



Maritime Transport Security Amendment Bill 2005

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Maritime Transport Security Amendment Bill 2005

Date Introduced: 25 May 2005

House: House of Representatives

Portfolio: Department of Transport and Regional Services

Commencement: Some of the Bill commences on, or the day after, Royal Assent. The remainder commences on proclamation, or failing that, six months after Royal assent.

Purpose

There are two main purposes to the Maritime Transport Security Amendment Bill 2005 (the Bill). These are:

- to extend the existing legislative maritime security framework applying to specified ports and shipping to offshore oil and gas facilities, and
- to facilitate the introduction of a maritime security identification card system for persons who have ‘unmonitored’ access to maritime and offshore security zones. The system, presumably similar to that currently applying to the aviation industry, will actually be established by regulations.

Background

Recent Maritime Security Initiatives

In December 2002, Australia and other members of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 (‘the SOLAS Convention’) agreed to significant amendments to the SOLAS Convention. Amongst other things, the amendments incorporated an entirely new agreement, the International Ship and Port Facility Security Code (‘the ISPS Code’). In part, the ISPS Code was intended to provide a standardised international framework for security-related risk evaluation and management in the maritime sector.

The ISPS Code was a direct reaction to increased international terrorism concerns in the wake of the attacks in New York on 11 September 2001. The Code was implemented by Australia through the [Maritime Transport Security Act 2003](#) (the MTSA), which came into effect on 1 July 2004. One of main features of the MTSA was the requirement to have security plans applying to various port facilities and shipping. More detail is available from the relevant [Bills Digest](#) to the MTSA.

On 20 July 2004, the Prime Minister [announced](#) a number of policy and funding initiatives with respect to maritime security. The intention to introduce the maritime security

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identification card (MSIC) system was among the matters announced. The Prime Minister also said the government would review security arrangements for offshore oil and gas facilities. That review was completed by a Commonwealth interagency group called the Taskforce on Offshore Maritime Security in November 2004. No public version of the Taskforce's review has been released. However, on 15 December 2004, the Prime Minister [announced](#) a number of measures stemming from the review process. Of relevance to the current Bill, the Prime Minister stated that:

The direct protection of each offshore platform through the provision of appropriate on-site security measures is an industry responsibility. It represents the final element in the Government's integrated approach to enhanced offshore maritime security. To assist industry, the *Maritime Transport Security Act 2003* (MTSA) will be extended to apply to offshore oil and gas facilities to provide the necessary advice and oversight in the implementation of any necessary additional security measures.

This task is being coordinated by the Department of Transport and Regional Services and will be completed for formal implementation by 30 September 2005. The maritime security plans that are to be developed in accordance with the MTSA will have regard for the special nature and location of these offshore facilities, the practical needs of operators and the need to complement, rather than duplicate, existing risk management and safety plans.

Extension of the *Maritime Transport Security Act 2003* to offshore oil and gas facilities

As mentioned above, the Bill extends the MTSA framework currently applying to specified ports and shipping to offshore oil and gas facilities. In most cases the types of obligations that exist under the MTSA, such as the requirements to have and implement a relevant security plan, will apply to offshore facilities. Law enforcement systems, offences and relevant penalties – which range up to \$110,000 for corporations - will also be in line with those currently applying under the MTSA. However, given that certain types of vessels such as floating product, storage and offtake ships (FPSOs), may also fall with the definition of offshore facilities, and international law places limitations regarding coastal State jurisdiction over foreign shipping, the Bill incorporates some restrictions on the application of offence and enforcement provisions to foreign vessels.

It is worth noting that the SOLAS Convention amendments and the ISPS Code do not appear to directly cover offshore oil and gas facilities. From this perspective, there is seems no imperative under international law to extend the MTSA to offshore facilities. However, the Explanatory Memorandum notes that the energy sectors has been a target for terrorist attacks by Al-Qa'ida and associated groups.¹ According to the Explanatory Memorandum, the United States (US) has also legislated the requirement for maritime security plans to apply to large offshore facilities under the *US Maritime Transportation Security Act 2003*.² The US legislation only applies to offshore facilities that exceed certain production or operational characteristics. However, under **new Part 5A** of the

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Australian Bill, operators of all offshore facilities, as defined in **new section 17A**, must have offshore security plans.

