

Section 204

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- (2) The Commonwealth is liable to pay the owner of the equipment, or the user of the data or programs, compensation of a reasonable amount to the person in respect of the damage or corruption.
- (3) If the Commonwealth and the person do not agree on the amount of the compensation, the person may take proceedings in the Federal Court for the recovery from the Commonwealth of such reasonable amount of compensation as the Court determines.
- (4) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises, or the occupier's employees and agents, if they were available at the time, provided any appropriate warning or guidance on the operation of the equipment.
- (5) Compensation is payable out of money appropriated by the Parliament.

204 Compensation for acquisition of property

(1) If:

- (a) apart from this section, the operation of this Act would result in the acquisition of property from a person otherwise than on just terms; and
- (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;
- then the Commonwealth is liable to pay compensation of a reasonable amount to the person in respect of the acquisition.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may take proceedings in the Federal Court for the recovery from the Commonwealth of such reasonable amount of compensation as the Court determines.
- (3) Compensation is payable out of money appropriated by the Parliament.

Part 13 Miscellaneous**Section 205**

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205 Compensation for unnecessary delay—paid by the Commonwealth

(1) If:

- (a) the Secretary gives:
- (i) a control direction to a regulated foreign ship (see Division 3 of Part 5); or
- (ii) a ship enforcement order to a regulated Australian ship (see Division 4 of Part 11); and
- (b) the ship is delayed because the ship complies with the direction or order; and
- (c) the delay is unreasonable in the circumstances;
- the Commonwealth is liable to pay compensation of a reasonable amount to the ship operator for the ship in respect of the delay.
- (2) If the Commonwealth and the ship operator do not agree on the amount of the compensation, the ship operator may take proceedings in the Federal Court for the recovery from the Commonwealth of such reasonable amount of compensation as the

Court determines.

(3) Compensation is payable out of money appropriated by the Parliament.

206 Compensation for inspection and detention—paid by ship operators or other persons

(1) If:

(a) a person fails to comply with this Act; and

(b) because of that failure a ship is detained or inspected; and

(c) the detention or inspection is reasonable in the circumstances; and

(d) the Commonwealth incurs costs in connection with the detention or inspection;

the person is liable to pay compensation of a reasonable amount to the Commonwealth in respect of the detention or inspection.

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(2) If the Commonwealth and the person do not agree on the amount of the compensation, the Commonwealth may take proceedings in the Federal Court for the recovery from the person of such reasonable amount of compensation as the Court determines.

(3) If:

(a) a security regulated ship (the *non-complying ship*) fails to comply with this Act; and

(b) because of that failure, the non-complying ship or another ship is detained or inspected; and

(c) the detention or inspection is reasonable in the circumstances; and

(d) the Commonwealth incurs costs in connection with the detention or inspection;

the ship operator for the non-complying ship is liable to pay compensation of a reasonable amount to the Commonwealth in respect of the detention or inspection.

(4) If the Commonwealth and the ship operator do not agree on the amount of the compensation, the Commonwealth may take proceedings in the Federal Court for the recovery from the ship operator of such reasonable amount of compensation as the Court determines.

207 Saving of other laws

This Act does not affect an immunity or privilege that is conferred by or under the *Consular Privileges and Immunities Act 1972*, the *Defence (Visiting Forces) Act 1963*, the *Diplomatic Privileges and Immunities Act 1967*, the *Foreign States Immunities Act 1985* or any other Act.

208 Severability—additional effect of Act

(1) Without limiting its effect apart from this section, this Act also has effect as provided by this section.

Part 13 Miscellaneous

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(2) This Act also has the effect that it would have if its operation were expressly confined to acts or omissions of corporations to which paragraph 51(xx) of the Constitution applies.

(3) This Act also has the effect that it would have if its operation were expressly confined to acts or omissions that occur at Commonwealth places.

(4) This Act also has the effect that it would have if its operation were expressly confined to acts or omissions taking place in the course of, or in relation to, trade or commerce:

(a) between Australia and places outside Australia; or

(b) among the States; or

(c) within a Territory, between a State and a Territory or between 2 Territories.

(5) This Act also has the effect that it would have if its operation were expressly confined to acts or omissions taking place in a Territory.

(6) This Act also has the effect that it would have if its operation were expressly confined to acts or omissions taking place outside Australia.

(7) This Act also has the effect that it would have if its operation were expressly confined to matters:

(a) in relation to which the Commonwealth is under an obligation under an international agreement; or

(b) that are of international concern.

209 Regulations

(1) The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), the regulations may:

(a) prescribe fees in respect of matters under this Act (including the regulations); and

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(b) prescribe penalties of not more than 50 penalty units for offences against the regulations.

(3) Paragraph (2)(b) does not limit any provision in this Act that provides for the regulations to prescribe penalties higher than 50 penalty units.

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*[Minister's second reading speech made in—
House of Representatives on 18 September 2003
Senate on 9 October 2003]*

(151/03)