

EXPLANATORY STATEMENT

Subject – *Coastal Trading (Revitalising Australian Shipping) Act 2012*
Section 11 exemption for voyages between Christmas Island and
Australian states and territories 2018

The *Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Act) regulates coastal trading by providing for licences to be granted to authorise vessels to engage in coastal trading, as defined in section 7 of the Act. A vessel is engaged in coastal trading if the vessel, for or in connection with a commercial activity, takes on board passengers or cargo and carries the passengers or cargo:

- From a port in a state or territory to another port in another state or territory;
- From a port in a state or territory to another port in the same state or territory and continues to carry the passengers or cargo to a port in another state or territory;
- From a port in a state or territory to another port in the same state or territory (an intra-state voyage) and the vessel is declared by the Minister under section 12 to be subject to the requirements of the Act.

Using a vessel to engage in coastal trading without a licence may lead to a pecuniary penalty for the contravention of a civil penalty provision.

Section 11 of the Act allows the Minister to direct that the Act does not apply to a vessel or class of vessels; or to a person or class of persons. An exemption under section 11 may be confined to one or more specific periods or voyages. The Act provides that the Minister's direction to exempt is a legislative instrument.

The legislative instrument directs that the Act does not apply to vessels undertaking any voyage for the carriage of cargo or passengers between Christmas Island and any port in the Commonwealth or in the Territories, but not including any voyage in the course of which a vessel takes on cargo or passengers from any port in the Commonwealth or in the Territories other than a port in Christmas Island for unloading or disembarking at another such port.

This exemption continues a longstanding exemption provided under subsection 421(1) of the *Navigation Act 1912* (the Navigation Act). The exemption remains unchanged from that provided under the Navigation Act. The exemption has been in place since 1998 to allow Christmas Island to access shipping services at competitive freight rates.

The exemption is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Consultation external to the Australian Government is unnecessary as the exemption is of a minor or machinery nature and does not alter existing arrangements.

The exemption commences on 8 April 2018 and remains in force until 7 April 2023.

Authority: Section 11 of the *Coastal Trading (Revitalising Australian Shipping) Act 2012*

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Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Coastal Trading (Revitalising Australian Shipping) Act 2012 – Exemption under section 11 relating to voyages between Christmas Island and Australian states and territories 2018

The legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Act) regulates coastal trading between States and Territories within Australia by requiring the movement of cargo and/or passengers, for or in connection with a commercial activity, to be conducted by vessels authorised to do so by a licence issued under the Act.

The object of the Act is to provide a regulatory framework for coastal trading in Australia that, inter alia, promotes a viable shipping industry that contributes to the broader Australian economy.

The legislative instrument provides an exemption from the application of the Act, in accordance with section 11 of the Act, to all vessels undertaking any voyage for the carriage of cargo or passengers between Christmas Island and any port in the Commonwealth or in the Territories. This does not include any voyage in the course of, which a vessel takes on cargo or passengers from any port in the Commonwealth or in the Territories, other than a port in Christmas Island for unloading or disembarking at another such port. This means vessels of the kind specified in the instrument are not required to apply for a licence under the Act.

The purpose of this exemption is to allow Christmas Island access to shipping services at competitive freight rates, recognising that shipping services for Christmas Island are limited.

The legislative instrument does not make any substantive changes to the law as it continues a longstanding exemption provided for under subsection 421 (1) of the *Navigation Act 1912* (the Navigation Act). The exemption remains unchanged from that provided for under subsection 421(1) of the Navigation Act and, as such, does not engage any of the applicable rights and freedoms.

Human Rights Implications

This legislative instrument does not engage any of the applicable rights or freedoms referred to in the seven international Conventions listed in the *Human Rights (Parliamentary Scrutiny) Act 2011*, due to the ability of foreign registered vessels to participate in Australia's coastal trade, providing for economic freedom.

Conclusion

The legislative instrument is compatible with human rights as it does not raise any human rights issues.

Note: The name of this instrument was amended on registration as the instrument as lodged did not have a unique name (see subsection 10(2), *Legislation Rule 2016*).