



## Shipping Registration Regulations 2019

---

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 21 February 2019

Peter Cosgrove  
Governor-General

By His Excellency's Command

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

---



---

# Contents

<b>Part 1—Preliminary</b>	1
1 Name.....	1
2 Commencement .....	1
3 Authority.....	1
4 Definitions .....	1
5 Signing of documents .....	3
6 Specification of nationality of body corporate or body politic .....	5
7 Lodgement of documents.....	5
8 Service of documents.....	5
9 Tonnage length .....	6
<b>Part 2—Registration of ships</b>	7
<b>Division 1—Registration</b>	7
10 Scope of this Division .....	7
11 Application for registration of a ship—required information.....	7
12 Application for registration of a ship—required supporting documents .....	8
13 Identification document .....	9
14 Ownership document .....	9
15 Builder’s certificate.....	10
16 Declaration of ownership and nationality .....	11
17 Entry of particulars in General Register or International Register .....	11
18 Prescribed class of ships not required to be measured for tonnage .....	12
<b>Division 2—Registration certificates and temporary passes</b>	13
19 New registration certificates and provisional registration certificates.....	13
20 Provisional registration certificates for ships becoming entitled to be registered when abroad .....	14
21 Extension of period provisional registration certificate is in force.....	15
22 Surrender of temporary pass .....	16
<b>Division 3—Identification</b>	17
23 Marking of ships .....	17
24 Change of name of registered ship.....	18
25 Change of name, address or nationality of owner, charterer or registered agent of a ship.....	19
<b>Division 4—National colours and other flags</b>	21
26 National colours and other flags .....	21
<b>Division 5—Registration in the International Register</b>	23
27 Cancellation of registration in the International Register.....	23
28 Review of decisions about registration in the International Register .....	23
<b>Part 3—Transfers and transmissions of ships</b>	25
29 Transfers of ships.....	25
30 Transmissions of ships.....	25
<b>Part 4—The Registers</b>	27
31 Information to be recorded in entries in the Registers.....	27
32 Obsolete or incorrect entries in the Registers.....	27
<b>Part 5—Other matters</b>	28
33 Change in registered agent of a ship .....	28
34 Alterations to ships .....	28
35 Closure of registration of ships .....	30

---

36	Unregistered ships exempt from leaving ports .....	31
37	Admissibility of documents in evidence .....	31
38	Home ports.....	31
39	Characteristics of ships .....	32
40	Period in which no entry has been made in the Registers .....	33
41	References to measurements in documents.....	33
42	Extension of time .....	33
43	Verification of information etc.....	33
<b>Part 6—Application, saving and transitional provisions</b>		<b>35</b>
44	Application for registration of a ship .....	35
45	Surrender of temporary pass .....	35
46	Closure of registration of ships .....	35
47	Home ports.....	36
48	Extension of time .....	36
49	Effect of this Part on section 7 of the <i>Acts Interpretation Act 1901</i> .....	36

## Part 1—Preliminary

### 1 Name

This instrument is the *Shipping Registration Regulations 2019*.

### 2 Commencement

- (1) Each provision of this instrument 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
Provisions	Commencement	Date/Details
1. The whole of this instrument	At the same time as the <i>Shipping Registration Amendment Act 2018</i> commences.	1 April 2019

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

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

### 3 Authority

This instrument is made under the *Shipping Registration Act 1981*.

### 4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Authority;
- (b) General Register;
- (c) International Register;
- (d) provisional registration certificate;
- (e) registered;
- (f) registered agent;
- (g) Registrar;
- (h) registration certificate;
- (i) share;
- (j) ship.

- (1) In this instrument:

*Act* means the *Shipping Registration Act 1981*.

*address* means:

- (a) for an individual—the place at which the individual ordinarily resides; or
- (b) for a body corporate:

Section 4

---

- (i) if it is incorporated in Australia—its registered office in Australia; or
- (ii) otherwise—its principal place of business in Australia or, if it has no place of business in Australia, its principal place of business; or
- (c) for a body politic—the official address of an appropriate representative of the body politic.

**builder's certificate** means a certificate that complies with section 15.

**call sign**, in relation to a ship, means the call sign for the time being of the radio station (if any), or the principal radio station, of the ship.

