

EXPOSURE DRAFT

2016-2017-2018

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Marine Safety (Domestic Commercial Vessel) Levy Collection Bill 2018

No. , 2018

(Infrastructure, Regional Development and Cities)

**A Bill for an Act relating to the collection of the
levy imposed by the *Marine Safety (Domestic
Commercial Vessel) Levy Act 2018*, and for other
purposes**

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1 **A Bill for an Act relating to the collection of the**
2 **levy imposed by the *Marine Safety (Domestic***
3 ***Commercial Vessel) Levy Act 2018, and for other***
4 **purposes**

5 The Parliament of Australia enacts:

6 **1 Short title**

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

No. , 2018 *Marine Safety (Domestic Commercial Vessel) Levy Collection Bill* 1
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.

6

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details

1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
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2. Sections 3 to 20	At the same time as the <i>Marine Safety (Domestic Commercial Vessel) Levy Act 2018</i> commences. However, the provisions do not commence at all if that Act does not commence.	
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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 Simplified outline of this Act**

- 14
- 15
- 16
- 17
- This Act is about the collection of the levy imposed by the *Marine Safety (Domestic Commercial Vessel) Levy Act 2018*.
 - The legislative rules may enable levy to be paid by instalments.

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- Late payment penalty will be payable if levy remains unpaid after it becomes due for payment.
- AMSA may make assessments of levy.
- Levy may be paid in advance.

4 Definitions

In this Act:

AMSA means the Australian Maritime Safety Authority.

eligible financial year has the same meaning as in the *Marine Safety (Domestic Commercial Vessel) Levy Act 2018*.

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

late payment penalty means penalty payable under subsection 10(1) or (2).

legislative rules means rules made under section 20.

leviable domestic commercial vessel has the same meaning as in the *Marine Safety (Domestic Commercial Vessel) Levy Act 2018*.

levy means levy imposed by the *Marine Safety (Domestic Commercial Vessel) Levy Act 2018*.

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*.

officer of Customs has the same meaning as in the *Customs Act 1901*.

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

- 1 (b) the conditions (if any) specified in the legislative rules are
2 satisfied;
3 the person may choose to pay the amount of levy by quarterly
4 instalments.
- 5 (4) If the person makes such a choice:
6 (a) each instalment is due and payable at a time ascertained in
7 accordance with the legislative rules; and
8 (b) subsection (2) does not apply in relation to the amount of
9 levy.
- 10 (5) The legislative rules may provide that, if:
11 (a) 2 or more persons are jointly and severally liable to pay an
12 amount of levy; and
13 (b) the conditions (if any) specified in the legislative rules are
14 satisfied;
15 those persons may choose to pay the amount of levy by quarterly
16 instalments.
- 17 (6) If those persons make such a choice:
18 (a) each instalment is due and payable at a time ascertained in
19 accordance with the legislative rules; and
20 (b) subsection (2) does not apply in relation to the amount of
21 levy.
- 22 (7) If 2 or more persons are jointly and severally liable to pay an
23 amount of levy, one of those persons may make a choice
24 mentioned in subsection (5) on behalf of those persons.

25 **9 When pro-rata levy is due and payable**

26 *Scope*

- 27 (1) This section applies to levy imposed by subsection 8(2) of the
28 *Marine Safety (Domestic Commercial Vessel) Levy Act 2018* on a
29 leviable domestic commercial vessel in respect of an eligible
30 financial year.

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Due date

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- (2) An amount of levy is due and payable at the end of the 28th day after the day mentioned in paragraph 8(2)(b) of that Act.

3

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Payment by instalments

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- (3) The legislative rules may provide that, if:

6

(a) a person is liable to pay an amount of levy (otherwise than jointly with one or more other persons); and

7

8

(b) the conditions (if any) specified in the legislative rules are satisfied;

9

10

the person may choose to pay the amount of levy by quarterly instalments.

11

12

- (4) If the person makes such a choice:

13

(a) each instalment is due and payable at a time ascertained in accordance with the legislative rules; and

14

15

(b) subsection (2) does not apply in relation to the amount of levy.

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17

- (5) The legislative rules may provide that, if:

18

(a) 2 or more persons are jointly and severally liable to pay an amount of levy; and

19

20

(b) the conditions specified in the legislative rules are satisfied;

21

those persons may choose to pay the amount of levy by instalments.

