

EXPLANATORY STATEMENT

Issued by the Authority of the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development

Shipping Registration Act 1981
Shipping Registration Regulations 2019

OUTLINE

The *Shipping Registration Act 1981* (the Act) sets out the legislative requirements for the registration of ships in Australia.

Section 83 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all 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.

The purpose of the Shipping Registration Regulations 2019 (the Regulations) is to provide a mechanism for the registration of ships on the Australian General Shipping Register (the General Register) and the Australian International Shipping Register (the International Register). The Regulations replace and will have the same effect as the Shipping Registration Regulations 1981 (the 1981 Regulations), which are due to sunset on 1 April 2019.

The Regulations are critical as they fix the conditions for the registration of ships in Australia and grant ships Australian nationality. The Regulations allow for Australian ships to fly the Australian National Flag or the Australian Red Ensign in accordance with Australia's obligations under Article 91 of the United Nations Convention on the Law of the Sea 1982 (UNCLOS), to which Australia is a party.

The Regulations make minor improvements to the existing provisions to replace references to the now defunct *Navigation Act 1912*, with references to the *Navigation Act 2012* (the Navigation Act).

The Regulations also remove references to the Master of the Ship and certificates of competency, for consistency with the Navigation Act. References to the Master of the Ship are a carryover from the United Kingdom Merchant Shipping Act 1894, and reflect the communications mechanisms of the period. The Regulations have also been updated to reflect modern drafting practice including the use of plain English, explanatory notes and simplification of previously lengthy sections.

The Regulations have been updated so that forms of certificates and caveats will no longer be prescribed. Instead, forms will be approved by the Authority, which for the purposes of the Act is the Australian Maritime Safety Authority (AMSA). This will allow AMSA to update the form of certificates and caveats as required, in order to simplify processes for applicants when they are registering vessels on either the AGSR or AISR and to ensure that Australia can continue to meet its obligations under UNCLOS. The updates to the Regulations have been enabled through a series of minor amendments to the *Shipping Registration Act 1981* by the *Shipping Registration Amendment Act 2018*.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Department undertook a desktop review of the Regulations, in consultation with AMSA and key industry stakeholders, to ensure that each provision is required and fit for purpose. The Department consulted with vessel owners regarding the operation of the Regulations via a survey. The Department did not receive any responses to the survey of ship owners. It is the Department's understanding that the Regulations are required and fit for purpose.

The Department consulted with the Office of Best Practice Regulation (OBPR). Under the sunset instrument Regulation Impact Statement (RIS) requirements, the Department of Infrastructure, Regional Development and Cities has certified that an assessment of the Regulation has demonstrated it will achieve its objectives efficiently and effectively.

Details of the Regulations are at [Attachment A](#).

A Statement of Compatibility with Human Rights is at [Attachment B](#).

Details of the Shipping Registration Regulations 2019

Part 1 - Preliminary

Section 1 – Name

Section 1 provides that the title of the instrument is the Shipping Registration Regulations 2019.

Section 2 – Commencement

This section provides that the Regulations will commence at the same time as the *Shipping Registration Amendment Act 2018* (Shipping Registration Amendment Act). The Shipping Registration Amendment Act will commence by proclamation or six months after the date that it receives royal assent.

The Regulations and Shipping Registration Amendment Act will commence at the same time by proclamation because the Shipping Registration Amendment Act makes changes to the Shipping Registration Act that are necessary for the remaking of the Regulations.

Section 3 – Authority

This section specifies that the instrument is made under the authority of the Shipping Registration Act.

Section 4 – Definitions

This section sets out the definitions of key terms in the Regulations. It remakes regulation 2 of the 1981 Regulations with a number of modernisations and changes.

A note has been inserted into this section to specify that some terms used in the Regulations have the same meanings as those given in the Act. Previously, the 1981 Regulations did not give any definitions for these terms.

