Date Introduced: 22 May 1979
House: House of Representatives
Presented by: The Honourable P.J. Nixon M.P., Minister for Transport

Short Digest of Bill

Purpose
To amend the Navigation Act 1912 to give effect to International Conventions and make other important provisions concerning the qualifications of seamen and the safe operation of ships.

Background
The Commission of Inquiry into the Maritime Industry which was set up in 1973 has recommended a complete revision of the Navigation Act 1912 with a view to greater flexibility and uniformity of shipping legislation throughout Australia. This Bill does not set out to achieve that recommendation, rather it deals with specific matters which require legislation in order to give effect to Australia's position concerning a number of International Maritime Conventions and other important aspects of shipping which need to be brought up to date.

According to the Explanatory Notes on Clauses which accompany the Bill, the complete revision is being considered in the light of the Commission's report.

The Department of Transport Report 1977-78 gave an outline of the scope of the Bill as follows:

"To achieve flexibility and modernisation, the preparation of a Navigation Amendment Bill - incorporating provisions of the 1976 Bill which lapsed on the prorogation of Parliament in February 1977 - progressed during the year. Where necessary, the States have been consulted on various aspects of the Bill.

It is proposed that the Bill will deal with matters such as limitation of shipowners' liability, ship movement reporting and special purpose ships that were included in the 1976 Bill. In addition a number of important new measures are proposed, including:
provisions to give effect, in addition to the 1957 Convention on the limitation of the liability of owners of sea-going ships, to four Inter-Governmental Maritime Consultative Organization Conventions, namely:

- 1972 Convention on the International Regulations for Preventing Collisions at Sea;
- 1972 International Convention for Safe Containers;
- 1969 Convention on Tonnage Measurement of Ships;

repeal of existing statutory requirements for the manning of ships and the adoption of new provisions based on modern principles applied in other countries;

provision for the acceptance and gradual introduction of a new uniform qualifications structure for officers and other seamen based on standards established after consultation with State authorities and industry;

provisions for the adoption of other parts of the Uniform Shipping Laws Code of requirements for the survey and manning of commercial vessels endorsed by the Marine and Ports Council of Australia;

removal of references to British ships' in anticipation of the termination of the British Commonwealth Merchant Shipping Agreement of 1931;

extension of the provisions of the Act to cover masters and seamen of foreign ships engaged in Australian coastal operations.

Many of the provisions in the Bill apply only to ships owned or registered in Australia or engaged in the coastal trade. Where necessary the Clauses make this clear.

The Bill leaves scope for the States and Northern Territory to make their own laws giving effect to the various Conventions and other matters concerning intra-state voyages.

Main Provisions

Clause 2 details when certain new sections are to come into force. Proclamation is necessary in relation to provisions concerning International Conventions.

Clause 8 inserts in Part II a new "Division 2A - The Manning of Ships." The provisions of this Division authorize the Minister to specify the minimum complements of
ships in various classes. He may require a different designation of master, or a different crew, according to the nature of a ship's voyage, cargo, operations or location, ie in port or at sea. The master and the owner are liable to fines of $1000 if an order concerning a ship's complement is contravened.

The Minister may cause a ship to be detained or limit its operations if its complement does not meet requirements. The master and owner are liable to fines of $5000 for contravening a notice limiting a ship's operations.

The Division applies to ships which are registered in Australia, or are engaged in the coasting trade, or are licensed for the coasting trade and operated by an Australian resident, or a firm or company which has its principal place of business in Australia.

Clause 10 repeals Division 3 of Part II. A new "Division 3 - Qualifications of Masters, Officers and Seamen" is substituted.

The new Division enables detailed regulations to be made about qualifications specifying requirements such as instruction, training, examinations, certificates, etc.

A person who makes false representations concerning his qualifications, or serves on a ship without the required qualifications, is liable to a fine of $1000.

Subsequent Clauses 11-15 amend the Act to accord with the new provisions concerning manning and qualifications.

Clause 16 inserts new Section 59B which prohibits the owner of a ship from limiting his liability in respect to claims by crew members, their heirs, personal representatives or dependants in cases of accident or death.

Clauses 18-30 make various amendments relating to personnel administration, covering such matters as: discharge, return of certificates, character reports, payment of wages, accommodation and disposal of effects of deceased seamen.

Clause 32 amends section 187A so as to define the following International Conventions: Load Line, Prevention of Collisions, Safety of Life at Sea, Container.

Clauses 33-47 make various amending provisions about the application of the Safety and Load Line
Conventions. Matters covered include: exemptions, surveyors' inspections, regulations, certificates of survey, loading and machinery checks and tests.

Clause 48 inserts a new "Division 9 - Containers" in Part IV of the Act. This gives effect to the Container Convention to be inserted as Schedule 5 of the Act. The Container Convention lays down technical requirements for safe containers. Provision is also made in Clause 48 for the making of regulations concerning containers.

Clauses 49, 50 and 51 enable regulations to be made which will give full effect to the Prevention of Collisions Convention. This Convention covers matters such as: safe speeds, procedures in risk situations, overtaking, navigation and safety, lights, signals, traffic separation, procedures in narrow channels, etc. It is to be inserted in the Act as Schedule 3.

Clause 52 adds new "Division 14 - Reports of Movements of Ships". This requires masters of Australian ships to lodge sailing plans with the prescribed officer prior to departure. Masters are also required to report their position daily at a nominated time. Plans are to cover voyages within a prescribed area of sea around Australia. The provisions apply to foreign ships making voyages between Australian ports, and encourage voluntary compliance for other voyages.

Clause 65 repeals Part VIII of the Act and inserts a new "Part VIII - Limitation and Exclusion of Shipowners Liability". This limits the liability of shipowners in accordance with the provisions of the Convention on the Limitation of Liability to be inserted as Schedule 6 in the Act. Part VIII also excludes liability for loss or damage where the owner is not at fault in cases of fire, or where undeclared precious items are lost, damaged or stolen. The allowable limitation is expressed in the Convention as an aggregate for all claims relating to a distinct occasion. A formula based on the ship's tonnage is applied.

Clause 80 inserts new "Part XA - Tonnage Measurement of Ships", giving effect to the Convention to be inserted as Schedule 8 in the Act. The Convention contains regulations which lay down methods to be used in computing ships' tonnages.