



New South Wales

Ports and Maritime Administration Amendment (Port Competition and Co-ordination) Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The object of this Bill is to amend the *Ports and Maritime Administration Act 1995*:

- (a) to broaden the principal objectives of Port Corporations to include promoting and facilitating a competitive commercial environment in port operations and improving productivity and efficiency in ports and the port-related supply chain, and
- (b) to broaden the principal functions of Port Corporations to include facilitating and co-ordinating improvements in the efficiency of the port-related supply chain, and
- (c) to authorise the Minister to give directions to a Port Corporation in relation to the exercise of any of its functions in connection with its proposed new principal objectives, and
- (d) to authorise the making of regulations to promote productivity and competition at the ports of Port Corporations and in the port-related supply chain, including regulations relating to information sharing, mandatory performance standards and port-related supply chain service charges.

* Amended in committee—see table at end of volume.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Ports and Maritime Administration Act 1995* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

New principal objectives

Schedule 1 [2] extends the principal objectives of a Port Corporation to include the following 2 new principal objectives:

- (a) to promote and facilitate a competitive commercial environment in port operations,
- (b) to improving productivity and efficiency in its ports and the port-related supply chain.

New principal function

Schedule 1 [3] extends the principal functions of a Port Corporation to include the principal function of facilitating and co-ordinating improvements in the efficiency of the port-related supply chain.

Ministerial direction to port corporation

Schedule 1 [4] (proposed section 10A) authorises the Minister to give a Port Corporation directions in relation to the exercise of any of the Corporation's functions in connection with its proposed new principal objectives. The section establishes a procedure for the review of such a direction if the Port Corporation considers that complying with the direction may cause a significant variation in its approved financial outcomes.

Regulations to promote competition and productivity

Schedule 1 [4] (proposed section 10B) confers a broad power to make regulations in connection with the operation and provision of land-based port facilities and services and the facilities and services of the port-related supply chain for the ports of Sydney Harbour, Botany Bay, Newcastle and Port Kembla. The section authorises the

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regulations to create offences with a penalty of up to 500 penalty units. **Schedule 1 [6]** provides for the matters in respect of which regulations can be made, which include the following:

- (a) requiring a person who operates or provides facilities or services to provide information relating to their operation or provision, for the purpose of facilitating the monitoring of efficiency, performance and investment,
- (b) setting mandatory standards in connection with the operation or provision of facilities and services,
- (c) requiring the operator or provider of facilities or services to keep records and provide information to facilitate the monitoring of compliance with mandatory standards,
- (d) verifying and auditing compliance with mandatory standards,
- (e) providing incentives to encourage compliance with mandatory standards and imposing penalties for a failure to comply with mandatory standards, including by requiring the payment of financial penalties by participants in the port-related supply chain to other participants in connection with a failure to comply with mandatory standards,
- (f) regulating the charges that may be imposed for or in connection with the provision and operation of facilities and services in the port-related supply chain.

Miscellaneous amendments

Schedule 1 [1] inserts definitions of *port-related supply chain* and *supply chain facility*.

Schedule 1 [5] substitutes the provision dealing with proceedings for offences to enable proceedings for an offence to be taken before the Supreme Court in its summary jurisdiction (as an alternative to a Local Court) and to prevent the imposition by a Local Court of a penalty exceeding 100 penalty units. This amendment is consequential on the amendment that will allow the regulations to create offences with a penalty of up to 500 penalty units.