

## CRIMES AT SEA BILL 1999

### Clause Notes

*Clause 1: Short title*

*Clause 2: Commencement*

These clauses are formal.

*Clause 3: Definitions*

This clause defines certain terms used in the measure.

*Clause 4: Ratification of cooperative scheme*

This clause ratifies the scheme set out in the schedule.

*Clause 5: Classification of offences*

This clause provides a uniform basis for the classification of offences under the scheme.

*Clause 6: Publication of intergovernmental agreement*

The intergovernmental agreement (and any amendments) must be published in the *Gazette*.

*Clause 7: Regulations*

This clause provides for the making of regulations for carrying out, or giving effect to, the Act.

*Clause 8: Repeal of Crimes (Offences at Sea) Act 1979*

This clause repeals the current *Crimes (Offences at Sea) Act*.

*Clause 9: Amendment of Off-shore (Application of Laws) Act 1982*

This clause amends the *Off-shore (Application of Laws) Act*.

*Clause 10: Transitional and savings*

This clause provides for the transition from the existing legislation to the new legislation.

## SCHEDULE

### *The Cooperative Scheme*

The details of the cooperative scheme are set out in the schedule.

Part 1 of the schedule defines various terms used in the cooperative scheme.

Part 2 of the schedule provides for the application of the substantive criminal laws of the State in the adjacent area (defined in Part 6 of the schedule). The laws of criminal investigation, procedure and evidence will apply as follows:

- the law of the Commonwealth applies to investigations, procedures and acts (other than judicial proceedings) by authorities of the Commonwealth;
- the law of a State applies to investigations, procedures and acts (other than judicial proceedings) by authorities of the State operating within the area of administrative responsibility for the relevant State;
- in a Commonwealth judicial proceeding the law of the Commonwealth applies and in a State judicial proceeding the law of the State in which the proceeding was commenced applies (subject to the Constitution).

This Part also provides an evidentiary presumption in relation to the location of an offence (ie whether it occurred in the adjacent area, inner adjacent area, or outer adjacent area for a particular State).

Part 3 deals with the intergovernmental agreement. Basically this provides for the making of an agreement providing for the division of responsibility for administering and enforcing the law relating to maritime offences. A charge of a maritime offence must not be brought in a court contrary to the intergovernmental agreement. If a charge is brought in contravention of the agreement, the court will, on application by the Commonwealth Attorney General or a participating State Minister, permanently stay the proceedings. The court is not, however, obliged to enquire into compliance with the agreement and non-compliance does not affect its jurisdiction.

Part 4 of the schedule –

- outlines circumstances (involving foreign ships) in which the written consent of the Commonwealth Attorney General is required before the prosecution of a maritime offence;
- provides that the scheme does not exclude the extra-territorial operation of State law to the extent that such law is capable of operating extra-territorially consistently with the scheme;
- provides that the regulations may exclude State and Commonwealth laws from the scheme;
- it is also provided that the scheme does not apply to the Australia-Indonesia Zone of Cooperation (which is defined under Commonwealth law).

Part 5 provides that the Commonwealth *Acts Interpretation Act 1901* applies to the scheme and provides for the making of regulations for the purposes of the scheme.

Part 6 of the schedule defines the adjacent areas.