The definition of *address* has been updated to replace references to a ‘company’ with references to a body corporate. An additional subsection has been inserted to clarify what constitutes an address for bodies politic.

The definition of *builder’s certificate* has been updated to reflect that previous regulation 8 has been amended to become section 15.

The definition of *name* has been updated to replace references to a corporation with references to a body corporate, in line with more modern drafting standards. The definition has also been simplified for ease of reading.

A definition for the *owner* of a ship has been inserted to clarify that it has its normal meaning. The 1981 Regulations did not include any definition for owner, and the Act provides two different meanings. This definition has been inserted for clarification and consistency.

The definition of *tonnage certificate* has been updated to refer to the Navigation Act.

The definitions of the *Torres Strait Treaty* and *traditional inhabitants* have been inserted for clarity.

The definition of a *transfer document* has been removed from previous regulation 8 and inserted into this section for consistency and ease of reading.

The definitions of *corporation*, *certificate of competency*, *declaration of ownership*, *nationality*, *Navigation Act 1912*, *prescribed office* and *prescribed characteristics* have been removed from the Regulations as they were no longer necessary.

The definitions of *home port* and *official number*, have been updated to refer to both the General Register and International Register as these definitions were not updated when provisions relating to the International Register were inserted in 2012.

Section 5 – Signing of documents

This section prescribes the signing requirements for documents required by the Regulations to be lodged with or produced to the Registrar or a proper officer and signed by a person. This section specifies the witnessing requirements for the signing of documents, as well as the different witnessing and signing requirements for documents signed by a body corporate, or under power of attorney.

This section substantially remakes regulation 3 of the 1981 Regulations with a number of modernisations to the form of drafting and the addition of further subsections for clarification.

For documents required to be signed by an owner of the ship, this section specifies how many owners or which persons can sign that document. The section specifies the manner and circumstances in which a person can be appointed by owners to sign a document. This is because ships may have multiple owners who wish to have documents signed by a single appointee, such as a lawyer. As some provisions in the Regulations require that every owner of the ship must sign a document, this section provides an example of such provisions.

Subsection 5(7) relating to the signing of documents by charterers has been inserted. The 1981 Regulations did not include this subsection as charterers were presumed to fall within the definition of ‘owner’ in that instrument. As charterparty arrangements can be complex, it was unclear in the 1981 Regulations how signing requirements could be met. The insertion of new subsection 5(7) clarifies the signing requirements for documents relating to a ship on demise charter under a charterparty.

Section 6 – Specification of nationality of body corporate or body politic

This section prescribes how the nationality of a person that is a body corporate or body politic is to be specified, when that specification is required by the Regulations. The Act prescribes that certain nationality requirements must be met before a ship can be registered in Australia. This provision ensures that statements of nationality for a body corporate or a body politic are clear and consistent across all documentation required under the Regulations, so that the Authority can determine if nationality thresholds have been met.

This section has been updated from regulation 4 of the 1981 Regulations, which did not directly address how the nationality of bodies politic should be specified. References in regulation 4 of the 1981 Regulations to corporations have been updated with references to

body corporates, as this is a more inclusive and modern term.

Section 7 – Lodgement of documents

This section prescribes that documents required to be lodged by the Regulations must be lodged at the Registration Office, or, in the case of documents other than bills of sale and caveats, at a branch office. It also specifies that documents are only taken to be lodged once the charge for processing the document has been paid. This section remakes regulation 5 of the 1981 regulations.

Section 8 – Service of documents

This section prescribes how documents produced by the Registrar under the Regulations are to be given to, or served upon, a relevant person. This section remakes regulation 6 of the 1981 Regulations with some modernisations. Regulation 6 of the 1981 Regulations provided for documents to be served by facsimile, telegram, pre-paid post or direct delivery. This section has been updated to remove the references to facsimiles and telegrams and to add the option of email delivery of documents.

