



Seafarers Rehabilitation and Compensation Levy Collection Act 1992

Act No. 232 of 1992 as amended

This compilation was prepared on 2 November 2001
taking into account amendments up to Act No. 142 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 relating to the collection of levy imposed by the Seafarers Rehabilitation and Compensation Levy Act 1992

1 Short title [see Note 1]

This Act may be cited as the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*.

2 Commencement [see Note 1]

This Act commences on the day on which section 2 of the Compensation Act commences.

3 Interpretation

In this Act, unless the contrary intention appears:

authorised person means a person appointed as an authorised person under section 11.

Authority has the same meaning as in the Compensation Act.

Compensation Act means the *Seafarers Rehabilitation and Compensation Act 1992*.

employer means a person who employs or engages one or more seafarers on a prescribed ship.

levy means an amount of levy imposed by the *Seafarers Rehabilitation and Compensation Levy Act 1992*.

premises includes:

- (a) a structure, building, vehicle or vessel; and
- (b) a place (whether enclosed or built on or not); and
- (c) a part of premises (including premises of a kind referred to in paragraph (a) or (b)).

prescribed ship has the same meaning as in the Compensation Act.

quarter means:

- (a) the period beginning on the day on which this Act commences and ending on the last day of March, June, September or December, whichever occurs first after the commencement of this Act; and
- (b) each later period of 3 months.

seafarer has the same meaning as in the Compensation Act.

seafarer berth has the same meaning as in the Compensation Act.

3A Application of *Criminal Code*

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

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

4 Number of seafarer berths on which levy is payable

A reference in this Act to the number of seafarer berths on a prescribed ship is a reference to the number of seafarer berths on the ship on the first day of each quarter.

5 Due date for payment

Levy on a seafarer berth is payable at the end of the period within which an employer is required by this Act to give a return under section 6.

6 Employers to give returns and information

An employer must, within 14 days after the beginning of each quarter, give to the person prescribed by the regulations a return in accordance with a form approved by the Secretary containing:

- (a) a statement of the number of seafarer berths on each prescribed ship in respect of which the employer employed or engaged seafarers on the first day of the quarter; and
- (b) such other information, relating to those berths as is specified in the form.

7 Offences relating to returns

- (1) A person must not refuse or fail to give a return that he or she is required to give under section 6.

Penalty: 5 penalty units.

- (1A) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

- (1B) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the person is required to give a return under section 6.

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

- (2) A person must not give a return that does not contain all or any of the information required by section 6 to be included in the return.

Penalty: 20 penalty units.

- (2A) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

- (2B) For the purposes of an offence against subsection (2), strict liability applies to the physical element, that the person is required under section 6 to include information in a return.

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

- (3) A person is not excused from giving a return on the ground that the return might tend to incriminate the person, but any return given, and any information or thing (including any document) obtained as a direct or indirect consequence of the giving of the return, is not admissible in evidence against the person in criminal proceedings, other than proceedings for an offence against subsection (2) or section 137.1 or 137.2 of the *Criminal Code* in relation to giving the return.

8 Recovery of levy

Levy payable on a seafarer berth may be recovered by the Commonwealth as a debt due to the Commonwealth.

9 Detention of ship

If any levy imposed on a seafarer berth on a prescribed ship remains unpaid after it becomes payable the ship may be detained by an authorised person until the levy is paid.

10 Levy taken to be levy in relation to a ship for certain purposes of the Admiralty Act

Levy is taken to be a levy in relation to a ship for the purposes of paragraph 4(3)(q) of the *Admiralty Act 1988*.

Note: paragraph 4(j)(q) of the *Admiralty Act 1988* provides that certain claims in relation to a ship may be dealt with as claims *in rem*.

11 Appointment of authorised persons

The Secretary may, in writing, appoint a person in the Department:

- (a) who is an SES employee or acting SES employee; or
 - (b) whose classification level appears in Group 7 or 8 of Schedule 1 to the Classification Rules under the *Public Service Act 1999*; or
 - (c) who is acting in a position usually occupied by a person with a classification level of the kind mentioned in paragraph (b);
- to be an authorised person for the purposes of a specified provision of this Act.

12 Access to premises and books

- (1) An authorised person may, with the consent of the occupier of premises, or in accordance with a warrant issued under subsection 13(2), enter the premises for the purpose of exercising the powers of an authorised person under this section.
- (2) The powers of an authorised person under this section are to:
 - (a) search for, examine, take extracts from and make copies of any document; and

- (b) search for and examine a thing;
relating to a berth on a prescribed ship, on which levy is, or may be, payable.

