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The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

## **Navigation Amendment Bill 2011**

**No.     , 2011**

*(Infrastructure and Transport)*

**A Bill for an Act to amend the *Navigation Act 1912*,  
and for related purposes**



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1     **A Bill for an Act to amend the *Navigation Act 1912*,**  
2     **and for related purposes**

3     The Parliament of Australia enacts:

4     **1 Short title**

5             This Act may be cited as the *Navigation Amendment Act 2011*.

6     **2 Commencement**

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

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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	A single day to be fixed by Proclamation. A Proclamation must not specify a day that occurs before the day the Maritime Labour Convention, 2006, done at Geneva on 23 February 2006, comes into force for Australia.  However, if the provision(s) do not commence within the period of 6 months beginning on the day the Convention comes into force for Australia, they commence on the day after the end of that period. If the provision(s) commence in this way, the Minister must announce by notice in the <i>Gazette</i> the day the provision(s) commenced. The notice is not a legislative instrument.	
3. Schedule 1, Part 2	The day this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally  
2 enacted. It will not be amended to deal with any later amendments of  
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.  
5 Information may be inserted in this column, or information in it  
6 may be edited, in any published version of this Act.

7 **3 Schedule(s)**

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9 repealed as set out in the applicable items in the Schedule  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

1 **Schedule 1—Amendments**

2 **Part 1—Amendments relating to the Maritime Labour**  
3 **Convention**

4 *Navigation Act 1912*

5 **1 Subsection 6(1) (definition of *agreement*)**

6 Repeal the definition, substitute:

7 *agreement* means:

- 8 (a) in relation to a ship—the agreement between the owner of the  
9 ship, or a representative of the owner of the ship, and the  
10 crew of the ship; and  
11 (b) in relation to a seaman belonging to a ship—the agreement  
12 between the owner of the ship, or a representative of the  
13 owner of the ship, and the seaman.

14 **2 Subsection 6(1)**

15 Insert:

16 *Maritime Labour Convention* means the Maritime Labour  
17 Convention, 2006, done at Geneva on 23 February 2006.

18 **3 Subsection 6(1)**

19 Insert:

20 *Maritime Labour Convention ship* means a ship that is of a kind to  
21 which the Maritime Labour Convention applies and is entitled to  
22 fly the flag of a country to which the Maritime Labour Convention  
23 applies.

24 **4 Division 8 of Part II (heading)**

25 Repeal the heading, substitute:

1 **Division 8—Engagement of seamen and masters etc.**

2 **Subdivision A—Employment agreements**

3 **45A Employment agreements**

- 4 (1) A person commits an offence if:
- 5 (a) the person is the master or owner of a ship; and
  - 6 (b) the master takes the ship to sea; and
  - 7 (c) a seaman is on board the ship; and
  - 8 (d) when the ship is taken to sea an employment agreement that
  - 9 complies with this section is not in force in relation to the
  - 10 seaman.

11 Penalty: 20 penalty units.

- 12 (2) A person commits an offence if:
- 13 (a) the person is the master or owner of a ship; and
  - 14 (b) the master takes the ship to sea; and
  - 15 (c) when the ship is taken to sea an employment agreement that
  - 16 complies with this section is not in force in relation to the
  - 17 master of the ship.

18 Penalty: 20 penalty units.

19 *When an employment agreement complies with this section*

- 20 (3) An employment agreement complies with this section if the
- 21 employment agreement is in accordance with any regulations made
- 22 for the purposes of subsection (4).

23 *Regulations*

- 24 (4) The regulations may prescribe matters relating to employment
- 25 agreements including, but not limited to, the following:
- 26 (a) the content and form of employment agreements;
  - 27 (b) the right of a seaman or master to review, and seek advice on,
  - 28 an employment agreement before signing it;
  - 29 (c) the process for signing employment agreements;
  - 30 (d) the information or documents that must be given to, or made
  - 31 available to, seamen and masters in relation to employment



- 1 agreements and the manner in which such information or  
2 documents must be given or made available;  
3 (e) the termination of employment agreements.