**home port** of a ship means the port that is entered in the General Register or International Register as the home port of the ship.

**moulded depth** of a part of a ship means the vertical distance measured at that part of the ship from the top of the keel to the underside of the upper deck at side, except that:

- (a) if the ship is constructed of wood or composite material, the distance is measured from the lower edge of the keel rabbet; and
- (b) if the form of the lower part of the midship section of the ship is of a hollow character or if thick garboards are fitted, the distance is measured from the point at which the line of the flat of the bottom continued inwards intersects the side of the keel; and
- (c) if the ship has rounded gunwales, the distance is measured to the point of intersection of the moulded lines of the deck and side shell plating, the lines extending as though the gunwales were of angular design; and
- (d) if the upper deck of the ship is stepped and the raised part of the deck extends over the point at which the moulded depth is to be determined, the distance is measured to a line of reference extending from the lower part of the deck along a line parallel with the raised part.

**moulded depth amidships**, in relation to a ship, means the moulded depth of the ship:

- (a) except for a ship referred to in paragraph (b)—in the vertical plane that intersects the centreline plane of the ship at right angles midway between the vertical lines referred to in paragraphs 10(1)(a) and (b) of the Act; or
- (b) for a ship in relation to which the Registrar has made a determination under subsection 10(2) of the Act—in the vertical plane the Registrar determines under subsection (2) of this section for that ship.

**name** means:

- (a) for an individual—the full given names and surname of the individual; or
- (b) for a body corporate—the full name of the body corporate; or
- (c) for a registered ship—the name by which the ship is registered; or
- (d) for an unregistered ship—the name (if any) by which the ship is known.

**official number**, in relation to a registered ship, means the number by which the ship is identified in the General Register or International Register.

**overseas registration certificate** means a document corresponding to a registration certificate that is issued under an overseas registration law.

**overseas registration law** means the provisions of the law of a foreign country relating to the registration of ships in that country.

**owner** of a ship has its ordinary meaning.

**place of construction**, in relation to a ship, means the place at which construction of the hull commenced.

**tonnage certificate**, for a ship, means a certificate relating to the tonnage measurement of the ship issued under, or otherwise having effect because of, the *Navigation Act 2012*.

**Torres Strait Treaty** means the Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters, done at Sydney on 18 December 1978, as in force for Australia from time to time.

Note: The Treaty is in Australian Treaty Series 1985 No. 4 ([1985] ATS 4) and could in 2019 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

**traditional inhabitants** has the same meaning as in the Torres Strait Treaty.

**transfer document** for a ship means:

- (a) a bill of sale or other document transferring ownership of the ship, signed by each transferor, that states:
    - (i) the name of the ship; and
    - (ii) the nature and extent of the interest in the ship to which the bill of sale or document relates; and
    - (iii) the name and address of each transferor and transferee; or
  - (b) a document, of a kind mentioned in subsection 30(1), that evidences change of ownership of the ship.
- (2) The Registrar may, in writing, determine a vertical plane for a ship for the purposes of paragraph (b) of the definition of **moulded depth amidships** in subsection (1).
  - (3) For the purposes of this instrument, the construction of a ship is taken to be completed when the ship becomes capable of navigating the high seas, whether under its own power or otherwise.

## 5 Signing of documents

- (1) Subject to this instrument, if this instrument requires a document to be lodged with, or produced to, the Registrar or a proper officer and to be signed by a person, the signing requirement is met if subsection (2), (3) or (4) is satisfied.

*Document signed and dated in the presence of a witness*

- (2) This subsection is satisfied if:
  - (a) one of the following applies:
    - (i) for an individual—the individual signs and dates the document (in the presence of a witness);

Section 5

---

- (ii) for a body corporate—an officer of the body corporate signs and dates the document (in the presence of a witness) and adds a legible statement of the name and position of the officer;
- (iii) for a body politic—an appropriate representative of the body politic signs and dates the document (in the presence of a witness) and adds a legible statement of the title of the appropriate representative; and
- (b) the witness signs and dates the document and adds a legible statement of the name and address of the witness.

*Official seal of body corporate*

- (3) For a body corporate, this subsection is satisfied if the body corporate executes the document under the official seal of the body corporate.

