



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

No. 109, 2006

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

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title	1
2	Commencement	2
3	Schedule(s)	3
Schedule 1—Amendment of the Maritime Transport and Offshore Facilities Security Act 2003		4
Part 1—Amendments		4
<i>Maritime Transport and Offshore Facilities Security Act 2003</i>		4
Part 2—Application		21
Schedule 2—Technical amendments relating to legislative instruments		22
<i>Air Navigation Act 1920</i>		22
<i>Airports Act 1996</i>		22
<i>Australian Capital Territory (Self-Government) Act 1988</i>		23
<i>Australian Capital Territory Tax (Transfers of Marketable Securities) Act 1986</i>		23
<i>Aviation Transport Security Act 2004</i>		23
<i>Carriage of Goods by Sea Act 1991</i>		23
<i>Civil Aviation Act 1988</i>		24
<i>International Air Services Commission Act 1992</i>		24
<i>Interstate Road Transport Act 1985</i>		25
<i>Local Government (Financial Assistance) Act 1995</i>		25
<i>Maritime Transport and Offshore Facilities Security Act 2003</i>		26
<i>Motor Vehicle Standards Act 1989</i>		26
<i>Navigation Act 1912</i>		28
<i>Protection of the Sea (Prevention of Pollution from Ships) Act 1983</i>		29
<i>Ships (Capital Grants) Act 1987</i>		30
<i>Sydney Airport Curfew Act 1995</i>		30
<i>Sydney Airport Demand Management Act 1997</i>		31
<i>Trade Practices Act 1974</i>		32
Schedule 3—Technical amendment		33
<i>Customs Act 1901</i>		33



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

No. 109, 2006

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

[Assented to 27 September 2006]

The Parliament of Australia enacts:

1 Short title

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

2 Commencement

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

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.	27 September 2006
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.	27 September 2006
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.	27 September 2006
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

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.

- (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.

3 Schedule(s)

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.

Schedule 1—Amendment of the Maritime Transport and Offshore Facilities Security Act 2003

Part 1—Amendments

Maritime Transport and Offshore Facilities Security Act 2003

1 Paragraph 47(1)(c)

Repeal the paragraph, substitute:

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

2 Subsection 49(2)

Repeal the subsection, substitute:

- (2) A maritime security plan must be accompanied by:
 - (a) if the Secretary has not established any port security zones under subsection 102(1) within the area covered by the plan, and the participant proposes that the Secretary should establish such a zone or zones within that area—a map that shows each proposed zone; and
 - (b) if the Secretary has established a port security zone or zones under subsection 102(1) within the area covered by the plan:
 - (i) a map that shows each such zone; and
 - (ii) if the participant proposes that such a zone be changed—a map that shows the proposed change; and
 - (iii) if the participant proposes that the Secretary should establish an additional port security zone within that area or revoke the establishment of an existing port security zone within that area—a map that shows the zones that would be established within that area if the proposal were accepted.

3 Division 5 of Part 3 (heading)

Repeal the heading, substitute:

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

4 Section 50

Repeal the section, substitute:

50 Providing maritime security plans for approval

- (1) A maritime industry participant may, by written notice given to the Secretary, request the Secretary to approve a maritime security plan for the participant.
- (2) The notice must be accompanied by a copy of the plan.

5 Paragraph 51(4)(b)

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

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

Add:

Secretary may request further information

- (5) The Secretary may, by written notice given to the participant within the consideration period, request the participant to give the Secretary specified information relevant to the approval of the plan.
- (6) The notice must specify a period of not more than 45 days within which the information must be given. However, if more than one notice is given to the participant under subsection (5), the total of the periods specified in the notices must not exceed 45 days.

Consideration period

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

(b) ending on:

- (i) the day on which the information requested in that notice was received by the Secretary; or
- (ii) if the information is not given within the period specified in that notice—the last day of that period.

