



Shipping Registration Act 1981

Act No. 8 of 1981 as amended

This compilation was prepared on 9 August 2012
taking into account amendments up to Act No. 54 of 2012

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act providing for the registration of ships in Australia, and for related matters

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Shipping Registration Act 1981*.

2 Commencement [see Note 1]

This Act shall come into operation on a date to be fixed by Proclamation.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

Australia includes the external Territories.

Australian General Shipping Register means the Register referred to in subsection 56(1).

Australian International Shipping Register means the Register referred to in subsection 56(2).

Australian national means:

- (a) an Australian citizen;
- (b) a body corporate established by or under a law of the Commonwealth or of a State or Territory; or
- (c) the Commonwealth or a State or Territory.

Australian-owned ship has the meaning given by section 8.

Australian resident: see *resident of Australia*.

Australian ship means a ship having Australian nationality by virtue of section 29.

Authority means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*.

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beneficial interests includes interests arising under contract and other equitable interests.

bill of sale means a bill of sale referred to in section 36.

branch office means a branch office of the Registration Office.

Certificate of Clearance has the same meaning as in the *Customs Act 1901*.

civil penalty order has the meaning given by subsection 61BA(4).

civil penalty provision means a subsection, or a section that is not divided into subsections, that has set out at its foot the words “civil penalty” and one or more amounts in penalty units.

coastal trading has the same meaning as in the *Coastal Trading (Revitalising Australian Shipping) Act 2012*.

Collector of Customs means a person who is a Collector for the purposes of the *Customs Act 1901*.

Customs officer means a person who is an officer for the purposes of the *Customs Act 1901*.

demise charter, in relation to a ship, means the demise, letting, hire or delivery of the ship to the charterer under a charterparty, by virtue of which the charterer has whole possession and control of the ship (including the right to appoint the master and crew of the ship).

Deputy Registrar means a Deputy Registrar of Ships referred to in subsection 48(2).

employee organisation means:

- (a) an organisation registered under the *Fair Work (Registered Organisations) Act 2009*; or
- (b) an organisation recognised under a law of a foreign country as entitled to represent the industrial interests of seafarers.

fish includes turtles, dugong, crustacea, molluscs and any other living resources of the sea or of the seabed.

fishing vessel means a ship that is used, or is intended to be used, wholly or principally for the taking, catching or capturing of fish for trading or manufacturing purposes.

fixed fee, in respect of a matter, means a fee determined by the Authority under section 47 of the *Australian Maritime Safety Authority Act 1990* in respect of the matter.

foreign country means a country other than Australia.

foreign port means a port in a foreign country.

foreign resident means a person other than an Australian national or a resident of Australia.

General Register means the Australian General Shipping Register.

Government authority means:

- (a) the Commonwealth or a State or Territory; or
- (b) a body corporate established for a public purpose by or under a law of the Commonwealth or of a State or Territory, other than:
 - (ii) the Western Australian Coastal Shipping Commission; or
 - (iii) a body corporate that is declared by the regulations not to be a Government authority for the purposes of this definition.

Government ship means a ship 12 metres or more in length:

- (a) that belongs to a Government authority or Government authorities, and to no other person;
- (b) the beneficial interest in which is vested in a Government authority or Government authorities, and in no other person; or
- (c) that is for the time being on demise charter to a Government authority or Government authorities, and to no other person.

harbour means a natural or artificial harbour, and includes an estuary, navigable river, creek, channel, haven, roadstead, dock, pier, jetty, offshore terminal or other place in or at which vessels can obtain shelter or load and unload goods or embark and disembark passengers.

International Register means the Australian International Shipping Register.

international trading has the meaning given by section 61AB.

intra-State trading: a ship is used to engage in **intra-State trading** if, for or in connection with a commercial activity, the ship:

- (a) takes on board passengers or cargo at a port in a State or Territory; and
- (b) carries those passengers or that cargo to another port in the same State or Territory where:
 - (i) some or all of those passengers disembark; or
 - (ii) some or all of that cargo is unloaded.

ITF template agreement means a standard form of agreement that:

- (a) relates to the working conditions of seafarers; and
- (b) is formulated by the International Transport Workers' Federation; and
- (c) is known as the International Transport Workers' Federation Uniform Total Crew Cost Collective Agreement; and
- (d) is available on the Authority's website, or is otherwise available (without charge) from the Authority.

lodged means lodged with the Registrar in accordance with this Act.

master includes a person having command or charge of a ship, but does not include a pilot.

national flag means the Australian National Flag within the meaning of the *Flags Act 1953*.

Navigation Act means the *Navigation Act 1912*.

offence based on a particular provision of this Act, being a provision in respect of which section 74 creates an offence, means an offence against section 74 that relates to that provision (unless the contrary intention appears).

officer means a person (who may include the Minister) exercising powers, or performing duties or functions, under this Act.

owner of a ship:

- (a) except in sections 8, 11A, 12, 30 and 58 and in Parts VA and VI—means a person registered as owner in accordance with the regulations; and
- (b) in sections 8, 12, 30 and 58—has its ordinary meaning; and
- (c) in section 11A and Part VA—has the same meaning as in the Navigation Act; and
- (d) in Part VI—has the meaning given by section 62.

pilot means a person who has the lawful conduct of a ship, but does not belong to the ship.

pleasure craft means a ship that is used, or is intended to be used, wholly for recreational or sporting activities, whether or not let, or intended to be let, for hire or reward or consideration of any kind.

port includes a harbour.

PPSA security interest (short for Personal Property Securities Act security interest) means a security interest within the meaning of the *Personal Property Securities Act 2009* and to which that Act applies (other than a transitional security interest within the meaning of that Act).

Note: The *Personal Property Securities Act 2009* applies to certain security interests in personal property. See the following provisions of that Act:

- (a) section 8 (interests to which the Act does not apply);
- (b) section 12 (meaning of **security interest**);
- (c) Chapter 9 (transitional provisions).

predominantly used to engage in international trading: a ship is **predominantly used to engage in international trading** if, in a calendar year, the percentage of the time that the ship is used to engage in international trading exceeds the percentage of the time that the ship is used to engage in coastal trading or intra-State trading.

previous law means Part I of the Imperial Act known as the Merchant Shipping Act, 1894, as amended, or otherwise affected in its operation, by the provisions of any other Imperial Act or of any Act, in so far as that Part as so amended, or otherwise affected in its operation, is part of the law of the Commonwealth.

proper officer means a person holding, or performing the duties of, any of the following offices (being an office of the Commonwealth) in a country or place outside Australia, namely:

- (a) Ambassador;
- (b) Minister;
- (c) Head of a Mission;
- (d) Chargé d'Affaires;
- (e) Counsellor, Secretary or Attaché of an Embassy, Legation or other post;
- (f) Consul-General;
- (g) Consul; or
- (h) Vice-Consul.

provisional registration certificate means a provisional registration certificate granted under section 21, 22 or 65.

red ensign means the Australian Red Ensign within the meaning of the *Flags Act 1953*.

registered means registered under this Act in:

- (a) the General Register; or
- (b) the International Register.

registered agent, in relation to a ship that is registered in the General Register or International Register, means the person whose name and address are entered in the relevant register in respect of that ship under section 64.

Registers means:

- (a) the General Register; and
- (b) the International Register.

Registrar means the Registrar of Ships referred to in subsection 48(1).

registration certificate means a registration certificate, other than a provisional registration certificate, granted under this Act.

Registration Office means the Australian Shipping Registration Office referred to in section 54.

relevant court, in relation to a matter, means any of the following courts:

- (a) the Federal Court of Australia;
 - (b) the Federal Magistrates Court;
 - (c) a superior court, or lower court, of a State or Territory;
- that has jurisdiction in relation to the matter (see section 61BZD).

relevant register, in relation to a ship, means:

- (a) if the ship is, or is to be, registered in the General Register—the General Register; and
- (b) if the ship is, or is to be, registered in the International Register—the International Register.

resident of Australia or **Australian resident** means an individual:

- (a) whose permanent place of abode is in Australia, whether or not he or she is from time to time temporarily absent from Australia; or
- (b) whose domicile is in Australia, unless his or her permanent place of abode is outside Australia.

seafarer means any person who is employed or works in any capacity on board a ship on the business of the ship, other than the following:

- (a) a pilot;
- (b) an owner of the ship or a person representing the owner;
- (c) law enforcement personnel;
- (d) special personnel (within the meaning of section 283 of the Navigation Act) in relation to the ship;
- (e) a person temporarily employed on the ship in port;
- (f) a person prescribed by the regulations.

seafarers' bargaining unit, for a ship, has the meaning given by subsection 11A(2).

share, in relation to a ship, means one of the shares into which the property in a ship is divided as provided by section 11.

ship means any kind of vessel capable of navigating the high seas and includes:

- (a) a barge, lighter or other floating vessel;
- (b) a structure that is able to float or be floated and is able to move or be moved as an entity from one place to another; and

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(c) an air-cushion vehicle, or other similar craft, used wholly or primarily in navigation by water;
but does not include a vessel, structure, vehicle or craft declared by the regulations not to be a ship for the purposes of this definition.

ship entitled to be registered means:

- (a) a ship that is required to be registered; or
- (b) a ship that is permitted to be registered.

ship on demise charter to an Australian-based operator has the meaning given by section 9.

ship permitted to be registered means a ship permitted to be registered by virtue of section 14 or 15B.

ship required to be registered means a ship required to be registered by virtue of section 12.

small craft means a ship less than 12 metres in overall length.

surveyor has the same meaning as in the Navigation Act.

temporary pass means a temporary pass granted under section 23.

this Act includes the regulations.

trading ship means a ship for use in connection with a commercial activity, but does not include:

- (a) a Government ship; or
- (b) a fishing vessel; or
- (c) a pleasure craft.

Example: An example of a trading ship is a ship that is used wholly for the carriage of passengers or cargo for hire or reward.

unregistered ship means a ship entitled to be registered that is not registered.

- (2) In this Act, unless the contrary intention appears, a reference to the owner of a ship shall, if there is more than one owner of the ship, be read as a reference to each of the owners.
- (5) A reference in this Act to failing to do an act or thing shall be read as including a reference to refusing to do that act or thing.

- (6) For the purposes of this Act, strict compliance with a prescribed form is not required and substantial compliance is sufficient.
- (7) A reference in this Act to an offence against this Act, to an offence against a provision of this Act or to a contravention of, or failure to comply with, a provision of this Act shall be read as including a reference to an offence against section 6 of the *Crimes Act 1914*, or against section 11.1 or 11.4 of the *Criminal Code*, in relation to this Act.
- (8) In this Act, a reference to a ship includes a reference to every thing or article belonging to or to be used in connection with, or necessary for the operation and safety of, the ship.

3A Effect of closure or cancellation of registration

If the registration of a ship is closed or cancelled under this Act, the ship ceases to be registered.

4 Repeal

The previous law is repealed.

5 Act to bind the Crown

This Act binds the Crown in right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island, but nothing in this Act renders the Crown liable to be prosecuted for an offence.

6 Application of Act

This Act extends to every external Territory and to acts, omissions, matters and things outside Australia, whether or not in a foreign country.

7 Act not to apply to Defence Force ships etc.

This Act does not apply in relation to a ship belonging to an arm of the Defence Force of Australia or to the naval, military or air forces of a foreign country.

8 Australian-owned ships

- (1) A reference in this Act to an Australian-owned ship shall be read as a reference to a ship that:
 - (a) is owned by an Australian national or Australian nationals, and by no other person;
 - (b) is owned (otherwise than as described in paragraph (c)) by 3 or more persons as joint owners, where the majority of those persons are Australian nationals; or
 - (c) is owned by 2 or more persons as owners in common, where more than half of the shares in the ship are owned by an Australian national or Australian nationals.
- (2) For the purposes of paragraph (1)(c), where 2 or more persons are joint owners of a share or shares in a ship:
 - (a) in the case of 2 or more particular shares that are owned by the same persons—the interest of each owner in the shares shall be ascertained by dividing the number of the shares by the number of the owners of the shares; and
 - (b) in the case of a share to which paragraph (a) does not apply—the interest of each owner in the share shall be ascertained by dividing the number one by the number of the owners of the share;and, if the sum of the interests so ascertained in respect of all jointly-owned shares in the ship as being interests of an Australian national or Australian nationals is a whole number or a whole number and a fraction, such number of those shares as is equal to that whole number shall be deemed to be owned by an Australian national or Australian nationals.

9 Ships on demise charter to Australian-based operators

- (1) A reference in this Act to a ship on demise charter to an Australian-based operator shall be read as a reference to a ship (not being a ship required to be registered or a ship that may be registered by virtue of paragraph 14(a), (b) or (c) or 15B(a), (b) or (c)) on demise charter to:
 - (a) an Australian national or Australian nationals, and to no other person; or
 - (b) 2 or more persons who include an Australian national or Australian nationals, where the Australian national is, or the

Australian nationals are, as the case may be, in a position to control the exercise of the rights and powers of the charterers under the charterparty.

- (2) In subsection (1), a reference to an Australian national does not include:
- (a) if the Australian national is an Australian citizen—a reference to an Australian citizen who is not ordinarily resident in Australia; or
 - (b) if the Australian national is a body corporate established by or under a law of the Commonwealth or of a State or Territory—a reference to such a body corporate that does not have its principal place of business in Australia.

10 Determination of overall length and tonnage length of ship

- (1) For the purposes of this Act, the overall length of a ship shall, subject to subsection (2), be ascertained by measuring the distance between:
- (a) a vertical line passing through a point, being the foremost part of the stem; and
 - (b) a vertical line passing through a point, being the aftermost part of the stern.
- (2) Where, by reason of the nature of the constructional features of a ship, it is, in the opinion of the Registrar, impracticable to ascertain the overall length of the ship under subsection (1), the overall length of the ship shall be ascertained in such manner as the Registrar determines.
- (3) For the purposes of this Act, the tonnage length of a ship shall be ascertained in a manner specified in the regulations.

11 Registration of property in ships

- (1) For the purposes of the registration of a ship:
- (a) the property in the ship shall be divided into 64 shares;
 - (b) subject to paragraph (c), subsection (2) and section 37, the number of persons registered as owners of the ship shall not at any time exceed 64, but nothing in this paragraph affects the beneficial interests of any number of persons or of a body

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- corporate represented by or claiming under or through a registered owner (including a registered joint owner);
- (c) any number of persons not exceeding 5 may be registered as joint owners of the ship or of a share or shares in the ship;
 - (d) a joint owner of the ship or of a share or shares in the ship is not entitled to dispose of his or her interest in severalty;
 - (e) a person shall not be registered as the owner of a fractional part of a share in the ship; and
 - (f) a body corporate shall be registered as owner by its corporate name.
- (2) For the purposes of paragraph (1)(b), where a share in a ship is jointly owned, or 2 or more shares in a ship are jointly owned by the same persons, the joint owners of that share, or of those shares, as the case may be, shall be treated as constituting one person.

11A Collective agreement with the seafarers' bargaining unit

- (1) The owner of a ship may make an agreement (a *collective agreement*) with the seafarers' bargaining unit for the ship about the terms and conditions of employment or engagement of all the seafarers working on board the ship when it is used to engage in international trading.

Note: Before a ship can be registered in the International Register, the owner of the ship must make a collective agreement under subsection (1): see paragraph 15F(3)(b).

- (2) The *seafarers' bargaining unit* for a ship is a body consisting of a representative from each employee organisation that:
- (a) has, as a member, one or more seafarers who will work on the ship when it is used to engage in international trading; and
 - (b) is entitled to represent the industrial interests of those seafarers in relation to that work; and
 - (c) has given written notice to the owner of the ship that it wishes to be a member of the body and has not withdrawn that notice.
- (3) The regulations may prescribe requirements in relation to the making of a collective agreement under this section.

- (4) The *Fair Work Act 2009* does not apply in relation to the making of a collective agreement under this section, and a collective agreement under this section is not an enterprise agreement for the purposes of that Act.

Part II—Registration of Ships

Division 1—Registration

Subdivision A—Obligation to register Australian-owned ships

12 Obligation to register Australian-owned ships

- (1) Subject to this Part, every Australian-owned ship shall be registered under this Act.
 - (2) Where an Australian-owned ship is operated by a foreign resident under a demise charter, the Authority may, by instrument in writing, exempt the ship during the term of the charter from the requirement to be registered.
 - (3) Where a ship required to be registered is not registered, the owner of the ship is, in respect of each day on which the ship remains unregistered (including the day of a conviction for an offence against this subsection or any subsequent day), guilty of an offence, and, whether or not proceedings are instituted for such an offence, the ship may be detained until registration is effected.
- (3A) An offence under subsection (3) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3B) The owner does not commit an offence against subsection (3), and the ship may not be detained under that subsection, if:
- (a) the owner has made an application in accordance with section 15 or 15C to register the ship; and
 - (b) the Registrar has not made a decision on the application about whether to register the ship under section 15E or subsection 15F(1).
- (3C) The owner does not commit an offence against subsection (3), and the ship may not be detained under that subsection, if:
- (a) the owner has made an application in accordance with section 15C to register the ship in the International Register; and
 - (b) the Registrar has made a decision not to register the ship under subsection 15F(1); and
 - (c) either:
-

- (i) the Registrar has not notified the owner of the decision;
or
 - (ii) the owner has made an application under section 78A for review of the Registrar's decision, and a decision has not been made on the application.
- (3D) The owner does not commit an offence against subsection (3), and the ship may not be detained under that subsection, if:
- (a) the Registrar has made a decision to cancel the registration of the ship under section 33B; and
 - (b) either:
 - (i) the Registrar has not notified the owner of the decision;
or
 - (ii) the owner has made an application under section 78A for review of the Registrar's decision, and a decision has not been made on the application.
- (4) It is not a defence to a prosecution under subsection (3) that the ship required to be registered is registered under the law of a foreign country.

13 Exemptions from registration

Ships less than 24 metres in tonnage length, Government ships, fishing vessels and pleasure craft are exempt from the requirement to be registered under section 12.

Subdivision B—The General Register

14 Ships that may be registered in the General Register

The following ships may be registered in the General Register:

- (a) Australian-owned ships;
- (b) small craft that are wholly owned by Australian residents, or by Australian residents and Australian nationals;
- (c) small craft that are operated solely by Australian residents, or by Australian nationals, or by both;
- (d) ships that are on demise charter to Australian-based operators.