There will be two main industry groups affected by the Bill. The first are the operators of offshore facilities. The second will be the various service providers for these facilities, notably helicopter charter operators and ship-based equipment / stores supply services.

In terms of the numbers of offshore facilities likely to be subject to the Bill's provisions, and the obligations of the facility operators, the Explanatory Memorandum states:³

[The Department of Transport and Regional Services, DOTARS] has estimated that there are currently up to 55 offshore oil and gas facilities... [that would be subject to the MTSA]... which are operated by approximately 12 offshore facility operators. The offshore facilities vary from conventional steel fixed platforms and concrete gravity platforms through to mini platforms, mono-tower, mono-pods and mini-pods, Floating Storage and Offtake units (FSOs) and Floating Production Storage and Offtake units (FPSOs)...

In summary, the following minimum requirements would need to be met by offshore facility operators under the Bill:

- a) Undertake a risk assessment that takes into account the types of interfaces with ships and other vessels, loading of cargo and stores, personnel and visitor movements, area of operation, and other issues which may be pertinent in determining not only the risks to the offshore facility but also to security regulated ships that visit the facility.
- b) Based on the risk assessment, develop an offshore security plan for submission to the Secretary of DOTARS for approval. The plan must demonstrate how the relevant legislative and offshore facility-specific regulatory requirements will be met, including a capacity to monitor and control access, monitor the activities of cargo and people and ensure an adequate security communications capability.
- c) The offshore facility operator would need to nominate a facility security officer with appropriate training, responsible for implementing and monitoring the offshore security plan. This officer will have a key role in enabling communication between the offshore facility operator and relevant authorities.
- d) The offshore facility operator would be required to implement additional security measures as outlined in the offshore security plan at security level 2, and implement the required security measures at security level 3.

For service providers, the Explanatory Memorandum comments:⁴

There are approximately six helicopter and eight supply vessel service providers operating in Australia. Service providers frequently share facilities and provide services for a number of operators in the same area...

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The Bill provides flexibility for offshore security plans to cover the security arrangements for interfaces or interactions with service providers (i.e. contractors of specialist offshore-related services or port-related services). However, some service providers may be required to provide their own offshore security plan, to be approved by the Secretary of DOTARS, and implemented by 30 September 2005.

It is possible that other groups or persons that use ships in the vicinity of offshore facilities may be affected by the Bill, particularly in respect of any security zones potentially established around the facilities. However, various safety zones already apply under existing legislation, so on the face of it, any additional impact should not be particularly great.

In terms of consultation with affected groups, the Explanatory Memorandum states that during 2004 the Offshore Taskforce 'consulted with the Australian Petroleum Production and Exploration Association (APPEA) and companies involved in the offshore oil and gas industry'. Since then, DOTARS has held further discussions with 'representatives from the offshore oil and gas industry, Australian Government departments and agencies, and the State and Northern Territory governments and their relevant authorities'. A workshop on the exposure draft of the Bill was held on 20 April 2005, with various groups attending.⁵

In the initial Parliamentary debate, concern was expressed by the Australian Labor Party (ALP) at the alleged lack of union involvement in consultation over the Bill:⁶

I am concerned that the union movement was not included as part of the consultation process. Instead, the government chose to consult with industry representatives without including any of the unions that cover the offshore industry. I make this point: this approach by the government is very short-sighted. In its zeal to demolish the union movement, particularly the maritime unions, the government fails to recognise that unions are in fact a security asset. Unions want to get the regime right because they want to make sure that the security of their workers at work is second to none, so they are entitled to be properly consulted.

The only mention of consultation with unions in the Explanatory Memorandum was that representatives attended the 20 April workshop mentioned above.