4 *Meaning of **employment agreement** etc.*

5 (5) In this section:

6 **agreement** has its ordinary meaning, and, to avoid doubt, includes:

- 7 (a) a contract of employment; and  
8 (b) articles of agreement; and  
9 (c) an enterprise agreement within the meaning of the *Fair Work*  
10 *Act 2009*.

11 **employment agreement** means any agreement, or combination of  
12 agreements, dealing with terms and conditions of employment.

13 **Subdivision B—Articles of agreement etc.**

14 **5 Section 46**

15 Repeal the section, substitute:

16 **46 Articles of agreement**

- 17 (1) A person commits an offence if:  
18 (a) the person is the master or owner of a ship; and  
19 (b) the master takes the ship to sea; and  
20 (c) a seaman is on board the ship; and  
21 (d) when the ship is taken to sea an agreement that complies with  
22 this section is not in force in relation to the seaman.

23 Penalty: 20 penalty units.

24 *When an agreement complies with this section*

- 25 (2) An agreement complies with this section if:  
26 (a) the agreement is in accordance with any regulations made  
27 under subsection (3); and  
28 (b) subsection (4) is satisfied in relation to the agreement.

**Schedule 1** Amendments

**Part 1** Amendments relating to the Maritime Labour Convention

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1 *Regulations*

- 2 (3) The regulations may prescribe matters relating to the content or  
3 form of an agreement.

4 *Signing*

- 5 (4) An agreement must:  
6 (a) be signed first by the owner of the ship or the representative  
7 of the owner of the ship, and then by the seaman; and  
8 (b) be dated:  
9 (i) if the agreement is entered into when the seaman is first  
10 engaged—as at the time the agreement is signed by the  
11 owner of the ship or the representative of the owner of  
12 the ship; or  
13 (ii) in any other case—as at the time the agreement is  
14 signed by the seaman.

15 *Additional provisions that may be included*

- 16 (5) An agreement may, with the approval of a proper authority, include  
17 any provisions agreed upon between the seaman and the owner of  
18 the ship or the representative of the owner of the ship, that are:  
19 (a) lawful; and  
20 (b) not inconsistent with the requirements of this section.

21 **6 Application of item 5**

- 22 (1) The amendment made by item 5 of this Schedule applies in relation to  
23 ships taken to sea on or after the commencement of this item.  
24 (2) Despite the amendment of section 46 of the *Navigation Act 1912* made  
25 by item 5 of this Schedule, that section continues to apply, in relation to  
26 ships taken to sea before the commencement of this item, as if the  
27 amendment had not been made.

28 **7 Subsection 50(1)**

- 29 Omit “under”, substitute “that complies with”.

30 **8 Section 53**

- 31 Repeal the section, substitute:
-

1     **53 Owner to make available information about conditions of**  
2             **employment**

- 3             (1) The regulations may prescribe:
- 4                 (a) information, in relation to the conditions of employment of  
5                     the master and the seamen engaged on a ship, that the owner  
6                     of the ship is required to make available to the master and  
7                     seamen; and
- 8                 (b) the manner and form (including electronic form) in which the  
9                     prescribed information is required to be made available.
- 10            (2) The owner of a ship commits an offence if:
- 11                 (a) the owner is subject to a requirement under regulations made  
12                     for the purposes of subsection (1); and
- 13                 (b) the owner, or a representative of the owner, engages in  
14                     conduct; and
- 15                 (c) the conduct results in a contravention of the requirement.

16             Penalty: 5 penalty units.

- 17            (3) Strict liability applies to paragraph (2)(a).

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

19     **9 Section 61**

20             Repeal the section, substitute:

21     **61 Giving of discharges to seamen**

- 22             (1) If a seaman is discharged from a ship, the master of the ship must:
- 23                 (a) give the seaman a written discharge in the prescribed form;  
24                     and
- 25                 (b) return to the seaman any previous discharge of the seaman in  
26                     the possession of the master.
- 27             (2) A person commits an offence if:
- 28                 (a) the person engages in conduct; and
- 29                 (b) the conduct contravenes subsection (1).