15 Application for registration in the General Register

An application to register a ship in the General Register must:

- (a) be made in accordance with the regulations; and
- (b) be accompanied by the fixed fee (if any) for the application.

Subdivision C—The International Register

15A Objects of the International Register

The objects of the International Register are to:

- (a) facilitate Australian participation in international trade; and
- (b) provide an internationally competitive register to facilitate the long term growth of the Australian shipping industry; and
- (c) promote the enhancement and viability of the Australian maritime skills base and the Australian shipping industry.

15B Ships that may be registered in the International Register

The following ships may be registered in the International Register if they are at least 24 metres in tonnage length:

- (a) trading ships that are Australian-owned ships;
- (b) trading ships that are wholly owned by Australian residents, or by Australian residents and Australian nationals;
- (c) trading ships that are operated solely by Australian residents, or by Australian nationals, or by both;
- (d) trading ships that are on demise charter to Australian-based operators.

15C Application for registration in the International Register

An application to register a ship in the International Register must:

- (a) be made in accordance with the regulations; and
- (b) be accompanied by the fixed fee (if any) for the application; and
- (c) be accompanied by evidence that a collective agreement has been made under section 11A.

15D Pre-registration inspection

- (1) If the Registrar receives an application under section 15C to register a ship in the International Register, the Registrar may require that the ship be inspected by a surveyor for the purposes of determining the application for registration.
- (2) A surveyor may, at any reasonable time, go on board a ship and inspect the ship for the purposes of subsection (1).
- (3) However, a surveyor must not inspect a ship unless the fixed fee (if any) for the inspection has been paid.

Subdivision D—Registration

15E Registration in the General Register

If an application under section 15 is made to register a ship in the General Register, then, subject to sections 16 and 17, the Registrar must register the ship in that register by entering in that register such particulars relating to the ship as are prescribed by the regulations.

15F Registration in the International Register

- (1) If an application under section 15C is made to register a ship in the International Register, then, subject to sections 16 and 17, the Registrar may register the ship in that register by entering in that register such particulars relating to the ship as are prescribed by the regulations.
- (2) When deciding under subsection (1) whether to register a ship in the International Register, the Registrar must have regard to:
 - (a) the age of the ship; and
 - (b) any information contained in the ship's port state control inspection records in relation to the period prescribed by the regulations; and
 - (c) the ship's classification society records in relation to the period prescribed by the regulations; and
 - (d) any inspection of the ship made by a surveyor under section 15D; and
 - (e) any matter that the Registrar considers relevant; and

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- (f) any matter prescribed by the regulations.
- (3) The Registrar must refuse to register the ship in the International Register if the Registrar is satisfied that:
 - (a) the ship will not be predominantly used to engage in international trading; or
 - (b) a collective agreement has not been made between the owner of the ship and the ship's seafarers' bargaining unit under section 11A.
- (4) The Registrar may refuse to register the ship in the International Register if the applicant for registration refuses to allow a surveyor to go on board or inspect the ship under section 15D.
- (5) Subsections (3) and (4) do not limit the grounds on which the Registrar may refuse to register a ship in the International Register.
- (6) If the Registrar refuses to register a ship in the International Register, the Registrar must give written notice of the decision to the applicant, specifying the reasons for the refusal.

16 Tonnage measurement of ship before registration

- (1) The Registrar must not register a ship in the General Register or International Register unless and until a certificate relating to the tonnage measurement of the ship issued under, or otherwise having effect because of, the Navigation Act has been lodged with the Registrar.
- (2) Subsection (1) does not apply to a prescribed ship, or ships included in a prescribed class of ships.

17 No multiple registrations

- (1) The Registrar must not:
 - (a) register a ship in the General Register if it is registered:
 - (i) in the International Register; or
 - (ii) under a law of a foreign country; and
 - (b) register a ship in the International Register if it is registered:
 - (i) in the General Register; or
 - (ii) under a law of a foreign country.

- (2) Where, in relation to a ship that has, at any time, been registered under the law of a foreign country, application is made for the registration of the ship under this Act, the application shall be accompanied by such evidence as the Registrar requires to establish:
- (a) that the ship is no longer registered under the law of that country; or
 - (b) that steps have been taken, or are proposed to be taken, to close the registration of the ship under the law of that country on or before the registration of the ship under this Act.

Division 2—Registration certificates

19 Grant of registration certificate

- (1) Upon the registration of a ship in the General Register or International Register, the Registrar must grant a registration certificate for the ship.
- (2) The registration certificate must:
 - (a) be in the prescribed form; and
 - (b) contain the particulars relating to the ship that were entered in the relevant register; and
 - (c) contain such other matters as are prescribed.

20 Custody of registration certificate

- (1) The registration certificate of a ship shall not be used except for the purpose of the lawful navigation of the ship, and shall not be subject to detention by reason of a claim by an owner, mortgagee, charterer, operator or any other person to any title to, lien or charge on, or interest in, the ship.
 - (2) A person having possession or control of a registration certificate shall not fail to deliver the certificate on demand to the person entitled to the custody of it for the purposes of the lawful navigation of the ship, or to the Registrar, a Deputy Registrar, a proper officer or any other person entitled by law to require its delivery.
- (2A) Subsection (2) does not apply if the person has a reasonable excuse.
- Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).
- (2B) An offence based on subsection (2) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3) If, in any proceedings in respect of an offence against this section in relation to a registration certificate, the court is of the opinion that the certificate is lost, the court shall make an order to that effect and cause an office copy of the order to be served on the Registrar.

- (4) In this section, *registration certificate* includes a provisional registration certificate.

21 New certificates and provisional certificates

- (1) Where:
- (a) a registration certificate is mislaid, lost or destroyed; or
 - (b) a registration certificate is lodged with the Registrar;
- the Registrar shall, upon application made in the manner prescribed, grant a new certificate in substitution for that certificate.
- (2) If:
- (a) an event referred to in paragraph (1)(a) occurs while the ship concerned is at a foreign port at which there is a proper officer; or
 - (b) such an event occurs while the ship concerned is at sea or at a foreign port at which there is no proper officer and, subsequently, but before arriving at an Australian port, the ship arrives at a foreign port at which there is a proper officer;
- the Registrar or the proper officer at that port shall, upon application made to him or her, subject to the regulations, grant a provisional registration certificate in respect of the ship in accordance with the prescribed form.
- (3) Subject to subsection (5), a provisional registration certificate granted in respect of a ship under subsection (2) has the same effect as a registration certificate until:
- (a) the ship arrives at an Australian port; or
 - (b) the expiration of a period of 6 months commencing on the date on which the certificate was granted;
- whichever first happens.
- (4) Where a proper officer grants a provisional registration certificate under this section, he or she shall forward a copy of the certificate to the Registrar.
- (5) If, while a provisional registration certificate granted in respect of a ship under subsection (2) is in effect, application is made in the manner prescribed, the Registrar may, by notice in writing served on the applicant, extend, in relation to the certificate, the period
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referred to in paragraph (3)(b) and, in that event, the reference in that paragraph to a period of 6 months shall be read as a reference to that period as so extended.

- (6) The person who has possession of a provisional registration certificate granted under subsection (2) shall, within 10 days after the ship first arrives at an Australian port after the grant, lodge the certificate with the Registrar.
- (7) Upon lodgment of a provisional registration certificate under subsection (6), the Registrar shall, in his or her discretion:
 - (a) grant a further provisional registration certificate in respect of the ship; or
 - (b) grant a new registration certificate in respect of the ship.
- (8) A provisional registration certificate granted under paragraph (7)(a) has the same effect as a registration certificate for such period after the date on which the certificate was granted as the Registrar specifies in the certificate.

22 Provisional certificates for ships becoming entitled to be registered when abroad

- (1) If:
 - (a) while a ship is at a foreign port at which there is a proper officer, it becomes a ship entitled to be registered; or
 - (b) while a ship is at sea or at a foreign port at which there is no proper officer, it becomes a ship entitled to be registered and, subsequently, but before arriving at an Australian port, it arrives at a foreign port at which there is a proper officer; the proper officer at that port may, subject to the regulations, grant a provisional registration certificate in respect of the ship in accordance with the prescribed form.
- (2) Subject to subsection (4), a provisional registration certificate granted in respect of a ship under this section has the same effect as a registration certificate, and, for the purposes of this Act and of the lawful navigation of the ship, the ship shall be deemed to be registered, until:
 - (a) the ship arrives at an Australian port; or

- (b) the expiration of a period of 6 months commencing on the date on which the certificate was granted;
whichever first happens.
- (3) Where a proper officer grants a provisional registration certificate under this section, he or she shall forward a copy of the certificate to the Registrar.
- (4) If, while a provisional registration certificate granted in respect of a ship under subsection (1) is in effect, application is made in the manner prescribed, the Registrar may, by notice in writing served on the applicant, extend, in relation to the certificate, the period referred to in paragraph (2)(b) and, in that event, the reference in that paragraph to a period of 6 months shall be read as a reference to that period as so extended.
- (5) The person who has possession of a provisional registration certificate granted in respect of a ship under subsection (1) shall, within 10 days after the ship first arrives at an Australian port after the grant, lodge the certificate with the Registrar.
- (6) Upon lodgment of a provisional registration certificate under subsection (5), the Registrar may grant a further provisional registration certificate in respect of the ship.
- (7) A provisional registration certificate granted in respect of a ship under subsection (6) has the same effect as a registration certificate for such period after the date on which the certificate was granted as the Registrar specifies in the certificate and, for the purposes of this Act and of the lawful navigation of the ship, the ship shall be deemed to be registered during that period.

22A Provisional certificates granted by the Registrar

- (1) If, while a ship is at sea or at a foreign port, it becomes a ship entitled to be registered, the Registrar may, subject to the regulations, grant a provisional registration certificate in respect of the ship in accordance with the prescribed form.
- (2) If, while a ship is at an Australian port, it is or becomes entitled to be registered, the Registrar may, subject to the regulations, after he or she is satisfied that it is the intention of the owner of the ship that the ship will depart from that port to a place outside Australia,

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grant a provisional registration certificate in respect of the ship in accordance with the prescribed form.

- (3) Subject to subsection (4), a provisional registration certificate granted in respect of a ship under this section has the same effect as a registration certificate and, for the purposes of this Act and of the lawful navigation of the ship, the ship shall be deemed to be registered until:
- (a) in the case of a ship in respect of which the certificate was granted under subsection (1):
 - (i) the ship arrives at an Australian port; or
 - (ii) the expiration of a period of 6 months commencing on the date on which the certificate was granted;whichever first happens; or
 - (b) in the case of a ship in respect of which a certificate was granted under subsection (2):
 - (i) the ship first returns from a place outside Australia to an Australian port after the grant; or
 - (ii) the expiration of a period of 6 months commencing on the date on which the certificate was granted;whichever first happens.
- (4) If, while a provisional registration certificate granted in respect of a ship under subsection (1) or (2) is in effect, application is made in the manner prescribed, the Registrar may, by notice in writing served on the applicant, extend, in relation to the certificate, the period referred to in subparagraph (3)(a)(ii) or (3)(b)(ii), as the case requires, and, in that event, the reference in that subparagraph to the period of 6 months shall be read as a reference to that period as so extended.
- (5) The person who has possession of a provisional registration certificate granted in respect of a ship under subsection (1) or (2) shall:
- (a) in a case where the certificate was granted under subsection (1)—within 10 days after the ship first arrives at an Australian port after the grant; or
 - (b) in a case where the certificate was granted under subsection (2)—within 10 days after the ship first returns from a place outside Australia to an Australian port after the grant;
- lodge the certificate with the Registrar.

- (6) Upon lodgment of a provisional registration certificate under subsection (5), the Registrar may grant a further provisional registration certificate in respect of a ship.
- (7) A provisional registration certificate granted in respect of a ship under subsection (6) has the same effect as a registration certificate for such period after the date on which the certificate was granted as the Registrar specifies in the certificate and, for the purposes of this Act and of the lawful navigation of the ship, the ship shall be deemed to be registered during that period.

22B Provisional registration certificates not to be issued in certain circumstances

A provisional registration certificate shall not be granted by a proper officer under subsection 22(1), or by the Registrar under subsection 22A(1) or (2), in respect of a ship unless the person granting the certificate is satisfied that, at the time of his or her so granting the certificate, an application for registration of the ship under section 15 or 15C has been lodged with the Registrar and that that application has yet to be determined.

23 Temporary passes

- (1) Where the Authority is satisfied that, by reason of special circumstances, permission should be granted for an unregistered ship to travel:
 - (a) from an Australian port to a foreign port; or
 - (b) from a foreign port to another foreign port or to an Australian port;it may direct the Registrar to grant a temporary pass in respect of that ship, specifying the voyage which the ship is authorized to make and the time during which the pass remains valid, and the Registrar shall grant the pass accordingly.
- (2) A temporary pass shall be in the prescribed form.
- (3) A temporary pass granted in respect of a ship has, subject to the matters specified in the pass, the same effect as a registration certificate and, for the purposes of this Act and of the lawful navigation of the ship on the voyage specified in the pass, the ship shall be deemed to be registered.

25 Use of improper certificate

A person who, in relation to a ship, whether or not it is a registered ship, uses, or permits the use of, a registration certificate, provisional registration certificate or temporary pass not legally granted and in force under this Act in respect of the ship is guilty of an offence.

Division 3—Identification

26 Marking of ship

- (1) A ship shall not be registered until it has been marked in accordance with the regulations with marks directed by the Registrar by notice in writing served on the owner or one of the owners and evidence of a kind specified in the regulations of the ship's having been so marked has been lodged with the Registrar.
- (2) Subject to subsection (4), if the markings placed on a registered ship in accordance with the requirements of subsection (1) are not maintained, the owner and master of the ship are each, in respect of each day during which the markings are not maintained (including the day of a conviction under this subsection or any subsequent day), guilty of an offence punishable upon conviction:
 - (a) if the offender is a natural person—by a fine not exceeding \$1,000; or
 - (b) if the offender is a body corporate—by a fine not exceeding \$2,000.
- (2A) An offence under subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3) A person must not engage in conduct that results in the concealment, removal, alteration, defacing or obliteration of any marking that is on a registered ship in accordance with the requirements of subsection (1).
- (3A) Strict liability applies to the element of an offence against subsection (3) that the ship be marked in accordance with a requirement in subsection (1).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (4) Subsections (2) and (3) do not apply in relation to anything done as authorized by the regulations or done for the purpose of escaping capture by an enemy.
- (5) In this section:

engage in conduct means:

 - (a) do an act; or
 - (b) omit to perform an act.

27 Name of registered ship and change of name

- (1) A person shall not describe a registered ship by any name other than the name by which the ship is for the time being registered.
- (2) Subject to this Act, application may be made to the Registrar, in the manner prescribed, for a change in the name of a registered ship.
- (3) If:
 - (a) the name proposed for a ship in an application for the registration of the ship; or
 - (b) the new name proposed for a registered ship in an application under subsection (2),is a prescribed name, or a name included in a prescribed class of names, the Registrar shall disallow the name.
- (4) Where the Registrar grants an application under subsection (2):
 - (a) he or she shall cause the new name to be entered in the relevant register and endorsed on the ship's registration certificate; and
 - (b) section 26 applies in relation to the marking of the new name on the ship as if the ship had been registered by that name.

28 Power of Minister to disallow name proposed for ship

The Minister may, by notice in writing given to the Registrar, disallow:

- (a) the name proposed for a ship in an application for the registration of the ship; or
- (b) the new name proposed for a registered ship in an application under subsection 27(2);

if the Minister is of the opinion that the description of the ship by that name is likely to prejudice the international relations of the Commonwealth.

Division 4—Nationality and national Colours

29 Certain ships to have Australian nationality

- (1) The following ships shall, for all purposes, be taken to be Australian ships and to have Australian nationality:
 - (a) registered ships;
 - (b) unregistered ships (other than ships required to be registered), being:
 - (i) Australian-owned ships referred to in section 13;
 - (ii) ships wholly owned by residents of Australia or by residents of Australia and Australian nationals; or
 - (iii) ships operated solely by residents of Australia or Australian nationals or both.
- (2) Nothing in subsection (1) shall be taken to alter the character of a ship as an article of personal property.
- (3) In this section, *unregistered ship* means a ship that is not registered under this Act or under the law of a foreign country.

30 National colours and other flags

- (1) It is hereby declared that the national colours for Australian ships are:
 - (a) in the case of ships registered by virtue of section 12 or ships (other than ships referred to in section 13) registered by virtue of paragraph 14(d) or ships registered by virtue of section 15B—the red ensign; and
 - (b) in any other case—the national flag and the red ensign.
- (2) When in waters outside Australian waters:
 - (a) a ship to which paragraph (1)(a) applies may at any time, and shall as and when required by the regulations, fly the red ensign;
 - (b) a registered ship, other than a ship to which paragraph (1)(a) applies, may at any time, and shall as and when required by the regulations, fly the national flag or the red ensign; and
 - (c) a ship to which paragraph 29(1)(b) applies may at any time fly the national flag or the red ensign.

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(2A) An offence based on subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(3) Subject to subsections (4) and (5), when in Australian waters, a registered ship shall, as and when required by the regulations, fly the national flag or the red ensign.

(3A) An offence based on subsection (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(4) If:

(a) a ship is required by subsection (3) to fly the national flag or the red ensign at a particular time (in this subsection referred to as the *relevant time*);

(b) there was in force, immediately before the commencement of this Act, a warrant from Her Majesty or the Admiralty under section 73 of the Imperial Act known as the Merchant Shipping Act, 1894, as amended by any other Imperial Act, authorizing the use by the ship of the British Blue Ensign (with or without defacement);

(c) that section is in force at the relevant time as part of the law of the United Kingdom; and

(d) the flying of that Ensign by the ship at the relevant time is authorized by the warrant;

it is sufficient compliance with subsection (3) for the ship to fly that Ensign at the relevant time in lieu of the national flag or the red ensign.

(5) If:

(a) a ship is required by subsection (3) to fly the national flag or the red ensign at a particular time; and

(b) the ship is, at that time:

(i) entitled to fly a particular flag by virtue of an authority under section 6 of the *Flags Act 1953*; or

(ii) entitled to fly a particular flag of a State or Territory;

it is sufficient compliance with subsection (3) for the ship to fly that particular flag at that time in lieu of the national flag or the red ensign.

