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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Maritime Transport and Offshore
Facilities Security Amendment (Security
Plans and Other Measures) Bill 2006**

No. , 2006

(Transport and Regional Services)

**A Bill for an Act to amend the law relating to the
security of maritime transport and offshore
facilities, and for other purposes**

Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	2
Schedule 1—Amendment of the Maritime Transport and Offshore Facilities Security Act 2003		3
Part 1—Amendments		3
<i>Maritime Transport and Offshore Facilities Security Act 2003</i>		3
Part 2—Application		20
Schedule 2—Technical amendments relating to legislative instruments		21
<i>Air Navigation Act 1920</i>		21
<i>Airports Act 1996</i>		21
<i>Australian Capital Territory (Self-Government) Act 1988</i>		22
<i>Australian Capital Territory Tax (Transfers of Marketable Securities) Act 1986</i>		22
<i>Aviation Transport Security Act 2004</i>		22
<i>Carriage of Goods by Sea Act 1991</i>		22
<i>Civil Aviation Act 1988</i>		23
<i>International Air Services Commission Act 1992</i>		23
<i>Interstate Road Transport Act 1985</i>		24
<i>Local Government (Financial Assistance) Act 1995</i>		24
<i>Maritime Transport and Offshore Facilities Security Act 2003</i>		25
<i>Motor Vehicle Standards Act 1989</i>		25
<i>Navigation Act 1912</i>		27
<i>Protection of the Sea (Prevention of Pollution from Ships) Act 1983</i>		28
<i>Ships (Capital Grants) Act 1987</i>		29
<i>Sydney Airport Curfew Act 1995</i>		29
<i>Sydney Airport Demand Management Act 1997</i>		30
<i>Trade Practices Act 1974</i>		31
Schedule 3—Technical amendment		32
<i>Customs Act 1901</i>		32

1 **A Bill for an Act to amend the law relating to the**
2 **security of maritime transport and offshore**
3 **facilities, and for other purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Maritime Transport and Offshore*
7 *Facilities Security Amendment (Security Plans and Other*
8 *Measures) Act 2006.*

9 **2 Commencement**

10 (1) Each provision of this Act specified in column 1 of the table
11 commences, or is taken to have commenced, in accordance with
12 column 2 of the table. Any other statement in column 2 has effect
13 according to its terms.

1

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1	A day or days to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
3. Schedule 2, items 1 to 30	The day on which this Act receives the Royal Assent.	
4. Schedule 2, items 31 and 32	Immediately after the commencement of sections 34 and 35 of the <i>Interstate Road Transport Act 1985</i> .	
5. Schedule 2, items 33 to 103	The day on which this Act receives the Royal Assent.	
6. Schedule 3	Immediately after the commencement of item 2 of Schedule 1 to the <i>Maritime Transport Security Amendment Act 2005</i> .	27 June 2005

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Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

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(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

8

3 Schedule(s)

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12

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

1
2 **Schedule 1—Amendment of the Maritime**
3 **Transport and Offshore Facilities**
4 **Security Act 2003**

5 **Part 1—Amendments**

6 *Maritime Transport and Offshore Facilities Security Act*
7 *2003*

8 **1 Paragraph 47(1)(c)**

9 Repeal the paragraph, substitute:

- 10 (c) designate, by name or by reference to a position, all security
11 officers responsible for implementing and maintaining the
12 plan; and

13 **2 Subsection 49(2)**

14 Repeal the subsection, substitute:

15 (2) A maritime security plan must be accompanied by:

- 16 (a) if the Secretary has not established any port security zones
17 under subsection 102(1) within the area covered by the plan,
18 and the participant proposes that the Secretary should
19 establish such a zone or zones within that area—a map that
20 shows each proposed zone; and
21 (b) if the Secretary has established a port security zone or zones
22 under subsection 102(1) within the area covered by the plan:
23 (i) a map that shows each such zone; and
24 (ii) if the participant proposes that such a zone be
25 changed—a map that shows the proposed change; and
26 (iii) if the participant proposes that the Secretary should
27 establish an additional port security zone within that
28 area or revoke the establishment of an existing port
29 security zone within that area—a map that shows the
30 zones that would be established within that area if the
31 proposal were accepted.

32 **3 Division 5 of Part 3 (heading)**

33 Repeal the heading, substitute:

1 **Division 5—Approving, varying, revising and cancelling**
2 **maritime security plans**

3 **4 Section 50**

4 Repeal the section, substitute:

5 **50 Providing maritime security plans for approval**

6 (1) A maritime industry participant may, by written notice given to the
7 Secretary, request the Secretary to approve a maritime security
8 plan for the participant.

9 (2) The notice must be accompanied by a copy of the plan.

10 **5 Paragraph 51(4)(b)**

11 Omit “within the period of 90 days after the plan was given”, substitute
12 “within the consideration period”.

13 **6 At the end of section 51 (after the note)**

14 Add:

15 *Secretary may request further information*

16 (5) The Secretary may, by written notice given to the participant
17 within the consideration period, request the participant to give the
18 Secretary specified information relevant to the approval of the
19 plan.

20 (6) The notice must specify a period of not more than 45 days within
21 which the information must be given. However, if more than one
22 notice is given to the participant under subsection (5), the total of
23 the periods specified in the notices must not exceed 45 days.

