



Port Statistics Act 1977

No. 125, 1977

Compilation No. 8

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Includes amendments up to:	Act No. 61, 2016
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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Port Statistics Act 1977* that shows the text of the law as amended and in force on 21 October 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to provide for the collection of certain statistics relating to ports

1 Short title

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

2 Commencement

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:

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 of 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 or she 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: 5 penalty units.

- (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 for a contravention of this subsection: 5 penalty units.

6 Delegation

- (1) The Secretary may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him or her, delegate to a person any of his or her powers under this Act other than this power of delegation and his or her 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 or her in the performance of his or her duties, or in the exercise of his or her 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: Imprisonment for 3 months or 10 penalty units.

- (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 or her duties, or in the exercise of his or her 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.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnotes

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Port Statistics Act 1977	125, 1977	10 Nov 1977	5 Dec 1977 (<i>see s. 2 and Gazette 1977, No. S273</i>)	
Census and Statistics Amendment Act (No. 2) 1981	177, 1981	8 Dec 1981	1 Mar 1983 (<i>see Gazette 1983, No. S36</i>)	—
as amended by				
Statute Law (Miscellaneous Amendments) Act (No. 1) 1982	26, 1982	7 May 1982	Part XI (ss. 73–75): 1 Mar 1983 (<i>a</i>)	—
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	Part LXXVII (s. 280): Royal Assent (<i>b</i>)	s. 280(2) and (3)
Public Service Reform Act 1984	63, 1984	25 June 1984	s 151(1): 1 July 1984 (s 2(4) and gaz 1984, No s245, p 2)	s 151(9)
Statute Law (Miscellaneous Provisions) Act (No. 1) 1985	65, 1985	5 June 1985	s 3: 3 July 1985 (s 2(1))	—
Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001	143, 2001	1 Oct 2001	2 Oct 2001	s. 4
Statute Law Revision Act 2008	73, 2008	3 July 2008	Schedule 4 (items 413–418): 4 July 2008	—
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Schedule 7 (item 110): 19 Apr 2011	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (item 911) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (items 368–370): 21 Oct 2016 (s 2(1) item 1)	—

- (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.

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s. 3	am. No. 80, 1982; No. 63, 1984; No. 65, 1985; Nos. 5 and 46, 2011
s. 3A	ad. No. 143, 2001
s. 4	am. No. 73, 2008
s. 5	am. No. 143, 2001; No 61, 2016
s. 6	am. No. 73, 2008
s. 7	am No 73, 2008; No 61, 2016
s. 9	am. No. 177, 1981 (as am. by No. 26, 1982); No. 73, 2008