- (6) A person shall not, in relation to a ship, use, or permit the use, at any one time, of 2 or more of the flags referred to in the preceding provisions of this section.
- (7) When an Australian ship is in waters outside Australian waters, a person shall not, in relation to that ship:
- (a) except as provided in subsection (2), use, or permit the use of, a flag referred to in, or appointed under, the *Flags Act 1953*; or
 - (b) use, or permit the use of, a flag of a State or Territory or a flag to which a warrant referred to in subsection (4) relates.
- (8) A person shall not, in relation to a ship required to be registered that is not registered, use, or permit the use of, the national flag or the red ensign.
- (8A) An offence based on subsection (6), (7) or (8) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (9) Where, in relation to a ship, there is a contravention of, or failure to comply with, a provision of this section, the master and owner of the ship are each guilty of an offence.
- (10) Upon application made in the manner prescribed by the owner or operator of a ship to which paragraph 29(1)(b) applies, the Registrar shall grant to the applicant a certificate stating that the ship is entitled to fly the national flag and the red ensign in accordance with this section.
- (11) A certificate granted under subsection (10) is, for all purposes, *prima facie* evidence of the facts stated therein.
- (12) In this section:

Australian waters means the territorial sea of Australia and any marine or tidal waters that are on the landward side of any part of that sea.

flag includes an ensign.

31 Declaration of ship's nationality before clearance

- (1) A Collector of Customs shall not grant a Certificate of Clearance in respect of a ship about to depart from an Australian port to a place outside Australia until the master of the ship has declared to the Collector the nationality of the ship.
- (2) A declaration made under subsection (1) shall be recorded on the Certificate of Clearance.

32 Improperly assuming Australian nationality

- (1) If the master or owner of a ship that is not an Australian ship does anything, or permits anything to be done, that results in a ship appearing to be an Australian ship, the ship is subject to forfeiture under this Act, and the Master and owner are each guilty of an offence.
- (2) Subsection (1) does not apply if the master or owner of the ship does the thing for the purpose of escaping capture by an enemy.
Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).
- (3) An offence based on subsection (1) is an offence of strict liability.
Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

33 Concealing Australian nationality

- (1) If the master or owner of an Australian ship does anything, or permits anything to be done that results in:
 - (a) concealing the nationality of the ship from any person entitled by a law of the Commonwealth or of a State or Territory to inquire into the nationality of the ship; or
 - (b) deceiving any such person; or
 - (c) the ship appearing not to be an Australian ship;the ship is subject to forfeiture under this Act, and the master and owner are each guilty of an offence.
- (2) Subsection (1) does not apply if the master or owner of the ship does the thing to escape capture by an enemy.
Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

(3) An offence based on subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

Division 5—Special provisions relating to the International Register

Subdivision A—Conditions of registration in the International Register

33A Conditions of registration in the International Register

- (1) It is a condition of registration of a ship in the International Register that the person referred to in subsection (3) in relation to the ship must ensure that:
 - (a) an Australian national or Australian resident is the master or chief mate of the ship; and
 - (b) an Australian national or Australian resident is the chief engineer or first engineer of the ship.

Civil penalty: 300 penalty units.

- (2) It is a condition of registration of a ship in the International Register that the person referred to in subsection (3) in relation to the ship must take reasonable steps to ensure that the positions of master and chief engineer are occupied by a person who is an Australian national or Australian resident.

Civil penalty: 300 penalty units.

- (3) For the purposes of subsections (1) and (2), the person is:
 - (a) if the ship is registered because of paragraph 15B(a) or (b)—the owner of the ship; and
 - (b) if the ship is registered because of paragraph 15B(c) or (d)—the operator of the ship.

Subdivision B—Cancellation of registration in the International Register

33B Cancellation of registration in the International Register

- (1) The Registrar may cancel the registration of a ship in the International Register if the Registrar is satisfied that:
 - (a) the ship is or has been involved in a contravention, either in or outside of Australia, of:

- (i) this Act; or
 - (ii) the Navigation Act; or
 - (iii) the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*; or
 - (iv) a law prescribed by the regulations; or
 - (b) the ship:
 - (i) is not seaworthy (within the meaning of section 207 of the Navigation Act); or
 - (ii) is substandard (within the meaning of section 207A of the Navigation Act); or
 - (c) the ship has not been, or will not be, predominantly used to engage in international trading; or
 - (d) a collective agreement, made between the owner of the ship and the ship's seafarers' bargaining unit under section 11A, is not in force when the ship is used to engage in international trading; or
 - (e) a prescribed ground for cancelling the registration applies to the ship.
- (2) If the Registrar cancels the registration of a ship in the International Register, the Registrar must give written notice of the decision to the owner, specifying the reasons for the cancellation.
- (3) The regulations may prescribe requirements in relation to the cancellation of registration under this section.

Subdivision C—Basis of registration in the International Register

33C Basis of registration in the International Register

- (1) A ship is registered in the International Register on the basis that:
- (a) the registration may be closed under this Act; and
 - (b) the registration may be cancelled under section 33B; and
 - (c) the registration may be closed, cancelled, revoked, terminated or varied by or under later legislation; and
 - (d) no compensation is payable if the registration is closed, cancelled, revoked, terminated or varied as mentioned in any of the above paragraphs.

Part II Registration of Ships

Division 5 Special provisions relating to the International Register

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- (2) Subsection (1) does not, by implication, affect the interpretation of any other provision of this Act.

Part III—Transfers, transmissions, security interests and other dealings

34 Interpretation

In this Part, *ship* means a registered ship.

36 Transfer of ship etc.

- (1) Subject to section 37, a ship or a share in a ship shall be transferred by a bill of sale made in accordance with the regulations.
- (2) Where a ship or a share in a ship is so transferred, the bill of sale and a declaration of transfer made by the transferee under subsection (3) shall be lodged by the transferee with the Registrar within 14 days after execution of the bill of sale or within such longer period as the Registrar, in special circumstances, allows.
- (2A) The Registrar shall, as soon as practicable after the lodgment by the transferee of a bill of sale relating to the transfer of a ship or a share in a ship together with a declaration of transfer, register the bill of sale by entering in the relevant register the name of the transferee as owner of the ship or share and shall endorse on the bill of sale the fact of the entry having been made, together with the date and time of the making of the entry.
- (3) A declaration of transfer for the purposes of subsection (2) shall be made in accordance with the regulations and, where the transferee is not the Commonwealth or a State or Territory, shall include:
 - (a) in the case of the transfer of a ship, or a share in a ship, other than a small craft:
 - (i) a statement specifying the nationality of the transferee or, where the transferee is a body corporate, the country in which it was incorporated; and
 - (ii) a statement that, to the best of the knowledge and belief of the person making the declaration, the ship concerned will not cease to be an Australian-owned ship by reason only of the transfer; or
 - (b) in the case of the transfer of a ship, or a share in a ship, being a small craft:

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- (i) a statement specifying the nationality of the transferee or, where the transferee is a body corporate, the country in which it was incorporated;
 - (ii) a statement specifying the normal place of residence of the transferee or, where the transferee is a body corporate, the principal place of business of the body corporate; and
 - (iii) a statement that, to the best of the knowledge and belief of the person making the declaration, the ship concerned will not cease to be an Australian-owned ship or a ship referred to in paragraph 14(b) or (c) or 15B(b) or (c) by reason only of the transfer.
- (4) Subsection (3) applies in relation to ships on demise charter to Australian-based operators as if the statement required by subparagraph (3)(a)(ii) or (3)(b)(iii) were a statement that, to the best of the knowledge and belief of the person making the declaration, the ship concerned will not cease to be a ship on demise charter to an Australian-based operator by reason only of the transfer.
- (5) Bills of sale lodged under this section shall be registered in the order of their lodgment.

37 Transmission of ship etc. by operation of law

- (1) Where a ship or a share in a ship is transmitted to a person by any lawful means other than by a transfer under section 36, a declaration of transmission made by that person under subsection (2) together with such evidence of transmission as is prescribed shall be lodged by that person with the Registrar within 14 days of that transmission taking place or within such longer period as the Registrar, in special circumstances, allows.
- (1A) The Registrar shall, as soon as practicable after the lodgment by a person of a declaration of transmission of a ship or a share in a ship together with such other evidence of transmission as is prescribed, enter in the relevant register the name of that person as owner of the ship or share.
- (2) A declaration of transmission for the purposes of subsection (1) shall be made in accordance with the regulations and, where the

person entitled under the transmission is not the Commonwealth or a State or Territory, shall include:

- (a) in the case of the transmission of a ship, or a share in a ship, other than a small craft:
 - (i) a statement specifying the nationality of the person entitled under the transmission or, where the person is a body corporate, the country in which it was incorporated; and
 - (ii) a statement that, to the best of the knowledge and belief of the person making the declaration, the ship concerned will not cease to be an Australian-owned ship by reason only of the transmission; or
- (b) in the case of the transmission of a ship, or a share in a ship, being a small craft:
 - (i) a statement specifying the nationality of the person entitled under the transmission or, where the person is a body corporate, the country in which it was incorporated;
 - (ii) a statement specifying the normal place of residence of the person entitled under the transmission or, where the person is a body corporate, the principal place of business of the body corporate; and
 - (iii) a statement that, to the best of the knowledge and belief of the person making the declaration, the ship concerned will not cease to be an Australian-owned ship or a ship referred to in paragraph 14(b) or (c) by reason only of the transmission.
- (3) Subsection (2) applies in relation to ships on demise charter to Australian-based operators as if the statement required by subparagraph (2)(a)(ii) or (2)(b)(iii) were a statement that, to the best of the knowledge and belief of the person making the declaration, the ship concerned will not cease to be a ship on demise charter to an Australian-based operator by reason only of the transmission.

37A Delivery of registration certificate on transfer etc.

- (1) Where a ship or a share in a ship is transferred to a person by a bill of sale or transmitted to a person by other lawful means, the person who has possession or control of the ship's registration certificate

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shall deliver the certificate to the person to whom the ship or share is transferred or transmitted:

- (a) if the ship is at an Australian port at the time of the transfer or transmission—at the time of the transfer or transmission; or
- (b) in any other case—as soon as practicable after the transfer or transmission.

(1A) An offence based on subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(2) Where a registration certificate is delivered to a person under subsection (1), the person shall immediately deliver the certificate to the Registrar.

(2A) An offence based on subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(3) Where a registration certificate is delivered to the Registrar under subsection (2), the Registrar shall, if the documents and evidence required by subsection 36(2) or 37(1) have been lodged with the Registrar:

- (a) endorse the registration certificate with the particulars of change of ownership of the ship or share; and
- (b) cause the endorsed certificate to be returned to the registered agent of the ship or to such other person as the registered agent directs.

45 Powers of disposal by owner

The owner of a ship or of a share in a ship has power, subject to this Act and to any rights and powers appearing in the relevant register to be vested in any other person, absolutely to dispose of the ship or share and to give effectual receipts in respect of the disposal.

46 Trusts not recognized

Notice of a trust, express, implied or constructive, shall not be entered in the relevant register or be receivable by the Registrar.

47 Equities not excluded

Subject to sections 45 and 46, beneficial interests may be enforced by or against the owner or mortgagee of a ship or of a share in a ship in respect of his or her interest in the ship or share in the same manner as in respect of any other personal property.

47A Caveat may be lodged forbidding registration of certain instruments

- (1) A person claiming an interest in a ship or in a share in a ship under any unregistered instrument, or by operation of law or otherwise, may lodge with the Registrar a caveat in accordance with the prescribed form forbidding the entry in the relevant register of any instrument relating to any dealing with that ship or share until after notice of the intended dealing is given to the caveator.
- (1A) Subsection (1) does not apply to an interest in a ship, or in a share in a ship, that is a PPSA security interest.
- (2) Every caveat shall state the name and address of the caveator and shall contain a sufficient description to identify the ship or the share in the ship in which the caveator claims an interest and the interest claimed by the caveator and shall be signed by the caveator or by his or her solicitor or agent.
- (3) A caveat shall not be entered in the relevant register by the Registrar unless there is specified in the caveat an address in Australia at which notices relating to the caveat or to proceedings in respect of the caveat may be served.
- (4) Where a person entitled to withdraw a caveat notifies the Registrar, by lodging a notice in the prescribed form, that the name of the caveator or the address for service of notices on the caveator has been changed from the name or address specified in the caveat, the Registrar shall record on the caveat and in the relevant register the name or address so notified and that name or address shall thereupon be the name of, or the address for service of notices on, the caveator.
- (5) Every notice relating to a caveat or to any proceeding in respect of a caveat shall be deemed to be duly served if served in accordance with a manner of service specified in the regulations:

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- (a) at:
 - (i) the address stated in the caveat in pursuance of subsection (3); or
 - (ii) if an address has been notified under subsection (4)—the address, or the last address, so notified; or
 - (b) if the caveat was signed by a solicitor or agent—at the office of that solicitor or at the address of that agent.
- (6) A caveat may be withdrawn:
- (a) by the caveator or by the solicitor or agent of the caveator if the solicitor or agent is authorized so to withdraw it;
 - (b) where the caveator is dead—by the executor of the will, or the administrator of the estate, of the caveator;
 - (c) by a trustee or official receiver or other person in whom the interest claimed by the caveator is vested pursuant to the *Bankruptcy Act 1966*; or
 - (d) by any person in whom there is entrusted, by reason of the mental incapacity of the caveator, pursuant to an order of a court of a State or Territory or pursuant to a law of a State or Territory, the management and care of the interest claimed by the caveator.
- (7) Where there is lodged for entry in the relevant register an instrument relating to a dealing with a ship, or a share in a ship, in respect of which a caveat has been lodged and the Registrar is satisfied that, upon entry of that instrument in the relevant register there will vest in the caveator the interest claimed by the caveator in the caveat, the Registrar may, notwithstanding the caveat and the provisions of sections 47C and 47D, enter the dealing in the relevant register and may record on the caveat or in the relevant register that the caveat has lapsed.

47B Notice of caveat

- (1) Upon entry in the relevant register of a caveat, the Registrar shall notify particulars of the caveat:
 - (a) if the caveat relates to the ship—to the person or each person entered in the relevant register as an owner or part owner of the ship; and

- (b) if the caveat relates to a share in the ship—to the person or each person entered in the relevant register as an owner or part owner of that share.
- (2) Any person notified, or required to be notified under subsection (1), of the entry in the relevant register of a caveat may, if he or she thinks fit, summon the caveator to attend before the Supreme Court of a State or Territory to show cause why the caveat should not be removed.
- (3) The Supreme Court of a State or a Territory, upon proof that the caveator has been summoned, may make such order, either *ex parte* or otherwise, as the Court thinks fit.

47C When caveat to lapse

A caveat entered in the relevant register in respect of a ship or a share in a ship shall, unless an order to the contrary is made by the Supreme Court of a State or a Territory and served on the Registrar, be deemed to have lapsed upon the expiration of 14 days after notice is given to the caveator that:

- (a) if the caveat relates to a ship—the person or each person entered in the relevant register as an owner or part-owner of the ship or a person having a right to register a dealing with the ship; or
- (b) if the caveat relates to a share in the ship—the person or each person entered in the relevant register as an owner or part-owner of the share or a person having a right to register a dealing with the share;

has applied for the registration of any dealing with the ship or share.

47D No dealing to be registered while caveat in force

- (1) Subject to this section, so long as a caveat remains in force in respect of a ship or a share in a ship, the Registrar shall not, except with the consent in writing of a person entitled to withdraw the caveat, enter in the relevant register particulars of any dealing with that ship or share.
- (2) Subsection (1) shall not operate to prevent the entry in the relevant register of a dealing with a ship or a share in a ship which, when the caveat was lodged with the Registrar, had previously been

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lodged with the Registrar in a form satisfactory for entry in the relevant register.

- (3) A caveat does not prevent the Registrar from entering in the relevant register the transmission of a ship, or of a share in a ship, to a person if the person becomes entitled to the transmission by operation of law, except to the extent that the caveat specifies otherwise.

47E Compensation for lodging caveat without reasonable cause

A person who lodges a caveat with the Registrar without reasonable cause is liable to pay to a person who has sustained damage thereby such compensation as is just and the compensation is recoverable in an action in a court of competent jurisdiction by the person who has sustained damage from the person who lodged the caveat.

Part IV—Administration

48 Registrar and Deputy Registrars of Ships

- (1) There shall be a Registrar of Ships, who shall, subject to the control of the Authority, be responsible for the maintenance of the Registers and have chief control of the Registration Office.
- (2) There shall be such number of Deputy Registrars of Ships as the Authority determines, who shall, subject to the control of the Registrar, have all the powers and functions of the Registrar under this Act, other than his or her power of delegation under section 53.

49 Functions and powers of Registrar

- (1) In addition to the functions conferred by other provisions of this Act, the functions of the Registrar are to maintain the Registers and, for that purpose:
 - (a) to receive and record all information and documents required or permitted to be lodged with the Registrar under this Act;
 - (b) to grant, issue, vary or revoke such certificates and other documents as are required or permitted to be granted or issued under this Act; and
 - (c) to issue copies of, and extracts from, any such certificates and other documents and entries in the Registers.
- (2) The Registrar has power to do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of his or her functions including, but without limiting the generality of the foregoing, such powers for and in relation to requiring the furnishing of information and documents (including the delivery of certificates and other documents granted or issued under this Act) as are provided by the regulations.

50 Appointment of Registrar and Deputy Registrars

The Registrar and Deputy Registrars shall:

- (a) be appointed by the Minister; and
- (b) be members of the staff of the Authority.

51 Acting Registrar and Deputy Registrars

The Authority may appoint a person to act as Registrar, or as a Deputy Registrar:

- (a) during a vacancy in the office of Registrar or an office of Deputy Registrar, as the case may be, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Registrar or a Deputy Registrar, as the case may be, is absent from duty or from Australia or is, for any other reason, unable to perform the functions of his or her office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

52 Delegation by Minister

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him or her, delegate to a member of the staff of the Authority or to a person appointed or engaged under the *Public Service Act 1999* any of his or her powers under this Act, other than this power of delegation.

53 Delegation by Registrar

- (1) The Registrar may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him or her, delegate to a member of the staff of the Authority or to a person appointed or engaged under the *Public Service Act 1999* any of his or her powers under this Act, other than this power of delegation.