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

7 Paragraph 52(3)(a)

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

8 After section 52

Insert:

52A Participants may submit variations to maritime security plans

- (1) If a maritime security plan for a maritime industry participant is in force, the participant may, by written notice given to the Secretary, request the Secretary to vary the plan.
 - (2) The participant must set out the proposed variation in the notice.
 - (3) The notice must be accompanied by:
 - (a) if the Secretary has established a port security zone or zones under subsection 102(1) within the area covered by the plan, and the participant proposes that such a zone be changed—a map that shows the proposed change; and
 - (b) if:
 - (i) the Secretary has established a port security zone or zones under subsection 102(1) within the area covered by the plan; and
 - (ii) the participant proposes that the Secretary should establish an additional port security zone within that area or revoke the establishment of an existing port security zone within that area;
a map that shows the zones that would be established within that area if the proposal were accepted.
 - (4) If the Secretary is satisfied that the plan, as varied, would continue to adequately address the relevant requirements under Division 4, the Secretary must:
-

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

Failure to approve variation within consideration period

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

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

Secretary may request further information

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

Consideration period

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

variation was received by the Secretary, extended, in relation to each notice already given under subsection (8), by a number of days equal to the number of days falling within the period:

- (a) commencing on the day on which the notice under subsection (8) was given; and
- (b) ending on:
 - (i) the day on which the information requested in that notice was received by the Secretary; or
 - (ii) if the information is not given within the period specified in that notice—the last day of that period.

9 Section 54

Repeal the section, substitute:

54 Participants may revise maritime security plans

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

10 Subsection 55(1)

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

11 After subsection 55(2)

Insert:

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

12 At the end of section 55

Add:

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

13 Section 56

Repeal the section, substitute:

56 Cancelling maritime security plans after 5 years

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

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

14 Paragraph 66(1)(c)

Repeal the paragraph, substitute:

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

15 Division 5 of Part 4 (heading)

Repeal the heading, substitute:

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

16 Section 69

Repeal the section, substitute:

69 Providing ship security plans for approval

- (1) A ship operator for a regulated Australian ship may, by written notice given to the Secretary, request the Secretary to approve a ship security plan for the ship.
- (2) The notice must be accompanied by a copy of the plan.

17 Paragraph 70(4)(b)

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

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

Add:

Secretary may request further information

- (5) The Secretary may, by written notice given to the ship operator within the consideration period, request the ship operator to give the Secretary specified information relevant to the approval of the plan.
- (6) The notice must specify a period of not more than 45 days within which the information must be given. However, if more than one notice is given to the ship operator under subsection (5), the total of the periods specified in the notices must not exceed 45 days.

Consideration period

- (7) The **consideration period** is the period of 60 days commencing on the day on which the Secretary received the plan, extended, in relation to each notice already given under subsection (5), by a number of days equal to the number of days falling within the period:
 - (a) commencing on the day on which the notice under subsection (5) was given; and
 - (b) ending on:
 - (i) the day on which the information requested in that notice was received by the Secretary; or
 - (ii) if the information is not given within the period specified in that notice—the last day of that period.

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

19 Paragraph 71(3)(a)

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

20 After section 71

Insert:

71A Ship operator may submit variations to ship security plans

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

Failure to approve variation within consideration period

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

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

Secretary may request further information

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

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

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

Consideration period

- (9) The **consideration period** is the period of 60 days commencing on the day on which the notice under subsection (1) requesting the variation was received by the Secretary, extended, in relation to each notice already given under subsection (7), by a number of days equal to the number of days falling within the period:
- (a) commencing on the day on which the notice under subsection (7) was given; and
 - (b) ending on:
 - (i) the day on which the information requested in that notice was received by the Secretary; or
 - (ii) if the information is not given within the period specified in that notice—the last day of that period.