*Power of attorney*

- (4) This subsection is satisfied if:
  - (a) another person, on behalf of the person and under a power of attorney, signs and dates the document (in the presence of a witness); and
  - (b) the witness signs and dates the document and adds a legible statement of the name and address of the witness; and
  - (c) the power of attorney is produced to the Registrar or proper officer for noting upon the lodgement or production of the document.

*Owner of ship*

- (5) For the purposes of subsections (2) to (4), if the document is required by a provision of this instrument to be signed by the owner of a ship, then the reference in that provision to the owner of the ship is taken to be a reference to:
  - (a) if there is one owner of the ship—that owner or a person appointed under subsection (9) by that owner; or
  - (b) otherwise—a person appointed under subsection (9) by persons who are the owners of interests in the ship the sum of which is equal to at least 33 shares in the property in the ship.
- (6) To avoid doubt, subsection (5) does not apply in relation to a document that is required by a provision of this instrument to be signed by each owner of a ship.

Note: Sections 16 and 35 are examples of such a provision.

*Charterparty*

- (7) For the purposes of subsections (2) to (4), if the document is required by a provision of this instrument to be signed by the charterer under the charterparty for a ship on demise charter, then the reference in that provision to the charterer under the charterparty is taken to be a reference to:
  - (a) if there is one charterer under the charterparty—that charterer or a person appointed under subsection (9) by that charterer; or
  - (b) otherwise—a person appointed under subsection (9) by a majority of the charterers under the charterparty.



- (8) To avoid doubt, subsection (7) does not apply in relation to a document that is required by a provision of this instrument to be signed by each charterer under the charterparty for a ship on demise charter.

Note: Section 16 is an example of such a provision.

#### *Appointments*

- (9) The appointment of a person for the purposes of subsection (5) or (7) must:
- (a) be in writing; and
  - (b) specify the ship to which the appointment relates; and
  - (c) be signed by each person making the appointment.
- (10) The appointment may consist of several documents in like form, each of which satisfies paragraphs (9)(a) and (b) and that, when taken together, satisfy paragraph (9)(c).
- (11) If a document is signed by a person appointed under subsection (9), each instrument of appointment of that person must be produced to the Registrar or proper officer for noting upon the lodgement or production of the document.

### **6 Specification of nationality of body corporate or body politic**

If this instrument requires a document to specify the nationality of a person that is a body corporate or body politic and the grounds on which the person claims that nationality, the requirement is satisfied:

- (a) for a body corporate that is not a Government authority—by including in the document a statement specifying the country in which the body corporate was incorporated and the nature of that incorporation; or
- (b) for a Government authority—by including in the document the words “Government authority”; or
- (c) for a body politic other than the Commonwealth, a State or a Territory—by including in the document the words “Foreign Government”.

### **7 Lodgement of documents**

A document required by this instrument to be lodged with the Registrar is taken to be lodged if:

- (a) the document, addressed to the Registrar, is received:
  - (i) at the Registration Office; or
  - (ii) for a document other than a bill of sale or a caveat—at a branch office; and
- (b) the charge for processing the document mentioned in a determination made under subsection 47(1) of the *Australian Maritime Safety Authority Act 1990* is paid.

### **8 Service of documents**

An instrument, notice or other document under the Act or this instrument may be given to, or served on, a person by the Registrar by:

- (a) delivering it to the address of the person last known to the Registrar; or

Section 9

---

- (b) sending it by post to the address of the person last known to the Registrar;  
or
- (c) sending it by email to the last known email address of the person.

**9 Tonnage length**

- (1) For the purposes of subsection 10(3) of the Act, the tonnage length of a ship is:
  - (a) a length equal to 96% of the total length of the ship measured on a waterline that is at a distance, from the top of the keel, equal to 85% of the shortest measurable moulded depth of the ship; or
  - (b) if the length of the ship measured from the fore side of the stem to the axis of the rudder stock on that waterline is greater than the length ascertained in accordance with paragraph (a)—that greater length.
- (2) For a ship designed with a rake of keel, the waterline on which the total length of the ship is to be measured for the purposes of subsection (1) must be parallel to the designed waterline.

## **Part 2—Registration of ships**

### **Division 1—Registration**

#### **10 Scope of this Division**

This Division applies to the following:

- (a) an application under section 15 of the Act to register a ship in the General Register;
- (b) an application under section 15C of the Act to register a ship in the International Register.