24 *Consideration period*

25 (7) The **consideration period** is the period of 60 days commencing on
26 the day on which the Secretary received the plan, extended, in
27 relation to each notice already given under subsection (5), by a
28 number of days equal to the number of days falling within the
29 period:

30 (a) commencing on the day on which the notice under
31 subsection (5) was given; and

- 1 (b) ending on:
2 (i) the day on which the information requested in that
3 notice was received by the Secretary; or
4 (ii) if the information is not given within the period
5 specified in that notice—the last day of that period.

6 Note: The following heading to subsection 51(4) is inserted “*Failure to approve plan within*
7 *consideration period*”.

8 **7 Paragraph 52(3)(a)**

9 Omit “54(2)”, substitute “54(4) or 55(4)”.

10 **8 After section 52**

11 Insert:

12 **52A Participants may submit variations to maritime security plans**

- 13 (1) If a maritime security plan for a maritime industry participant is in
14 force, the participant may, by written notice given to the Secretary,
15 request the Secretary to vary the plan.
- 16 (2) The participant must set out the proposed variation in the notice.
- 17 (3) The notice must be accompanied by:
18 (a) if the Secretary has established a port security zone or zones
19 under subsection 102(1) within the area covered by the plan,
20 and the participant proposes that such a zone be changed—a
21 map that shows the proposed change; and
22 (b) if:
23 (i) the Secretary has established a port security zone or
24 zones under subsection 102(1) within the area covered
25 by the plan; and
26 (ii) the participant proposes that the Secretary should
27 establish an additional port security zone within that
28 area or revoke the establishment of an existing port
29 security zone within that area;
30 a map that shows the zones that would be established within
31 that area if the proposal were accepted.
- 32 (4) If the Secretary is satisfied that the plan, as varied, would continue
33 to adequately address the relevant requirements under Division 4,
34 the Secretary must:

- 1 (a) approve the variation; and
2 (b) give the participant written notice of the approval.
- 3 (5) If the Secretary is not satisfied that the plan, as varied, would
4 continue to adequately address the relevant requirements under
5 Division 4, the Secretary must:
6 (a) refuse to approve the variation; and
7 (b) give the participant written notice of the refusal including
8 reasons for the refusal.
- 9 (6) In determining whether the plan, as varied, would continue to
10 adequately address the relevant requirements under Division 4, the
11 Secretary may take account of existing circumstances as they relate
12 to maritime transport, and offshore facility, security.

13 *Failure to approve variation within consideration period*

- 14 (7) If:
15 (a) a maritime industry participant gives the Secretary a notice
16 requesting the Secretary to vary a maritime security plan; and
17 (b) the Secretary does not approve, or refuse to approve, the
18 variation within the consideration period;
19 the Secretary is taken to have refused to approve the variation.

20 Note: A maritime industry participant may apply to the Administrative
21 Appeals Tribunal for review of a decision to refuse to approve a
22 variation under subsection (5) or (7): see section 201.

23 *Secretary may request further information*

- 24 (8) The Secretary may, by written notice given to the participant
25 within the consideration period, request the participant to give the
26 Secretary specified information relevant to the approval of the
27 variation.
- 28 (9) The notice must specify a period of not more than 45 days within
29 which the information must be given. However, if more than one
30 notice is given to the participant under subsection (8), the total of
31 the periods specified in the notices must not exceed 45 days.

32 *Consideration period*

- 33 (10) The **consideration period** is the period of 60 days commencing on
34 the day on which the notice under subsection (1) requesting the

- 1 variation was received by the Secretary, extended, in relation to
2 each notice already given under subsection (8), by a number of
3 days equal to the number of days falling within the period:
4 (a) commencing on the day on which the notice under
5 subsection (8) was given; and
6 (b) ending on:
7 (i) the day on which the information requested in that
8 notice was received by the Secretary; or
9 (ii) if the information is not given within the period
10 specified in that notice—the last day of that period.

11 **9 Section 54**

12 Repeal the section, substitute:

13 **54 Participants may revise maritime security plans**

- 14 (1) If a maritime industry participant has given the Secretary a
15 maritime security plan, the participant may, by written notice given
16 to the Secretary, request the Secretary to approve another maritime
17 security plan (the *revised plan*).
18 (2) The notice must be accompanied by a copy of the revised plan.
19 (3) If a request is made in accordance with this section, sections 51
20 and 52 apply in relation to the revised plan.
21 (4) If the revised plan comes into force, it replaces any other plan for
22 the participant in force at that time.

23 **10 Subsection 55(1)**

24 Omit “a revised plan under section 54”, substitute “another maritime
25 security plan (the *revised plan*)”.

26 **11 After subsection 55(2)**

27 Insert:

- 28 (2A) If the participant gives the Secretary the revised plan within the
29 specified period, or within any further period allowed by the
30 Secretary, sections 51 and 52 apply in relation to the revised plan.

31 **12 At the end of section 55**

1 Add:

2 (4) If the revised plan comes into force, it replaces any other plan for
3 the participant in force at that time.

4 **13 Section 56**

5 Repeal the section, substitute:

6 **56 Cancelling maritime security plans after 5 years**

7 A maritime security plan for a maritime industry participant is
8 cancelled 5 years after it comes into force, if it has not already
9 ceased to be in force during that period.

10 Note: Under subsection 52(3), a plan ceases to be in force if it is replaced
11 (see sections 54 and 55) or is cancelled (see, for example, sections 57,
12 58 and 59).