54 Registration Office

- (1) For the purposes of this Act:
 - (a) there shall be an Australian Shipping Registration Office; and
 - (b) the Authority may, by notice published in the *Gazette*, establish branch offices of that Office.
- (2) The Registration Office, and the branch offices established under paragraph (1)(b), shall be at such respective places in Australia as are determined by the Authority by notice published in the *Gazette*.

55 Seal of Registration Office and signature of Registrar

- (1) There shall be a seal of the Australian Shipping Registration Office, in a form determined by the Minister, which shall be under the control of the Registrar.
- (2) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Registration Office affixed to a document and shall presume that it was duly affixed.
- (3) Where a signature on a document purports to be the signature of the Registrar or of a person empowered to sign the document by virtue of a delegation under section 53, it shall be presumed, until the contrary is proved, that the signature is that of a person who, at the relevant time, was holding, or performing the duties of, the office of Registrar or was so empowered to sign that document, as the case may be.

Part V—The Registers

56 The Registers

- (1) There is to be a register, to be known as the Australian General Shipping Register.
- (2) There is to be a register, to be known as the Australian International Shipping Register.
- (3) The Registers are not legislative instruments.

57 Inspection of the Registers

- (1) The Registers may be inspected at the Registration Office.
- (2) The Registrar may also, to the extent that the Registers have been maintained in electronic form, provide for them to be inspected electronically otherwise than at the Registration Office by using the internet or another communications network that is prescribed by the regulations.
- (3) A person may inspect the Registers at any reasonable time during the hours when the Registration Office is open for business on payment of the fixed fee (if any) for the inspection.
- (4) A person is entitled to be provided with a copy of, or an extract from, any entry in the Registers on payment of the fixed fee (if any) for the copy or extract.
- (5) If the Registrar has made provision for electronic inspection of the Registers otherwise than at the Registration Office, a person may electronically inspect the Registers and make a copy of any electronic entry in the Registers on payment of the fixed fee (if any) for the inspection and copy.

58 Obsolete or incorrect entries in the Registers

- (1) Where:
 - (a) in relation to a particular ship that is registered in the General Register or International Register, no entry or amendment of an entry has been made in the relevant register for such period as is prescribed for the purposes of this section; and
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- (b) the Registrar has reason to suspect that:
- (i) any particulars entered in the relevant register in relation to the ship are incorrect;
 - (ii) in relation to the ship, any notice, information or document in relation to which an entry in the relevant register is required by this Act to be made has not been lodged with the Registrar within the period referred to in paragraph (a); or
 - (iii) the ship has been lost (whether actually or constructively), taken by an enemy, burnt or broken up;
- the Registrar may, by notice in writing served on the registered agent or any owner of the ship, require him or her to furnish to the Registrar, within a specified period (not being less than 30 days) after the date of service of the notice, such information and documents relating to the ship as are specified in the notice.
- (2) Where:
- (a) a person on whom a notice is served under subsection (1) fails to furnish to the Registrar, within the period specified in the notice, the information and documents specified in the notice; or
 - (b) the person on whom a notice is so served furnishes information or documents that the Registrar considers may justify the closure of the registration relating to the ship or the alteration of any entry made in the relevant register;
- the Registrar shall inform the Authority of that failure or furnish that information or those documents, as the case requires, to the Authority.
- (2A) If the Authority is of the opinion that the failure of a person to comply with a notice served upon him or her under subsection (1) or any information or document furnished to him or her by the Registrar justifies the giving of directions under this subsection, the Authority may, by notice in writing, give the Registrar such directions as it thinks fit with respect to the closure of the registration relating to the ship or with respect to any entry or amendment of an entry to be made in the relevant register.
- (3) The Registrar shall comply with a direction given under subsection (2A) and, where the Authority directs the closure of the registration relating to a ship:
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- (a) if the Authority states in the direction that it is of the opinion that the ship has been lost (whether actually or constructively), taken by an enemy, burnt or broken up—the Registrar shall make an entry in the relevant register of that statement, and the registration of the ship shall thereupon be deemed to be closed; or
- (b) in any other case—section 66 applies as if the ship had ceased to be entitled to be registered and the direction were a notice under subsection 66(1) stating that fact.

59 Rectification of the Registers

- (1) If:
 - (a) an entry is omitted from the General Register or International Register;
 - (b) an entry is made in the General Register or International Register without sufficient cause;
 - (c) an entry wrongly exists in the General Register or International Register; or
 - (d) there is an error or defect in an entry in the General Register or International Register;

whether or not by reason of a decision of an officer (including a decision that the officer was empowered by this Act to make) a person aggrieved or the Registrar may apply to the Supreme Court of a State or Territory for rectification of that register, and the Court may make such order as it thinks fit directing the rectification of that register.

- (2) Without limiting the generality of paragraph (1)(a), the reference in that paragraph to an entry omitted from the General Register or International Register shall be read as including a reference to a matter that is required or permitted by this Act to be entered, or to remain, in that register, but is not entered in, or is removed from, that register.
- (3) A Court may, in proceedings under this section, decide any question that it is necessary or expedient to decide in connection with the rectification of the General Register or International Register.

- (4) Notice of an application under this section by a person aggrieved shall be served on the Registrar, who may appear and be heard, and shall appear if so directed by the Court.
- (5) An office copy of an order under this section shall be served on the Registrar, and the Registrar must, upon receipt of the order, rectify the General Register or International Register accordingly.

59A Rectification of Personal Property Securities Register

- (1) This section applies if:
 - (a) a financing statement describing a ship, or a share in a ship, has been registered in the PPS Register; and
 - (b) any of the following circumstances apply (whether or not by reason of a decision of the PPS Registrar):
 - (i) data in relation to the financing statement (including the entire registration) has been removed from the PPS Register;
 - (ii) the financing statement, or a financing change statement to amend the financing statement, was wrongly registered, or was registered without sufficient cause;
 - (iii) there is an error, omission or other defect in the financing statement.
 - (2) A person aggrieved by the circumstance or the PPS Registrar may apply to the Supreme Court of a State or Territory for rectification of the PPS Register.
 - (3) Notice of an application under subsection (2) by a person aggrieved must be served on the PPS Registrar, who:
 - (a) may appear and be heard; and
 - (b) must appear if so directed by the Court.
 - (4) On an application under subsection (2), the Court may make such order as it thinks fit directing the rectification of the PPS Register.
 - (5) A Court may, in proceedings on an application under subsection (2), decide any question that it is necessary or expedient to decide in connection with the rectification of the PPS Register.
 - (6) An office copy of an order under subsection (4) must be served on the PPS Registrar, and the PPS Registrar must, upon receipt of the order, rectify the PPS Register accordingly.
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- (7) If the PPS Register is rectified under this section, but could have been similarly rectified under a provision of the *Personal Property Securities Act 2009*, that Act applies as if the PPS Register had been rectified under that provision of the *Personal Property Securities Act 2009*.

Note: The *Personal Property Securities Act 2009* includes various rules about access to data in the PPS Register that has been the subject of rectification under that Act. Subsection (7) of this section ensures that those rules apply in relation to rectification under this Act as well.

- (8) In this section:

financing change statement has the meaning given by the *Personal Property Securities Act 2009*.

financing statement has the meaning given by the *Personal Property Securities Act 2009*.

PPS Register means the Personal Property Securities Register established under section 147 of the *Personal Property Securities Act 2009*.

PPS Registrar means the Registrar of Personal Property Securities appointed under section 194 of the *Personal Property Securities Act 2009*.

60 Correction of clerical errors in the Registers

The Registrar may correct, or cause to be corrected, any clerical error or obvious mistake in the General Register or International Register.

61 False entries in the Registers

A person shall not make or cause to be made a false entry in the General Register or International Register.

Part VA—Seafarers

Division 1—Application of other laws to International Register ships

61AA Application of other laws to International Register ships

If a ship is registered in the International Register, then:

- (a) the *Fair Work Act 2009* does not apply in relation to when the ship is used to engage in international trading; and
- (b) the *Seafarers Rehabilitation and Compensation Act 1992* does not apply in relation to the ship at any time; and
- (c) any legislation of a State or Territory that:
 - (i) provides for workers' compensation; or
 - (ii) is prescribed by the regulations;does not apply in relation to the ship at any time.

61AB When is a ship used to engage in international trading?

- (1) A ship is used to engage in *international trading* if, for or in connection with a commercial activity:
 - (a) the ship:
 - (i) takes on board passengers or cargo at one or more ports in Australia; and
 - (ii) carries some or all of the passengers or cargo to one or more ports in one or more foreign countries; or
 - (b) the ship:
 - (i) takes on board passengers or cargo at one or more ports in one or more foreign countries; and
 - (ii) carries all of the passengers or cargo to one or more ports in one or more countries (which could be the same foreign country, another foreign country or Australia);
or
 - (c) the ship undertakes an activity for, or in connection with, an activity referred to in paragraph (a) or (b).
- (2) However, a ship is not used to engage in *international trading* at any time it is used to engage in:
 - (a) coastal trading; or

Part VA Seafarers

Division 1 Application of other laws to International Register ships

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(b) intra-State trading.

Division 2—Work agreements

Subdivision A—Application of this Division

61AC Application of this Division

This Division applies to:

- (a) a ship that is registered in the International Register; and
- (b) a seafarer working, or proposing to work, on board the ship when it is used to engage in international trading.

Subdivision B—Requirements that apply to work agreements

61AD Work agreement must comply with this Division

- (1) In addition to the requirements of section 45A of the Navigation Act that a work agreement of a seafarer must comply with, the owner of the ship must ensure that the work agreement complies with the requirements of this Division when the ship is used to engage in international trading.

Civil penalty: 300 penalty units.

- (2) Subsection (1) applies to the extent that the agreement applies to the seafarer while he or she is working on board the ship when it is used to engage in international trading.

61AE Wages

- (1) The work agreement must specify the amount of the seafarer's wages, or the method for working that out.
- (2) The amount of the wages must not be less than the relevant amount of wages determined by the Minister under subsection (3).
- (3) The Minister must, by legislative instrument, determine the amount of wages of seafarers performing particular types of work.
- (4) If, when making a determination under subsection (3):
 - (a) there is an ITF template agreement; and
 - (b) the ITF template agreement specifies an amount of wages of seafarers performing particular types of work;

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then the amount of wages determined by the Minister under subsection (3) for a particular type of work must not be less than the amount of wages specified in the ITF template agreement for that type of work.

- (5) If, after the Minister makes a determination under subsection (3), the ITF template agreement changes, then as soon as is reasonably practicable after becoming aware of that:
- (a) the Minister must, by legislative instrument, revoke the determination made under subsection (3); and
 - (b) the Minister must make a new determination under subsection (3).

61AF Paid annual leave

- (1) The work agreement must provide that the seafarer is entitled to at least 2.5 days of paid annual leave for each month of service on board the ship.

Calculating service

- (2) For the purposes of subsection (1), a period of service by the seafarer on board the ship is a period during which the seafarer is employed or engaged in relation to the ship, but does not include:
- (a) any period of unauthorised absence; or
 - (b) any period of unpaid leave.

Paid annual leave not to include other absences

- (3) The work agreement must not provide that the seafarer is on paid annual leave during any of the following periods:
- (a) a period that is a public holiday in the Australian Capital Territory;
 - (b) a period during which the seafarer is incapacitated for work as a result of illness or injury;
 - (c) a period of any other type of absence authorised under the work agreement.

61AG Dispute resolution procedure

- (1) The work agreement must provide for a procedure for settling disputes about any matters arising in relation to the agreement, this Part or Part II of the Navigation Act.
- (2) The procedure must:
 - (a) entitle the seafarer to make a complaint directly to the master of the ship and, if the seafarer considers it necessary, to an independent person or body specified in the agreement; and
 - (b) entitle the seafarer to be accompanied or represented by another person during the complaint process; and
 - (c) comply with any other requirements prescribed by the regulations.

Subdivision C—Effect of other agreements on the work agreement

61AH Effect of collective agreement with the seafarers' bargaining unit

- (1) This section applies while a collective agreement made under section 11A between the owner of the ship and the seafarers' bargaining unit for the ship is in force.
- (2) The work agreement referred to in section 45A of the Navigation Act, to the extent that the work agreement applies to the seafarer while he or she is working on board the ship when it is used to engage in international trading, is taken to include the terms and conditions of the collective agreement.

Note: It does not matter whether the work agreement was made before or after the collective agreement was made.

- (3) However, a term or condition of the collective agreement that is included in the work agreement because of subsection (2) has no effect to the extent that it is less beneficial to the seafarer than another term or condition of the work agreement.

61AI Effect of other agreements

- (1) This section applies if:
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Section 61AJ

- (a) on or after the commencement of this section, the owner of the ship makes an agreement with another person or persons about the terms and conditions of employment or engagement of one or more seafarers working on board the ship when it is used to engage in international trading; and
 - (b) the agreement is not a work agreement referred to in section 45A of the Navigation Act; and
 - (c) the agreement is not a collective agreement made under section 11A.
- (2) If the work agreement referred to in section 45A of the Navigation Act incorporates any of the terms or conditions of the agreement referred to in paragraph (1)(a), then those terms or conditions have no effect to the extent that they apply to the seafarer while he or she is working on board the ship when it is used to engage in international trading.

Subdivision D—Enforcement of work agreement in relation to wages and annual leave

61AJ Wages to be paid

The owner of the ship must ensure that any wages that are payable to the seafarer under the seafarer's work agreement are paid to the seafarer.

Civil penalty: 300 penalty units.

61AK Annual leave may be taken

The owner of the ship must ensure that the seafarer is entitled to take any paid annual leave that the seafarer is entitled to take under the seafarer's work agreement.

Civil penalty: 300 penalty units.

Division 3—Protection against victimisation of seafarers

61AL Protection against victimisation

- (1) This section applies to:
 - (a) a ship that is registered in the International Register; and
 - (b) a seafarer who works, or a prospective seafarer who proposes to work, on board the ship when it is used to engage in international trading.
- (2) A person must not victimise the seafarer because the seafarer:
 - (a) has made, proposes to make, or at any time has proposed to make a complaint under the dispute resolution procedure in the seafarer's work agreement (unless the complaint is manifestly vexatious or maliciously made); or
 - (b) has refused to make, proposes to refuse to make, or at any time has proposed to refuse to make a complaint under the dispute resolution procedure in the seafarer's work agreement; or
 - (c) has participated, proposes to participate, or at any time has proposed to participate in collective bargaining; or
 - (d) has refused to participate, proposes to refuse to participate, or at any time has refused to participate in collective bargaining; or
 - (e) has exercised, proposes to exercise, or at any time has proposed to exercise the right to organise and to take industrial action; or
 - (f) has refused to exercise, proposes to refuse to exercise, or at any time has proposed to refuse to exercise the right to organise and to take industrial action; or
 - (g) has joined, proposes to join, or at any time has proposed to join an employee organisation; or
 - (h) has refused to join, proposes to refuse to join, or at any time has proposed to refuse to join an employee organisation; or
 - (i) has participated, proposes to participate, or at any time has proposed to participate in the activities of an employee organisation; or
 - (j) has refused to participate, proposes to refuse to participate, or at any time has proposed to refuse to participate in the activities of an employee organisation; or

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- (k) has requested, proposes to request, or at any time has proposed to request representation by an employee organisation; or
- (l) has refused, proposes to refuse, or at any time has proposed to refuse representation by an employee organisation.

Civil penalty: 300 penalty units.

- (3) For the purposes of subsection (2), a person *victimises* a seafarer if the person:
- (a) dismisses, or threatens or organises to dismiss, the seafarer; or
 - (b) injures, or threatens or organises to injure, the seafarer in his or her employment or engagement on board a ship; or
 - (c) alters the position of, or threatens or organises to alter the position of, the seafarer to the seafarer's prejudice; or
 - (d) discriminates, or threatens or organises to discriminate, between the seafarer and other seafarers; or
 - (e) refuses, or threatens or organises to refuse, to employ the seafarer on board a ship.

Division 4—Injury etc. of seafarers

61AM Compulsory insurance for death or long-term disability

- (1) The owner of a ship that is registered in the International Register must have a policy of insurance or indemnity that:
- (a) insures or indemnifies the owner for any liability of the owner to pay compensation for the death or long-term disability suffered by a seafarer as a result of sickness or injury occurring while on board the ship; and
 - (b) provides a level of insurance or indemnity that is sufficient to cover the amount of compensation that is determined by the Minister under subsection (2).

Civil penalty: 300 penalty units.

- (2) The Minister must, by legislative instrument, determine the amount of compensation for the death or long-term disability suffered by a seafarer as a result of sickness or injury occurring while on board the ship.
- (3) If:
- (a) there is an ITF template agreement; and
 - (b) the ITF template agreement specifies an amount of compensation for the death or long-term disability of a seafarer, or a method for working that out;
- then the amount of compensation determined by the Minister under subsection (2) for the death or long-term disability of a seafarer must not be less than the amount of compensation specified in, or worked out under, the ITF template agreement for the death or long-term disability of the seafarer.
- (4) If, after the Minister makes a determination under subsection (2), the ITF template agreement changes, then as soon as is reasonably practicable after becoming aware of that:
- (a) the Minister must, by legislative instrument, revoke the determination made under subsection (2); and
 - (b) the Minister must make a new determination under subsection (2).

61AN Liability for medical attendance etc.

- (1) This section applies if the owner of a ship that is registered in the International Register would, apart from subsection (2), be liable under section 127 of the Navigation Act to pay expenses relating to a hurt or injury received, disease contracted or illness suffered by a seafarer while on board the ship when it was used to engage in international trading.
- (2) Any liability of the owner under that section ceases on the earlier of the following days:
 - (a) the day after the seafarer has recovered;
 - (b) the day that is 16 weeks after the first day the seafarer received the hurt or injury, contracted the disease or suffered the illness.

61AO Liability for wages of sick or injured seafarers

- (1) This section applies if the owner of a ship that is registered in the International Register would, apart from subsection (2), be liable under section 132 of the Navigation Act to pay wages to a seafarer who is hurt or injured, or becomes ill, while on board the ship when it was used to engage in international trading.
- (2) Any liability of the owner under that section ceases on the earlier of the following days:
 - (a) the day after the seafarer has recovered;
 - (b) the day that is 16 weeks after the first day the seafarer was hurt or injured, or became ill.

