



Port Statistics Act 1977

Act No. 125 of 1977 as amended

This compilation was prepared on 23 October 2001
taking into account amendments up to Act No. 143 of 2001

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 provide for the collection of certain statistics relating to ports

1 Short title [see Note 1]

This Act may be cited as the *Port Statistics Act 1977*.

2 Commencement [see Note 1]

This Act shall come into operation on the date of commencement of the *Stevedoring Industry Acts (Termination) Act 1977*.

3 Interpretation

In this Act, unless the contrary intention appears:

document includes any record of information, however recorded or stored, whether in written or printed form, on film, by electronic means or otherwise.

port includes any place (including a place at sea) at or near which facilities are provided for or in connexion with the loading or unloading of cargo into or from ships.

Secretary means the Secretary to the Department.

ship includes any vessel.

3A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences created by this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

4 Collection of statistics

- (1) The Secretary may collect statistics in relation to all or any of the following matters:
 - (a) the loading of cargo into, and the unloading of cargo from, ships, including:

- (i) the employment of persons in or in connexion with such loading or unloading; and
 - (ii) the availability of persons for employment in or in connexion with such loading or unloading;
 - (b) the loading of cargo into, and the unloading of cargo from, vehicles at a port, being cargo that has been unloaded from, or is to be loaded into, ships at that port, including:
 - (i) the employment of persons in or in connexion with the first-mentioned loading or unloading; and
 - (ii) the availability of persons for employment in or in connexion with the first-mentioned loading or unloading;
 - (c) the movement of ships into, from or within ports.
- (2) Subject to subsection (3), the Secretary may, in such manner as he thinks appropriate, cause to be published, or to be made available to other persons, statistics collected in pursuance of subsection (1).
- (3) Subject to subsection (4), subsection (2) does not authorize the publication or making available of statistics in a manner that enables the identification of a particular person or organization.
- (4) Statistics may be published or made available in a manner that enables the identification of a particular person or organization if it is not practicable to publish or make available those statistics in a manner that does not enable the identification of that person or organization.

5 Furnishing of information

- (1) For the purpose of enabling the collection of statistics referred to in section 4, the Secretary may, subject to subsection (2), by notice in writing, require a person:
- (a) to furnish to the Secretary, or to a person specified in the notice acting on behalf of the Secretary, such information as is specified in the notice, being information relating to a matter specified in any of the paragraphs of subsection 4(1); or
 - (b) to produce to the Secretary, or to a person specified in the notice acting on behalf of the Secretary, books or documents specified in the notice, being books or documents that

contain information that relates, or may relate, to a matter specified in any of the paragraphs of subsection 4(1); within such reasonable time and in such manner as is specified in the notice.

- (2) The powers of the Secretary under subsection (1) to require a person to produce books or documents are exercisable only for the purpose of enabling the Secretary to verify the accuracy of information furnished by the person in pursuance of a requirement under paragraph (1)(a).
- (3) A person must not fail to comply with a requirement under subsection (1).

Penalty: \$500.

- (4) It is a defence to a prosecution for an offence against subsection (1) if the defendant complies with the requirement to the extent to which he or she is capable.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

- (5) Strict liability applies to an offence under subsection (3).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) A person commits an offence if:
 - (a) the person does an act with the intention of avoiding the requirements of this section; and
 - (b) the act results in the destruction, mutilation, defacing, concealment or removal of a book or document.

Penalty: \$500.

6 Delegation

- (1) The Secretary may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person any of his powers under this Act other than this power of delegation and his powers under section 8.

- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Secretary.
- (3) A delegation under this section does not prevent the exercise of a power by the Secretary.

7 Officers to observe secrecy

- (1) Subject to section 9, a person who is or has been an officer shall not, either directly or indirectly, except in the performance of a duty under or in connexion with this Act or except as provided by the regulations:
 - (a) make a record of, or (except to, or as authorized by, the Minister) divulge or communicate to any person, any information concerning the affairs of any other person acquired by him in the performance of his duties, or in the exercise of his powers or functions, under or in connexion with this Act; or
 - (b) produce to any person a document furnished for the purposes of this Act.

Penalty: \$1,000 or imprisonment for 3 months.

- (2) A person to whom information referred to in paragraph (1)(a) is divulged as authorized by or under subsection (1) shall, in respect of that information, be subject to the same obligations and liabilities under subsection (1) as if the person were a person performing duties under this Act and had acquired the information in the performance of those duties.
- (3) For the purposes of this section, any information acquired by an officer in accordance with an arrangement entered into under section 8 shall be deemed to have been acquired by the officer in the performance of a duty under this Act.
- (4) In this section:

officer means a person performing duties, or exercising powers or functions, under or in connexion with this Act.

produce includes permit access to.