30             Penalty: 10 penalty units.

31     **10 Subsections 62A(1) and (2)**

**Schedule 1** Amendments

**Part 1** Amendments relating to the Maritime Labour Convention

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1 Repeal the subsections, substitute:

- 2 (1) The master of a ship commits an offence if:
- 3 (a) the master discharges a seaman from the ship at a port
- 4 outside Australia; and
- 5 (b) the master has not given the seaman at least 7 days notice of
- 6 the master's intention to discharge the seaman; and
- 7 (c) the seaman has not consented to being discharged at the
- 8 particular port (whether or not the seaman consents to the
- 9 discharge).

10 Penalty: 10 penalty units.

11 **11 Application of items 9 and 10**

- 12 (1) The amendments made by items 9 and 10 of this Schedule apply in
- 13 relation to a notice of intention to discharge a seaman given on or after
- 14 the commencement of this item.
- 15 (2) Despite the amendments of sections 61 and 62A of the *Navigation Act*
- 16 *1912* made by items 9 and 10 of this Schedule, those sections continue
- 17 to apply, in relation to a notice of intention to discharge a seaman given
- 18 before the commencement of this item, as if the amendments had not
- 19 been made.

20 **12 Division 10 of Part II (heading)**

21 Repeal the heading, substitute:

22 **Division 10—Wages**

23 **13 Sections 70 to 73**

24 Repeal the sections, substitute:

25 **70 Payment of wages—general**

- 26 (1) The regulations may make provision for or in relation to the
- 27 payment of wages to masters and seamen.
- 28 (2) Without limiting subsection (1), the regulations may make
- 29 provision for or in relation to the following:
- 30 (a) the frequency of making payments to masters and seamen;
- 31 (b) the method of making payments to masters and seamen;

- 1 (c) permitted deductions from payments to masters and seamen;  
2 (d) pay slips, including the information relating to exchange rates  
3 that must be included in any pay slip given to a master or  
4 seaman;  
5 (e) the payment of part or all of the wages of a master or a  
6 seaman, with the master's or seaman's consent, to a person  
7 other than the master or the seaman;  
8 (f) the charges that may be imposed for making payments in  
9 accordance with paragraph (e).
- 10 (3) The regulations must not provide for the quantum or amount of  
11 wages payable to masters and seamen.

12 **14 Section 75A**

13 Repeal the section.

14 **15 Sections 77 and 78**

15 Repeal the sections.

16 **16 Sections 82 to 84**

17 Repeal the sections.

18 **17 Subsection 85(1)**

19 After "wreck", insert ", foundering".

20 Note: The heading to section 85 is altered by inserting ", **foundering**" after "wreck".

21 **18 Paragraph 85(4)(a)**

22 After "wreck", insert ", foundering".

23 **19 Subsection 85(5)**

24 After "wreck", insert ", foundering".

25 **20 Sections 91 and 93**

26 Repeal the sections.

27 **21 Application of items 13 to 20**

- 28 (1) The amendments made by items 13 to 20 of this Schedule apply in  
29 relation to wages earned on or after the commencement of this item.

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**Part 1** Amendments relating to the Maritime Labour Convention

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1 (2) Despite the amendments of sections 70 and 85 of the *Navigation Act*  
2 *1912* made by items 13, 17, 18 and 19 of this Schedule, those sections  
3 continue to apply, in relation to wages earned before the  
4 commencement of this item, as if the amendments had not been made.

5 (3) Despite the repeal of sections 71 to 73, 77 and 78, 82 to 84, 91 and 93  
6 of the *Navigation Act 1912* made by items 13, 15, 16 and 20 of this  
7 Schedule, those sections continue to apply, in relation to wages earned  
8 before the commencement of this item, as if the repeal had not  
9 happened.

10 **22 Before section 116**

11 Insert:

12 **115 Free provisions**

13 A person commits an offence if:

14 (a) the person is the owner of a ship; and

15 (b) the owner, or a representative of the owner, does not provide  
16 free provisions to the seamen or the master engaged on the  
17 ship.

