Select Legislative Instrument 2007 No. 174

Issued under the authority of the Parliamentary Secretary to the Minister for Transport and Regional Services

Protection of the Sea (Shipping Levy) Act 1981

Protection of the Sea (Shipping Levy) Amendment Regulations 2007 (No. 1)

Section 9 of the Protection of the Sea (Shipping Levy) Act 1981 (the Act) provides that the Governor-General may make regulations for the purposes of sections 6 and 7 of the Act. Section 6 of the Act enables the regulations to prescribe the rate of levy and section 7 enables the regulations to prescribe a minimum amount of levy payable for a ship for a quarter.

The Act imposes a levy on ships of 24 metres or more in length and having on board a quantity of ten tonnes or more of oil in bulk as fuel or cargo. The rate of levy is prescribed in the Protection of the Sea (Shipping Levy) Regulations (the Principal Regulations) for the purposes of section 6 of the Act. Previously a quarterly levy of 3.3 cents per ton of the tonnage of a ship was imposed.

The amending Regulations amended the Principal Regulations to increase the rate of the levy to a quarterly levy of 7.7 cents per ton on all ships to which the Act applies, effective from 1 July 2007. The minimum levy prescribed in the Principal Regulations for the purposes of section 7 remains at its current level of $10. It is estimated that an additional $7 million will be collected in 2007-2008 under the amended Regulations.

The levy is payable once in every quarter that a ship to which the Act applies enters an Australian port and is used to fund the operations and management of the National Plan to Combat Pollution of the Sea by Oil and other Noxious and Hazardous Substances (the National Plan). More recently the levy is also being used to fund the National Maritime Emergency Response Arrangements (NMERA) with costs recovered from industry under the amended Regulations.

The main purpose of the NMERA is to enhance current response arrangements under the National Plan by making available Emergency Towage Vessels (ETVs) at strategic locations around Australia to respond to significant threats to the Australian marine environment, such as ships running aground. There is one dedicated ETV operating out of Cairns. A number of other vessels which perform normal towage within ports are also available to be called upon in the case of a major incident.

The amending Regulations also updated the title of the Regulations to reflect modern drafting practice.

The Regulations are a legislative instrument for the purposes of the Legislative Instruments Act 2003.
No formal consultation was undertaken in relation to these specific amendments. However, industry stakeholders were extensively consulted during the development and implementation of the NMERA and in relation to the management of levy arrangements, including the proposed increase in the levy rate. Industry stakeholders indicated strong support for these arrangements as the increased costs to industry arising from the levy increase are considered to be minor when compared with the overall operating costs of a ship.

The Regulations commenced on 1 July 2007.