

## EXPLANATORY STATEMENT

### Select Legislative Instrument 2006 No. 361

Minute No. 46 of 2006 – Parliamentary Secretary to the Minister for Transport and Regional Services

Subject - *Shipping Registration Act 1981*

*Shipping Registration Amendment Regulations 2006 (No. 1)*

Section 83 of the *Shipping Registration Act 1981* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. In particular, paragraph 83(2)(t) of the Act makes provision for the imposition of fees.

The purpose of the proposed amendments to the *Shipping Registration Regulations 1981* (the Principal Regulations) is to:

- insert a new regulation 28AA into the Principal Regulations to prescribe matters for the purposes of section 44A which was inserted into the Act by the *Maritime Legislation Amendment Act 2006*. The matters to be prescribed are the particulars to be provided to the Registrar of Ships if a mortgagee who wishes to “close” the registration of a ship so far as it relates to a mortgage (that is, remove reference to the mortgage from the Australian Register of Ships) is unable to lodge a copy of a mortgage instrument with the Registrar;
- correct a spelling error in subregulation 37(1); and
- revise Schedule 3 of the Principal Regulations which imposes fees for services provided by the Registrar and other staff of the Australian Shipping Registration Office.

Details of the proposed Regulations are set out in the Attachment.

The Act specifies no conditions that need to be met before the power to make the proposed Regulations may be exercised.

The proposed Regulations would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The proposed Regulations would commence on the day after they are registered on the Federal Register of Legislative Instruments.

The Minute recommends that Regulations be made in the form proposed.

Authority: Section 83 of the  
*Shipping Registration  
Act 1981*

**DETAILS OF THE PROPOSED SHIPPING REGISTRATION AMENDMENT REGULATIONS 2006 (NO. 1)**

**Regulation 1 – Name of Regulations**

This regulation would provide that the title of the amending Regulations is the *Shipping Registration Amendment Regulations 2006 (No. 1)*.

**Regulation 2 – Commencement**

Regulation 2 would provide that the amending Regulations commence the day after registration on the Federal Register of Legislative Instruments.

**Regulation 3 – Amendment of Shipping Registration Amendment Regulations**

Regulation 3 would provide that Schedule 1 amends the *Shipping Registration Regulations 1981*.

**Schedule 1 – Amendments**

**Item 1 – Voluntary closure of Register so far as it relates to a mortgage**

This item would insert new regulation 28AA into the Principal Regulations to require a mortgagee who wishes to “close” the registration of a ship so far as it relates to a mortgage but is unable to lodge a copy of a mortgage instrument with the Registrar to provide the following particulars to the Registrar:

- (a) the name and official number of the ship in respect of which the mortgage was given;
- (b) the name and address of each mortgagor;
- (c) the name and address of each mortgagee;
- (d) the date of the mortgage;
- (e) the date and time of entry of particulars of the mortgage in the Register; and
- (f) the reason why the instrument of mortgage cannot be lodged with the Registrar.

**Item 2 –Subregulation 37(1), definition of relevant document**

This item would substitute subregulation 37(1) to correct the incorrect spelling of “relevant” in the definition of “relevant document”.

**Item 3 –Schedule 3**

This item would insert a revised Schedule 3 into the Principal Regulations. The wording of some of the items in the Schedule has been revised to better reflect the wording of the Act. In addition, two new items are added to the Schedule:

- Item 11: Lodging documents for registration of mortgage – fee of \$82;
- Item 12: Lodging an application for the closure of registration in relation to a mortgage – fee of \$82.