21 Section 73

Repeal the section, substitute:

73 Ship operator may revise ship security plan

- (1) If the ship operator for a regulated Australian ship has given the Secretary a ship security plan for the ship, the ship operator may, by written notice given to the Secretary, request the Secretary to approve another ship security plan for the ship (the **revised plan**).
- (2) The notice must be accompanied by a copy of the revised plan.
- (3) If a request is made in accordance with this section, sections 70 and 71 apply in relation to the revised plan.
- (4) If the revised plan comes into force, it replaces any other plan for the ship in force at that time.

22 Subsection 74(1)

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

23 After subsection 74(2)

Insert:

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

24 At the end of section 74

Add:

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

25 Section 75

Repeal the section, substitute:

75 Cancelling ship security plans after 5 years

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

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

26 Paragraph 100G(1)(c)

Repeal the paragraph, substitute:

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

27 Subsection 100I(2)

Repeal the subsection, substitute:

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

- (b) if the Secretary has not established any offshore security zones under subsection 113A(1) within or around an offshore facility to which the plan relates, and the participant proposes that the Secretary should establish such a zone or zones within or around such a facility—information on each proposed zone; and
- (c) if the Secretary has established an offshore security zone or zones under subsection 113A(1) within or around an offshore facility to which the plan relates:
 - (i) information on each such zone; and
 - (ii) if the participant proposes that such a zone be changed—information on the proposed change; and
 - (iii) if the participant proposes that the Secretary should establish an additional offshore security zone, or revoke the establishment of an existing offshore security zone, within or around the facility—information on the zones within or around the facility if the proposal were accepted.

28 Division 5 of Part 5A (heading)

Repeal the heading, substitute:

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

29 Section 100J

Repeal the section, substitute:

100J Providing offshore security plans for approval

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

30 Paragraph 100K(4)(b)

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

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

Add:

Secretary may request further information

- (5) The Secretary may, by written notice given to the participant within the consideration period, request the participant to give the Secretary specified information relevant to the approval of the plan.
- (6) The notice must specify a period of not more than 45 days within which the information must be given. However, if more than one notice is given to the participant under subsection (5), the total of the periods specified in the notices must not exceed 45 days.

Consideration period

- (7) The **consideration period** is the period of 60 days commencing on the day on which the Secretary received the plan, extended, in relation to each notice already given under subsection (5), by a number of days equal to the number of days falling within the period:
 - (a) commencing on the day on which the notice under subsection (5) was given; and
 - (b) ending on:
 - (i) the day on which the information requested in that notice was received by the Secretary; or
 - (ii) if the information is not given within the period specified in that notice—the last day of that period.

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

32 Paragraph 100L(3)(a)

Omit “100N(2)”, substitute “100N(4) or 100O(4)”.

33 After section 100L

Insert:

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

- (1) If an offshore security plan for an offshore industry participant is in force, the participant may, by written notice given to the Secretary, request the Secretary to vary the plan.
 - (2) The participant must set out the proposed variation in the notice.
 - (3) The notice must be accompanied by:
 - (a) if the Secretary has established an offshore security zone or zones under subsection 113A(1) within or around an offshore facility to which the plan relates, and the participant proposes that such a zone be changed—information on the proposed change; and
 - (b) if:
 - (i) the Secretary has established an offshore security zone or zones under subsection 113A(1) within or around an offshore facility to which the plan relates; and
 - (ii) the participant proposes that the Secretary should establish an additional offshore security zone, or revoke the establishment of an existing offshore security zone, within or around the facility;
information on the zones within or around the facility if the proposal were accepted.
 - (4) If the Secretary is satisfied that the plan, as varied, would continue to adequately address the relevant requirements under Division 4, the Secretary must:
 - (a) approve the variation; and
 - (b) give the participant written notice of the approval.
 - (5) If the Secretary is not satisfied that the plan, as varied, would continue to adequately address the relevant requirements under Division 4, the Secretary must:
 - (a) refuse to approve the variation; and
 - (b) give the participant written notice of the refusal including reasons for the refusal.
 - (6) In determining whether the plan, as varied, would continue to adequately address the relevant requirements under Division 4, the
-