13 **14 Paragraph 66(1)(c)**

14 Repeal the paragraph, substitute:

15 (c) designate, by name or by reference to a position, all security
16 officers responsible for implementing and maintaining the
17 plan; and

18 **15 Division 5 of Part 4 (heading)**

19 Repeal the heading, substitute:

20 **Division 5—Approving, varying, revising and cancelling**
21 **ship security plans**

22 **16 Section 69**

23 Repeal the section, substitute:

24 **69 Providing ship security plans for approval**

25 (1) A ship operator for a regulated Australian ship may, by written
26 notice given to the Secretary, request the Secretary to approve a
27 ship security plan for the ship.

28 (2) The notice must be accompanied by a copy of the plan.

29 **17 Paragraph 70(4)(b)**

1 Omit “within the period of 90 days after the plan was given”, substitute
2 “within the consideration period”.

3 **18 At the end of section 70 (after the note)**

4 Add:

5 *Secretary may request further information*

6 (5) The Secretary may, by written notice given to the ship operator
7 within the consideration period, request the ship operator to give
8 the Secretary specified information relevant to the approval of the
9 plan.

10 (6) The notice must specify a period of not more than 45 days within
11 which the information must be given. However, if more than one
12 notice is given to the ship operator under subsection (5), the total
13 of the periods specified in the notices must not exceed 45 days.

14 *Consideration period*

15 (7) The *consideration period* is the period of 60 days commencing on
16 the day on which the Secretary received the plan, extended, in
17 relation to each notice already given under subsection (5), by a
18 number of days equal to the number of days falling within the
19 period:

20 (a) commencing on the day on which the notice under
21 subsection (5) was given; and

22 (b) ending on:

23 (i) the day on which the information requested in that
24 notice was received by the Secretary; or

25 (ii) if the information is not given within the period
26 specified in that notice—the last day of that period.

27 Note: The following heading to subsection 70(4) is inserted “*Failure to approve plan within*
28 *consideration period*”.

29 **19 Paragraph 71(3)(a)**

30 Omit “73(2)”, substitute “73(4) or 74(4)”.

31 **20 After section 71**

32 Insert:

71A Ship operator may submit variations to ship security plans

- 1
2 (1) If a ship security plan for a regulated Australian ship is in force, the
3 ship operator for the ship may, by written notice given to the
4 Secretary, request the Secretary to vary the plan.
- 5 (2) The ship operator must set out the proposed variation in the notice.
- 6 (3) If the Secretary is satisfied that the plan, as varied, would continue
7 to adequately address the relevant requirements under Division 4,
8 the Secretary must:
9 (a) approve the variation; and
10 (b) give the ship operator written notice of the approval.
- 11 (4) If the Secretary is not satisfied that the plan, as varied, would
12 continue to adequately address the relevant requirements under
13 Division 4, the Secretary must:
14 (a) refuse to approve the variation; and
15 (b) give the ship operator written notice of the refusal including
16 reasons for the refusal.
- 17 (5) In determining whether the plan, as varied, would continue to
18 adequately address the relevant requirements under Division 4, the
19 Secretary may take account of existing circumstances as they relate
20 to maritime transport, and offshore facility, security.

21 *Failure to approve variation within consideration period*

- 22 (6) If:
23 (a) a ship operator for a regulated Australian ship gives the
24 Secretary a notice requesting the Secretary to vary a ship
25 security plan for the ship; and
26 (b) the Secretary does not approve, or refuse to approve, the
27 variation within the consideration period;
28 the Secretary is taken to have refused to approve the variation.

29 Note: A ship operator may apply to the Administrative Appeals Tribunal for
30 review of a decision to refuse to approve a variation under
31 subsection (4) or (6): see section 201.

32 *Secretary may request further information*

- 33 (7) The Secretary may, by written notice given to the ship operator
34 within the consideration period, request the ship operator to give
-

1 the Secretary specified information relevant to the approval of the
2 variation.

3 (8) The notice must specify a period of not more than 45 days within
4 which the information must be given. However, if more than one
5 notice is given to the ship operator under subsection (7), the total
6 of the periods specified in the notices must not exceed 45 days.

7 *Consideration period*

8 (9) The *consideration period* is the period of 60 days commencing on
9 the day on which the notice under subsection (1) requesting the
10 variation was received by the Secretary, extended, in relation to
11 each notice already given under subsection (7), by a number of
12 days equal to the number of days falling within the period:

13 (a) commencing on the day on which the notice under
14 subsection (7) was given; and

15 (b) ending on:

16 (i) the day on which the information requested in that
17 notice was received by the Secretary; or

18 (ii) if the information is not given within the period
19 specified in that notice—the last day of that period.

20 **21 Section 73**

21 Repeal the section, substitute:

22 **73 Ship operator may revise ship security plan**

23 (1) If the ship operator for a regulated Australian ship has given the
24 Secretary a ship security plan for the ship, the ship operator may,
25 by written notice given to the Secretary, request the Secretary to
26 approve another ship security plan for the ship (the *revised plan*).

27 (2) The notice must be accompanied by a copy of the revised plan.

28 (3) If a request is made in accordance with this section, sections 70
29 and 71 apply in relation to the revised plan.

30 (4) If the revised plan comes into force, it replaces any other plan for
31 the ship in force at that time.

32 **22 Subsection 74(1)**

1 Omit “a revised plan under section 73”, substitute “another plan for the
2 ship (the *revised plan*)”.

3 **23 After subsection 74(2)**

4 Insert:

5 (2A) If the ship operator gives the Secretary the revised plan within the
6 specified period, or within any further period allowed by the
7 Secretary, sections 70 and 71 apply in relation to the revised plan.