Section 9 – Tonnage length

This section prescribes the manner in which the tonnage length of a ship is to be determined for the purposes of the Act. This section substantially remakes regulation 6A of the 1981 Regulations, with one modernisation. Regulation 6A of the 1981 Regulations included a definition of *least moulded depth*. In these Regulations, that definition has been removed and placed in Section 4 for consistency.

Part 2 – Registration of Ships

Division 1 - Registration

Section 10 – Scope of this Division

This section prescribes that the sections in Division 1 of the Regulations apply to applications for registration of a ships in the General Register and the International Register. This section substantially remakes regulation 7AA of the 1981 Regulations.

Section 11 – Application for registration of a ship – required information

This section prescribes the information required to be provided when lodging an application for registration of a vessel under the Act and how that information is to be provided. It also specifies the process to be followed when applicants are unable to provide all the required information.

This section substantially remakes regulation 7 of the 1981 Regulations with a number of modernisations to the form of drafting, and the addition of subparagraph 11(1)(k)(ii) which specifies signing requirements for applications relating to vessels on demise charter. Subparagraph 11(1)(k)(ii) has been included for clarification, as signing requirements for charterers were unclear in the 1981 Regulations (see section 5 above).

Section 12 – Application for registration of a ship – required supporting documents

This section specifies the supporting documentation required to accompany applications for registration. This section substantially remakes regulation 7A of the 1981 Regulations, with some modernisations to the form of drafting.

Section 13 – Identification document

Paragraph 12(1)(e) of the Regulations requires applicants to provide an identification document with applications for ship registration. This section sets out the form of identification document permitted to be provided for each type of ship. This section substantially remakes regulation 7B of the 1981 Regulations, with some modernisations to the form of drafting.

Section 14 – Ownership document

Paragraph 12(1)(f) of the Regulations requires applicants to provide an ownership document with applications for ship registration. This section sets out the form of ownership document permitted to be provided for each type of ship. This section substantially remakes regulation 7C of the 1981 Regulations, with some modernisations to the form of drafting. In the 1981 Regulations, the definition of *ownership document* was included in regulation 7C. In this section, that definition has been removed and placed in Section 4 for consistency.

Section 15 – Builder’s certificate

Sections 13 and 14 of the Regulations require the production of builder’s certificates, or documents containing the same information as builder’s certificates, in order for applicants to meet the documentation requirements specified in section 12. This section prescribes the information that must be provided in accordance with sections 12, 13 and 14. This section substantially remakes regulation 8 of the 1981 Regulations, with some modernisations to the form of drafting.

Section 16 – Declaration of ownership and nationality

This section prescribes the information required to be provided in a declaration of ownership and nationality, for the purposes of paragraph 12(1)(b) of the Regulations. This section substantially remakes regulation 9 of the 1981 Regulations, with modernisations to the form of drafting. Registration of a ship on the General Register and International Register is dependent upon the nationality of the owners of the ship. This section ensures that the Registrar has access to sufficient information to assess the validity of applications for ship registration.

Section 17 – Entry of particulars in General Register or International Register

Section 17 specifies the particulars information that must be entered into the General Register and International Register by the Registrar upon registration of a ship. This section substantially remakes regulation 11 of the 1981 Regulations.

Section 18 – Prescribed class of ships not required to be measured for tonnage

Section 18 specifies the class of ships for which a tonnage certificate is not required for registration on the General Register and International Register. The Act requires the provision of a tonnage certificate to the Registrar prior to registration of a ship. This section prescribes a class of ships to which this requirement does not apply, being ships to which the Tonnage Convention does not apply. This part substantially remakes regulation 10 of the 1981 Regulations with some modernisations to the form of drafting.

Division 2 – Registration certificates and temporary passes

Section 19 – New registration certificates and provisional registration certificates

This section details the manner and circumstances in which a person can apply to the Registrar for a new registration certificate or a provisional registration certificate. This section substantially remakes regulation 14 of the 1981 Regulations, with some modernisations to the form of drafting. References to the Master of the Ship have been removed to make the Regulations consistent with the Navigation Act.

