



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

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

Date introduced: 29 March 2006

House: House of Representatives

Portfolio: Transport and Regional Services

Commencement: Sections 1 to 3 commence on Royal Assent. The major operational part of the Bill (Schedule 1) commences on Proclamation, or failing that, six months after Royal Assent.

Purpose

The main purpose of the Bill is to make procedural changes to the process of the approval, and revision of, various types of maritime security plans.

The Bill also amends a wide range of legislation to bring the drafting and operation of these Acts into line with the *Legislative Instruments Act 2003*.

Background

In December 2002, Australia and other parties to the International Convention for the Safety of Life at Sea, 1974 ('the SOLAS Convention') agreed to significant amendments to the SOLAS Convention.¹ 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 ISPS Code was implemented by Australia through the *Maritime Transport Security Act 2003*. One of main features of this Act was the requirement to have security plans applying to various port facilities and shipping. The Act was amended in 2005 to extend the existing legislative maritime security framework to offshore oil and gas facilities, and consequently renamed as the *Maritime Transport and Offshore Facilities Security Act 2003* (MTOFSA). A further set of amendments, the Maritime Transport and Offshore Facilities Security Amendment (Maritime Security Guards and other Measures) Bill 2005, have yet to pass Parliament.

According to the Minister's second reading speech,

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The bill introduces measures in relation to the submission and approval of maritime, ship and offshore security plans aimed at alleviating administrative burdens faced by the maritime industry. The measures of this bill are an example of the continued and successful cooperation between the Department of Transport and Regional Services and Australia's key maritime industry representatives. It is a relationship based on consultation and cooperation.²

Peak Australian industry groups representing shipowners³ and port operators⁴ are supportive of the intent of the changes contained Schedule 1, as they are aimed at improving the workability of maritime transport security plan development and implementation.

Financial implications

None for the Government.

Main provisions

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

The majority of **Schedule 1** makes a series of amendments relating to three main types of security plans in the MTOFSA – maritime security plans, ship security plans and offshore security plans. Broadly speaking, each of these three types of plans are amended in the same way – thus **items 1 to 13** makes the amendments to maritime security plans, **items 14 to 25** make the same amendments to maritime security plans, and **items 26 to 38** do the same for offshore security plans. As none of the amendments appear make major changes, only a few items are discussed below for illustrative purposes.

The Secretary of the Department of Transport and Regional Services (DoTARS) presently has 90 days in which to approve a maritime security plan. **Items 5 and 6** combine to reduce this to 60 days (the 'consideration period'). However, the Secretary will effectively be able extend this time by a maximum of another 45 days where, in order to make a decision on the plan, additional information is requested from the person (the 'maritime industry participant') seeking approval of the plan.

Currently, there is no mechanism for a maritime industry participant to voluntarily vary (as opposed to 'revise') a maritime security plan. They would have to submit a revised plan to the Secretary, which would have a life of five years – that is, effectively it would be a new plan. **Item 8** allows a maritime industry participant to request the existing security plan to be varied. The criteria for approval of a variation by the Secretary are the same as for a new plan.

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Schedule 2 – Technical amendments relating to legislative instruments

Schedule 2 amends a wide range of legislation administered within the Transport and Regional Services portfolio. With a handful of exceptions, they are unrelated to transport security matters.

The amendments amend the various Acts to bring their drafting and operation into line with the *Legislative Instruments Act 2003*, which came into force in January 2005. These are essentially ‘consequential’ amendments and there appear to be no substantive changes to Parliamentary scrutiny etc of the provisions covered by **Schedule 2**.

Schedule 3 – Technical Amendment

Item 1 makes a minor drafting change by correcting the name of the MSOFTA in paragraphs 15(1A)(a) and (b) of the *Customs Act 1901*.

Endnotes

1. More information on the SOLAS Convention can be obtained from the relevant webpage of the International Maritime Organisation:
http://www.imo.org/Conventions/contents.asp?topic_id=257&doc_id=647
2. The Hon Warren Truss, Minister for Transport and Regional Services, House of Representatives, *Debates*, 29 March 2006, p. 10.
3. Personal communication, Australian Ship Owners Association, 24 April 2006.
4. Personal communication, Association of Australian Ports and Marine Authorities, 24 April 2006.

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