18 Penalty: 10 penalty units.

19 **23 Section 117**

20 After “size”, insert “, and cultural and religious backgrounds,”.

21 **24 After paragraph 127(1)(b)**

22 Insert:

23 ; or (ba) requires essential dental care;

24 **25 Paragraph 128(1)(a)**

25 After “injury of”, insert “, or the provision of essential dental care to,”.

26 **26 Paragraph 128(1)(b)**

27 After “injury of”, insert “, or the provision of essential dental care to,”.

28 **27 Subsections 132(1) and (2)**

29 After “injury,”, insert “or the need for essential dental care,”.

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1     **28 Subsection 132(6)**

2             After “injury” (first occurring), insert “, or a need for essential dental  
3             care,”.

4     **29 Subsection 132(6)**

5             After “injury” (second occurring), insert “, or need for essential dental  
6             care,”.

7     **30 Subsection 132(6A)**

8             After “injury” (first occurring), insert “, or a need for essential dental  
9             care,”.

10    **31 Subsection 132(6A)**

11            After “injury” (second occurring), insert “, or need for essential dental  
12            care”.

13    **32 Paragraph 132(6B)(a)**

14            After “injury”, insert “, or need for essential dental care,”.

15    **33 Paragraph 132(6C)(a)**

16            After “injury”, insert “, or a need for essential dental care”.

17    **34 Subsection 134(1)**

18            Omit all the words after “effect to”, substitute “Regulation 1.2 of the  
19            Maritime Labour Convention”.

20    Note:    The heading to section 134 is altered by omitting “**Medical Examination (Seafarers)**  
21            **Convention 1946**” and substituting “**Maritime Labour Convention**”.

22    **35 Subsection 134(2)**

23            Omit “a provision of the Convention”, substitute “Regulation 1.2 of the  
24            Maritime Labour Convention”.

25    **36 Subsection 134(2)**

26            Omit “that provision”, substitute “Regulation 1.2”.

27    **37 Subsection 134(4)**

28            Omit “the Convention” (wherever occurring), substitute “Regulation 1.2  
29            of the Maritime Labour Convention”.

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**Part 1** Amendments relating to the Maritime Labour Convention

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1     **38 Subsection 136(2)**

2             Repeal the subsection, substitute:

3                     (2) The regulations may make provision in relation to giving effect to  
4                             Regulation 3.1 of the Maritime Labour Convention.

5     **39 Subsection 136(3)**

6             Omit “either Convention”, substitute “Regulation 3.1 of the Maritime  
7             Labour Convention”.

8     **40 Subsection 136(5)**

9             Omit “Conventions” (wherever occurring), substitute “Regulation 3.1 of  
10             the Maritime Labour Convention”.

11    **41 Section 138**

12            Repeal the section.

13    **42 Section 172A**

14            Repeal the section.

15    **43 Subsection 187(2)**

16            After “those Regulations”, insert “, or the Maritime Labour  
17            Convention”.

18    **44 Subsection 187(3)**

19            After “Safety Convention” (first occurring), insert “or the Maritime  
20            Labour Convention”.

21    **45 Subsection 187(3)**

22            After “(b),”, insert “(ba),”.

23    **46 Subsection 187(3)**

24            After “Safety Convention” (second occurring), insert “or the Maritime  
25            Labour Convention, as the case requires,”.

26    **47 Paragraph 187AA(1)(a)**

27            After “206K,”, insert “206XC,”.

28    Note:    The heading to section 187AA is altered by inserting “**or declarations**” after  
29            “**certificates**”.



1     **48 Subsection 187AA(2)**

2             After “(b),”, insert “(ba),”.

3     **49 Subsection 187AA(2)**

4             After “prescribed certificate”, insert “, or a declaration referred to in  
5             section 206XB,”.

6     **50 Subsection 187AA(3)**

7             After “a prescribed certificate”, insert “, or a declaration referred to in  
8             section 206XB,”.

9     **51 Subsection 187AA(3)**

10            After “the prescribed certificate”, insert “or declaration”.

11    **52 Subsection 187AA(4)**

12            After “certificate” (wherever occurring), insert “or declaration”.

13    **53 Subsection 187A(1)**

14            Insert:

15                         *declaration of maritime labour compliance* means a declaration  
16                         issued under subsection 206XB(1) or (2).

17    **54 Subsection 187A(1)**

18            Insert:

19                         *interim maritime labour certificate* means a certificate issued  
20                         under regulations made for the purposes of subsection 206XE(1).

