

Navigation

No. 28 of 1972

An Act to amend the *Navigation Act* 1912–1970 with respect to the Tonnage Measurement of Ships, and for other purposes.

[Assented to 17 May 1972]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title and citation.

1.—(1.) This Act may be cited as the *Navigation Act* 1972.

(2.) The *Navigation Act* 1912–1970* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Navigation Act* 1912–1972.

Commencement.

2.—(1.) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2.) Sections 5, 6, 7 and 9 of this Act shall come into operation on a date to be fixed by Proclamation.

Binding of apprentices.

3. Section 35 of the Principal Act is amended by omitting from paragraph (b) of sub-section (1.) the words “fifteen years” and inserting in their stead the words “sixteen years”.

* Act No. 4, 1913, as amended by No. 32, 1919; No. 1, 1921; No. 8, 1925; No. 8, 1926; No. 49, 1934; No. 30, 1935; No. 1, 1943; No. 80, 1950; No. 109, 1952; No. 96, 1953; No. 46, 1956; No. 36, 1958; No. 96, 1961; No. 1, 1965; No. 93, 1966; No. 60, 1967; No. 62, 1968; and Nos. 1 and 117, 1970.

4. Section 40A of the Principal Act is amended by omitting from sub-section (1.) the words “fifteen years” and inserting in their stead the words “sixteen years”.

Minimum age
for employment
at sea.

5. Section 335 of the Principal Act is amended—

Tonnage.

- (a) by inserting in sub-section (1.), before the words “registered tonnage”, the word “gross”; and
- (b) by omitting from sub-section (2.) all of the words from and including the words “such rules” and inserting in their stead the words “regulations made by virtue of section four hundred and seven A of this Act”.

6. After section 407 of the Principal Act the following sections are inserted:—

“407A.—(1.) The regulations may, for the purposes of, or otherwise in relation to, the registration of ships in Australia under the Merchant Shipping Act, or for any purpose of this Act specified in the regulations, make provision for or in relation to the ascertainment of the tonnage of a ship.

Measurement
of tonnage, &c.

“(2.) Without limiting the generality of the last preceding sub-section, the regulations that may be made by virtue of that sub-section (in this section referred to as ‘the tonnage regulations’)—

- (a) may make provision for or in relation to the remeasurement of the tonnage of a ship registered in Australia under the Merchant Shipping Act;
- (b) may make different provision for or in relation to the ascertainment of gross tonnage, underdeck tonnage, register tonnage or any other class of tonnage;
- (c) may make different provision for different descriptions of ships or for the same description of ships in different circumstances;
- (d) may make the operation of any provision of the tonnage regulations dependent on compliance with conditions specified in the regulations and may make provision for or in relation to proof of compliance with those conditions;
- (e) may prohibit or restrict the carriage of goods or stores in spaces deducted in ascertaining the register tonnage of a ship;
- (f) may make provision for assigning to a ship, either instead of or as an alternative to, the register tonnage or any other class of tonnage ascertained in relation to the ship in accordance with the other provisions of the tonnage regulations, a lower tonnage applicable when the ship is not loaded to the full depth to which it can be safely loaded, and for indicating on the ship, by such mark as is specified in the tonnage regulations, that such a lower tonnage has been assigned to the ship and, where it has been assigned to the ship as an alternative tonnage, the depth to which the ship may be loaded for the lower tonnage to be applicable;

- (g) may make provision for or in relation to the appointment of persons by whom the measurement and survey of ships is to be, or may be, undertaken for the purposes of the tonnage regulations;
- (h) may make provision for the alteration (notwithstanding section eighty-two of the Merchant Shipping Act) of the particulars relating to the register tonnage or any other class of tonnage of a ship;
- (i) may make provision for or in relation to the issue and cancellation of certificates as to the register tonnage or any other class of tonnage of ships or the tonnage that, for any purpose specified in the tonnage regulations, is to be taken as the register tonnage or any other class of tonnage of ships not registered in Australia;
- (j) may prescribe the forms to be used for or in connexion with any matter under the tonnage regulations; and
- (k) may make provision with respect to any matter incidental to the matters referred to in any preceding paragraph of this sub-section.