This section makes it an offence for an agent or owner of a ship who does not provide a replacement registration certificate to the Registrar within 30 days, if the original certificate thought to have been lost, mislaid or destroyed is later found. The offence is one of strict liability with a penalty of five penalty units.

This section almost makes it an offence for an agent or owner of a ship to fail to return a provisional certificate to the Registrar within 30 days, if the original lost, mislaid or destroyed registration certificate is later found. The offence is one of strict liability with a penalty of five penalty units. This section provides for a person to avoid penalty if they have a reasonable excuse, although the defendant bears an evidential burden in relation to this. This means that the defendant must prove why they should not receive a penalty.

Section 20 – Provisional registration certificates for ships becoming entitled to be registered when abroad

This section specifies what information a person must provide to the Registrar or a proper officer when applying for a provisional registration certificate. References to prescribed forms have been removed and the drafting has been updated. Otherwise, this section substantially remakes regulation 15 of the 1981 Regulations.

Subsection 20(5) contains an offence for a person who fails to lodge a provisional registration certificate that has ceased to have effect with the Registrar. It is an offence of strict liability with a five penalty unit penalty. This section provides for a person to avoid penalty if they have a reasonable excuse, although the defendant bears an evidential burden in relation to this. This means that it is up to the defendant to prove why they should not receive a penalty.

Section 21 – Extension of period provisional registration certificate is in force

This section outlines how a person can apply to extend the period a provisional registration certificate is in force, including the information that must be provided to the Registrar or a proper officer. This section substantially remakes regulation 16 of the 1981 Regulations.

Section 22 – Surrender of temporary pass

This section requires the holder of temporary pass to surrender it to the Registrar within a specified timeframe, if a voyage approved under that temporary pass is abandoned or completed. Section 22 substantially remakes regulation 17 of the 1981 Regulations. This section is designed to ensure that temporary pass holders do not use their temporary pass for a time period other than that specified in the pass. This section makes the failure to surrender a temporary pass an offence of strict liability with a penalty of five penalty units. This section provides for a person to avoid penalty if they have a reasonable excuse, although the defendant bears an evidential burden in relation to this. This means that it is up to the defendant to prove why they should not receive a penalty.

Division 3 - Identification

Section 23 – Marking of ships

Section 23 specifies the marking requirements that apply to ships for the purposes of section 26(1) of the Act and Regulation 12. This section specifies where and how a ship must be marked, including the details of the ship to be marked and size and type of font to be used for marking purposes. This section substantially remakes regulation 20 of the 1981 Regulations, with minor modernisations to the form of drafting. Subsections (4) and (5) allow the Authority, under certain circumstances, to exempt a ship or class of ships from the marking requirements of this section. This power was previously only available to the Minister, however it was determined to be more practical to permit the Authority to grant exemptions in these Regulations.

Section 24 – Change of name of registered ship

This section details how a person can apply to change the name of a registered vessel, including the information required in the application and the signing requirements. Subsection (2) details the classes of ship names that are prohibited. This section substantially remakes regulation 24 of the 1981 Regulations with minor modernisations to the form of drafting.

Section 25 – Change of name, address or nationality of owner, charterer or registered agent of a ship

Section 25 requires the agent of a ship to notify the Registrar in writing of any change in the name, address or nationality of a registered owner, charterer or agent, and to provide documentary evidence of that change. The notice must comply with the requirements of subsection 25(2) and be provided to the Registrar within 14 days of the change coming into effect. This section makes it an offence for the agent to fail to lodge notice on time. This is to ensure that the General Register and International Register contain accurate and up to date information for each vessel. The offence is strict liability with a penalty of five penalty units. This section substantially remakes regulation 19 of the 1981 Regulations.