21    **55 Subsection 187A(1) (before paragraph (a) of the definition  
22            of *international voyage*)**

23            Insert:

- 24                         (aa) for the purposes of Division 2D, a voyage:
- 25                                 (i) from a port in Australia to a port outside Australia; or
  - 26                                 (ii) to a port in Australia from a port outside Australia; or
  - 27                                 (iii) from a port outside Australia to that port or to another  
28                                 port outside Australia; and

1 **56 Subsection 187A(1) (paragraph (b) of the definition of**  
2 ***international voyage*)**

3 Omit “Division 5”, substitute “Divisions 2D and 5”.

4 **57 Subsection 187A(1)**

5 Insert:

6 *maritime labour certificate* means a certificate issued under  
7 subsection 206XC(1) or (2).

8 **58 At the end of paragraphs 190(a), (b) and (c)**

9 Add “or”.

10 **59 After paragraph 190(e)**

11 Insert:

12 ; or (f) assessing the working and living conditions on board ships;

13 **60 Subsection 190AA(2)**

14 Omit “Without limiting the generality of subsection (1), the powers of a  
15 surveyor under that subsection”, substitute “The powers of a surveyor  
16 under subsection (1)”.

17 **61 After subsection 190AA(2)**

18 Insert:

19 (2AA) The powers of a surveyor under subsection (1) extend to:

20 (a) the inspection of a ship for the purpose of ascertaining  
21 whether the ship complies with such of the provisions of this  
22 Act and the regulations and orders relating to the working  
23 and living conditions of the seamen on board the ship and of  
24 the master of the ship as apply to the ship; and

25 (b) requiring the production to the surveyor of any certificate or  
26 declaration relating to those conditions issued in respect of  
27 the ship.

28 (2AB) Subsections (2) and (2AA) do not limit subsection (1).

29 **62 Subsection 190AA(2A)**

30 Omit “or (2)”, substitute “, (2) or (2AA)”.

1 **63 After subsection 190A(1)**

2 Insert:

3 (1AA) If:

- 4 (a) a maritime labour certificate or an interim maritime labour  
5 certificate has been issued in respect of a ship; and  
6 (b) the working and living conditions of the seamen on board the  
7 ship or of the master of the ship change so that the ship does  
8 not comply with the requirements of this Act that relate to  
9 those conditions (other than requirements from which the  
10 Authority has exempted the ship);

11 then, as soon as practicable after the change, written notice of the  
12 change must be given to the person prescribed in the form  
13 prescribed.

14 Note: Section 206XH deals with exemptions.

15 **64 Paragraph 190A(1A)(a)**

16 After “subsection (1)”, insert “or (1AA)”.

17 **65 After subsection 190A(2)**

18 Insert:

19 (2A) If the Authority has reason to believe that:

- 20 (a) a report referred to in paragraph 206XC(1)(c) or (2)(c) in  
21 respect of a ship has been fraudulently or erroneously made  
22 or obtained; or  
23 (b) a maritime labour certificate or an interim maritime labour  
24 certificate has been issued in respect of a ship upon false or  
25 erroneous information; or  
26 (c) since a maritime labour certificate or interim maritime labour  
27 certificate was issued in respect of a ship, the working and  
28 living conditions of the seamen on board the ship or of the  
29 master of the ship have changed so that those conditions do  
30 not comply with the requirements of this Act that relate to  
31 those conditions (other than requirements from which the  
32 Authority has exempted the ship);

33 the Authority may:

- 34 (d) in any case—cancel any maritime labour certificate or  
35 interim maritime labour certificate (as the case may be)  
36 issued in respect of the ship; or

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**Part 1** Amendments relating to the Maritime Labour Convention

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- 1 (e) if paragraph (c) applies—detain the ship until the Authority is  
2 satisfied that the conditions concerned comply with the  
3 requirements of this Act that relate to those conditions (other  
4 than requirements from which the Authority has exempted  
5 the ship).

6 Note: Section 206XH deals with exemptions.

7 **66 Subsection 190A(3)**

8 After “Division 2B”, insert “or cancels a maritime labour certificate or  
9 an interim maritime labour certificate issued in respect of a ship”.