22

23

- (6) If those persons make such a choice:

24

(a) each instalment is due and payable at a time ascertained in accordance with the legislative rules; and

25

26

(b) subsection (2) does not apply in relation to the amount of levy.

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28

- (7) If 2 or more persons are jointly and severally liable to pay an amount of levy, one of those persons may make a choice mentioned in subsection (5) on behalf of those persons.

29

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1 **10 Late payment penalty**

2 *Penalty*

3 (1) If:

4 (a) an amount of levy; or

5 (b) an amount of instalment of levy;

6 payable by a person (otherwise than jointly with one or more other
7 persons) remains unpaid after the time when it became due for
8 payment, the person is liable to pay, by way of penalty, an amount
9 calculated, at such rate per annum as is specified in the legislative
10 rules, on the amount unpaid, computed from that time.

11 (2) If:

12 (a) an amount of levy; or

13 (b) an amount of instalment of levy;

14 jointly and severally payable by 2 or more persons remains unpaid
15 after the time when it became due for payment, those persons are
16 jointly and severally liable to pay, by way of penalty, an amount
17 calculated, at such rate per annum as is specified in the legislative
18 rules, on the amount unpaid, computed from that time.

19 (3) A rate specified in legislative rules made for the purposes of
20 subsection (1) or (2) must not exceed 20% per annum.

21 *Power to remit*

22 (4) AMSA may remit the whole or a part of an amount payable by a
23 person under subsection (1) if:

24 (a) AMSA is satisfied that:

25 (i) the person did not contribute to the delay in payment;
26 and

27 (ii) the person has taken reasonable steps to mitigate the
28 causes of the delay; or

29 (b) AMSA is satisfied:

30 (i) that the person contributed to the delay; and

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Section 10

- 1 (ii) that the person has taken reasonable steps to mitigate
2 the causes of the delay; and
3 (iii) having regard to the nature of the reasons that caused
4 the delay, that it would be fair and reasonable to remit
5 some or all of the amount; or
6 (c) AMSA is satisfied that there are special circumstances that
7 make it reasonable to remit some or all of the amount.
- 8 (5) AMSA may remit the whole or a part of an amount jointly and
9 severally payable by 2 or more persons under subsection (2) if:
10 (a) AMSA is satisfied that:
11 (i) none of those persons contributed to the delay in
12 payment; and
13 (ii) those persons have taken reasonable steps to mitigate
14 the causes of the delay; or
15 (b) AMSA is satisfied:
16 (i) that one or more of those persons contributed to the
17 delay; and
18 (ii) that those persons have taken reasonable steps to
19 mitigate the causes of the delay; and
20 (iii) having regard to the nature of the reasons that caused
21 the delay, that it would be fair and reasonable to remit
22 some or all of the amount; or
23 (c) AMSA is satisfied that there are special circumstances that
24 make it reasonable to remit some or all of the amount.
- 25 (6) AMSA may exercise a power conferred by subsection (4) or (5):
26 (a) on written application being made to AMSA by a person; or
27 (b) on AMSA's own initiative.

28 *Refusal*

- 29 (7) If:
30 (a) AMSA decides to refuse to remit the whole or a part of an
31 amount payable under subsection (1) or (2); and
32 (b) AMSA made the decision in response to an application;

1 AMSA must give written notice of the decision to the applicant.

2 *Review of decisions*

3 (8) Applications may be made to the Administrative Appeals Tribunal
4 for review of a decision of AMSA to refuse to remit the whole or a
5 part of an amount payable under subsection (1) or (2).

6 **11 Recovery of levy and late payment penalty**

7 *Scope*

- 8 (1) This section applies to the following amounts:
9 (a) an amount of levy;
10 (b) an amount of instalment of levy;
11 (c) an amount of late payment penalty.

12 *Recovery*

- 13 (2) The amount:
14 (a) is a debt due to the Commonwealth; and
15 (b) is to be received by AMSA on behalf of the Commonwealth;
16 and
17 (c) may be recovered by AMSA, on behalf of the
18 Commonwealth, by action in:
19 (i) the Federal Court of Australia; or
20 (ii) the Federal Circuit Court of Australia; or
21 (iii) a court of a State or Territory that has jurisdiction in
22 relation to the matter.

23 **12 Assessments**

- 24 (1) AMSA may make a written assessment of the amount of levy
25 imposed on a leviable domestic commercial vessel in respect of an
26 eligible financial year.