Division 4 – National colours and other flags

Section 26 – National colours and other flags

Section 26 details when and how the national flag and the red ensign are to be displayed on registered vessels to indicate Australian nationality. This section also details how a person can apply for an unregistered ship to fly the national colours or the red ensign, including the information and documentary evidence required and the manner in which the person must apply. The section has specific signing requirements that are detailed in subsections 26(6), (7), (8) and (9). Subsection 26(10) details the form of the certificate to be issued by the Registrar when an unregistered ship has been approved to fly the red ensign or national colours. This section substantially remakes regulation 22 of the 1981 Regulations with some modernisations to the form of drafting.

Section 27 – Cancellation of registration in the international register

Section 27 prescribes the circumstances in which the Registrar may cancel a ship's registration in the International Register, and the required actions to be taken by the ship's owner and the Registrar following that cancellation. Regulations 22A, 22B and 22C of the 1981 Regulations have been incorporated into this section for simplicity and to comply with

modern drafting standards.

Section 28 – Review of decisions about registration in the international register

This section provides for applicants to seek a review of a decision by the Registrar to cancel a ship's registration in the International Register. The section specifies that the review must be carried out by the Chief Executive Officer of the Authority, and prescribes the form that an application must take and the information that must accompany it. This section substantially remakes regulation 22D of the 1981 Regulations, with some modernisations to the form of drafting.

Part 3 – Transfers and transmissions of ships

Section 29 – Transfers of ships

Section 29 specifies what information must be included in a bill of sale and a declaration of transfer for the purposes of subsections 36(1) and 36(3) of the Act. The Act requires that the transfer of a ship or a share in a ship must occur by way of a bill of sale, and that the bill of sale must be submitted to the Registrar by the transferee, and be accompanied by a declaration of transfer. This information is required so that the Registrar is aware that there has been a transfer, and to identify if the ship is still eligible to be registered in Australia. This section substantially remakes regulation 23 of the 1981 Regulations.

Section 30 – Transmission of ships

Section 30 specifies what evidence must be provided of the transmission of a ship or share in a ship for the purposes of subsection 37(1) of the Act. Subsection 30(2) further specifies what information must be recorded in a declaration of transmission for the purposes of subsection 37(2) of the Act. This information is required so that the Registrar is aware that there has been a transmission of ownership, and to identify if the ship is still eligible to be registered in Australia. This section substantially remakes regulation 24 of the 1981 Regulations.

Part 4 – The Registers

Section 31 – Information to be recorded in entries in the register

Section 31 specifies the information to be recorded in entries in the Registers. This includes the date and time the entry was made and authentication of the entry by way of signature. Subsection 31(2) specifies that the date and time to be recorded is the legal time in the Australian Capital Territory at the time the entry was made. This section substantially remakes regulation 41 of the 1981 Regulations with some modernisations to the form of drafting.

Section 32 – Obsolete or incorrect entries in the registers

Section 32 specifies a 30 day period for the purposes of paragraph 58(1)(a) of the Act. After this period has ended, the Registrar may request the registered agent or owner of a ship provide the Registrar with information to demonstrate that any entry in the Registers is not obsolete or incorrect. This section substantially remakes regulation 29 of the 1981 Regulations with some modernisations to the form of drafting.

Section 33 – Change in registered agent of a ship

Section 33 prescribes the information that must be provided to the Registrar when there is a change in the registered agent of a ship. This information is required to ensure that the

information in the Registers is accurate and up to date. This section substantially remakes regulation 30 of the 1981 Regulations.

Section 34 – Alteration to ships

Section 34 prescribes how a registered agent of a ship must give notice to the Registrar of an alteration to that ship. The section prescribes the information required to be included in the notice, the manner in which it must be provided to the Registrar, and the documentary evidence to accompany the notice. The registered agent must provide the notice of alternation to the Registrar within 14 days of completion of the alteration, or before the altered ship first leaves a foreign port, whichever occurs first. The section also prescribes how a proper officer can forward the notice to the Registrar, when the registered agent has provided that notice to a proper officer. This section substantially remakes regulation 31 of the 1981 Regulations, with modernisations to the form of drafting.