In terms of the cost to industry in implementing obligations under the Bill, the Explanatory Memorandum comments:⁷

Consistent with the Australian Government's policy that security is a cost of doing business, the operators of offshore facilities will be required to pay for additional security measures in accordance with their offshore security plans. This includes costs associated with the security assessment and development of the security plan, implementation of the security plan, training of security officers and other staff and crew, maintaining security plans (periodic reviews and updates) and conducting internal audits and security exercises. As is the case with port and port facility operators, the costs of these measures will vary according to the nature of the facility, number of personnel, the identified security risks, as well the extent of existing security/safety measures....

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It has been difficult to collect precise estimates of the costs that facility operators will have to meet in order to write plans and then implement those measures. There is anecdotal evidence that some members of the industry estimate costs to be below \$50,000 for the development of plans. These same operators make the point that they can not reliably estimate the costs of an enhanced security regime: it will depend on the preventive strategies that are put in place. These decisions have not yet been made by all of industry. However, they note that where possible some measures will be incorporated in existing work procedures...

In general, the cost impact on off-shore providers is likely to be negligible given that helicopter service providers and some supply base operators are regulated by other transport security legislation and are required to have security plans in place. Helicopter services are regulated by the *Aviation Transport Security Act 2004*. Some supply-base operators are regulated by the *Maritime Transport Security Act 2003*.

Maritime Security Identification Cards (MSICs)

Under the MTSA, access to what are called maritime security zones (MSZ) – which may be areas in ports, areas surrounding ships, or areas on ships – are generally managed by each individual port or ship operators. However, there is no common legislative requirement on how these operators should ensure that only properly authorised persons can access these MSZs. By comparison, under the Aviation Transport Security Regulations 2005, persons accessing ‘airside’ security zones or other secure areas must have and wear aviation security identification cards (ASICs). These cards are issued after the applicant passes a series of background checks. It is worth noting that recent press reports on the alleged activities of some airport employees (who would have ASICs) suggest that current ASIC procedures are no panacea in terms of preventing criminal behaviour in ‘secure’ areas.

The framework for issuing MSICs will be set out in regulations that have yet to be issued. Background checking is due to start on 1 October 2005, so the regulations will have to be place by then. The Bill itself allows the bodies that will be responsible for issuing MSICs to recover the costs involved in administering the process, including the background checks. These costs would be recovered as part of the application fee for a MSIC.

The issue of what sort of criminal record might prevent a person obtaining a MSIC was raised by the ALP in the initial Parliamentary debates on the Bill:⁸

It is the issue of criminal background checking that needs to be carefully managed. Let us be very careful in respect of this issue, because we can ruin many people’s opportunities and lives. If a person has made a mistake and paid their price to society, they should not be prevented from re-establishing themselves in the community. We have always prided ourselves as a nation on giving these people a second chance in life. They must have access to meaningful work, and the waterfront, the offshore industry and the shipping industry should continue to provide employment opportunities for these people. I take the view that criminal background checking by the AFP must be restricted to criminal convictions which directly relate to terrorist activities.

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By way of possible comparison, the Aviation Transport Security Regulations 2005 would normally disqualify a person from holding an ASIC if they had been convicted and imprisoned for an offence involving, for example, dishonesty. However, in such cases the DOTARS Secretary may authorise an ASIC for that person. The effectiveness of the ASIC system will likely be a major element of the Government's recently announced review of airport security.⁹

More details on the proposed MSIC system can be accessed from a recent DOTARS [publication](#). However, readers may be interested in the following excerpt from the publication:

What is the role of the Australian Government in the implementation phase?

During the implementation phase the Australian Government will determine if an MSIC applicant is eligible for an MSIC on the basis of the outcomes of the criminal history and ASIO check conducted on the applicant. The Australian Government will advise the MSIC Issuing Bodies if they can or cannot issue an MSIC. If an MSIC cannot be issued the applicant will also be notified.