8 **24 At the end of section 74**

9 Add:

10 (4) If the revised plan comes into force, it replaces any other plan for
11 the ship in force at that time.

12 **25 Section 75**

13 Repeal the section, substitute:

14 **75 Cancelling ship security plans after 5 years**

15 A ship security plan for a regulated Australian ship is cancelled 5
16 years after it comes into force, if it has not already ceased to be in
17 force during that period.

18 Note: Under subsection 71(3), a plan ceases to be in force if it is replaced
19 (see sections 73 and 74) or is cancelled (see, for example, sections 76,
20 77 and 78).

21 **26 Paragraph 100G(1)(c)**

22 Repeal the paragraph, substitute:

23 (c) designate, by name or by reference to a position, all security
24 officers responsible for implementing and maintaining the
25 plan; and

26 **27 Subsection 100I(2)**

27 Repeal the subsection, substitute:

28 (2) An offshore security plan must be accompanied by:
29 (a) information on the location of each offshore facility to which
30 the plan relates; and

- 1 (b) if the Secretary has not established any offshore security
2 zones under subsection 113A(1) within or around an offshore
3 facility to which the plan relates, and the participant proposes
4 that the Secretary should establish such a zone or zones
5 within or around such a facility—information on each
6 proposed zone; and
7 (c) if the Secretary has established an offshore security zone or
8 zones under subsection 113A(1) within or around an offshore
9 facility to which the plan relates:
10 (i) information on each such zone; and
11 (ii) if the participant proposes that such a zone be
12 changed—information on the proposed change; and
13 (iii) if the participant proposes that the Secretary should
14 establish an additional offshore security zone, or revoke
15 the establishment of an existing offshore security zone,
16 within or around the facility—information on the zones
17 within or around the facility if the proposal were
18 accepted.

19 **28 Division 5 of Part 5A (heading)**

20 Repeal the heading, substitute:

21 **Division 5—Approving, varying, revising and cancelling**
22 **offshore security plans**

23 **29 Section 100J**

24 Repeal the section, substitute:

25 **100J Providing offshore security plans for approval**

- 26 (1) An offshore industry participant may, by written notice given to
27 the Secretary, request the Secretary to approve an offshore security
28 plan for the participant.
29 (2) The notice must be accompanied by a copy of the plan.

30 **30 Paragraph 100K(4)(b)**

31 Omit “within the period of 90 days after the plan was given”, substitute
32 “within the consideration period”.

1 **31 At the end of section 100K (after the note)**

2 Add:

3 *Secretary may request further information*

4 (5) The Secretary may, by written notice given to the participant
5 within the consideration period, request the participant to give the
6 Secretary specified information relevant to the approval of the
7 plan.

8 (6) The notice must specify a period of not more than 45 days within
9 which the information must be given. However, if more than one
10 notice is given to the participant under subsection (5), the total of
11 the periods specified in the notices must not exceed 45 days.

12 *Consideration period*

13 (7) The *consideration period* is the period of 60 days commencing on
14 the day on which the Secretary received the plan, extended, in
15 relation to each notice already given under subsection (5), by a
16 number of days equal to the number of days falling within the
17 period:

18 (a) commencing on the day on which the notice under
19 subsection (5) was given; and

20 (b) ending on:

21 (i) the day on which the information requested in that
22 notice was received by the Secretary; or

23 (ii) if the information is not given within the period
24 specified in that notice—the last day of that period.

25 Note: The following heading to subsection 100K(4) is inserted "*Failure to approve plan*
26 *within consideration period*".

27 **32 Paragraph 100L(3)(a)**

28 Omit "100N(2)", substitute "100N(4) or 100O(4)".

29 **33 After section 100L**

30 Insert:

1 **100LA Offshore industry participant may submit variations to**
2 **offshore security plans**

- 3 (1) If an offshore security plan for an offshore industry participant is in
4 force, the participant may, by written notice given to the Secretary,
5 request the Secretary to vary the plan.
- 6 (2) The participant must set out the proposed variation in the notice.
- 7 (3) The notice must be accompanied by:
8 (a) if the Secretary has established an offshore security zone or
9 zones under subsection 113A(1) within or around an offshore
10 facility to which the plan relates, and the participant proposes
11 that such a zone be changed—information on the proposed
12 change; and
13 (b) if:
14 (i) the Secretary has established an offshore security zone
15 or zones under subsection 113A(1) within or around an
16 offshore facility to which the plan relates; and
17 (ii) the participant proposes that the Secretary should
18 establish an additional offshore security zone, or revoke
19 the establishment of an existing offshore security zone,
20 within or around the facility;
21 information on the zones within or around the facility if the
22 proposal were accepted.
- 23 (4) If the Secretary is satisfied that the plan, as varied, would continue
24 to adequately address the relevant requirements under Division 4,
25 the Secretary must:
26 (a) approve the variation; and
27 (b) give the participant written notice of the approval.
- 28 (5) If the Secretary is not satisfied that the plan, as varied, would
29 continue to adequately address the relevant requirements under
30 Division 4, the Secretary must:
31 (a) refuse to approve the variation; and
32 (b) give the participant written notice of the refusal including
33 reasons for the refusal.
- 34 (6) In determining whether the plan, as varied, would continue to
35 adequately address the relevant requirements under Division 4, the

1 Secretary may take account of existing circumstances as they relate
2 to the security of maritime transport and offshore facilities.