Section 35 – Closure of registration of ships

Section 35 prescribes the manner in which a person can apply for the closure of the registration of a ship. The form of the application, signing requirements and the process that must be followed by the Registrar in order to effect cancellation of the registration are all prescribed by this section. The section also requires a person to return their registration certificate within 30 days of the closure of registration. This section substantially remakes regulation 33 of the 1981 Regulations.

Section 36 – Unregistered ships exempt from leaving Australia

Section 36 prescribes that certain classes of unregistered vessels may leave Australian and foreign ports. These vessels include small craft operated by traditional inhabitants, ships propelled only by means of oars, and ships on demise charters to Australian-based operators. This section substantially remakes regulation 33A of the 1981 Regulations with modernisations to the form of drafting.

Section 37 – Admissibility of documents in evidence

Section 37 prescribes the documents that are admissible in evidence for the purposes of section 77 of the Act. These documents are any certificate or pass issued under the Act or the Regulations. This section substantially remakes regulation 34 of the 1981 Regulations with minor modernisations to the form of drafting.

Section 38 – Home ports

Section 38 prescribes which ports may be selected as a home port for a ship, and the process by which prescribed persons can apply to change the home port of a ship. For the purposes of this section, only the registered agent or owner of a ship can apply to change the home port for that vessel. The section also specifies that, once a change of home port has been approved, the Registrar must notify a person in writing that the marking of the ship can be updated to reflect the new home port.

Subsection 39(6) requires the person notified by the Registrar to both update the marking of the ship to reflect the new home port, and to advise the Registrar of that update, within 30 days of receiving the notification. Failure to update the ship's marking and to advise the Registrar of the update is an offence of strict liability with a penalty of five penalty units.

Once the Registrar receives notice from a person that the ship's markings have been updated, the Registrar must update the registration of that vessel on the appropriate Register and update the vessel's registration certificate.

This section substantially remakes regulation 35 of the 1981 Regulations, with modernisations to the form of drafting.

Section 39 – Characteristics of ships

Section 39 prescribes the characteristics of a ship for paragraphs 15(1)(h), 17(h), 20(2)(h) and 34(3)(f) of the Regulations. This information is required to be provided on a builder's certificate, in a ship's entry in the Registers, as part of an application for provisional registration, and in an alteration certificate. The information is required for the Registrar to assess the vessel's eligibility to be registered in Australia. This section substantially remakes Schedule 1 of the 1981 Regulations.

Section 40 – Period in which no entry has been made in the register

Section 40 prescribes that the period of time that must pass before the Registrar can take action in relation to an entry is 25 years. This allows the Registrar to publish a notice in the Gazette, stating that unless the Registrar is contacted within 30 days it will inform the Authority that a notice has been issued and no contact has been received by the registered agent, registered owner or another person in regards to a ship on the Register. The Registrar can then cancel the registration of the vessel under section 66 of the Act. This section substantially remakes regulation 36A of the 1981 Regulations.

Section 41 – References to measurements in documents

Section 41 allows for different units of measurement to be used and accepted in documents issued under the Regulations. This provides flexibility for the Registrar to issue documents with the most appropriate measurement for a particular ship regardless of other sections in these Regulations that specify a specific measurement type (such as section 23). This section substantially remakes subsection 37(2) of the 1981 Regulations.

Section 42 – Extension of time

Section 42 specifies the conditions for when the Registrar may extend the lodgement time for documents required by the Regulations. Section 42 is necessary to give the Registrar the flexibility and discretion to increase the lodgement time for required documents. This section substantially remakes regulation 39 of the 1981 Regulations.

Section 43 – Verification of information etc.