What happens if I am unsuccessful in obtaining an MSIC?

The Australian Government will give you a written statement of reasons why you are not eligible to hold an MSIC, you will also receive advice on your appeal rights.

If you are unsuccessful in your appeal or chose not to appeal, you will need to be escorted or continuously monitored by an MSIC holder while in a Maritime Security Zone. It is a matter for your employer if this will affect your employment status.

Main Provisions

Schedule 1 – Part 1

Item 1 amends the name of the MTSA to the *Maritime Transport and Offshore Facilities Security Act 2003*. However, for convenience, the amended Act will still be referred to as the MTSA.

Item 14 provides that the *Criminal Code Act 1995* extended geographical jurisdiction – Category D applies to a list of security regulated offshore facility offences. Category D is the most expansive of the 4 categories of extended jurisdiction and allows for an offence to occur irrespective of whether or not (i) the conduct constituting the alleged offence occurs in Australia or (ii) the result of the conduct constituting the alleged offence occurs in Australia.

Australia is defined in the *Acts Interpretation Act 1901* as extending only as far out as the seaward edge of Australia's 12 nautical mile territorial sea. Offshore facilities, and the offshore security zones in and around them, may well be sited outside these waters. Also,

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persons or corporations potentially committing offences under the Bill may not be Australian residents or citizens, be incorporated in Australia or have some other connection with Australia. This is why category D of extended geographical jurisdiction has been employed for many of offences created by the Bill.

Item 60 inserts **new sections 17A-17E**.

New section 17A provides the key definition of ‘offshore facility’. It includes any structure, vessel and associated equipment that is used in the extraction of petroleum from the seabed or its subsoil where the vessel etc is located landward of the outer edges of Australia’s continental shelf. Storage vessels are offshore facilities, but petroleum tankers and tugs and service/supply vessels are not. Pipelines and mobile drilling units are not offshore facilities.

New section 17B allows the DOTARS Secretary to designate an offshore facility, or group of such facilities, as a security regulated offshore facility. They may also designate a person as the offshore facility operator for a security regulated offshore facility: **new section 17C**. Before doing this, the secretary must take into account the views of the person or persons responsible for managing the facility. Being designated allows, for example, offshore security zones to be established in and around the facility.

New sections 17D-E impose limitations on the offence and law enforcement provisions of the MTSA (as amended by the Bill) to foreign ships. It ensures that the MTSA reflects international law limitations regarding jurisdiction over foreign shipping, particularly when operating outside of Australian territorial waters.

Existing Part 2 of the MTSA deals with what are termed ‘maritime security levels’. These levels apply to ports or ships and are designed to reflect the risk of a security incident occurring at the relevant port etc. Except for foreign vessels, the relevant security level applying to any port or vessel will be set and/or amended by the DOTARS Secretary. At a heightened degree of risk, a level 2 or 3 will apply, with this triggering whatever increased security measures are set out in the relevant maritime or ship security plan. Background on maritime security levels and plans are set out in the main provisions section of the MTSA [Bills Digest](#), pp. 9-16. Most of the **items 63-122** extend these existing Part 2 provisions to security regulated offshore facilities and offshore industry participants. For example, **item 81** provides that, where the Secretary amends the security level applying to a facility, the facility operator must as soon as practicable advise a prescribed range of persons of the change.

The Explanatory Memorandum comments in relation to **item 81**:¹⁰

Communicating the advice about the security level to be implemented will be critical to ensuring that all relevant offshore industry participants operating in the vicinity of the facility have implemented measures commensurate with the security level, as outlined in each participant’s security plan. The level of protection implemented by the measures

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will reflect the risks faced by each offshore industry participant as outlined in each participant's plan. If one or more participants are not notified of the change in security level, the facility may be inadequately protected.

Existing section 33 of the MTSA enables the DOTARS Secretary to require that additional security measures be undertaken or complied with. Such 'security directions' can only be given only if he or she has reason to believe that an unlawful interference with maritime transport is probable or imminent and that specific measures are appropriate to prevent the unlawful interference from occurring. **Item 85** enables section 33 security directions to be given with respect of offshore facilities.