3 *Failure to approve variation within consideration period*

4 (7) If:

5 (a) an offshore industry participant gives the Secretary a notice
6 requesting the Secretary to vary an offshore security plan;
7 and

8 (b) the Secretary does not approve, or refuse to approve, the
9 variation within the consideration period;

10 the Secretary is taken to have refused to approve the variation.

11 Note: An offshore industry participant may apply to the Administrative
12 Appeals Tribunal for review of a decision to refuse to approve a
13 variation under subsection (5) or (7): see section 201.

14 *Secretary may request further information*

15 (8) The Secretary may, by written notice given to the participant
16 within the consideration period, request the participant to give the
17 Secretary specified information relevant to the approval of the
18 variation.

19 (9) The notice must specify a period of not more than 45 days within
20 which the information must be given. However, if more than one
21 notice is given to the participant under subsection (8), the total of
22 the periods specified in the notices must not exceed 45 days.

23 *Consideration period*

24 (10) The **consideration period** is the period of 60 days commencing on
25 the day on which the notice under subsection (1) requesting the
26 variation was received by the Secretary, extended, in relation to
27 each notice already given under subsection (8), by a number of
28 days equal to the number of days falling within the period:

29 (a) commencing on the day on which the notice under
30 subsection (8) was given; and

31 (b) ending on:

32 (i) the day on which the information requested in that
33 notice was received by the Secretary; or

34 (ii) if the information is not given within the period
35 specified in that notice—the last day of that period.

1 **34 Section 100N**

2 Repeal the section, substitute:

3 **100N Participants may revise offshore security plans**

4 (1) If an offshore industry participant has given the Secretary an
5 offshore security plan, the participant may, by written notice given
6 to the Secretary, request the Secretary to approve another offshore
7 security plan (the *revised plan*).

8 (2) The notice must be accompanied by a copy of the revised plan.

9 (3) If a request is made in accordance with this section, sections 100K
10 and 100L apply in relation to the revised plan.

11 (4) If the revised plan comes into force, it replaces any other plan for
12 the participant in force at that time.

13 **35 Subsection 100O(1)**

14 Omit “a revised plan under section 100N”, substitute “another offshore
15 security plan (the *revised plan*)”.

16 **36 After subsection 100O(2)**

17 Insert:

18 (2A) If the participant gives the Secretary the revised plan within the
19 specified period, or within any further period allowed by the
20 Secretary, sections 100K and 100L apply in relation to the revised
21 plan.

22 **37 At the end of section 100O**

23 Add:

24 (4) If the revised plan comes into force, it replaces any other plan for
25 the participant in force at that time.

26 **38 Section 100P**

27 Repeal the section, substitute:

1 **100P Cancelling offshore security plans after 5 years**

2 An offshore security plan for an offshore industry participant is
3 cancelled 5 years after it comes into force, if it has not already
4 ceased to be in force during that period.

5 Note: Under subsection 100L(3), a plan ceases to be in force if it is replaced
6 (see sections 100N and 100O) or is cancelled (see, for example,
7 sections 100Q, 100R, 100S and 100T).

8 **39 After subsection 102(2)**

9 Insert:

10 (2A) If:

- 11 (a) a maritime security plan for a port operator for a security
12 regulated port is accompanied by a map in accordance with
13 paragraph 49(2)(a) or subparagraph 49(2)(b)(ii) or (iii); and
14 (b) the Secretary gives the port operator notice under paragraph
15 51(1)(b) approving the plan;

16 the Secretary is taken to have given the port operator a notice under
17 subsection (1) of this section (including a map as mentioned in
18 subsection (2)) establishing, or revoking the establishment of, port
19 security zones, as proposed by the operator in the map
20 accompanying the plan.

21 (2B) If:

- 22 (a) a notice under subsection 52A(1) requesting the Secretary to
23 vary a maritime security plan for a port operator for a
24 security regulated port is accompanied by a map in
25 accordance with subsection 52A(3); and

- 26 (b) the Secretary gives the port operator notice under paragraph
27 52A(4)(b) approving the variation;

28 the Secretary is taken to have given the port operator a notice under
29 subsection (1) of this section (including a map as mentioned in
30 subsection (2)) establishing, or revoking the establishment of, port
31 security zones, as proposed by the port operator in the map
32 accompanying the notice requesting the variation.

33 Note: For variation and revocation of instruments under subsection (1), see
34 subsection 33(3) of the *Acts Interpretation Act 1901*.

35 **40 After subsection 113A(2)**

36 Insert:

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(2A) If:

- (a) an offshore security plan for an offshore facility operator is accompanied by information in accordance with paragraph 100I(2)(b) or subparagraph 100I(2)(c)(ii) or (iii) relating to proposed changes to the offshore security zones within or around an offshore facility; and
- (b) the Secretary gives the offshore facility operator notice under paragraph 100K(1)(b) approving the plan;

the Secretary is taken to have given the offshore facility operator a notice under subsection (1) of this section (including information as mentioned in subsection (2)) establishing, or revoking the establishment of, offshore security zones, as proposed by the offshore facility operator in the information accompanying the plan.