Part VB—Enforcement

Division 1—Civil penalty provisions

Subdivision A—Obtaining a civil penalty order

61BA Civil penalty orders

Application for order

- (1) The Authority may apply to a relevant court for an order that a person, who is alleged to have contravened a civil penalty provision, pay a pecuniary penalty.
- (2) The Authority must make the application within 6 years of the alleged contravention.

Relevant court may order person to pay pecuniary penalty

- (3) If the relevant court is satisfied that the person has contravened the civil penalty provision, the relevant court may order the person to pay such pecuniary penalty for the contravention as the relevant court determines to be appropriate.

Note: Subsection (5) sets out the maximum penalty that the relevant court may order the person to pay.

- (4) An order under subsection (3) is a ***civil penalty order***.

Determining pecuniary penalty

- (5) The pecuniary penalty must not be more than:
 - (a) if the person is a body corporate—5 times the pecuniary penalty specified for the civil penalty provision; and
 - (b) otherwise—the pecuniary penalty specified for the civil penalty provision.
- (6) In determining the pecuniary penalty, the relevant court may take into account all relevant matters, including:
 - (a) the nature and extent of the contravention; and
 - (b) the nature and extent of any loss or damage suffered because of the contravention; and
 - (c) the circumstances in which the contravention took place; and

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- (d) whether the person has previously been found by a court in proceedings under one or more of the following Acts to have engaged in any similar conduct:
- (i) this Act;
 - (ii) the Navigation Act;
 - (iii) the *Crimes Act 1914* or the *Criminal Code* in relation to this Act.

61BB Civil enforcement of penalty

- (1) A pecuniary penalty is a debt payable to the Authority on behalf of the Commonwealth.
- (2) The Authority may enforce a civil penalty order as if it were an order made in civil proceedings against the person to recover a debt due by the person. The debt arising from the order is taken to be a judgement debt.

61BC Conduct contravening more than one civil penalty provision

- (1) If conduct constitutes a contravention of 2 or more civil penalty provisions, proceedings may be instituted under this Division against a person in relation to the contravention of any one or more of those provisions.
- (2) However, the person is not liable to more than one pecuniary penalty under this Division in relation to the same conduct.

61BD Multiple contraventions

- (1) A relevant court may make a single civil penalty order against a person for multiple contraventions of a civil penalty provision if proceedings for the contraventions are founded on the same facts, or if the contraventions form, or are part of, a series of contraventions of the same or a similar character.
- (2) However, the penalty must not exceed the sum of the maximum penalties that could be ordered if a separate penalty were ordered for each of the contraventions.

61BE Proceedings may be heard together

A relevant court may direct that 2 or more proceedings for civil penalty orders are to be heard together.

61BF Civil evidence and procedure rules for civil penalty orders

A relevant court must apply the rules of evidence and procedure for civil matters when hearing proceedings for a civil penalty order.

61BG Contravening a civil penalty provision is not an offence

A contravention of a civil penalty provision is not an offence.

Subdivision B—Civil proceedings and criminal proceedings

61BH Civil proceedings after criminal proceedings

A relevant court may not make a civil penalty order against a person for a contravention of a civil penalty provision if the person has been convicted of an offence constituted by conduct that is the same, or substantially the same, as the conduct constituting the contravention.

61BI Criminal proceedings during civil proceedings

- (1) Proceedings for a civil penalty order against a person for a contravention of a civil penalty provision are stayed if:
 - (a) criminal proceedings are commenced or have already been commenced against the person for an offence; and
 - (b) the offence is constituted by conduct that is the same, or substantially the same, as the conduct alleged to constitute the contravention.
- (2) The proceedings for the order (the *civil proceedings*) may be resumed if the person is not convicted of the offence. Otherwise, the civil proceedings are dismissed.

61BJ Criminal proceedings after civil proceedings

Criminal proceedings may be commenced against a person for conduct that is the same, or substantially the same, as conduct that

would constitute a contravention of a civil penalty provision, regardless of whether a civil penalty order has been made against the person in relation to the contravention.

61BK Evidence given in civil proceedings not admissible in criminal proceedings

- (1) Evidence of information given, or evidence of production of documents, by an individual is not admissible in criminal proceedings against the individual if:
 - (a) the individual previously gave the evidence or produced the documents in proceedings for a civil penalty order against the individual for an alleged contravention of a civil penalty provision (whether or not the order was made); and
 - (b) the conduct alleged to constitute the offence is the same, or substantially the same, as the conduct alleged to constitute the contravention.
- (2) However, subsection (1) does not apply to criminal proceedings in relation to the falsity of the evidence given by the individual in the proceedings for the civil penalty order.

Subdivision C—Miscellaneous

61BL Ancillary contravention of civil penalty provisions

- (1) A person must not:
 - (a) attempt to contravene a civil penalty provision; or
 - (b) aid, abet, counsel or procure a contravention of a civil penalty provision; or
 - (c) induce (by threats, promises or otherwise) a contravention of a civil penalty provision; or
 - (d) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of a civil penalty provision; or
 - (e) conspire with others to effect a contravention of a civil penalty provision.

Note: Section 61BN (which provides that a person's state of mind does not need to be proven in relation to a civil penalty provision) does not apply to this subsection.
- (2) A person who contravenes subsection (1) in relation to a civil penalty provision is taken to have contravened the provision.

61BM Mistake of fact

- (1) A person is not liable to have a civil penalty order made against the person for a contravention of a civil penalty provision if:
 - (a) at or before the time of the conduct constituting the contravention, the person:
 - (i) considered whether or not facts existed; and
 - (ii) was under a mistaken but reasonable belief about those facts; and
 - (b) had those facts existed, the conduct would not have constituted a contravention of the civil penalty provision.
- (2) For the purposes of subsection (1), a person may be regarded as having considered whether or not facts existed if:
 - (a) the person had considered, on a previous occasion, whether those facts existed in the circumstances surrounding that occasion; and
 - (b) the person honestly and reasonably believed that the circumstances surrounding the present occasion were the same, or substantially the same, as those surrounding the previous occasion.
- (3) A person who wishes to rely on a matter in subsection (1) or (2) in proceedings for a civil penalty order bears an evidential burden in relation to that matter.

61BN State of mind

- (1) In proceedings for a civil penalty order against a person for a contravention of a civil penalty provision (other than because of subsection 61BL(1)), it is not necessary to prove:
 - (a) the person's intention; or
 - (b) the person's knowledge; or
 - (c) the person's recklessness; or
 - (d) the person's negligence; or
 - (e) any other state of mind of the person;other than as expressly provided.
- (2) Subsection (1) does not affect the operation of section 61BM (mistake of fact).

61BO Civil penalty provisions contravened by employees, agents or officers

If an element of a civil penalty provision is done by an employee, agent or officer of a body corporate acting within the actual or apparent scope of his or her employment, or within his or her actual or apparent authority, the element must also be attributed to the body corporate.

61BP Continuing contraventions of civil penalty provisions

- (1) If an act or thing is required under a civil penalty provision to be done:
 - (a) within a particular period; or
 - (b) before a particular time;then the obligation to do that act or thing continues until the act or thing is done (even if the period has expired or the time has passed).
- (2) A person who contravenes a civil penalty provision that requires an act or thing to be done:
 - (a) within a particular period; or
 - (b) before a particular time;commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).

Division 2—Infringement notices, voluntary enforceable undertakings and injunctions

Subdivision A—Infringement notices

61BQ When an infringement notice may be given

- (1) If the Authority has reasonable grounds to believe that a person has contravened a civil penalty provision, the Authority may give to the person an infringement notice for the alleged contravention.
- (2) The infringement notice must be given within 12 months after the day the contravention is alleged to have taken place.
- (3) A single infringement notice must relate only to a single contravention of a single civil penalty provision unless subsection (4) applies.
- (4) The Authority may give a person a single infringement notice relating to multiple contraventions of a single provision if:
 - (a) the provision requires the person to do a thing within a particular period or before a particular time; and
 - (b) the person fails or refuses to do that thing within that period or before that time; and
 - (c) the failure or refusal occurs on more than one day; and
 - (d) each contravention is constituted by the failure or refusal on one of those days.

Note: For continuing offences, see subsection 4K(2) of the *Crimes Act 1914*.
For continuing contraventions of civil penalty provisions, see section 61BP of this Act.

61BR Matters to be included in an infringement notice

- (1) An infringement notice must:
 - (a) be identified by a unique number; and
 - (b) state the day it is given; and
 - (c) state the name of the person to whom the notice is given; and
 - (d) state the name of the person who gave the notice; and
 - (e) give brief details of the alleged contravention, including:
 - (i) the provision that was allegedly contravened; and

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- (ii) the maximum penalty a court could impose for the contravention; and
 - (iii) the time (if known) and day of, and the place of, the alleged contravention; and
 - (f) state the amount that is payable under the notice; and
 - (g) give an explanation of how payment of the amount is to be made; and
 - (h) state that, if the person to whom the notice is given pays the amount within 28 days after the day the notice is given, then (unless the notice is withdrawn):
 - (i) if the provision is an offence provision and does not also constitute a civil penalty provision—the person will not be liable to be prosecuted in a court for the alleged contravention; or
 - (ii) if the provision is an offence provision that can also constitute a civil penalty provision—the person is not liable to be prosecuted in a court, and proceedings seeking a civil penalty order will not be brought, in relation to the alleged contravention; or
 - (iii) if the provision is a civil penalty provision—proceedings seeking a civil penalty order will not be brought in relation to the alleged contravention; and
 - (i) state that payment of the amount is not an admission of guilt or liability; and
 - (j) state that the person may apply to the Authority to have the period in which to pay the amount extended; and
 - (k) state that the person may choose not to pay the amount and, if the person does so:
 - (i) if the provision is an offence provision and does not also constitute a civil penalty provision—the person may be prosecuted in a court for the alleged contravention; or
 - (ii) if the provision is an offence provision and can also constitute a civil penalty provision—the person may be prosecuted in a court, or proceedings seeking a civil penalty order may be brought, in relation to the alleged contravention; or
 - (iii) if the provision is a civil penalty provision—proceedings seeking a civil penalty order may be brought in relation to the alleged contravention; and
 - (l) set out how the notice can be withdrawn; and
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- (m) state that if the notice is withdrawn:
 - (i) if the provision is an offence provision and does not also constitute a civil penalty provision—the person may be prosecuted in a court for the alleged contravention; or
 - (ii) if the provision is an offence provision and can also constitute a civil penalty provision—the person may be prosecuted in a court, or proceedings seeking a civil penalty order may be brought, in relation to the alleged contravention; or
 - (iii) if the provision is a civil penalty provision—proceedings seeking a civil penalty order may be brought in relation to the alleged contravention; and
 - (n) state that the person may make written representations to the Authority seeking the withdrawal of the notice.
- (2) For the purposes of paragraph (1)(f), the amount to be stated in the notice for the alleged contravention of the provision must be equal to one-fifth of the maximum penalty that the court could impose on the person for that contravention.

61BS Extension of time to pay amount

- (1) A person to whom an infringement notice has been given may apply to the Authority for an extension of the period referred to in paragraph 61BR(1)(h).
- (2) If the application is made before the end of that period, the Authority may, in writing, extend that period. The Authority may do so before or after the end of that period.
- (3) If the Authority extends that period, a reference in this Division, or in a notice or other instrument under this Division, to the period referred to in paragraph 61BR(1)(h) is taken to be a reference to that period so extended.
- (4) If the Authority does not extend that period, a reference in this Division, or in a notice or other instrument under this Division, to the period referred to in paragraph 61BR(1)(h) is taken to be a reference to the period that ends on the later of the following days:
 - (a) the day that is the last day of the period referred to in paragraph 61BR(1)(h);

- (b) the day that is 7 days after the day the person was given notice of the Authority's decision not to extend.
- (5) The Authority may extend the period more than once under subsection (2).

61BT Withdrawal of an infringement notice

Representations seeking withdrawal of notice

- (1) A person to whom an infringement notice has been given may make written representations to the Authority seeking the withdrawal of the notice.

Withdrawal of notice

- (2) The Authority may withdraw an infringement notice given to a person (whether or not the person has made written representations seeking the withdrawal).
- (3) When deciding whether or not to withdraw an infringement notice (the **relevant infringement notice**), the Authority:
 - (a) must take into account any written representations seeking the withdrawal that were given by the person to the Authority; and
 - (b) may take into account the following:
 - (i) whether a court has previously imposed a penalty on the person for a contravention of a civil penalty provision;
 - (ii) the circumstances of the alleged contravention;
 - (iii) whether the person has paid an amount, stated in an earlier infringement notice, for a contravention of a civil penalty provision if the contravention is constituted by conduct that is the same, or substantially the same, as the conduct alleged to constitute the contravention in the relevant infringement notice;
 - (iv) any other matter the Authority considers relevant.

Notice of withdrawal

- (4) Notice of the withdrawal of the infringement notice must be given to the person. The withdrawal notice must state:
 - (a) the person's name and address; and

- (b) the day the infringement notice was given; and
- (c) the identifying number of the infringement notice; and
- (d) that the infringement notice is withdrawn; and
- (e) that:
 - (i) if the provision is an offence provision and does not also constitute a civil penalty provision—the person may be prosecuted in a court for the alleged contravention; or
 - (ii) if the provision is an offence provision and can also constitute a civil penalty provision—the person may be prosecuted in a court, or proceedings seeking a civil penalty order may be brought, in relation to the alleged contravention; or
 - (iii) if the provision is a civil penalty provision—proceedings seeking a civil penalty order may be brought in relation to the alleged contravention.

Refund of amount if infringement notice withdrawn

- (5) If:
 - (a) the Authority withdraws the infringement notice; and
 - (b) the person has already paid the amount stated in the notice;the Commonwealth must refund to the person an amount equal to the amount paid.

61BU Effect of payment of amount

- (1) If the person to whom an infringement notice for an alleged contravention of a civil penalty provision is given pays the amount stated in the notice before the end of the period referred to in paragraph 61BR(1)(h), then:
 - (a) any liability of the person for the alleged contravention is discharged; and
 - (b) either:
 - (i) if the provision is an offence provision—the person may not be prosecuted in a court for the alleged contravention; or
 - (ii) if the provision is a civil penalty provision—proceedings seeking a civil penalty order may not be brought against the person in relation to the alleged contravention; and

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- (c) the person is not regarded as having admitted guilt or liability for the alleged contravention; and
 - (d) if the provision is an offence provision—the person is not regarded as having been convicted of the alleged offence.
- (2) Subsection (1) does not apply if the notice has been withdrawn.

61BV Effect of this Division

This Division does not:

- (a) require an infringement notice to be given to a person for an alleged contravention of a civil penalty provision; or
- (b) affect the liability of a person for an alleged contravention of a civil penalty provision if:
 - (i) the person does not comply with an infringement notice given to the person for the contravention; or
 - (ii) an infringement notice is not given to the person for the contravention; or
 - (iii) an infringement notice is given to the person for the contravention and is subsequently withdrawn; or
- (c) prevent the giving of 2 or more infringement notices to a person for an alleged contravention of a civil penalty provision; or
- (d) limit the court's discretion to determine the amount of a penalty to be imposed on a person who is found to have contravened a civil penalty provision.

Subdivision B—Enforceable undertakings

61BW Acceptance of undertakings

- (1) The Authority may accept any of the following undertakings:
 - (a) a written undertaking given by a person that the person will, in order to comply with a civil penalty provision, take specified action;
 - (b) a written undertaking given by a person that the person will, in order to comply with a civil penalty provision, refrain from taking specified action;
 - (c) a written undertaking given by a person that the person will take specified action directed towards ensuring that the

person does not contravene a civil penalty provision, or is unlikely to contravene such a provision, in the future.

- (2) The undertaking must be expressed to be an undertaking under this section.
- (3) The person may withdraw or vary the undertaking at any time, but only with the written consent of the Authority.
- (4) The consent of the Authority is not a legislative instrument.
- (5) The Authority may, by written notice given to the person, cancel the undertaking.

61BX Enforcement of undertakings

- (1) If:
 - (a) a person has given an undertaking under section 61BW; and
 - (b) the undertaking has not been withdrawn or cancelled; and
 - (c) the Authority considers that the person has breached the undertaking;the Authority may apply to a relevant court for an order under subsection (2).
- (2) If the relevant court is satisfied that the person has breached the undertaking, the court may make any or all of the following orders:
 - (a) an order directing the person to comply with the undertaking;
 - (b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;
 - (c) any order that the court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
 - (d) any other order that the court considers appropriate.

Subdivision C—Injunctions

61BY Grant of injunctions

Restraining injunctions

- (1) If a person has engaged, is engaging or is proposing to engage, in conduct in contravention of a civil penalty provision, a relevant court may, on application by the Authority, grant an injunction:
 - (a) restraining the person from engaging in the conduct; and
 - (b) if, in the court's opinion, it is desirable to do so—requiring the person to do a thing.

Performance injunctions

- (2) If:
 - (a) a person has refused or failed, or is refusing or failing, or is proposing to refuse or fail, to do a thing; and
 - (b) the refusal or failure was, is or would be a contravention of a civil penalty provision;the court may, on application by the Authority, grant an injunction requiring the person to do that thing.

61BZ Interim injunctions

Grant of interim injunctions

- (1) Before deciding an application for an injunction under section 61BY, a relevant court may grant an interim injunction:
 - (a) restraining a person from engaging in conduct; or
 - (b) requiring a person to do a thing.

No undertakings as to damages

- (2) The court must not require an applicant for an injunction under section 61BY to give an undertaking as to damages as a condition of granting an interim injunction.

61BZA Discharging or varying injunctions

A relevant court may discharge or vary an injunction granted by that court under this Division.

61BZB Certain limits on granting injunctions not to apply

Restraining injunctions

- (1) The power of a relevant court under this Division to grant an injunction restraining a person from engaging in conduct may be exercised:
 - (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
 - (b) whether or not the person has previously engaged in conduct of that kind; and
 - (c) whether or not there is an imminent danger of substantial damage to any other person if the person engages in conduct of that kind.

Performance injunctions

- (2) The power of a relevant court under this Division to grant an injunction requiring a person to do a thing may be exercised:
 - (a) whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that thing; and
 - (b) whether or not the person has previously refused or failed to do that thing; and
 - (c) whether or not there is an imminent danger of substantial damage to any other person if the person refuses or fails to do that thing.