10 **67 Subsection 190A(4)**

11 After “Division 2B”, insert “, or a maritime labour certificate or an  
12 interim maritime labour certificate issued in respect of a ship,”.

13 **68 After section 191**

14 Insert:

15 **191AA Regulations to give effect to Maritime Labour Convention**

- 16 (1) The regulations may make provision for or in relation to giving  
17 effect to the Maritime Labour Convention.
- 18 (2) If a provision of the Maritime Labour Convention applies only in  
19 relation to a particular class of ships or in relation to ships engaged  
20 on a particular class of voyages, any regulation that gives effect to  
21 that provision may be applied to ships of any other class or to ships  
22 engaged in any other class of voyages.
- 23 (3) Regulations and orders giving effect to the Maritime Labour  
24 Convention do not apply in relation to a ship referred to in  
25 paragraph 2(1)(a), (b), (ba), (c) or (d) to the extent that a law of a  
26 State or of the Northern Territory makes provision giving effect to  
27 the Maritime Labour Convention in relation to that ship.

28 **69 Subsection 191A(1)**

29 After “the Safety Convention,”, insert “the Maritime Labour  
30 Convention”.

31 **70 After Division 2C of Part IV**

32 Insert:

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1     **Division 2D—Declarations of maritime labour compliance**  
2             **and maritime labour certificates**

3     **206XA Maritime labour certificates required for steamships**  
4             **registered in Australia**

5             A person commits an offence if:

- 6                 (a) the person is the master or owner of a ship; and  
7                 (b) the ship is a steamship registered in Australia; and  
8                 (c) the ship has a gross tonnage of 500 or more; and  
9                 (d) the person takes the ship to sea, or permits the ship to be  
10                 taken to sea by the master or the owner (as the case may be),  
11                 or another person, on an international voyage; and  
12                 (e) when the ship is taken to sea, none of the following  
13                 certificates is in force in respect of the ship:  
14                         (i) a maritime labour certificate;  
15                         (ii) an interim maritime labour certificate;  
16                         (iii) a certificate of exemption under section 206XH  
17                         exempting the ship from all the requirements of this Act  
18                         relating to the working and living conditions of seamen  
19                         on board the ship and of the master of the ship.

20             Penalty: Imprisonment for 4 years.

21     **206XB Issue of declarations of maritime labour compliance**

22             *Issue of declarations of maritime labour compliance by Authority*

- 23             (1) The Authority may issue a declaration of maritime labour  
24             compliance in respect of a steamship registered in Australia if:  
25                 (a) the Authority has completed Part I of the declaration; and  
26                 (b) the owner of the ship has completed Part II of the declaration;  
27                 and  
28                 (c) a surveyor has inspected the ship; and  
29                 (d) after receiving a report of the inspection, the Authority is  
30                 satisfied that the measures set out in Part II of the declaration  
31                 comply with the requirements of this Act relating to ensuring  
32                 initial and ongoing compliance with the requirements set out  
33                 in Part I of the declaration.

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1                                    *Issue of declarations of maritime labour compliance by survey*  
2                                    *authority*

- 3                                    (2) A survey authority may issue a declaration of maritime labour  
4                                    compliance in respect of a steamship registered in Australia if:  
5                                    (a) the Authority or the survey authority has completed Part I of  
6                                    the declaration; and  
7                                    (b) the owner of the ship has completed Part II of the declaration;  
8                                    and  
9                                    (c) an inspection of the ship has been carried out by or on behalf  
10                                    of the survey authority; and  
11                                    (d) having regard to a report of the inspection, the survey  
12                                    authority is satisfied that the measures set out in Part II of the  
13                                    declaration comply with the requirements of this Act relating  
14                                    to ensuring initial and ongoing compliance with the  
15                                    requirements set out in Part I of the declaration.

16                                    *Declaration of maritime labour compliance to be in prescribed*  
17                                    *form*

- 18                                    (3) A declaration of maritime labour compliance must be in the  
19                                    prescribed form.

20                                    *Declaration of maritime labour compliance not a legislative*  
21                                    *instrument*

- 22                                    (4) A declaration of maritime labour compliance is not a legislative  
23                                    instrument.