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

Failure to approve variation within consideration period

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

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

Secretary may request further information

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

Consideration period

- (10) The **consideration period** is the period of 60 days commencing on the day on which the notice under subsection (1) requesting the variation was received by the Secretary, extended, in relation to each notice already given under subsection (8), by a number of days equal to the number of days falling within the period:
- (a) commencing on the day on which the notice under subsection (8) was given; and
 - (b) ending on:
 - (i) the day on which the information requested in that notice was received by the Secretary; or
 - (ii) if the information is not given within the period specified in that notice—the last day of that period.

34 Section 100N

Repeal the section, substitute:

100N Participants may revise offshore security plans

- (1) If an offshore industry participant has given the Secretary an offshore security plan, the participant may, by written notice given to the Secretary, request the Secretary to approve another offshore security plan (the *revised plan*).
- (2) The notice must be accompanied by a copy of the revised plan.
- (3) If a request is made in accordance with this section, sections 100K and 100L apply in relation to the revised plan.
- (4) If the revised plan comes into force, it replaces any other plan for the participant in force at that time.

35 Subsection 100O(1)

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

36 After subsection 100O(2)

Insert:

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

37 At the end of section 100O

Add:

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

38 Section 100P

Repeal the section, substitute:

100P Cancelling offshore security plans after 5 years

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

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

39 After subsection 102(2)

Insert:

(2A) If:

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

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

(2B) If:

- (a) a notice under subsection 52A(1) requesting the Secretary to vary a maritime security plan for a port operator for a security regulated port is accompanied by a map in accordance with subsection 52A(3); and
- (b) the Secretary gives the port operator notice under paragraph 52A(4)(b) approving the variation;

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

40 After subsection 113A(2)

Insert:

(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

Part 2—Application

42 Application

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

Schedule 2—Technical amendments relating to legislative instruments

Air Navigation Act 1920

1 Subsection 15A(3)

Omit “, by writing,”.

2 Subsection 15A(8)

Repeal the subsection, substitute:

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

Airports Act 1996

3 Section 191

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

4 Subsection 198(2)

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

5 After subsection 198(2)

Insert:

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

6 Subsection 198(4)

Repeal the subsection.

7 Subsection 201(2)

Omit “written”, substitute “legislative”.

8 Subsection 201(4)

Repeal the subsection.

Australian Capital Territory (Self-Government) Act 1988

9 Section 32

Repeal the section.

10 Subsection 35(2)

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

11 Subsection 35(3)

Repeal the subsection.

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

12 Subsection 7(1)

Omit “(1)” (first occurring).

13 Subsection 7(2)

Repeal the subsection.

Aviation Transport Security Act 2004

14 Subsection 107(1)

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

15 Subsection 107(2)

Repeal the subsection.

Carriage of Goods by Sea Act 1991

16 Section 9A

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

Civil Aviation Act 1988

17 Subsection 98(4A)

Omit “, in writing.”.

18 Subsection 98(4A)

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

19 After subsection 98(4A)

Insert:

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

20 Subsection 98(5)

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

21 Subsection 98(5A)

Omit “written”.

22 Subsection 98(5B)

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

International Air Services Commission Act 1992

23 Subsection 11(1)

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

24 Subsection 11(5)

Repeal the subsection.

25 Subsection 54(2)

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

26 Subsection 54(6)

Repeal the subsection.

27 Subsection 54A(2)

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

28 Subsection 54A(5)

Repeal the subsection.

29 Subsection 54B(2)

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

30 Subsection 54B(5)

Repeal the subsection.

Interstate Road Transport Act 1985

31 Section 34

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

32 Section 35

Repeal the section.

Local Government (Financial Assistance) Act 1995

33 Subsection 6(1)

Omit “, in writing,”.