(2B) If:

- (a) a notice under subsection 100LA(1) requesting the Secretary to vary an offshore security plan for an offshore facility operator is accompanied by information in accordance with subsection 100LA(3); and
- (b) the Secretary gives the port operator notice under paragraph 100LA(4)(b) approving the variation;

the Secretary is taken to have given the offshore facility operator a notice under subsection (1) of this section (including information as mentioned in subsection (2)) establishing, or revoking the establishment of, offshore security zones, as proposed by the offshore facility operator in the information accompanying the notice requesting the variation.

Note: For variation and revocation of instruments under subsection (1), see subsection 33(3) of the *Acts Interpretation Act 1901*.

41 After paragraph 201(a)

Insert:

- (aa) to refuse to approve a variation of a maritime security plan under subsection 52A(5) or (7), a ship security plan under subsection 71A(4) or (6) or an offshore security plan under subsection 100LA(5) or (7); or

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2 **Part 2—Application**

3 **42 Application**

- 4 (1) An amendment made by item 1, 2, 5, or 6 applies to a maritime security
5 plan for a maritime industry participant given to the Secretary under
6 section 50, 54 or 55 of the *Maritime Transport and Offshore Facilities*
7 *Security Act 2003* after the commencement of that item.
- 8 (2) An amendment made by item 14, 17, or 18 applies to a ship security
9 plan for a regulated Australian ship given to the Secretary under
10 section 69, 73 or 74 of the *Maritime Transport and Offshore Facilities*
11 *Security Act 2003* after the commencement of that item.
- 12 (3) An amendment made by item 26, 27, 30 or 31 applies to an offshore
13 security plan for an offshore industry participant given to the Secretary
14 under section 100J, 100N or 100O of the *Maritime Transport and*
15 *Offshore Facilities Security Act 2003* after the commencement of that
16 item.
- 17 (4) Subsection 102(2A) of the *Maritime Transport and Offshore Facilities*
18 *Security Act 2003* as in force after the commencement of item 39 of this
19 Schedule applies to a maritime security plan in relation to which a
20 notice is given approving the plan under paragraph 51(1)(b) of that Act
21 after the commencement of that item.
- 22 (5) Subsection 113A(2A) of the *Maritime Transport and Offshore*
23 *Facilities Security Act 2003* as in force after the commencement of
24 item 40 of this Schedule applies to an offshore security plan in relation
25 to which a notice is given approving the plan under paragraph
26 100K(1)(b) of that Act after the commencement of that item.

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2 **Schedule 2—Technical amendments relating**
3 **to legislative instruments**
4

5 *Air Navigation Act 1920*

6 **1 Subsection 15A(3)**

7 Omit “, by writing,”.

8 **2 Subsection 15A(8)**

9 Repeal the subsection, substitute:

10 (8) A determination under subsection (3) is a legislative instrument,
11 but Part 6 of the *Legislative Instruments Act 2003* does not apply to
12 the determination.

13 *Airports Act 1996*

14 **3 Section 191**

15 Omit “disallowable instrument for the purposes of section 46A of the
16 *Acts Interpretation Act 1901*” (wherever occurring), substitute
17 “legislative instrument”.

18 **4 Subsection 198(2)**

19 Omit “by notice published in the *Gazette*”, substitute “by legislative
20 instrument”.

21 **5 After subsection 198(2)**

22 Insert:

23 (2A) In addition to the requirement under the *Legislative Instruments*
24 *Act 2003* for the declaration under subsection (2) to be registered, a
25 copy of the declaration must be published in the *Gazette*.

26 **6 Subsection 198(4)**

27 Repeal the subsection.

28 **7 Subsection 201(2)**

29 Omit “written”, substitute “legislative”.

1 **8 Subsection 201(4)**

2 Repeal the subsection.

3 ***Australian Capital Territory (Self-Government) Act 1988***

4 **9 Section 32**

5 Repeal the section.

6 **10 Subsection 35(2)**

7 Omit “by written instrument”, substitute “, by legislative instrument,”.

8 **11 Subsection 35(3)**

9 Repeal the subsection.

10 ***Australian Capital Territory Tax (Transfers of Marketable***
11 ***Securities) Act 1986***

12 **12 Subsection 7(1)**

13 Omit “(1)” (first occurring).

14 **13 Subsection 7(2)**

15 Repeal the subsection.

16 ***Aviation Transport Security Act 2004***

17 **14 Subsection 107(1)**

18 Omit “publish a notice in the *Gazette* setting out”, substitute “, by
19 legislative instrument, specify”.

20 **15 Subsection 107(2)**

21 Repeal the subsection.

22 ***Carriage of Goods by Sea Act 1991***

23 **16 Section 9A**

1 Omit “disallowable instrument for section 46A of the *Acts*
2 *Interpretation Act 1901*”, substitute “legislative instrument, but Part 6
3 of the *Legislative Instruments Act 2003* does not apply to the
4 determination”.

5 ***Civil Aviation Act 1988***

6 **17 Subsection 98(4A)**

7 Omit “, in writing.”.

8 **18 Subsection 98(4A)**

9 Omit “, and an Order so issued is a disallowable instrument for the
10 purposes of section 46A of the *Acts Interpretation Act 1901*”.

11 **19 After subsection 98(4A)**

12 Insert:

13 (4B) An order issued under subsection (4A) is a legislative instrument,
14 but Part 6 of the *Legislative Instruments Act 2003* does not apply to
15 the order.

16 **20 Subsection 98(5)**

17 Omit “disallowable instrument for the purposes of section 46A of the
18 *Acts Interpretation Act 1901*”, substitute “legislative instrument, but
19 Part 6 of the *Legislative Instruments Act 2003* does not apply to the
20 order”.