Item 105 inserts **new Parts 5A–5C**.

New Part 5A - Offshore security plans - is modelled on existing Part 3 - Maritime Security Plans.

Offshore facility operators, and other 'participants' prescribed in regulations, are required to have an offshore security plan: **new section 100B**. The content of such plans is set out in **new sections 100G-H**. Key elements include: a security assessment for the participant's operation and the detailing of what security activities or measures are to be undertaken or implemented for maritime security levels 1, 2 and 3.

An operator or participant, who is required to have a maritime security plan but who does not have one in force, commits an offence under **new section 100C**. The maximum penalty is 200 penalty units (\$22,000) or five times that for a corporation. Similar penalties apply if a participant has a plan in force but 'fails to comply' with it: **new section 100D**. The offences under new sections **100C** and **100D** are strict liability offences, but they do not apply if the participant has a reasonable excuse.

New sections 100J-T set out how offshore security plans are to be approved, varied and cancelled. If the DOTARS Secretary is satisfied that the plan 'adequately addresses' the requirements in **new sections 100G-I**, he or she *must* approve the plan. Otherwise he or she must refuse approval, giving reasons for doing so: **new section 100K**. In making a decision, the Secretary 'may take account of existing circumstances as they relate to maritime transport security': **new subsection 100K(3)**. **New section 100L** provides that if the Secretary approves a plan, the plan comes into force at the time specified in the notice of approval. If the Secretary is no longer satisfied that an approved plan 'adequately addresses' the requirements of **new sections 100G-I**, the Secretary may direct the participant in writing to vary the plan: **new subsection 100M(1)**. If the participant fails to vary the plan, the Secretary *must* cancel the approval of the plan: **new subsection 100M(4)**.

A participant may revise an offshore security plan (**new section 100N**), but the revised plan is still subject to approval by the Secretary under **new section 100K**.

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Maritime security plans must be revised every 5 years: **new section 100P**.

If the Secretary is not satisfied that an existing plan is adequate, and if he or she is satisfied that it is inappropriate for the plan to be varied or revised, the Secretary must cancel the plan: **new section 100Q**. The Bill provides no guidance as to when variation or revision would be inappropriate.

Under **new section 100R**, cancellation of the plan can also occur through the accumulation of a certain number of demerit points. (For an explanation of the demerit point system, see the discussion in the MTSA [Bills Digest](#) in relation to sections 198-200).

New Part 5B – ISSC obligations for Australian ships regulated as an offshore facility – is modelled on existing Divisions 6-7 of Part 4.

New sections 100V-ZD cover International Ship Security Certificates (ISSCs). ISSCs are a key part of the 2002 amendments to the SOLAS Convention. As the name implies, an ISSC certifies that a ship's security plan and associated security equipment comply with the relevant parts of chapter XI-2 of the amended SOLAS Convention and the ISPS Code.

An Australian ship that is regulated as an offshore facility must have an ISSC (or 'interim' ISSC in force for the ship): **new section 100V**. Otherwise, the relevant facility operator commits an offence with a penalty of 200 penalty units (\$22,000) or five times that for a company: **new section 100W**. It is a strict liability offence, but does not apply if the operator has a reasonable excuse.

New section 100Y provides that the DOTARS Secretary must give a facility operator an ISSC if the operator has applied for an ISSC, there is an offshore security plan in force for the ship, and the ship is ISSC verified. **New section 100Z** provides that a ship is 'ISSC verified' if a maritime security inspector has inspected the ship, the inspector has verified that the ship meets the requirements determined in writing by the Secretary (including the time in which the ship must be inspected). In setting these requirements, the Secretary must 'have regard to the obligations set out in the ISPS Code. An ISSC lasts for 5 years unless the Secretary cancels it, the facility operator is no longer the operator for the ship, the security plan has ceased to be in force or the ship is no longer ISSC verified: **new sections 100ZA-ZB**.