61BZC Other powers of a relevant court unaffected

The powers conferred on a relevant court under this Division are in addition to, and not instead of, any other powers of the court, whether conferred by this Act or otherwise.

Division 3—Civil jurisdiction of courts

61BZD Civil jurisdiction of courts

- (1) Jurisdiction is conferred on a court referred to in an item in the following table in relation to civil matters arising under this Part, subject to the limits on the court's jurisdiction (if any) specified in the item:

Civil jurisdiction of courts		
Item	Court on which civil jurisdiction is conferred	Limits of jurisdiction
1	The Federal Court of Australia	No specified limits.
2	The Federal Magistrates Court	No specified limits.
3	A superior court, or lower court, of a State or Territory	The court's general jurisdictional limits, including limits as to locality and subject matter.

- (2) Jurisdiction is conferred on the courts of a Territory only to the extent that the Constitution permits.
- (3) Section 15C of the *Acts Interpretation Act 1901* does not apply to civil proceedings under this Part.

Part VI—Miscellaneous

62 Interpretation

In this Part:

owner, except in sections 64 and 74, means:

- (a) in relation to an Australian-owned ship—the registered owner of the ship;
- (b) in relation to a ship, other than an Australian-owned ship, registered by virtue of paragraph 14(b) or 15B(b)—the registered owner of the ship; or
- (c) in relation to a ship, other than an Australian-owned ship, registered by virtue of paragraph 14(c) 14(d), 15B(c) or 15B(d)—the registered agent of the ship.

63 Liabilities of ships not registered

- (1) A ship required to be registered that is not registered:
 - (a) shall not be recognized as an Australian ship; and
 - (b) is not entitled to any benefits, privileges, advantages or protection usually enjoyed by a registered ship.
- (2) For the purposes of any law of the Commonwealth or of a State or Territory providing for:
 - (a) the payment of fees or other charges;
 - (b) the liability to fines and forfeiture; or
 - (c) the punishment of offences committed on board a ship, or by any persons belonging to a ship;a ship to which subsection (1) applies shall be dealt with in the same manner in all respects as if the ship were registered.

64 Registered agent

- (1) There must be entered in the General Register or International Register, in respect of every ship registered in that register, the name and address of the person who is to be the registered agent of the ship, being a person who is, for the time being:
 - (a) in the case of a ship referred to in paragraph 14(c) or 15B(c)—the operator or one of the operators of the ship;

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- (b) in the case of a ship referred to in paragraph 14(d) or 15B(d)—the charterer or one of the charterers of the ship;
- (c) in the case of a ship without a managing owner (other than a ship referred to in paragraph (a) or (b))—the person or one of the persons who is a ship's agent in respect of the ship or a person having the management of the ship; or
- (d) in any other case—the managing owner or one of the managing owners;

and, upon the name and address of that person being so entered, the person shall be, for all purposes of this Act, the registered agent of that ship.

- (1A) Where a ship is registered pursuant to an application under section 15 or 15C, the name and address of the first person to be the registered agent of the ship must be entered in the relevant register forthwith after the registration of the ship.
- (2) Where a change occurs in the person, or the address of the person, referred to in subsection (1) in relation to a registered ship:
 - (a) in the case of a ship to which paragraph (1)(a) or (b) applies—the person whose name appears in the relevant register; or
 - (b) in any other case—the owner of the ship;shall, unless a notice of the change has already been lodged under this subsection, lodge with the Registrar, within 14 days after the change occurs, a notice of the change containing such information as is prescribed.

- (2A) An offence based on subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) The references in subsections (1), (1A) and (2) to the address of a person shall be read as references to:
 - (a) in a case where the person is a natural person:
 - (i) the address of the place in Australia at which the person ordinarily resides; or
 - (ii) if there is no place in Australia at which the person ordinarily resides—the address in Australia to which all communications to that person in pursuance of a provision of this Act should be sent; or

- (b) in a case where the person is a body corporate—the address of the principal place of business in Australia of the body corporate.

65 Alterations to ships

- (1) Where a registered ship is so altered as not to correspond with the particulars relating to the ship's tonnage or description contained in the relevant register, the registered agent shall give notice of the alteration, in such manner, and within such time, as are prescribed:
 - (a) if the alteration is made at a foreign port at which there is a proper officer—to the proper officer at that port;
 - (b) if the alteration is made outside Australia while the ship is at sea or at a foreign port at which there is no proper officer and, subsequently, but before arriving at an Australian port, the ship arrives at a foreign port at which there is a proper officer—to the proper officer at the first such port at which the ship so arrives; or
 - (c) in any other case—to the Registrar;and:
 - (d) where a notice of alteration is so given to a proper officer—the proper officer shall, subject to the regulations, grant a provisional registration certificate in respect of the ship in accordance with the prescribed form; or
 - (e) where a notice of alteration is so given to the Registrar—the Registrar shall, subject to the application of sections 16 and 26 as if the ship were not a registered ship, enter the alteration in the relevant register in accordance with the regulations and grant a new registration certificate in respect of the ship.
- (2) Subject to subsection (4), a provisional registration certificate granted in respect of a ship under subsection (1) has the same effect as a registration certificate until:
 - (a) the ship arrives in an Australian port; or
 - (b) the expiration of the period of 6 months commencing on the date on which the certificate was granted;whichever first happens.
- (3) Where a proper officer grants a provisional registration certificate under this section, he or she shall forward a copy of the certificate

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to the Registrar, together with a statement in accordance with the regulations setting out particulars relating to the grant of the certificate.

- (4) If, while a provisional registration certificate granted in respect of a ship under subsection (1) is in effect, application is made in the manner prescribed, the Registrar may, by notice in writing served on the applicant, extend, in relation to the certificate, the period referred to in paragraph (2)(b) and, in that event, the reference in that paragraph to a period of 6 months shall be read as a reference to that period as so extended.
- (5) The person who has possession of a provisional registration certificate granted in respect of a ship under subsection (1) shall, within 10 days after the ship first arrives at an Australian port after the grant, lodge the certificate with the Registrar.
- (6) Upon lodgment of a provisional registration certificate under subsection (5), the Registrar shall, subject to the application of sections 16 and 26 as if the ship were not a registered ship, enter the alteration in the relevant register in accordance with the regulations and grant a new registration certificate in respect of the ship.
- (7) Where a notice is not given in respect of a ship within a particular time as required by subsection (1), the obligation to give notice as required by that subsection continues, notwithstanding that that time has passed, until that notice is so given.
- (8) Where a notice is not given in respect of a ship as required by this section, the owner of the ship is, in respect of each day during which the notice is not so given (including the day of a conviction under this subsection or any subsequent day) guilty of an offence punishable upon conviction:
 - (a) if the offender is a natural person—by a fine not exceeding \$500; or
 - (b) if the offender is a body corporate—by a fine not exceeding \$1,000.

66 Ships lost etc. or ceasing to be entitled to be registered

- (1) If:
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- (a) a ship registered in the General Register or International Register:
 - (i) is lost (whether actually or constructively); or
 - (ii) is taken by an enemy; or
 - (iii) is burnt or broken up; or
 - (iv) ceases to be entitled to be registered in that register; and
 - (b) the owner of the ship knows of the event mentioned in paragraph (a);
- the owner of the ship must give notice in writing to the Registrar.
- (1A) Subsection (1) does not apply if written notice has already been given to the Registrar.
 - (2) Where the Registrar receives a notice under subsection (1) relating to a ship, he or she shall make an entry in the relevant register of the event to which the notice relates.
 - (3) Where an entry has been made in the relevant register under subsection (2) in respect of a ship:
 - (a) if the entry is in respect of a ship that has been lost (whether actually or constructively), taken by an enemy, burnt or broken up—the registration of the ship shall be deemed to be closed; and
 - (b) if the entry is in respect of a ship that has ceased to be entitled to be registered in the relevant register—the registration of the ship shall, subject to this section, be deemed to be closed.
 - (10) Where the registration of a ship is closed or deemed to be closed under this section, the person having possession of the registration certificate or provisional registration certificate relating to the ship shall deliver the certificate to the Registrar or a proper officer in accordance with the regulations.

67 Power to inquire into ownership of registered ship

- (1) Where the Authority has reason to suspect that a registered ship is not entitled to be registered, it may, by notice in writing served on the registered agent of the ship, require him or her to furnish to the Authority within a specified period (not being less than 30 days) after the date of service of the notice, evidence of the ownership of the ship.

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- (2) If the registered agent of a ship on whom a notice is served under subsection (1) fails to furnish to the Authority, within the period specified in the notice, evidence to the satisfaction of the Authority that the ship is entitled to be registered, the Authority may, by notice in writing given to the Registrar, direct that the registration relating to the ship be closed and, upon receipt of such a notice by the Registrar, section 66 applies as if the ship had ceased to be entitled to be registered and the notice were a notice under subsection 66(1) stating that fact.

68 Unregistered ships not to leave Australia

- (1) An unregistered ship shall not depart from an Australian port to a place outside Australia.
- (2) The master and owner of a ship that departs from an Australian port in contravention of subsection (1) are each guilty of an offence punishable upon conviction:
 - (a) if the offender is a natural person—by a fine not exceeding \$2,000; or
 - (b) if the offender is a body corporate—by a fine not exceeding \$5,000.
- (2A) An offence under subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3) A Collector of Customs shall not grant a Certificate of Clearance in respect of an unregistered ship that is about to depart from an Australian port to a place outside Australia.
- (4) Subsections (1) and (3) do not apply to a prescribed ship, or ships included in a prescribed class of ships.

69 Unregistered ships not to leave foreign ports

- (1) Where an unregistered ship is at a foreign port at which there is a proper officer, the ship shall not depart from that port on a voyage unless and until a registration certificate or provisional registration certificate is granted in respect of the ship.
- (2) The master and owner of a ship that departs from a foreign port in contravention of subsection (1) are each guilty of an offence punishable upon conviction:

- (a) if the offender is a natural person—by a fine not exceeding \$2,000; or
 - (b) if the offender is a body corporate—by a fine not exceeding \$5,000.
- (2A) An offence under subsection (2) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3) Subsection (1) does not apply to a prescribed ship, or ships included in a prescribed class of ships.

70 Proceedings on forfeiture

- (1) Where a ship is subject to forfeiture under this Act, an officer may seize and detain the ship and the Minister may apply to the Supreme Court of a State or Territory for an order under subsection (2).
- (2) Upon application being made under subsection (1) in relation to a ship, the Court may order the ship and its equipment to be forfeited to the Commonwealth.
- (3) Anything forfeited under this section becomes the property of the Commonwealth and may be sold or otherwise dealt with as the Minister thinks fit.
- (4) In this section, *officer* means:
 - (a) an officer or employee of the Commonwealth appointed by the Minister by writing signed by him or her to be an officer for the purposes of this section;
 - (b) a member or special member of the Australian Federal Police or a member of the Police Force of a State or Territory; or
 - (c) a member of an arm of the Defence Force.

71 Detention of ships

- (1) Where it is provided by this Act that a ship may be detained, the ship may be detained by an officer as defined in section 70.
- (2) Where a ship detained under this Act goes to sea before it is released from detention by a competent authority, the owner and master of the ship are each guilty of an offence.

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(2A) An offence under subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(3) A Collector of Customs shall not grant a Certificate of Clearance in respect of a ship that is detained under this Act.

72 Taking officers to sea

If an officer is taken to sea in a ship without his or her consent, the master and owner are each guilty of an offence and, in addition to any penalty for that offence, are jointly and severally liable to pay all expenses incidental to the officer's return.

73 False statements etc.

(1) A person who, by means of a statement that he or she knows to be false or misleading or by means of a document that to his or her knowledge contains information that is false or misleading, causes an officer to do, or refrain from doing, any act or thing in the exercise of powers, or the performance of duties or functions, under this Act is guilty of an offence.

(2) A person shall not:

(a) make to an officer a statement, whether orally or in writing;
or

(b) present to an officer a statement in writing;

knowing it to be false or misleading in a material particular.

Penalty:

(a) if the offender is a natural person—\$1,000 or imprisonment for 6 months, or both; or

(b) if the offender is a body corporate—\$2,000.

(3) For the purposes of the application of this section in relation to a corporation, but without prejudice to the liability of any person other than the corporation:

(a) a statement made, or presented or otherwise used, by a person acting on behalf of the corporation shall be deemed to have been made, presented or otherwise used by the corporation; and

- (b) the knowledge of any person employed by, or concerned in the management of, the corporation shall be deemed to be knowledge of the corporation.

74 Offences—general

- (1) A person who contravenes subsection 20(1) or (2), 21(6), 22(5), 26(3), 36(2) or 37(1), section 61 or subsection 65(5) or 66(10) is guilty of an offence.
- (1A) A person who contravenes subsection 37A(1) or (2), 64(2) or 66(1) is, in respect of each day on which the person contravenes the subsection (including the day of a conviction for an offence against this subsection or any subsequent day), guilty of an offence.
- (2) Where the owner of a ship is guilty of an offence against, or arising out of a contravention of, subsection 26(2), section 33, subsection 36(2), 37(1), 37A(1), 65(8) or 66(1) or section 72, the person who is the registered agent of the ship by virtue of paragraph 64(1)(a), (b) or (c) shall be deemed to be also guilty of that offence and is punishable accordingly.
- (3) Except where a provision of this Act otherwise provides, the punishment for an offence against this Act is:
- (a) if the offender is a natural person—a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months, or both; or
 - (b) if the offender is a body corporate—a fine not exceeding \$5,000.
- (4) An offence against subsection 12(3) is punishable on conviction:
- (a) if the offender is a natural person—by a fine not exceeding \$1,000; or
 - (b) if the offender is a body corporate—by a fine not exceeding \$2,000.
- (4A) An offence against section 25, 32 or 33 or subsection 73(1) is an indictable offence and, subject to subsection 75(3), is punishable on conviction:
- (a) if the offender is a natural person—by a fine not exceeding \$5,000 or imprisonment for a period not exceeding 2 years, or both; or

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- (b) if the offender is a body corporate—by a fine not exceeding \$20,000.
- (4B) An offence against subsection 37A(1) or (2), 64(2) or 66(1) is punishable on conviction:
 - (a) if the offender is a natural person—by a fine not exceeding \$500; or
 - (b) if the offender is a body corporate—by a fine not exceeding \$1,000.
- (4C) An offence against subsection 27(1), 30(9) or 71(2) is punishable on conviction:
 - (a) if the offender is a natural person—by a fine not exceeding \$2,000 or imprisonment for a period not exceeding 6 months; or
 - (b) if the offender is a body corporate—by a fine not exceeding \$5,000.
- (5) Where a corporation is guilty of an offence against this Act, a director, manager, secretary or other officer of the corporation who is in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the offence, shall be deemed to be also guilty of that offence and is punishable accordingly.

75 Prosecution of offences

- (1) An offence against this Act, other than an offence referred to in subsection 74(4A), shall be prosecuted summarily.
 - (2) Notwithstanding that an offence referred to in subsection 74(4A) is expressed to be an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.
 - (3) Where, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an indictable offence, the penalty that the court may impose is:
 - (a) if the offender is a natural person—a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months, or both; or
 - (b) if the offender is a body corporate—a fine not exceeding \$5,000.
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76 Joinder of charges and penalties for certain offences

- (1) Charges against the same person for any number of offences against subsection 26(2) or 65(8) may be joined in the same information or complaint if those offences relate to a failure to do the same act or thing.
- (2) If a person is convicted of 2 or more offences referred to in subsection (1), being offences related to a failure to do the same act or thing, the court may impose one penalty in respect of both or all of those offences, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed in respect of each offence separately.

77 Admissibility of documents in evidence

- (1) A document declared by this Act (including subsection (4)) to be admissible in evidence is, on mere production, admissible in evidence in any proceedings as *prima facie* evidence of any matter stated in the document in pursuance of this Act or in pursuance of any duty under this Act and of the fact that it was signed by the person by whom it purports to be signed.
- (2) The Registrar or a Deputy Registrar may, subject to this Act, supply copies of, or extracts from, any entry in the General Register or International Register, or any document forming part of or associated with the General Register or International Register, and certify them by writing signed by him or her and sealed with the seal of the Registration Office.
- (3) The person to whose custody a document referred to in subsection (1) (other than a copy or extract referred to in subsection (2)) is entrusted shall, upon payment of the prescribed fee, supply a copy of, or extract from, the document, certified by writing signed by him or her, to any person applying for such a copy or extract.
- (4) A document purporting to be a copy or extract supplied under subsection (2) or (3) is admissible in evidence.

78 AAT review of certain decisions

- (1) In this section, *decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

Section 78A

- (2) Applications may be made to the Administrative Appeals Tribunal for review of:
 - (a) a decision of the Authority under subsection 23(1), 58(2A) or 92(4);
 - (b) a decision of the Registrar under subsection 10(2), 21(5), 22(4), 22(6), 22A(1), (2), (4) or (6), 27(3), 65(4), 87(1) or 88(3) or section 89; or
 - (c) a decision of a proper officer under subsection 22(1).
- (3) Where the Authority, the Registrar or a proper officer makes a decision referred to in subsection (2) and gives to a person whose interests are affected by the decision notice in writing of the decision, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Administrative Appeals Tribunal for review of the decision by or on behalf of any person whose interests are affected by the decision.
- (4) Any failure to comply with the requirements of subsection (3) in relation to a decision does not affect the validity of the decision.

78A Internal review of certain decisions

- (1) An application may be made to the Chief Executive Officer of the Authority for review of a decision made by the Registrar under:
 - (a) subsection 15F(1) (which is about the registration of ships in the International Register); or
 - (b) subsection 33B(1) (which is about cancelling the registration of ships in the International Register).
- (2) The regulations may make provision for review under this section.

79 Preservation of State and Territory legislation

This Act is not intended to exclude or limit the operation of any law of a State or Territory providing for the recording or registration of ships where the recording or registration is for a purpose other than the establishment of title, the transfer of title or the grant of nationality in relation to a ship.

80 References in other laws

In any law of the Commonwealth or of a State or Territory (other than a law declared by the regulations to be a law to which this section does not apply) or any instrument (including rules, regulations or by-laws) having effect under such a law, except so far as the context otherwise requires:

- (a) a reference, however expressed, to a ship registered in Australia shall be read as a reference to a registered ship;
- (b) a reference, however expressed, to the certificate of registry of a ship shall be read as a reference to the registration certificate, or provisional registration certificate, as the case may be, of the ship; and
- (c) a reference, however expressed, to the port of registry of a ship registered in Australia shall be read as a reference to the home port of a registered ship selected or changed in accordance with the regulations.