34 Subsection 6(4)

Omit “in writing,”.

35 Subsection 6(6)

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

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

36 Subsection 182(1)

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

37 Subsection 182(2)

Repeal the subsection.

Motor Vehicle Standards Act 1989

38 Subsection 5B(1)

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

39 Subsection 5B(3)

Repeal the subsection.

40 Subsection 5B(4)

Repeal the subsection, substitute:

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

41 Subsection 7(1)

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

42 At the end of subsection 7(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).

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,”.

52 Subsection 10(3)

Repeal the subsection, substitute:

(3) A determination under this section is a legislative instrument.

53 Subsection 13B(1)

Omit “writing”, substitute “legislative instrument”.

54 Subsection 13B(4)

Repeal the subsection.

55 Subsection 13D(2)

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

56 Subsection 13D(3)

Omit “writing”, substitute “legislative instrument”.

57 Subsection 13D(8)

Repeal the subsection.

58 Subsection 21B(2)

Omit “writing”, substitute “legislative instrument”.

59 Subsection 21B(5)

Repeal the subsection.

Navigation Act 1912

60 Paragraph 138(3)(b)

Repeal the paragraph.

61 Subsection 267ZC(3)

Repeal the subsection.

62 Subsection 425(1AA)

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

63 At the end of subsection 425(1AA)

Add:

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

64 Subsections 425(1A) and (6)

Repeal the subsections.

65 Subsection 425(6A)

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

66 Subsection 425(6A)

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

67 Subsection 425(7)

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

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

68 Subsection 34(1)

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

69 At the end of subsection 34(1)

Add:

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

70 Subsections 34(2) and (7)

Repeal the subsections.

71 Subsection 34(8)

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

Ships (Capital Grants) Act 1987

72 Subsection 18(8)

Omit “writing”, substitute “legislative instrument”.

73 Subsection 18(9)

Repeal the subsection.

Sydney Airport Curfew Act 1995

74 Subsection 15(1)

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

75 Subsection 15(2)

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

76 Subsection 15(5)

Repeal the subsection.

77 Subsection 15(6)

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

78 Subsection 15(7)

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

79 Subsection 20(5)

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

80 Subsection 20(6)

Repeal the subsection.

81 Paragraph 1(a) of the Schedule

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

82 Clause 7 of the Schedule

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

Sydney Airport Demand Management Act 1997

83 Subsection 7(1)

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

84 Subsection 7(2)

Repeal the subsection.

85 Subsection 36(1)

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

86 Subsection 36(3)

Repeal the subsection.

87 Subsection 40(2)

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

88 Subsection 40(3)

Repeal the subsection.

89 Subsection 44(2)

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

90 Subsection 44(3)

Repeal the subsection.

91 Subsection 50(1)

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

92 Subsection 50(3)

Repeal the subsection.

93 Subsection 54(2)

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

94 Subsection 54(3)

Repeal the subsection.

95 Subsection 58(2)

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

96 Subsection 58(3)

Repeal the subsection.

Trade Practices Act 1974

97 Subsection 10.02A(1)

Omit “writing”, substitute “legislative instrument”.

98 Subsection 10.02A(6)

Repeal the subsection.

99 Subsections 10.03(1), (2), (2A), (2B) and (5)

After “may”, insert “, by legislative instrument,”.

100 Subsection 10.03(7)

Repeal the subsection.

101 Subsection 10.72A(1)

Omit “make a written order”, substitute “, by legislative instrument, make an order”.

102 Subsection 10.72A(1) (note)

Omit “46(2) of the *Acts Interpretation Act 1901*”, substitute “13(3) of the *Legislative Instruments Act 2003*”.

103 Subsection 10.72A(3)

Repeal the subsection.

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*”.

[*Minister’s second reading speech made in—
House of Representatives on 29 March 2006
Senate on 6 September 2006*]

(30/06)