Where the master of an Australian ship makes a false or misleading statement in connection with whether an ISSC or interim ISSC is in force for the ship, he or she commits an offence under **new section 100ZD**. The offence carries a penalty of 50 penalty units (\$5,500) and involves a complicated system of strict liability and defensible provisions.

New Section 100ZE enables the DOTARS Secretary to delegate any of their new **Part 5B** powers and functions to a person who both satisfies criteria to be prescribed in the regulations and is 'engaged' by a 'recognised security organisation'. The term 'recognised

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security organisation' is not defined in the Bill or MTSA (except insofar as existing subsection **88(2)** provides that the Secretary 'may determine in writing that an organisation is a *recognised security organisation*'). The delegate must comply with any directions of the Secretary.

New Part 5C – Foreign Ships regulated as offshore facilities – is largely modelled on existing Part 5.

New section 100ZH requires that the operator of a foreign ship regulated as an offshore facility must have a valid ISSC or an approved ISSC equivalent, for the ship and ensure that the ship is carrying the 'required ship security records'. The term 'required ship security records' is not defined in the Bill, but it is consistent with Chapter XI-2/9.2 of the SOLAS Convention (being one of the recent amendments) and section 10 of the ISPS Code.

New Section 100ZI requires the master of a foreign ship regulated as an offshore facility to provide certain information if it is Australian waters or intends to proceed to an Australian port. Such 'pre-arrival information' is already provided for in regulations.

New section 100ZJ provides that the master of such a ship must also allow a maritime security inspector to board the ship for inspection. (The powers of the inspector are set out in existing Division 2 of Part 8). Foreign ships regulated as offshore facilities must also comply with any security directions given to them by the DOTARS Secretary: **new section 100ZK**.

New section 100ZL provides that if the master (or operator) of a foreign ship regulated as an offshore facility is notified by the Secretary or a port operator that maritime security level 2 or 3 is in force for the ship, or is given a security direction or a control direction, and fails to acknowledge the notification or direction to the Secretary, the master (or ship operator) commits an offence. In the case of a master, the penalty is 25 penalty units (\$2,750) or a facility operator, 100 penalty units (\$11,000). They are strict liability offences, with no defence of reasonable excuse.

New section 100ZM enables the DOTARS Secretary to issue a direction (called a control direction) to the ship operator or master of a foreign ship regulated as an offshore facility to take, or refrain from taking, specified action. Crucially, **new subsection 100ZM(3)** states that the Secretary **must not** give a control direction unless it is necessary to ensure compliance with the obligations imposed on foreign ships under **new subsections 100ZH-ZL**, or it is direction of the kind that can be given under Chapter XI-2 of the SOLAS Convention or the ISPS code. **New subsection 100ZM(4)** provides a non-exhaustive list of the actions that can be the subject of a control direction, including removing the ship from Australian waters (which seems to be based more on Article 25(1) of the United Nations Convention on Law of the Sea (UNCLOS) than any right conferred by the SOLAS Convention). The direction is of no effect until it appears in writing.

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New subsection 100ZN(2) provides that if a master or operator of a foreign ship regulated as an offshore facility contravenes a control direction, the Federal Court may grant an injunction under existing section 197.

Item 122 inserts new Division 5 of Part 6 – Offshore security zones

New Division 5 enables the DOTARS Secretary to establish ‘offshore security zones’ within and around an offshore facility. The purpose of the zones is to subject the relevant areas to additional security requirements.

Regulations may prescribe different types of offshore security zones: **new subsection 113B(1)**. **New subsection 113B(2)** provides an non-exhaustive list of purposes for which different types of offshore security zones may be prescribed. These include limiting contact with security regulated offshore facilities, providing cleared areas within and around security regulated offshore facilities, preventing interference with security regulated offshore facilities, and preventing interference with people or goods being transported to and from security regulated offshore facilities. The latter in particular seems potentially very wide in scope. **New section 113C** states that in establishing an offshore security zone, the DOTARS Secretary must have regard to the purpose of the zone, and amongst other matters take into account the physical and operational features of the offshore facility and the views of the facility operator. The Secretary must also ‘act consistently with Australia’s obligations under international law’. The last requirement is presumably to prevent any restrictions from violating UNCLOS freedom of navigation principles.