13 Warrants to enter premises

- (1) If an authorised person suspects on reasonable grounds that there is on particular premises a book, document or thing relating to a seafarer berth, the person may apply to a Magistrate for a warrant under this section.
- (2) If the Magistrate is satisfied, by information on oath or affirmation, that:
 - (a) there are reasonable grounds for believing that there is on the premises a book, document or thing relating to a berth on a prescribed ship, on which levy is, or may be, payable; and
 - (b) the issue of a warrant is reasonably required for the purposes of this Act;the Magistrate may issue a warrant authorising the applicant to enter the premises with such assistance, and using such force, as is necessary and reasonable for the purpose of exercising some or all of the powers of an authorised person under subsection 12(2).
- (3) The Magistrate must not issue a warrant unless:
 - (a) the informant or some other person has given to the Magistrate, either orally or by affidavit, such further information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
 - (b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (4) There must be stated in the warrant:
 - (a) the purpose for which the warrant is issued; and
 - (b) the powers exercisable under subsection 12(2) by the authorised person to whom the warrant is issued; and
 - (c) a day (not more than 7 days after the day of issue of the warrant) on which the warrant ceases to have effect; and
 - (d) whether entry is authorised to be made at any time of the day or night, or during specified hours of the day or night; and

- (e) a description of the book, document or thing that the applicant suspects are on the premises.

14 Identity cards

- (1) The Secretary may cause an identity card to be issued to an authorised person.
- (2) An identity card must:
 - (a) contain a recent photograph of the authorised person to whom it is issued; and
 - (b) be in a form approved by the Secretary.
- (3) If an authorised person proposes to enter premises otherwise than in accordance with a warrant issued under subsection 13(2), the authorised person must produce his or her identity card to the occupier of the premises for the occupier's inspection and, if the authorised person fails to do so, the authorised person is not entitled to enter the premises under subsection 12(1).
- (4) If a person to whom an identity card has been issued ceases to be an authorised person, the person must immediately return the identity card to a person designated, in writing, by the Secretary.
- (5) A person who contravenes subsection (4) is guilty of an offence punishable upon conviction by a fine not exceeding one penalty unit.
- (6) Subsection (5) does not apply if the person has a reasonable excuse.
 - Note: A defendant bears an evidential burden in relation to the matter in subsection (6) (see subsection 13.3(3) of the *Criminal Code*).
- (7) Subsection (5) is an offence of strict liability.
 - Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

15 Delegation by Secretary

- (1) The Secretary may, in writing, delegate all or any of his or her powers or functions under this Act (other than powers under section 11) to a person in the Department:
 - (a) who is an SES employee or acting SES employee; or

- (b) whose classification level appears in Group 7 or 8 of Schedule 1 to the Classification Rules under the *Public Service Act 1999*; or
 - (c) who is acting in a position usually occupied by a person with a classification level of the kind mentioned in paragraph (b).
- (2) A delegate is, in the exercise of a delegated power, subject to the directions of the Secretary.

16 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 or for facilitating the collection or recovery of amounts of levy payable to the Commonwealth under section 8.
- (2) The matters that may be prescribed under subsection (1) include but are not limited to:
- (a) providing for the manner of payment of levy to the Commonwealth under section 8; and
 - (b) providing for the repayment of overpayments; and
 - (c) requiring employers to keep records relating to seafarer berths on prescribed ships; and
 - (d) requiring employers to give information relating to seafarer berths on prescribed ships to such persons as are prescribed; and
 - (e) the form of warrant for the purposes of section 13; and
 - (f) penalties, not exceeding 10 penalty units, for offences against the regulations.

Table of Acts

Notes to the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*

Note 1

The *Seafarers Rehabilitation and Compensation Levy Collection Act 1992* as shown in this compilation comprises Act No. 232, 1992 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Seafarers Rehabilitation and Compensation Levy Collection Act 1992</i>	232, 1992	24 Dec 1992	24 Dec 1992 (see s. 2)	
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 809, 810): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (a)	—
<i>Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001</i>	142, 2001	1 Oct 2001	S. 4 and Schedule 1 (items 133-139): 2 Oct 2001 (b)	S. 4

Act Notes

- (a) The *Seafarers Rehabilitation and Compensation Levy Collection Act 1992* was amended by Schedule 1 (items 809 and 810) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (b) The *Seafarers Rehabilitation and Compensation Levy Collection Act 1992* was amended by Schedule 1 (items 133-139) only of the *Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day after the day on which it receives the Royal Assent.

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 3A	ad. No. 142, 2001
S. 7.....	am. No. 142, 2001
S. 11.....	rs. No. 146, 1999
S. 14.....	am. No. 142, 2001
S. 15.....	am. No. 146, 1999

Table A

Table A

Application, saving or transitional provisions

Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001 (No. 142, 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.