81 Jurisdiction of Territory Supreme Courts

Jurisdiction is conferred, to the extent that the Constitution permits, on the Supreme Court of each Territory to hear and determine applications made to that Court under sections 47B, 47C, 59 and 70.

82 Appeals

- (1) An appeal lies to the Federal Court of Australia from a judgment or order of the Supreme Court of a State or Territory exercising jurisdiction under section 47B, 47C, 59 or 70.
- (2) An appeal lies to the High Court, with special leave of the High Court, from a judgment or order referred to in subsection (1).
- (3) Except as provided in subsections (1) and (2), no appeal lies from a judgment or order referred to in subsection (1).

83 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Section 83

- (2) Without limiting the generality of subsection (1), the regulations may make provision for and in relation to:
- (a) the manner in which, and the time within which, applications under this Act are to be made;
 - (b) the documents and information to be furnished by applicants in connection with, or in support of, applications under this Act;
 - (c) the keeping of the Registers and copies of the Registers, or a part or parts of the Registers;
 - (d) the entries to be made in the Registers;
 - (e) the manner in which, and the time within which, documents and information are to be lodged, including provision empowering the Registrar:
 - (i) to direct a person who has lodged, or is seeking to lodge, any document or information to do such things as are necessary to ensure that it is in accordance with the requirements of this Act; and
 - (ii) to treat any document or information as not having been lodged until it is in accordance with the requirements of this Act;
 - (f) the registration (whether by way of entry in the General Register or International Register or otherwise) of documents and information;
 - (g) the re-registration of ships entitled to be registered, the registration of which under this Act, or under the previous law, has been closed;
 - (h) the registration of Government ships;
 - (j) the closure of the registration of ships;
 - (k) the qualifications required of, and other requirements relating to, registered agents;
 - (l) the verification, by statutory declaration, of information and documents required for the purposes of this Act;
 - (m) the retention or return by the Registrar of documents lodged in accordance with this Act;
 - (n) the selection and change of home ports for registered ships;
 - (o) the matters to be recorded or endorsed on registration certificates, provisional registration certificates and temporary passes;
 - (p) the marking of ships for the purposes of section 26;

- (q) the making of any declaration or the doing of any thing required or permitted by this Act to be made or done in the name and on behalf of a person incapable of making such a declaration or doing any such thing by reason of infancy, lunacy or other disability;
 - (r) the manner in which instruments, notices and other documents under this Act may be given to, or served on, persons;
 - (s) the payment of fees and expenses to persons required under this Act to attend and give evidence or make declarations before the Registrar or other persons;
 - (t) the imposition and recovery of fees in respect of:
 - (i) the making of applications under this Act;
 - (ii) the lodging and registration of documents or information;
 - (iii) the registration and re-registration of ships;
 - (iv) the issue of registration certificates, provisional registration certificates and temporary passes;
 - (u) the conduct of any business relating to the Registration Office;
 - (v) the declaration of specified documents, or of documents included in specified classes of documents, to be admissible in evidence for the purposes of section 77;
 - (w) the form of any instrument, notice or other document permitted or required to be issued, furnished, lodged or registered for the purposes of this Act; and
 - (x) any matter incidental to or connected with any of the foregoing.
- (3) The regulations may provide that a specified provision of this Act does not apply, or applies with specified modifications, in relation to Government ships.
- (5) The regulations may:
- (a) provide for offences against the regulations; and
 - (b) provide for civil penalties for contraventions of the regulations.
- (5A) The penalties for offences or civil penalties referred to in subsection (5) must not be more than 50 penalty units for an individual or 250 penalty units for a body corporate.
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Section 83

- (6) The power to make regulations conferred by this Act shall not be taken, by implication, not to include the power to make provision for or in relation to a matter by reason only of the fact that:
 - (a) provision is made by this Act in relation to that matter or another matter; or
 - (b) power is expressly conferred by this Act to make provision by regulation for or in relation to another matter.

- (7) The power to make regulations conferred by this Act may be exercised:
 - (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
 - (b) so as to make, with respect to the cases in relation to which it is exercised, the same provision for all those cases or a different provision for different cases or classes of case.

Part VII—Transitional provisions

84 Interpretation

In this Part, unless the contrary intention appears, *commencing date* means the date fixed under section 2.

85 Additional operation of Part

Without prejudice to its effect apart from this section, this Part also has, by force of this section, the effect it would have if a reference in section 86 to a ship entitled to be registered were a reference to a ship other than a ship entitled to be registered.

86 Ships registered in Australia under previous law deemed registered under this Act

- (1) Every ship entitled to be registered that was, immediately before the commencing date, registered in accordance with the previous law at a port in Australia shall be deemed, on and from that date, to be registered under this Act.
- (2) Any entry or record that, immediately before the commencing date, appeared in a register book kept at a port in Australia under the previous law in relation to a ship referred to in subsection (1) shall be deemed to be an entry or record in the Register in relation to that ship and to have been made on the date on which, and at the time when, it was made under the previous law.

87 Transfer of registration from foreign ports of ships entitled to be registered

- (1) Subject to subsection (3), where a ship entitled to be registered was, immediately before the commencing date, registered in a foreign country, or at a port in a foreign country, under provisions of a law of that country corresponding with provisions of the previous law, or under provisions determined by the Registrar to be provisions that so correspond to an extent sufficient for the purposes of this section, the ship:
 - (a) in the case of a ship permitted to be registered—may; or

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- (b) in the case of a ship required to be registered—shall; within 6 months after the commencing date, be registered under this Act by way of a transfer of the registration to the Register.
- (2) An application for the registration of a ship under this section shall be made in accordance with the regulations.
- (3) A ship shall not be registered under this section unless the person responsible for the maintenance of the foreign register concerned:
- (a) transmits to the Registrar:
 - (i) all the particulars entered in the foreign register in relation to the ship;
 - (ii) the names of all the persons appearing in the foreign register to be interested in the ship, either as owners or mortgagees; and
 - (iii) any instrument or other document relating to the ship, or a certified copy of such an instrument or document, made in accordance with a provision of the law of that foreign country corresponding with a provision of the previous law, being an instrument or document kept by the first-mentioned person; and
 - (b) consents to the closing of the registration of the ship in that register.
- (4) Until the expiration of 6 months after the commencing date, subsections 12(3) and (4) do not apply in relation to a ship to which subsection (1) applies, being a ship required to be registered, or in relation to the owner of such a ship.
- (5) In this section, *foreign register* means the register book or books, or other similar documents or collections of documents, kept in accordance with provisions of a law of a foreign country relating to the registration of ships corresponding with the provisions of the previous law relating to the keeping of register books under the previous law.

88 Instruments etc. made under previous law or corresponding foreign law continue in force

- (1) Subject to subsections (3) and (4):

- (a) any instrument or other document made in accordance with a provision of the previous law and in effect immediately before the commencing date; and
- (b) any endorsement, memorandum or other note made in accordance with a provision of the previous law on any such instrument or document and in effect immediately before the commencing date;

has effect on and after that date as if it had been made in accordance with the corresponding provision of this Act.

(2) Subject to subsections (3) and (4):

- (a) any instrument or other document:
 - (i) made in accordance with a provision of the law of a foreign country relating to the registration of ships in that country, being a provision that corresponds with a provision of the previous law;
 - (ii) made in respect of a ship application for the registration of which is made under section 14 or 87; and
 - (iii) in effect immediately before the commencing date; and
- (b) any endorsement, memorandum or other note made, in accordance with a provision of the law of that foreign country that corresponds with a provision of the previous law, on any such instrument or document and in effect immediately before the commencing date;

has effect on and after that date as if it had been made in accordance with the corresponding provision of this Act.

(3) Where any instrument or other document referred to in subsection (1) or (2) is lodged with, or received by, the Registrar for the purposes of this Act and the Registrar is of the opinion that:

- (a) the instrument or document does not sufficiently comply with the requirements of this Act; or
- (b) it would be inappropriate to accept the instrument or document for the purposes of this Act;

he or she may refuse to accept the instrument or document for the purposes of this Act.

(4) Subsections (1) and (2) do not apply to a certificate of mortgage or certificate of sale granted under section 39 of the previous law or under a corresponding provision of the law of a foreign country.

89 Applications under previous law

Notwithstanding anything to the contrary in this Act, where:

- (a) before the commencing date, an application was made under the previous law, but not finally dealt with; and
- (b) the Registrar is satisfied that the requirements of this Act relating to an application of the same kind are substantially similar to the requirements of the previous law;

the Registrar shall treat that application as if it had been made under this Act.

90 Certificates of registry may be recalled

For the purpose of the issue of a registration certificate under this Act in respect of a ship deemed to be registered by virtue of section 86, the Registrar may recall the certificate of registry issued under the previous law in respect of the ship.

91 Registers kept under previous law in Australia incorporated with Register

Each register book kept by a registrar of British ships at a port in Australia under the previous law shall be deemed to be part of the Register to be kept in pursuance of this Act, and any documents retained by such a registrar that are associated with the register book kept by him or her shall be retained by the Registrar and kept at the Registration Office.

92 Verification of particulars—Registers kept under previous law etc.

- (1) The Registrar may, by notice in writing served on the registered agent of a ship deemed to be registered by virtue of section 86, or, if there is no registered agent entered in the register in relation to that ship, the registered owner of that ship require him or her:
 - (a) to verify, in such manner as is specified in the notice, any matter or particular appearing in the Register by virtue of section 91; or
 - (b) to furnish such information and documents relating to the ship and its owner as are specified in the notice, being information and documents of the kind required in

connection with, or in support of, an application for registration;

or to do both, within a specified period (not being less than 30 days) after the date of the notice.

- (2) If the person on whom a notice in respect of a ship is served under subsection (1) fails to verify a matter or particular, or to furnish any information or documents, in accordance with the notice, the Authority may, by notice in writing given to the Registrar, unless it has information that leads it to believe that the ship may still be entitled to be registered, direct that the registration relating to the ship be closed and, upon receipt of such a notice by the Registrar, section 66 applies as if the ship had ceased to be entitled to be registered and the notice were a notice under subsection 66(1) stating that fact.
- (3) Where, in relation to a ship, no entry or amendment of an entry has been made in the Register for such period as is prescribed for the purposes of this subsection, the Registrar may, by notice published in the *Gazette* and specifying the name of the ship, the official number of the ship and the full name and address of the registered owner, state that, unless the Registrar is contacted within 30 days by the registered owner, by the registered agent (if any) or by another person having knowledge of the whereabouts of either the ship or of the registered owner or registered agent, the Registrar shall inform the Authority of the fact that a notice has been published under this subsection and that no such contact has been made.
- (4) Where the Registrar informs the Authority that he or she has published a notice under subsection (3) and that he or she has not been contacted as required by that notice, the Authority may, by notice given to the Registrar, unless it has other information that leads it to believe that the ship may still be entitled to be registered, direct that the registration relating to the ship be closed and, upon receipt of such a notice by the Registrar, section 66 applies as if the ship had ceased to be entitled to be registered and the notice given by the Authority were a notice under subsection 66(1) stating that fact.

93 Ships deemed to be registered to cease to be registered if not entitled to be registered

- (1) At any time after the expiration of the period of 6 months commencing on the commencing date, the Registrar shall, if he or she has reason to suspect that a ship deemed to be registered on the commencing date was not, on that date, entitled to be registered, serve notice of that fact on the owner and mortgagee or mortgagees (if any) of the ship, drawing attention to the provisions of this section.
- (2) If, within a period of 3 months commencing on the last day on which the notice was served, evidence to the satisfaction of the Registrar that the ship is entitled to be registered is not produced, the Registrar shall, on the expiration of that period, cause the registration of that ship to be closed.
- (3) In this section:

last day on which the notice was served means:

- (a) where notice is to be served on only one person—the day on which notice is served on that person; or
- (b) where notice is to be served on 2 or more persons:
 - (i) if notice is served on those persons on the same day—that day; or
 - (ii) if notice is served on those persons on different days—the later or latest of the days on which notice is so served;

mortgagee includes a mortgagee deemed to be registered by virtue of this Part.

94 Registrar may defer registration etc.

- (1) Notwithstanding anything to the contrary contained in this Act, during the period of 14 days commencing on the commencing date, the Registrar may defer until the expiration of that period:
 - (a) the doing of any thing relating to documents lodged, or produced for lodgment;
 - (b) the making of any record or entry in the Register;
 - (c) the registration of any ship or of any matter; or

- (d) the doing of any thing incidental to the registration of a ship or of any matter.
- (2) Documents produced for lodgment, or lodged, during the period referred to in subsection (1), in relation to which the Registrar has deferred the making of a record or entry in the Register, or the doing of any other thing, shall, after the expiration of that period, be dealt with in the order in which they were received by the Registrar.
- (3) Where, in relation to a ship, any document has been produced for lodgment, or lodged, during the period referred to in subsection (1), and the Registrar has deferred the making of a record or entry in the Register, or the doing of any other thing, relating to the document during that period, then, for the purpose of making a record or entry in the Register, or doing any other thing, relating to the document after the expiration of that period:
 - (a) in the case of a document produced for lodgment, if the Registrar considers that the document is in a form satisfactory for lodgment—the document shall be deemed to have been lodged on the date on which, and at the time when, it was so produced; and
 - (b) in the case of a document lodged—the record or entry made in the Register, or the thing done, relating to the document shall be deemed to have been made or done on the date on which, and at the time when, it was lodged.

95 Regulations for transitional purposes

- (1) The regulations may make provision for and in relation to any matter arising from, consequential upon or otherwise connected with the operation of this Part.
- (2) The power to make regulations under subsection (1) extends to the making of regulations expressed to take effect on and from a date earlier than the date of the making of the regulations, not being a date earlier than the commencing date.

Table of Acts**Notes to the *Shipping Registration Act 1981*****Note 1**

The *Shipping Registration Act 1981* as shown in this compilation comprises Act No. 8, 1981 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Shipping Registration Act 1981</i>	8, 1981	25 Mar 1981	26 Jan 1982 (<i>see Gazette</i> 1981, No. G51, p. 2)	
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1983</i>	39, 1983	20 June 1983	S. 3: 18 July 1983 (a)	S. 7(1)
<i>Shipping Registration Amendment Act 1984</i>	16, 1984	26 Apr 1984	Ss. 1 and 2: Royal Assent S. 8: 1 Oct 1986 (<i>see Gazette</i> 1986, No. S491) Remainder: 1 Oct 1985 (<i>see Gazette</i> 1985, No. S394)	Ss. 9(2) and 28
as amended by				
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1984</i>	165, 1984	25 Oct 1984	S. 3: (b)	S. 6(1)
<i>Public Service Reform Act 1984</i>	63, 1984	25 June 1984	S. 151(1): 1 July 1984 (<i>see Gazette</i> 1984, No. S245) (c)	S. 151(9)
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1985</i>	193, 1985	16 Dec 1985	S. 3: (d)	S. 16
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1986</i>	76, 1986	24 June 1986	S. 3: (e)	S. 9
<i>Statute Law (Miscellaneous Provisions) Act 1987</i>	141, 1987	18 Dec 1987	S. 3: Royal Assent (f)	S. 5(1)
<i>Admiralty Act 1988</i>	34, 1988	22 May 1988	1 Jan 1989 (<i>see Gazette</i> 1988, No. S359)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Transport Legislation Amendment Act 1988</i>	57, 1988	15 June 1988	Ss. 3(1), (2), 5, 6, 17 and 18: 1 July 1988 (see <i>Gazette</i> 1988, No. S193) S. 7: 1 May 1989 (see <i>Gazette</i> 1989, No. S150) Ss. 10–12, 14 and 15: 13 June 1986 (see s. 2(2) and <i>Gazette</i> 1986, No. S269) Remainder: Royal Assent	S. 3(6)
<i>ANL (Conversion into Public Company) Act 1988</i>	127, 1988	14 Dec 1988	S. 11: 1 July 1989 (see <i>Gazette</i> 1989, No. S210) (g)	—
<i>Australian Maritime Safety Authority Act 1990</i>	78, 1990	22 Oct 1990	Ss. 35, 48, 62 and 63: 1 Jan 1991 Remainder: Royal Assent	S. 63(1) and (2)
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 5 (items 138–140): Royal Assent (h)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 815–817): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (i)	—
<i>Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001</i>	143, 2001	1 Oct 2001	2 Oct 2001	S. 4 [see Table A]
<i>Maritime Legislation Amendment Act 2006</i>	24, 2006	6 Apr 2006	Schedule 4 (items 1–5, 7–9): 7 Apr 2006 Schedule 4 (item 6): 6 Oct 2006	—
<i>Personal Property Securities (Consequential Amendments) Act 2009</i>	131, 2009	14 Dec 2009	Schedule 3 (items 15–38): 30 Jan 2012 (see F2011L02397)	Sch. 3 (items 33–38) [see Table A]
<i>Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010</i>	4, 2010	19 Feb 2010	Schedule 11 (item 16): 20 Feb 2010	—
<i>Statute Law Revision Act 2010</i>	8, 2010	1 Mar 2010	Schedule 5 (item 137(a)): (j)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Acts Interpretation Amendment Act 2011</i>	46, 2011	27 June 2011	Schedule 2 (items 1038–1043) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11) [see Table A]
<i>Shipping Registration Amendment (Australian International Shipping Register) Act 2012</i>	54, 2012	21 June 2012	Schedules 1–3: 1 July 2012	Sch. 1 (items 97–104) [see Table A]

