic commercial vessel;

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

18 **9 Amount of levy**

19 *Full-year levy*

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

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

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

27 Note: See also section 16 (disallowance of rules).

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Pro-rata levy

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

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

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 liable 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:

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Section 10

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

3 **10 Advice by AMSA**

- 4 (1) If the Minister requests AMSA, under subsection 9(6), to give
5 advice, AMSA must give the requested advice to the Minister.
- 6 (2) In giving advice under subsection (1), AMSA must have regard to
7 the principle that amounts received on behalf of the
8 Commonwealth by way of levy imposed by this Act should be
9 sufficient, over time, to offset expenditure that:
- 10 (a) has been, or is likely to be, incurred on or after 1 July 2019
11 by AMSA in connection with things done under the Marine
12 Safety (Domestic Commercial Vessel) National Law; and
13 (b) is not offset by fees charged, or likely to be charged, under
14 section 150 of the Marine Safety (Domestic Commercial
15 Vessel) National Law.
- 16 (3) For the purposes of subsection (2), if an amount is paid to AMSA,
17 on behalf of the Commonwealth, by way of an advance on account
18 of levy imposed by this Act, the advance (to the extent to which it
19 discharges liability for the levy) is taken to be an amount received
20 on behalf of the Commonwealth by way of levy imposed by this
21 Act.

22 *Exceptions*

- 23 (4) The Minister may, by legislative instrument, make rules that
24 provide that, for the purposes of the application of subsection (2) to
25 expenditure incurred, or likely to be incurred, by AMSA during a
26 specified period, so much of the expenditure as equals a specified
27 amount is to be disregarded.
- 28 (5) The Minister may, by legislative instrument, make rules that
29 provide that paragraph (2)(a) does not apply to one or more
30 specified things done under the Marine Safety (Domestic
31 Commercial Vessel) National Law.

1 **11 Persons liable to pay levy**

2 *Certificate of survey in force for vessel*

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

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

18 *Other vessels*

- 19 (3) If:
20 (a) none of the preceding subsections of this section applies to a
21 leviable domestic commercial vessel; and
22 (b) a particular person is the sole owner of the vessel;
23 the person is liable to pay levy imposed by this Act on the vessel.
24 (4) If none of the preceding subsections of this section applies to a
25 leviable domestic commercial vessel, the owners of the vessel are
26 jointly and severally liable to pay levy imposed by this Act on the
27 vessel.

28 **12 Treatment of partnerships**

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

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Section 13

- 1 (2) A liability that would otherwise be imposed on the partnership by
2 this Act is imposed on each partner instead, but may be discharged
3 by any of the partners.
- 4 (3) For the purposes of this Act, a change in the composition of a
5 partnership does not affect the continuity of the partnership.

6 **13 Treatment of unincorporated associations**

- 7 (1) This Act applies to an unincorporated association as if it were a
8 person, but with the changes set out in this section.
- 9 (2) A liability that would otherwise be imposed on the association by
10 this Act is imposed on each member of the association's committee
11 of management instead, but may be discharged by any of the
12 members.

13 **14 Treatment of trusts with multiple trustees**

- 14 (1) If a trust has 2 or more trustees, this Act applies to the trust as if it
15 were a person, but with the changes set out in this section.
- 16 (2) A liability that would otherwise be imposed on the trust by this Act
17 is imposed on each trustee instead, but may be discharged by any
18 of the trustees.

19 **15 Act does not impose a tax on property of a State**

- 20 (1) This Act has no effect to the extent (if any) to which it imposes a
21 tax on property of any kind belonging to a State.
- 22 (2) In this section, *property of any kind belonging to a State* has the
23 same meaning as in section 114 of the Constitution.

24 **16 Disallowance of certain rules**

25 *Scope*

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

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Disallowance

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

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(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

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

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(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).

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(4) If:

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(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

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

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

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

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

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

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