

2016-2017-2018

The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Defence Amendment (Sovereign Naval
Shipbuilding) Bill 2018**

No. , 2018

(Senator Patrick)

**A Bill for an Act to amend the *Defence Act 1903*,
and for related purposes**

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1 **A Bill for an Act to amend the *Defence Act 1903*,**
2 **and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act is the *Defence Amendment (Sovereign Naval*
6 *Shipbuilding) Act 2018*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 enacted. It will not be amended to deal with any later amendments of
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.
5 Information may be inserted in this column, or information in it
6 may be edited, in any published version of this Act.

7 **3 Schedules**

8 Legislation that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.

Schedule 1—Amendments

Defence Act 1903

1 After Part IXD

Insert:

Part IXE—Sovereign naval shipbuilding

117AJ Sovereign naval shipbuilding

- (1) The Commonwealth must not enter into an agreement with an entity for the building of a vessel that exceeds 30 metres in length and is intended for use by the Navy unless:
- (a) the agreement provides that the vessel must be built in Australia by a body corporate (the *Australian shipbuilder*) that:
 - (i) is incorporated in Australia; and
 - (ii) is not controlled by one or more foreign persons (within the meaning of subsection 54(4) of the *Foreign Acquisitions and Takeovers Act 1975*); and
 - (iii) is not a subsidiary of a foreign entity (within the meaning of that Act); and
 - (b) the agreement provides for the provision, grant or conferral by the entity, or the Australian shipbuilder, to the Commonwealth of intellectual property rights relating to the vessel for the purposes of maintaining, repairing or modifying the vessel; and
 - (c) the person who enters into the agreement on behalf of the Commonwealth is satisfied that the Australian shipbuilder has demonstrated its:
 - (i) capability to deliver an ongoing ship building or upgrading program; and
 - (ii) capability to build or deliver major upgrades to vessels intended for use by the Navy; and
 - (iii) international competitiveness; and
 - (iv) compliance with relevant industry standards; and

1 (v) financial viability.

2 (2) This section has effect despite any other law of the
3 Commonwealth. However, this section has no effect in time of war
4 or during a time of defence emergency.

5 **2 Application**

6 Section 117AJ of the *Defence Act 1903*, as inserted by this Schedule,
7 applies in relation to an agreement entered into on and after 9 May
8 2018.