Act Notes

- (a) The *Shipping Registration Act 1981* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1983*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (b) The *Shipping Registration Amendment Act 1984* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1984*, subsection 2(24) of which provides as follows:
- (24) The amendments of the *Shipping Registration Amendment Act 1984* made by this Act shall come into operation, or be deemed to have come into operation, as the case requires, on the commencement of section 20 of that Act.
- Section 20 commenced on 1 October 1985 (see *Gazette* 1985, No. S394).
- (c) The *Shipping Registration Act 1981* was amended by subsection 151(1) only of the *Public Service Reform Act 1984*, subsection 2(4) of which provides as follows:
- (4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.
- (d) The *Shipping Registration Act 1981* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1985*, subsections 2(12)–(14) of which provide as follows:
- (12) The amendment of section 41 of the *Shipping Registration Act 1981* made by this Act shall come into operation, or shall be deemed to have come into operation, as the case may be, immediately after the commencement of section 15 of the *Shipping Registration Amendment Act 1984*.
 - (13) The amendments of paragraphs 47C(a) and (b) of the *Shipping Registration Act 1981* made by this Act shall come into operation, or shall be deemed to have come into operation, as the case may be, immediately after the commencement of section 18 of the *Shipping Registration Amendment Act 1984*.
 - (14) The amendments of subsections 74(1) and (2) of the *Shipping Registration Act 1981* made by this Act shall come into operation, or shall be deemed to have come into operation, as the case may be, immediately after the commencement of section 23 of the *Shipping Registration Amendment Act 1984*.
- Sections 15, 18 and 23 commenced on 1 October 1985 (see *Gazette* 1985, No. S394).
- (e) The *Shipping Registration Act 1981* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1986*, subsections 2(1), (22) and (23) of which provide as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
 - (22) The amendment of section 22B of the *Shipping Registration Act 1981* made by this Act shall come into operation, or shall be deemed to have come into operation, as the case may be, immediately after section 8 of the *Shipping Registration Amendment Act 1984* came or comes into operation.
 - (23) The amendment of subsection 47A(1) of the *Shipping Registration Act 1984* made by this Act shall be deemed to have come into operation immediately after section 18 of the *Shipping Registration Amendment Act 1984* came into operation.
- Section 8 commenced on 1 October 1986 (see *Gazette* 1986, No. S491).
- Section 18 commenced on 1 October 1985 (see *Gazette* 1985, No. S394).
- (f) The *Shipping Registration Act 1981* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (g) The *Shipping Registration Act 1981* was amended by section 11 only of the *ANL (Conversion into Public Company) Act 1988*, subsection 2(3) of which provides as follows:
- (3) Section 6, subsection 7(2) and sections 9 and 11 commence on a day to be fixed by Proclamation.
-

Act Notes

- (h) The *Shipping Registration Act 1981* was amended by Schedule 5 (items 138–140) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (i) The *Shipping Registration Act 1981* was amended by Schedule 1 (items 815–817) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (j) Subsection 2(1) (items 31 and 38) of the *Statute Law Revision Act 2010* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
31. Schedule 5, items 1 to 51	The day this Act receives the Royal Assent.	1 March 2010
38. Schedule 5, Parts 2 and 3	Immediately after the provision(s) covered by table item 31.	1 March 2010

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part I	
S. 3	am. No. 16, 1984; No. 141, 1987; No. 127, 1988; No. 78, 1990; No. 43, 1996; No. 146, 1999; No. 143, 2001; No. 131, 2009; No. 4, 2010; No. 54, 2012
S. 3A	ad. No. 54, 2012
S. 9	am. No. 16, 1984; No. 54, 2012
S. 10	am. No. 16, 1984
S. 11	am. No. 43, 1996
S. 11A	ad. No. 143, 2001 rs. No. 54, 2012
Part II	
Division 1	
Subdivision A	
Heading to Subdiv. A of Div. 1 of Part II	ad. No. 54, 2012
S. 12	am. No. 141, 1987; No. 78, 1990; No. 143, 2001; No. 54, 2012
S. 13	am. No. 16, 1984
Subdivision B	
Heading to Subdiv. B of Div. 1 of Part II	ad. No. 54, 2012
S. 14	rs. No. 54, 2012
S. 15	rs. No. 54, 2012
Subdivision C	
Subdiv. C of Div. 1 of Part II	ad. No. 54, 2012
S. 15A	ad. No. 54, 2012
S. 15B	ad. No. 54, 2012
S. 15C	ad. No. 54, 2012
S. 15D	ad. No. 54, 2012
Subdivision D	
Heading to Subdiv. D of Div. 1 of Part II	ad. No. 54, 2012
S. 15E	ad. No. 54, 2012
S. 15F	ad. No. 54, 2012
S. 16	am. No. 54, 2012
Heading to s. 17	rs. No. 54, 2012
S. 17	am. No. 54, 2012
S. 18	rep. No. 54, 2012
Division 2	
S. 19	rs. No. 54, 2012

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 20	am. No. 143, 2001
S. 21	am. No. 16, 1984; No. 43, 1996
S. 22	am. No. 43, 1996
S. 22A	ad. No. 16, 1984 am. No. 43, 1996
S. 22B	ad. No. 16, 1984 am. No. 76, 1986; No. 43, 1996; No. 54, 2012
S. 23	am. No. 78, 1990
S. 24	rep. No. 16, 1984
Division 3	
S. 26	am. No. 16, 1984; No. 43, 1996; No. 143, 2001
S. 27	am. No. 43, 1996; No. 54, 2012
Division 4	
S. 30	am. No. 143, 2001; No. 54, 2012
Ss. 32, 33	rs. No. 143, 2001
Division 5	
Div. 5 of Part II	ad. No. 54, 2012
Subdivision A	
S. 33A	ad. No. 54, 2012
Subdivision B	
S. 33B	ad. No. 54, 2012
Subdivision C	
S. 33C	ad. No. 54, 2012
Part III	
Heading to Part III	rs. No. 131, 2009
S. 35	rep. No. 16, 1984
S. 36	am. No. 16, 1984; No. 54, 2012
S. 37	am. No. 16, 1984; No. 54, 2012
S. 37A	ad. No. 16, 1984 rs. No. 57, 1988 am. No. 143, 2001
Ss. 38–40	rep. No. 131, 2009
S. 41	am. No. 16, 1984; No. 193, 1985; No. 43, 1996 rep. No. 131, 2009
S. 42	am. No. 16, 1984 rep. No. 131, 2009
Ss. 43, 44	rs. No. 16, 1984 rep. No. 131, 2009
S. 44A	ad. No. 24, 2006 rep. No. 131, 2009
S. 45	am. No. 54, 2012
S. 46	am. No. 54, 2012
S. 47	am. No. 43, 1996; No. 131, 2009

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 47A	ad. No. 16, 1984 am. No. 76, 1986; No. 43, 1996; No. 131, 2009; No. 54, 2012
S. 47B	ad. No. 16, 1984 am. No. 76, 1986; No. 43, 1996; No. 131, 2009; No. 54, 2012
S. 47C	ad. No. 16, 1984 am. No. 193, 1985; No. 54, 2012
S. 47D	ad. No. 16, 1984 am. No. 131, 2009; No. 54, 2012
S. 47E	ad. No. 16, 1984
Part IV	
S. 48	am. No. 63, 1984; No. 78, 1990; No. 43, 1996; No. 54, 2012
S. 49	am. No. 43, 1996; No. 54, 2012
S. 50	am. No. 78, 1990
S. 51	am. No. 78, 1990; No. 43, 1996; No. 46, 2011
Note to s. 51	ad. No. 46, 2011
Ss. 52, 53	am. No. 43, 1996; No. 146, 1999; No. 24, 2006
S. 54	am. No. 78, 1990
Part V	
Heading to Part V	rs. No. 54, 2012
S. 56	am. No. 78, 1990 rs. No. 54, 2012
Heading to s. 57	rs. No. 54, 2012
S. 57	rs. No. 24, 2006 am. No. 8, 2010; No. 54, 2012
Note to s. 57(1)	rep. No. 54, 2012
Heading to s. 58	rs. No. 54, 2012
S. 58	am. No. 16, 1984; No. 78, 1990; No. 43, 1996; No. 131, 2009; No. 54, 2012
Heading to s. 59	rs. No. 131, 2009; No. 54, 2012
S. 59	am. No. 54, 2012
S. 59A	ad. No. 131, 2009
Heading to s. 60	rs. No. 54, 2012
S. 60	am. No. 54, 2012
Heading to s. 61	rs. No. 54, 2012
S. 61	am. No. 143, 2001; No. 54, 2012
Part VA	
Part VA	ad. No. 54, 2012
Division 1	
S. 61AA	ad. No. 54, 2012
S. 61AB	ad. No. 54, 2012
Division 2	
Subdivision A	
S. 61AC	ad. No. 54, 2012

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Subdivision B	
S. 61AD.....	ad. No. 54, 2012
S. 61AE.....	ad. No. 54, 2012
S. 61AF.....	ad. No. 54, 2012
S. 61AG.....	ad. No. 54, 2012
Subdivision C	
S. 61AH.....	ad. No. 54, 2012
S. 61AI.....	ad. No. 54, 2012
Subdivision D	
S. 61AJ.....	ad. No. 54, 2012
S. 61AK.....	ad. No. 54, 2012
Division 3	
S. 61AL.....	ad. No. 54, 2012
Division 4	
S. 61AM.....	ad. No. 54, 2012
S. 61AN.....	ad. No. 54, 2012
S. 61AO.....	ad. No. 54, 2012
Part VB	
Part VB.....	ad. No. 54, 2012
Division 1	
Subdivision A	
S. 61BA.....	ad. No. 54, 2012
S. 61BB.....	ad. No. 54, 2012
S. 61BC.....	ad. No. 54, 2012
S. 61BD.....	ad. No. 54, 2012
S. 61BE.....	ad. No. 54, 2012
S. 61BF.....	ad. No. 54, 2012
S. 61BG.....	ad. No. 54, 2012
Subdivision B	
S. 61BH.....	ad. No. 54, 2012
S. 61BI.....	ad. No. 54, 2012
S. 61BJ.....	ad. No. 54, 2012
S. 61BK.....	ad. No. 54, 2012
Subdivision C	
S. 61BL.....	ad. No. 54, 2012
S. 61BM.....	ad. No. 54, 2012
S. 61BN.....	ad. No. 54, 2012
S. 61BO.....	ad. No. 54, 2012
S. 61BP.....	ad. No. 54, 2012
Division 2	
Subdivision A	
S. 61BQ.....	ad. No. 54, 2012

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 61BR.....	ad. No. 54, 2012
S. 61BS.....	ad. No. 54, 2012
S. 61BT.....	ad. No. 54, 2012
S. 61BU.....	ad. No. 54, 2012
S. 61BV.....	ad. No. 54, 2012
Subdivision B	
S. 61BW.....	ad. No. 54, 2012
S. 61BX.....	ad. No. 54, 2012
Subdivision C	
S. 61BY.....	ad. No. 54, 2012
S. 61BZ.....	ad. No. 54, 2012
S. 61BZA.....	ad. No. 54, 2012
S. 61BZB.....	ad. No. 54, 2012
S. 61BZC.....	ad. No. 54, 2012
Division 3	
S. 61BZD.....	ad. No. 54, 2012
Part VI	
S. 62.....	am. No. 141, 1987; No. 54, 2012
S. 64.....	am. No. 16, 1984 (as am. by No. 165, 1984); No. 143, 2001; No. 54, 2012
S. 65.....	am. No. 16, 1984; No. 43, 1996; No. 54, 2012
S. 66.....	am. No. 16, 1984; No. 43, 1996; No. 143, 2001; No. 24, 2006; No. 131, 2009; No. 54, 2012
S. 67.....	am. No. 78, 1990; No. 43, 1996
Ss. 68, 69.....	am. No. 141, 1987; No. 143, 2001
S. 70.....	am. No. 43, 1996
S. 71.....	am. No. 143, 2001
S. 72.....	am. No. 43, 1996
S. 73.....	am. No. 43, 1996; No. 143, 2001
S. 74.....	am. No. 16, 1984; No. 193, 1985; No. 141, 1987; No. 57, 1988; No. 143, 2001; No. 131, 2009
S. 75.....	am. No. 141, 1987
S. 77.....	am. No. 43, 1996; No. 54, 2012
Heading to s. 78.....	rs. No. 54, 2012
S. 78.....	am. No. 39, 1983; No. 16, 1984; No. 78, 1990
S. 78A.....	ad. No. 54, 2012
S. 79.....	am. No. 131, 2009
Ss. 81, 82.....	am. No. 16, 1984; No. 131, 2009
S. 83.....	am. No. 46, 2011; No. 54, 2012
Part VII	
S. 88.....	am. No. 43, 1996
S. 91.....	am. No. 43, 1996

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 92	am. No. 16, 1984; No. 78, 1990; No. 43, 1996
S. 93	am. No. 43, 1996
S. 94A	ad. No. 16, 1984 rep. No. 34, 1988

Table A

Application, saving or transitional provisions

Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001 (No. 143, 2001)

4 Application of Amendments

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Personal Property Securities (Consequential Amendments) Act 2009
(No. 131, 2009)

Schedule 3

33 Application—items 15, 17 to 19 and 22 to 24

- (1) The amendments of the *Shipping Registration Act 1981* made by items 15, 17 to 19 and 22 to 24 of this Schedule apply in relation to an interest of a mortgagor in a mortgage of a ship, or of a share in a ship, regardless of when the interest arose.
- (2) However, interests that are mortgages registered under the *Shipping Registration Act 1981* before the time the items covered by subitem (1) commence have the priority between themselves that they would have had under that Act as in force immediately before that time, subject to Chapter 9 (Transitional provisions) of the *Personal Property Securities Act 2009*.

34 Application—item 20

The amendment of the *Shipping Registration Act 1981* made by item 20 of this Schedule does not affect the validity or effectiveness of a caveat lodged under section 47A of the *Shipping Registration Act 1981* before the time the item commences.

Table A

35 Application—item 21

The amendment of the *Shipping Registration Act 1981* made by item 21 of this Schedule does not apply to an interest in relation to which a caveat has been lodged under section 47A of that Act before the time the item commences.

36 Application—item 25

The amendment of the *Shipping Registration Act 1981* made by item 25 of this Schedule applies in relation to a registration under the *Personal Property Securities Act 2009* with respect to a security interest regardless of when the security interest arises.

37 Application—item 27

The requirement in subsection 66(4) of the *Shipping Registration Act 1981* (as in force immediately before the time item 27 of this Schedule commences) to give notice to a mortgagee stops applying at the time that item commences.

38 Application—items 28 and 29

The amendments of the *Shipping Registration Act 1981* made by items 28 and 29 of this Schedule do not apply in relation to a contravention of a provision mentioned in subsection 74(1) or (2) of that Act (as in force immediately before the time the items commence) if the contravention occurred before that time.

Note: The items in this Schedule commence at the registration commencement time within the meaning of section 306 of the *Personal Property Securities Act 2009*.

Table A

Acts Interpretation Amendment Act 2011 (No. 46, 2011)

Schedule 3

10 Saving—appointments

The amendments made by Schedule 2 do not affect the validity of an appointment that was made under an Act before the commencement of this item and that was in force immediately before that commencement.

11 Transitional regulations

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments and repeals made by Schedules 1 and 2.

Shipping Registration Amendment (Australian International Shipping Register) Act 2012 (No. 54, 2012)

Schedule 1

97 Interpretation

In this Part:

commencement means the day this Schedule commences.

Registration Act means the *Shipping Registration Act 1981*.

98 Application of Part 1

- (1) The amendments made by Part 1 of this Schedule apply on and after commencement in relation to:
 - (a) ships that are registered immediately before commencement; and
 - (b) ships that are registered, or that are required or permitted to be registered, on or after commencement.
- (2) In addition, the amendment made by item 22 applies on and after commencement in relation to applications to register a ship that are made before, on or after commencement.

Table A

99 Transitioning the Register, registration and certificates

- (1) The register known as the Australian Register of Ships that was in existence under section 56 of the Registration Act immediately before commencement continues in existence (and may be dealt with) as if it were the Australian General Shipping Register referred to in subsection 56(1) of that Act (as amended by this Schedule).
- (2) If, immediately before commencement, a ship is registered in the Australian Register of Ships under section 18 of the Registration Act, then the registration of the ship continues in effect (and may be dealt with) as if the ship were registered in the Australian General Shipping Register under section 15E of that Act (as amended by this Schedule).
- (3) A reference to “the Australian Register of Ships” in:
 - (a) a registration certificate granted before commencement under section 19 or 21 of the Registration Act; or
 - (b) a provisional registration certificate granted before commencement under section 21, 22 or 22A of the Registration Act;is taken, on and after commencement, to be a reference to “the Australian General Shipping Register”.

100 Transitioning applications for registration

If, before commencement:

- (a) an application had been made in accordance with section 15 of the Registration Act to register a ship; and
 - (b) the Registrar had not made a decision on the application;
- then the application is taken to have been made in accordance with section 15 of that Act (as amended by this Schedule).

101 Saving of regulations relating to registration

Regulations relating to applications for registration

- (1) Despite the repeal of section 15 of the Registration Act by item 24 of this Schedule, regulations that:
 - (a) were made for the purposes of that section; and
 - (b) were in force immediately before commencement;continue in force (and may be dealt with) as if they had been made for the purposes of section 15 of that Act (as amended by this Schedule).

Table A*Regulations relating to entry of particulars in the Register*

- (2) Despite the repeal of section 18 of the Registration Act by item 29 of this Schedule, regulations that:
- (a) were made for the purposes of that section; and
 - (b) were in force immediately before commencement;
- continue in force (and may be dealt with) as if they had been made for the purposes of section 15E of that Act (as amended by this Schedule).

Regulations relating to grant of registration certificate

- (3) Despite the repeal of section 19 of the Registration Act by item 30 of this Schedule, regulations that:
- (a) were made for the purposes of that section; and
 - (b) were in force immediately before commencement;
- continue in force (and may be dealt with) as if they had been made for the purposes of paragraph 19(2)(c) of that Act (as amended by this Schedule).

102 Saving of regulations providing for offences

Despite the repeal of subsection 83(5) of the Registration Act by item 96 of this Schedule, regulations that:

- (a) were made for the purposes of that subsection; and
- (b) were in force immediately before commencement;

continue in force (and may be dealt with) as if they had been made for the purposes of subsection 83(5) of that Act (as amended by this Schedule).

103 Saving of other regulations

Despite the amendment of sections 37, 47A, 58 and 65 and subsection 83(2) of the Registration Act by this Schedule, regulations that:

- (a) were made for the purposes of those provisions; and
- (b) were in force immediately before commencement;

continue in force (and may be dealt with) as if they had been made for the purposes of those provisions of that Act (as amended by this Schedule).

104 Transitioning references to “the Register” in regulations

A reference to “the Register” in regulations that:

Table A

- (a) were made for the purposes of a provision of the Registration Act; and
 - (b) were in force immediately before commencement;
- is taken, on and after commencement, to be a reference to “the relevant Register”.