“(3.) The Merchant Shipping Act is amended in the manner set out in Schedule VIII. to this Act, and any provision in the Merchant Shipping Act that refers to the tonnage regulations of that Act is amended by substituting for that reference a reference to the regulations made by virtue of sub-section (1.) of this section.

“(4.) In this section, ‘ the Merchant Shipping Act ’ means the Imperial Act known as the Merchant Shipping Act, 1894, as amended, or otherwise affected in its operation, by the provisions of any other Imperial Act, in so far as that Act as so amended, or otherwise affected in its operation, is part of the law of the Commonwealth.

Tonnage of
ships of
countries other
than
Commonwealth
countries.

“407B.—(1.) If it appears to the Governor-General that the rules applied by a country other than a Commonwealth country with respect to the measurement of the tonnage of ships are substantially similar to regulations made by virtue of the last preceding section, the Governor-General may, by Proclamation, declare that country to be a country to which the next succeeding sub-section applies.

“(2.) Subject to the next succeeding sub-section, while a Proclamation under the last preceding sub-section is in force in relation to a country, the ships of that country shall, without being re-measured in the Commonwealth but subject to any conditions and restrictions specified in the Proclamation, be deemed to be of the tonnage denoted in their certificates of registry or other national papers in the same manner, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registry of a British ship registered in Australia is deemed to be the tonnage of that ship, and any space shown by the certificate of registry or other national papers of any such ship as deducted from the gross tonnage shall, where a similar deduction in the case of a British ship registered in Australia depends on compliance with any conditions or on the compliance being evidenced in any manner, be deemed to comply with those

conditions and be so evidenced, unless a surveyor certifies that the construction and equipment of the ship as respects that space do not comply with the standard that would be required if the ship were a British ship registered in Australia.

“ (3.) If it appears to the Governor-General that the tonnage of ships registered in a country other than a Commonwealth country, as measured by the rules applied by that country to the measurement of the tonnage of ships, materially differs from that which would be the tonnage of ships registered in that country if they were measured under the regulations made by virtue of the last preceding section, the Governor-General may, by Proclamation, declare that, notwithstanding any Proclamation for the time being in force under sub-section (1.) of this section in relation to that country, a ship, or a class of ships, registered in that country and specified in the Proclamation, or all ships registered in that country, may, for all purposes or for any purpose specified in the Proclamation, be re-measured in accordance with those regulations.”.

7. Section 409 of the Principal Act is amended—

- (a) by omitting the words “ the Merchant Shipping Act ” and inserting in their stead the words “ regulations made by virtue of section four hundred and seven A of this Act ”; and
- (b) by adding at the end thereof the following sub-section:—

“ (2.) Where a ship is measured in pursuance of this section, the fees that would be payable if that measurement were undertaken in connexion with the registration of that ship in Australia shall be payable as if that measurement were so undertaken.”.

Measurement of tonnage where not registered.

8. Section 423A of the Principal Act is repealed.

Exemption in respect of natives of a Territory.

9. After Schedule VII. to the Principal Act the following Schedule is added:—

Schedule VIII.

SCHEDULE VIII.

Section 407A(3.).

AMENDMENTS OF THE MERCHANT SHIPPING ACT

Provision affected	Amendment
Section 24 (2)	Omit “ and shall be in the Form marked A in the first part of the First Schedule to this Act, or as near thereto as circumstances permit”.
Section 77	Repeal.
Section 78	Repeal.
Section 79	Repeal.
Section 80	Repeal.
Section 81	Repeal.
Section 83	Repeal.
Section 84	Repeal.
Section 85	Repeal.
Section 86	Repeal.
First Schedule—Part I. ..	Omit Form A.
First Schedule—Part II. ..	Add at the end— “ Bill of sale.”.
Second Schedule	Repeal.
Sixth Schedule	Omit paragraphs (2) to (8), inclusive.

Making of
regulations.

10. At any time after this Act receives the Royal Assent and before the date fixed under sub-section (2.) of section 2 of this Act, regulations may be made under the Principal Act as amended by this Act as if the provisions of this Act referred to in that sub-section had come into operation on the date on which this Act receives the Royal Assent, but regulations so made shall not come into operation before the date fixed under that sub-section.