24                                    **206XC Issue of maritime labour certificates**

25                                    *Issue of maritime labour certificates by Authority*

- 26                                    (1) The Authority may issue a maritime labour certificate in respect of  
27                                    a steamship registered in Australia if:  
28                                    (a) a declaration of maritime labour compliance is in force in  
29                                    relation to the ship; and  
30                                    (b) a surveyor has inspected the ship; and  
31                                    (c) after receiving a report of the inspection, the Authority is  
32                                    satisfied that the ship complies with the requirements of this  
33                                    Act that relate to the working and living conditions of the  
34                                    seamen on board the ship and of the master of the ship (other

1 than requirements from which the Authority has exempted  
2 the ship).

3 Note: Section 206XH deals with exemptions.

4 *Issue of maritime labour certificates by survey authority*

- 5 (2) A survey authority may issue a maritime labour certificate in  
6 respect of a steamship registered in Australia if:
- 7 (a) a declaration of maritime labour compliance is in force in  
8 relation to the ship; and
  - 9 (b) an inspection of the ship has been carried out by or on behalf  
10 of the survey authority; and
  - 11 (c) having regard to a report of the inspection, the survey  
12 authority is satisfied that the ship complies with the  
13 requirements of this Act that relate to the working and living  
14 conditions of seamen on board the ship and of the master of  
15 the ship (other than requirements from which the Authority  
16 has exempted the ship).

17 Note: Section 206XH deals with exemptions.

18 *Maritime labour certificate to be in prescribed form*

- 19 (3) A maritime labour certificate must be in the prescribed form.

20 *Maritime labour certificate not a legislative instrument*

- 21 (4) A maritime labour certificate is not a legislative instrument.

22 **206XD Duration of maritime labour certificate**

- 23 (1) Subject to this Act, a maritime labour certificate remains in force  
24 for the period specified in the certificate.
- 25 (2) The period specified in a certificate under subsection (1) must not  
26 exceed the period prescribed by the regulations for the purposes of  
27 this subsection.

28 **206XE Interim maritime labour certificates**

- 29 (1) The regulations may make provision for or in relation to interim  
30 maritime labour certificates.

- 1 (2) Without limiting subsection (1), the regulations make provision for  
2 or in relation to:  
3 (a) the issuing of interim maritime labour certificates; and  
4 (b) the duration of interim maritime labour certificates.

5 **206XF When a maritime labour certificate ceases to be in force**

- 6 A maritime labour certificate, or an interim maritime labour  
7 certificate, ceases to be in force:  
8 (a) if the ship in respect of which it was issued ceases to be  
9 registered in Australia; or  
10 (b) if, after the issue of the certificate, there is a change in the  
11 ownership of the ship in respect of which it was issued; or  
12 (c) in the circumstances referred to in subsection 190A(3); or  
13 (d) in any other circumstances prescribed by the regulations.

14 **206XG Declarations of maritime labour compliance and maritime**  
15 **labour certificates to be made available**

16 *Access to declaration or certificate by crew*

- 17 (1) The master of a ship commits an offence if:  
18 (a) a declaration of maritime labour compliance, a maritime  
19 labour certificate or an interim maritime labour certificate is  
20 in force in respect of the ship; and  
21 (b) the master does not ensure that a copy of the declaration or  
22 certificate is posted up in a part of the ship to which all  
23 members of the crew have access.

24 Penalty: 10 penalty units.

25 *Examination of declaration or certificate by persons on board*

- 26 (2) The master of a ship commits an offence if:  
27 (a) a declaration of maritime labour compliance, a maritime  
28 labour certificate or an interim maritime labour certificate is  
29 in force in respect of the ship; and  
30 (b) the master does not ensure that a copy of the declaration or  
31 certificate is available at all reasonable times for examination  
32 on request by any person on board the ship.



1                   Penalty: 10 penalty units.

2           **206XH Exemptions**

- 3                   (1) The regulations may provide for the Authority to exempt a ship  
4                   from a requirement of this Act that relates to the working and  
5                   living conditions of seamen on board the ship and of the master of  
6                   the ship.
- 7                   (2) The Authority may issue a certificate of exemption in respect of a  
8                   ship specifying the requirement from which the ship is exempt and  
9                   the conditions, if any, subject to which the ship is exempt.
- 10                  (3) A certificate of exemption must be in the prescribed form.
- 11                  (4) A certificate of exemption is not a legislative instrument.