- (5) This section extends to persons who are officers or employees of a State.

8 Arrangements with States

The Minister may enter into arrangements with a relevant Minister of State of a State with respect to:

- (a) the delegation by the Secretary of powers under this Act to:
 - (i) officers and employees of the State; and
 - (ii) persons who constitute, are members of, or are employed by, authorities established by or under laws of the State;
- (b) the supply to the State and to authorities established by or under laws of the State of information and statistics collected under this Act; and
- (c) the supply to the Commonwealth by the State and by authorities established by or under laws of the State of information and statistics relating to matters specified in any of the paragraphs of subsection 4(1).

9 Australian Statistician

- (1) Nothing in this Act shall be taken to affect the exercise by the Australian Statistician of powers under *the Census and Statistics Act 1905*.
- (2) Notwithstanding anything contained in section 7, an officer may divulge to the Australian Statistician any information acquired by the officer in the performance of his duties, or in the exercise of his powers or functions, under this Act.
- (3) Any information furnished to the Australian Statistician in pursuance of subsection (2) shall, for the purposes of section 19 of *the Census and Statistics Act 1905*, be deemed to have been furnished in pursuance of that Act.
- (4) For the purpose of assisting the Australian Bureau of Statistics to perform the functions referred to in paragraphs 6(1)(c) and (d) of the *Australian Bureau of Statistics Act 1975*, the Secretary shall, from time to time, consult the Australian Statistician in relation to the exercise by the Secretary of powers under this Act.

10 Regulations

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.

Table of Amendments

Notes to the *Port Statistics Act 1977*

Note 1

The *Port Statistics Act 1977* as shown in this compilation comprises Act No. 125, 1977 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Port Statistics Act 1977</i>	125, 1977	10 Nov 1977	5 Dec 1977 (see s. 2 and <i>Gazette</i> 1977, No S273)	
<i>Census and Statistics Amendment Act (No. 2) 1981</i>	177, 1981	8 Dec 1981	1 Mar 1983 (see <i>Gazette</i> 1983, No. S36)	—
as amended by <i>Statute Law (Miscellaneous Amendments) Act (No. 1) 1982</i>	26, 1982	7 May 1982	Part XI (ss. 73-75): 1 Mar 1983 (a)	—
<i>Statute Law (Miscellaneous Amendments) Act (No. 2) 1982</i>	80, 1982	22 Sept 1982	Part LXXVII (s. 280): Royal Assent (b)	S. 280(2) and (3)
<i>Public Service Reform Act 1984</i>	63, 1984	25 June 1984	S. 151(1): 1 July 1984 (see <i>Gazette</i> 1984, No. S245, p 2) (c)	S. 151(9)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1985</i>	65, 1985	5 June 1985	S. 3: 3 July 1985 (d)	—
<i>Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001</i>	143, 2001	1 Oct 2001	2 Oct 2001	S. 4 [see Table A]

Act Notes

- (a) The *Census and Statistics Amendment Act (No. 2) 1981* was amended by Part XI (sections 73-75) only of the *Statute Law (Miscellaneous Amendments) Act (No. 1) 1982*, subsection 2(3) of which provides as follows:
 - (3) Part XI shall come into operation, or shall be deemed to have come into operation, as the case requires, on the date of commencement of the *Census and Statistics Amendment Act (No. 2) 1981*.
- (b) The *Port Statistics Act 1977* was amended by Part LXXVII (section 280) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(1) of which provides as follows:
 - (1) Sections 1, 2, 166 and 195 and Parts III, VI, VII, XVI, XXXVI, XLIV, LI, LIII, LIV, LXI and LXXVII shall come into operation on the day on which this Act receives the Royal Assent.
- (c) The *Port Statistics Act 1977* was amended by subsection 151 (1) only of the *Public Service Reform Act 1984*, subsection 2(4) of which provides as follows:
 - (4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.
- (d) The *Port Statistics Act 1977* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:
 - (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.

Table of Amendments

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ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted	
Provision affected	How affected
S. 3.....	am. No. 80, 1982; No. 63, 1984; No. 65, 1985
S. 3A	ad. No. 143, 2001
S. 5.....	am. No. 143, 2001
S. 9.....	am. No. 177, 1981 (as am. by No. 26, 1982)

Table A

Table A

Application, saving or transitional provisions

Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001 (No. 143, 2001)

4 Application of Amendments

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.