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- 1 (2) As soon as practicable after making an assessment under this
2 section, AMSA must give a copy of the assessment to the person
3 who is, or at least one of the persons who are, liable to pay the levy
4 concerned.

5 *Amendment of assessment*

- 6 (3) AMSA may amend an assessment made under this section at any
7 time.
- 8 (4) For the purposes of this Act, an amended assessment is taken to be
9 an assessment under this section.

10 *Evidence of assessment*

- 11 (5) If a document that purports to be a copy of an assessment under
12 this section is produced in a proceeding, then, except so far as the
13 contrary is established, it must be presumed:
- 14 (a) that the document is a copy of the assessment; and
15 (b) that AMSA has duly made the assessment; and
16 (c) that the amount and other particulars set out in the
17 assessment are correct.

18 *Onus of establishing incorrectness of assessment*

- 19 (6) In any proceeding, the onus of establishing that an assessment
20 under this section is incorrect is on the party making that assertion.

21 **13 Advance on account of levy**

- 22 (1) An amount may be paid to AMSA, on behalf of the
23 Commonwealth, by way of an advance on account of levy.
- 24 (2) If:
- 25 (a) an amount is paid to AMSA, on behalf of the
26 Commonwealth, by way of an advance on account of levy;
27 and
28 (b) the advance equals the amount of levy;

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- 1 the advance discharges the liability for levy.
- 2 (3) If:
- 3 (a) an amount is paid to AMSA, on behalf of the
- 4 Commonwealth, by way of an advance on account of levy;
- 5 and
- 6 (b) the advance is less than the amount of levy;
- 7 the advance discharges so much of the liability for levy as equals
- 8 the advance.
- 9 (4) If:
- 10 (a) an amount is paid to AMSA, on behalf of the
- 11 Commonwealth, by way of an advance on account of levy;
- 12 and
- 13 (b) the advance exceeds the amount of levy;
- 14 then:
- 15 (c) so much of the advance as equals the amount of levy
- 16 discharges the liability for levy; and
- 17 (d) AMSA must, on behalf of the Commonwealth, refund so
- 18 much of the advance as exceeds the amount of levy.
- 19 Note: For the appropriation for the refund, see section 77 of the *Public*
- 20 *Governance, Performance and Accountability Act 2013*.

21 14 Refund of overpayments

- 22 If any of the following amounts has been overpaid, the amount
- 23 overpaid must be refunded by AMSA on behalf of the
- 24 Commonwealth:
- 25 (a) an amount of levy;
- 26 (b) an amount of instalment of levy;
- 27 (c) an amount of late payment penalty.
- 28 Note: For the appropriation for the refund, see section 77 of the *Public*
- 29 *Governance, Performance and Accountability Act 2013*.

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

5 **18 Treatment of trusts with multiple trustees**

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

11 **19 Delegation**

- 12 (1) Section 58 of the *Australian Maritime Safety Authority Act 1990*
13 applies to a power conferred on AMSA by the legislative rules in a
14 corresponding way to the way in which it applies to a power
15 conferred on AMSA by this Act.

16 Note: Section 58 of the *Australian Maritime Safety Authority Act 1990* deals
17 with delegation.

- 18 (2) AMSA must not delegate to a person a power conferred on AMSA
19 by this Act or the legislative rules unless the person is a member of
20 the staff of AMSA.

21 **20 Legislative rules**

- 22 (1) The Minister may, by legislative instrument, make rules
23 (*legislative rules*) prescribing matters:
24 (a) required or permitted by this Act to be prescribed by the
25 legislative rules; or
26 (b) necessary or convenient to be prescribed for carrying out or
27 giving effect to this Act.
- 28 (2) To avoid doubt, the legislative rules may not do the following:
29 (a) create an offence or civil penalty;

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- 1 (b) provide powers of:
2 (i) arrest or detention; or
3 (ii) entry, search or seizure;
4 (c) impose a tax;
5 (d) set an amount to be appropriated from the Consolidated
6 Revenue Fund under an appropriation in this Act;
7 (e) directly amend the text of this Act.
- 8 (3) The legislative rules may make provision for the refund or
9 remission (in whole or in part) of:
10 (a) an amount of levy; or
11 (b) an amount of instalment of levy;
12 in such circumstances as are specified in the legislative rules.
- 13 (4) The legislative rules may make provision with respect to a matter
14 by conferring a power on AMSA.
- 15 (5) Subsections (3) and (4) do not limit subsection (1).