12                   *Offence*

- 13                  (5) The master and owner of a ship each commit an offence if:  
14                   (a) a certificate of exemption under this section specifies  
15                   conditions subject to which the ship is exempt from a  
16                   requirement specified in the certificate; and  
17                   (b) the conditions are not complied with.

18                   Penalty: Imprisonment for 4 years.

19           **206XI Production of maritime labour certificates to officers of**  
20           **Customs**

- 21                  (1) If:  
22                   (a) an application is made to an officer of Customs in respect of  
23                   a steamship registered in Australia for a clearance under the  
24                   Customs Act for a voyage from a port in Australia; and  
25                   (b) the master of the ship would contravene section 206XA if the  
26                   master took the ship to sea on that voyage from that port  
27                   without any of the following certificates being in force in  
28                   respect of the ship:  
29                   (i) a maritime labour certificate;  
30                   (ii) an interim maritime labour certificate;  
31                   (iii) a certificate of exemption under section 206XH  
32                   exempting the ship from all the requirements of this Act

**Schedule 1** Amendments

**Part 1** Amendments relating to the Maritime Labour Convention

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1 relating to the working and living conditions of seamen  
2 on board the ship and of the master of the ship;  
3 the master of the ship must, if so required by an officer of  
4 Customs, produce to the officer of Customs any one of those  
5 certificates.

6 (2) If an officer of Customs has required the master of a ship to  
7 produce to the officer any one of those certificates, then, until one  
8 of those certificates is so produced, the officer of Customs may  
9 refuse to grant the clearance, and the ship may be detained.

10 **71 Subsection 207A(1)**

11 Repeal the subsection, substitute:

12 (1) A ship is *substandard* for the purposes of this Act if either or both  
13 of the following paragraphs apply:

14 (a) the ship is seaworthy, but conditions on board the ship are  
15 clearly hazardous to safety or health;

16 (b) if the ship is of a kind to which the Maritime Labour  
17 Convention applies or is capable of applying—the ship does  
18 not comply with the Maritime Labour Convention.

19 **72 Subsection 290(1)**

20 Omit “under”, substitute “that complies with”.

21 **73 Paragraph 377C(d)**

22 Repeal the paragraph.

23 **74 Section 377D**

24 Before “Application”, insert “(1)”.

25 **75 At the end of section 377D**

26 Add:

27 (2) In this section, *certificate* includes a declaration of maritime labour  
28 compliance issued under subsection 206XB(1) or (2).

29 **76 Subsection 397(2)**

30 Omit “190A(1)”, substitute “190A(1A)”.

31 **77 Subsection 410(1)**

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1 Repeal the subsection, substitute:

2 (1) The master of a ship commits an offence if:

3 (a) Part II applies to the ship; and

4 (b) the master does not provide the seamen of the ship with  
5 access (whether electronic or otherwise), at all reasonable  
6 times, to a copy of:

7 (i) this Act; and

8 (ii) if the ship is a Maritime Labour Convention ship—the  
9 Maritime Labour Convention.

10 Penalty: 5 penalty units.

11 Note: The heading to section 410 is altered by omitting “**to be kept**” and substituting “**and**  
12 **Maritime Labour Convention to be accessible**”.

13 **78 Subsection 424(5A)**

14 Repeal the subsection.

15 **79 After paragraph 425(1)(e)**

16 Insert:

17 (ea) the training and qualifications of masters and seamen;

18 (eb) the maximum number of hours that masters or seamen may  
19 be required to work in a particular period of time;  
20

1 **Part 2—Amendments relating to vessel traffic**  
2 **services**

3 *Navigation Act 1912*

4 **80 Subsection 411(3) (definition of vessel traffic service)**

5 After “1997”, insert “, and as amended from time to time.”

6 **81 After paragraph 425(1)(db)**

7 Insert:

8 (dc) vessel traffic services (within the meaning of section 411);