21 **21 Subsection 98(5A)**

22 Omit “written”.

23 **22 Subsection 98(5B)**

24 Omit “disallowable instrument for the purposes of section 46A of the
25 *Acts Interpretation Act 1901*”, substitute “legislative instrument, but
26 Part 6 of the *Legislative Instruments Act 2003* does not apply to the
27 instrument”.

28 ***International Air Services Commission Act 1992***

29 **23 Subsection 11(1)**

1 Omit “instrument in writing”, substitute “legislative instrument”.

2 **24 Subsection 11(5)**

3 Repeal the subsection.

4 **25 Subsection 54(2)**

5 Omit “instrument in writing”, substitute “legislative instrument”.

6 **26 Subsection 54(6)**

7 Repeal the subsection.

8 **27 Subsection 54A(2)**

9 Omit “declare in writing”, substitute “, by legislative instrument,
10 declare”.

11 **28 Subsection 54A(5)**

12 Repeal the subsection.

13 **29 Subsection 54B(2)**

14 Omit “instrument in writing”, substitute “legislative instrument”.

15 **30 Subsection 54B(5)**

16 Repeal the subsection.

17 ***Interstate Road Transport Act 1985***

18 **31 Section 34**

19 Omit “by order in writing”, substitute “by legislative instrument”.

20 **32 Section 35**

21 Repeal the section.

22 ***Local Government (Financial Assistance) Act 1995***

23 **33 Subsection 6(1)**

24 Omit “, in writing,”.

25 **34 Subsection 6(4)**

1 Omit “in writing.”

2 **35 Subsection 6(6)**

3 Omit “disallowable instruments for the purposes of section 46A of the
4 *Acts Interpretation Act 1901*”, substitute “legislative instruments, but
5 neither section 42 nor Part 6 of the *Legislative Instruments Act 2003*
6 applies to the national principles”.

7 ***Maritime Transport and Offshore Facilities Security Act***
8 ***2003***

9 **36 Subsection 182(1)**

10 Omit “publish a notice in the *Gazette* setting out”, substitute “, by
11 legislative instrument, specify”.

12 **37 Subsection 182(2)**

13 Repeal the subsection.

14 ***Motor Vehicle Standards Act 1989***

15 **38 Subsection 5B(1)**

16 Omit “determine, in writing,”, substitute “, by legislative instrument,
17 determine”.

18 **39 Subsection 5B(3)**

19 Repeal the subsection.

20 **40 Subsection 5B(4)**

21 Repeal the subsection, substitute:

- 22 (4) Declarations under subsection (2):
23 (a) are not legislative instruments; and
24 (b) are notifiable by publication in the *Gazette*.

25 **41 Subsection 7(1)**

26 Omit “(1) The Minister may determine, in writing,”, substitute “The
27 Minister may, by legislative instrument, determine”.

28 **42 At the end of subsection 7(1)**

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Add:

Note: Part 6 of the *Legislative Instruments Act 2003*, which deals with sunsetting of legislative instruments, does not apply to a determination under this section (see item 24 of the table in subsection 54(2) of that Act).

43 Subsection 7(2)

Repeal the subsection.

44 Subsection 7A(1)

Omit “(1)”.

45 Paragraph 7A(1)(a)

Omit “the Standards Association of Australia or by any other organisation that is determined by the Minister”, substitute “Standards Australia International Limited or by any other organisation that is determined, by legislative instrument, by the Minister”.

46 Subsection 7A(2)

Repeal the subsection.

47 Subsection 9(1)

Omit “(1) The Minister may determine, in writing,”, substitute “The Minister may, by legislative instrument, determine”.

48 At the end of subsection 9(1)

Add:

Note: Part 6 of the *Legislative Instruments Act 2003*, which deals with sunsetting of legislative instruments, does not apply to a determination under this section (see item 24 of the table in subsection 54(2) of that Act).

49 Subsection 9(2)

Repeal the subsection.

50 Subsection 10(1)

Omit “in writing,”.

51 Subsection 10(2)

Omit “, in writing,”.

- 1 **52 Subsection 10(3)**
2 Repeal the subsection, substitute:
3 (3) A determination under this section is a legislative instrument.
- 4 **53 Subsection 13B(1)**
5 Omit “writing”, substitute “legislative instrument”.
- 6 **54 Subsection 13B(4)**
7 Repeal the subsection.
- 8 **55 Subsection 13D(2)**
9 Omit “in writing”, substitute “, by legislative instrument,”.
- 10 **56 Subsection 13D(3)**
11 Omit “writing”, substitute “legislative instrument”.
- 12 **57 Subsection 13D(8)**
13 Repeal the subsection.
- 14 **58 Subsection 21B(2)**
15 Omit “writing”, substitute “legislative instrument”.
- 16 **59 Subsection 21B(5)**
17 Repeal the subsection.
- 18 ***Navigation Act 1912***
- 19 **60 Paragraph 138(3)(b)**
20 Repeal the paragraph.
- 21 **61 Subsection 267ZC(3)**
22 Repeal the subsection.
- 23 **62 Subsection 425(1AA)**
24 After “The Authority may”, insert “, by legislative instrument,”.
- 25 **63 At the end of subsection 425(1AA)**
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1 Add:

2 Note: Part 6 of the *Legislative Instruments Act 2003*, which deals with
3 sunsetting of legislative instruments, does not apply to an order under
4 this subsection (see item 27 of the table in subsection 54(2) of that
5 Act).