This section specifies that the Registrar may, in relation to any document lodged with the Registrar or produce for the Registrars information, require verification by statutory declaration or additional supporting information. Section 43 prescribes conditions for the verification of documentation. Section 43 allows the Registrar to determine the accuracy of any documentation provided. This section substantially remakes regulation 40 of the 1981 Regulations with modernisations to the drafting for clarity.

Section 44 – Application of registration of a ship

Section 44 is a transitional section that maintains the effect of repealed subregulation 7A(3) in circumstances where an application referred to in regulation 7 of the 1981 Regulations has not yet been decided by the Registrar. This ensures that applicants will continue to have 6

months from the date of application to comply with the requirements of section 7A of the 1981 Regulations, despite their repeal.

Section 45 – Surrender of temporary pass

Section 45 is a transitional provision that ensures that section 22 of the Regulations continues to apply in circumstances where a temporary pass has been issued prior to, on, or after the commencement of these Regulations but the voyage requiring the temporary pass has not been undertaken.

Section 46 – Closure of registration of ships

Section 46 is a transitional provision that outlines the circumstances in which subregulation 33(4) of the 1981 Regulations continues to apply. It ensures that when a person has applied to close the registration of a ship and has complied with the application requirements of the 1981 Regulations as specified in subregulations 33(1) to 33(3), the Registrar must still effect the cancellation of that ship's registration as though the 1981 Regulations were in effect.

Section 47 – Home ports

Section 47 is a transitional provision that ensures that any notice published in the Gazette by the Authority for the purposes of determining the selection of home ports for a registered ship continues to apply, even if a notice was made prior to the commencement of these Regulations. This ensures that notices made under subregulation 35(1) of the 1981 Regulations remain in force despite the repeal of those regulations.

Section 48 – Extension of time

Section 48 is a transitional provision that ensures that any extension of time for lodging of documents, or requests for an extension of time, which was valid under the Shipping Registration Regulations 1981 prior to the commencement of these Regulations, continues to remain valid.

Section 48 provides for the situation where an extension of time for lodging of documents, or request for an extension of time, was valid but the time period was interrupted by the commencement of these Regulations. In this situation, section 48 ensures the time period continues as if there is no break because of the commencement of these Regulations.

Section 49 – Effect of this Part on section 7 of the Acts Interpretation Act 1901

Section 49 states that the operation of section 7 of the *Acts Interpretation Act 1901* applies to the repeal of the 1981 Regulations by these Regulations. Section 49 clarifies that the provisions in the 1981 Regulations, other than those outlined in sections 44 to 48, are no longer in force.

ATTACHMENT B

Statement of Compatibility with Human Rights

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

Shipping Registration Regulations 2019

This Disallowable 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*.

The purpose of the Shipping Registration Regulations 2019 (the Regulations) is to provide a mechanism for the registration of ships in the Australian General Shipping Register (AGSR) and the Australian International Shipping Register (AISR). The Regulations replace and are largely consistent with arrangements administered under the Shipping Registration Regulations 1981 (the 1981 Regulations), which are due to sunset on 1 April 2019.

The Regulations are critical as they fix the conditions for the registration of ships in Australia and grant ships Australian nationality. The Regulations allow for Australian ships to fly the Australian National Flag or the Australian Red Ensign in accordance with Australia's obligations under Article 91 of the United Nations Convention on the Law of the Sea 1982 (UNCLOS), to which Australia is a party.

Finally, the Regulations modernise drafting language.

The amendments do not alter any of the substantive provisions which previously applied.

Human rights implications

This Disallowable Legislative Instrument contains strict liability offences that may engage and limit the presumption of innocence. The strict liability offences in this instrument are not inconsistent with the presumption of innocence because they are reasonable, necessary and proportionate in pursuit of a legitimate objective. The offences in this instrument do not apply if a person has a reasonable excuse.

The offences impose no more than five penalty units for any offence that would impact the efficient and effective management of registration of Australian ships.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights.

Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, the Hon Michael McCormack MP