New section 113D provides that the regulations may, ‘for the purposes of safeguarding against unlawful interference with maritime transport or offshore facilities’, prescribe requirements in relation to each type of offshore security zone. **New subsection 113D(3)** provides that the regulations may prescribe penalties for offences against regulations made under **new section 113D** but sets limits on those penalties.

New subsection 113D(4) provides that regulations may be made to enable recovery of costs and expenses incurred by any person in issuing a MSIC. **New subsection 113D(5)** provides that regulations may be made authorising the use or disclosure of personal information as defined in the *Privacy Act 1988*. This is required so the information relevant to MSIC background checks can be exchanged between government organisations without breaching the *Privacy Act 1988*. Similar provisions are contained in **Schedule 2** of the Bill – those relate to regulations made relating to port security zones, ship security zones and on-board security zones.

Items 150-151 insert enforcement provisions by maritime security inspectors. Under existing Division 2 of Part 8, such inspectors are appointed by the DOTARS Secretary and must be a public service employee in DOTARS, a law enforcement officer, or a person who satisfies criteria prescribed in the regulations. The powers which a maritime security inspector may exercise (for the purposes of determining if a person or ship is complying

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with the MTSA or investigating a possible contravention) are set out in existing section 139. They include the powers to board and inspect a security regulated ship, to inspect and photograph equipment, and to observe the operating procedures for the ship and discuss those procedures with a person carrying them out or with another industry participant. An inspector may inspect, photograph or copy security-related documents or record on the ship and operate equipment on the ship for the purposes of gaining access to a document or record relating to the ship. **Item 150** extends those existing powers to security regulated offshore facilities (as defined in **new section 17B**).

Items 152-166 extend the existing powers of other classes of officials – law enforcement officers and maritime security guards – to security regulated offshore facilities. These powers and the various restrictions on them seem consistent with those existing under the MTSA. Enforcement actions by all classes of officials covered in Part 8 are subject to the limitations to certain foreign ships set in **new sections 17D-E**.

The demerit system operating under Division 6 of Part 11 that can potentially lead to the cancellation of approval of maritime or ship security plans is extended to offshore facility plans by **items 208**.

Schedule 2 – Amendments relating to maritime security identification cards

Items 1-3 make amendments to the MTSA to the same effect as those in **new subsections 113D(4)-(5)**. These provide both that regulations may be made to enable recovery of costs and expenses incurred by any person in issuing a MSIC and be made authorising the use or disclosure of personal information as defined *Privacy Act 1988*.

Concluding Comments

The general thrust of the Bill has the support of the ALP. However, the ALP has flagged various concerns about how the new security regime may affect workers in the offshore oil and gas industry, particularly with respect to the introduction of the MSIC. It has foreshadowed that it will seek to have the Bill referred to an appropriate committee so as to explore these concerns more fully.

Endnotes

- 1 Explanatory Memorandum, Maritime Transport Security Amendment Bill 2005, p. 8.
- 2 op. cit., p. 16.
- 3 op. cit., pp. 12-13.
- 4 op. cit., p. 13.
- 5 op. cit., p. 19.

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- 6 Mr Martin Ferguson, *House of Representatives debates*, 1 June 2005, p. 74.
- 7 Explanatory Memorandum, op. cit., p. 15.
- 8 Mr Martin Ferguson, *House of Representatives debates*, 1 June 2005, p. 75.
- 9 The Hon John Anderson MP, '[Securing and Policing Australia's Major Airports](#)', *Media Release*, 7 June 2005.
- 10 Explanatory Memorandum, op. cit., p. 45.

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