6 **64 Subsections 425(1A) and (6)**

7 Repeal the subsections.

8 **65 Subsection 425(6A)**

9 Omit “Notwithstanding section 49A of the *Acts Interpretation Act*
10 *1901*”, substitute “Despite section 14 of the *Legislative Instruments Act*
11 *2003*”.

12 **66 Subsection 425(6A)**

13 Omit “, being orders to which section 426 applies,”.

14 **67 Subsection 425(7)**

15 Omit “Notwithstanding section 49A of the *Acts Interpretation Act 1901*
16 and subsection (6) of this section”, substitute “Despite section 14 of the
17 *Legislative Instruments Act 2003*”.

18 ***Protection of the Sea (Prevention of Pollution from Ships)***
19 ***Act 1983***

20 **68 Subsection 34(1)**

21 After “The Authority may”, insert “, by legislative instrument,”.

22 **69 At the end of subsection 34(1)**

23 Add:

24 Note: Part 6 of the *Legislative Instruments Act 2003*, which deals with
25 sunsetting of legislative instruments, does not apply to an order under
26 this subsection (see item 35 of the table in subsection 54(2) of that
27 Act).

28 **70 Subsections 34(2) and (7)**

29 Repeal the subsections.

30 **71 Subsection 34(8)**

1 Omit “Notwithstanding section 49A of the *Acts Interpretation Act*
2 *1901*”, substitute “Despite section 14 of the *Legislative Instruments Act*
3 *2003*”.

4 ***Ships (Capital Grants) Act 1987***

5 **72 Subsection 18(8)**

6 Omit “writing”, substitute “legislative instrument”.

7 **73 Subsection 18(9)**

8 Repeal the subsection.

9 ***Sydney Airport Curfew Act 1995***

10 **74 Subsection 15(1)**

11 Omit “notice in force”, substitute “legislative instrument made”.

12 **75 Subsection 15(2)**

13 Omit “publish a notice in the *Gazette* specifying”, substitute “, by
14 legislative instrument, specify”.

15 **76 Subsection 15(5)**

16 Repeal the subsection.

17 **77 Subsection 15(6)**

18 Omit “publish a notice”, substitute “make a legislative instrument”.

19 **78 Subsection 15(7)**

20 Omit “notice published”, substitute “legislative instrument made”.

21 **79 Subsection 20(5)**

22 Omit “Subject to subsections (6) and (7), the Minister must, in writing”,
23 substitute “The Minister must, by legislative instrument”.

24 **80 Subsection 20(6)**

25 Repeal the subsection.

26 **81 Paragraph 1(a) of the Schedule**

1 Omit “publish a notice”, substitute “make a legislative instrument”.

2 **82 Clause 7 of the Schedule**

3 Omit all the words after “of this Act,” substitute “of a legislative
4 instrument made under subsection 15(2) or of a legislative instrument
5 making guidelines under subsection 20(5).”.

6 ***Sydney Airport Demand Management Act 1997***

7 **83 Subsection 7(1)**

8 Omit “in writing”, substitute “by legislative instrument”.

9 **84 Subsection 7(2)**

10 Repeal the subsection.

11 **85 Subsection 36(1)**

12 Omit “in writing”, substitute “by legislative instrument”.

13 **86 Subsection 36(3)**

14 Repeal the subsection.

15 **87 Subsection 40(2)**

16 Omit “in writing”, substitute “by legislative instrument”.

17 **88 Subsection 40(3)**

18 Repeal the subsection.

19 **89 Subsection 44(2)**

20 Omit “in writing”, substitute “by legislative instrument”.

21 **90 Subsection 44(3)**

22 Repeal the subsection.

23 **91 Subsection 50(1)**

24 Omit “in writing”, substitute “by legislative instrument”.

25 **92 Subsection 50(3)**

26 Repeal the subsection.

1 **93 Subsection 54(2)**
2 Omit “in writing”, substitute “by legislative instrument”.

3 **94 Subsection 54(3)**
4 Repeal the subsection.

5 **95 Subsection 58(2)**
6 Omit “in writing”, substitute “by legislative instrument”.

7 **96 Subsection 58(3)**
8 Repeal the subsection.

9 ***Trade Practices Act 1974***

10 **97 Subsection 10.02A(1)**
11 Omit “writing”, substitute “legislative instrument”.

12 **98 Subsection 10.02A(6)**
13 Repeal the subsection.

14 **99 Subsections 10.03(1), (2), (2A), (2B) and (5)**
15 After “may”, insert “, by legislative instrument,”.

16 **100 Subsection 10.03(7)**
17 Repeal the subsection.

18 **101 Subsection 10.72A(1)**
19 Omit “make a written order”, substitute “, by legislative instrument,
20 make an order”.

21 **102 Subsection 10.72A(1) (note)**
22 Omit “46(2) of the *Acts Interpretation Act 1901*”, substitute “13(3) of
23 the *Legislative Instruments Act 2003*”.

24 **103 Subsection 10.72A(3)**
25 Repeal the subsection.

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Schedule 3—Technical amendment

Customs Act 1901

1 Paragraphs 15(1A)(a) and (b)

Omit “*Maritime Transport Security Act 2003*”, substitute “*Maritime Transport and Offshore Facilities Security Act 2003*”.