#### **11 Application for registration of a ship—required information**

- (1) The application must be lodged with the Registrar and it must:
  - (a) be in writing; and
  - (b) state the type of the ship (in terms of its purpose); and
  - (c) state the method of propelling the ship; and
  - (d) state the overall length of the ship; and
  - (e) state the principal material used in constructing the hull of the ship; and
  - (f) state 3 proposed names for the ship (in order of preference of the names); and
  - (g) state the proposed home port of the ship; and
  - (h) state the International Maritime Organization number (if any) of the ship; and
  - (i) if the ship has been registered under the Act or under an overseas registration law—state:
    - (i) the year in which the ship was last registered; and
    - (ii) the register on which the ship was registered; and
    - (iii) the official number of the ship or the number assigned to the ship under the overseas registration law; and
    - (iv) the registered name of the ship; and
    - (v) the home port, or port of registry, of the ship; and
  - (j) if the ship has not been registered under the Act—state:
    - (i) the name of the builder of the ship; and
    - (ii) the place where the ship was built; and
    - (iii) the builder's identification of the ship or the name (if any) by which the ship is known; and
  - (k) be signed by:
    - (i) the owner of the ship; or
    - (ii) if the registration of the ship depends on the ship being a ship on demise charter to Australian-based operators—the charterer under the charterparty.

Note: The application must be accompanied by various documents: see section 12.

Section 12

---

- (2) If the ship's owner cannot provide all the information required under paragraph (1)(i) or (j), the application must state:
- (a) the information that the ship's owner cannot provide; and
  - (b) the reasons why the ship's owner cannot provide the information.

**12 Application for registration of a ship—required supporting documents**

- (1) An applicant for registration of a ship must lodge the following documents with the Registrar:
- (a) a written notice that states the name and address of the person who is to be the registered agent of the ship and that is signed by:
    - (i) each owner of the ship; and
    - (ii) if an owner of the ship is not to be the registered agent—the person who is to be the registered agent;
  - (b) a document containing evidence that the ship has been marked in accordance with subsection 26(1) of the Act;
  - (c) if the registration of the ship depends on the ship being a ship on demise charter to Australian-based operators—a copy of the charterparty;
  - (d) a tonnage certificate;
  - (e) the identification document (see section 13);
  - (f) the ownership document (see section 14);
  - (g) a declaration of ownership and nationality (see section 16);
  - (h) if the ship is registered in the General Register—a written notice stating that the applicant agrees to the ship being deregistered from the General Register if the Registrar decides to register the ship in the International Register;
  - (i) if the ship is registered in the International Register—a written notice stating that the applicant agrees to the ship being deregistered from the International Register if the Registrar decides to register the ship in the General Register;
  - (j) if the application is to register the ship in the International Register:
    - (i) the ship's port state control inspection records for the last 5 years; and
    - (ii) the ship's classification society records for the last 5 years; and
    - (iii) a statutory declaration by the ship's owner or registered agent that states that the ship will be predominantly used to engage in international trading; and
    - (iv) a document containing evidence that a collective agreement has been made between the owner of the ship and the seafarers' bargaining unit for the ship under section 11A of the Act; and
    - (v) a document containing evidence of the existence of a policy of insurance or indemnity that is required by subsection 61AM(1) of the Act; and
    - (vi) a statutory declaration by the ship's owner or registered agent that states that the conditions of registration in section 33A of the Act have been met; and
    - (vii) if the ship's owner is a company—the Australian Company Number for the ship's owner.

- (2) The applicant must produce to the Registrar, for noting, the licence or other document (if any) authorising the use of a call sign in relation to the ship.
- (3) The applicant must comply with subsections (1) and (2) within 6 months after lodging the application for registration. Otherwise, the Registrar may refuse the application by notice in writing given to the applicant.

### **13 Identification document**

- (1) For the purposes of paragraph 12(1)(e), this section sets out the identification document.

#### *Ship registered under the Act*

- (2) If the ship has been registered under the Act, the identification document is a statutory declaration by a person that specifies the way (if any) in which the ship differs from the description that appeared in the General Register or International Register immediately before the ship last ceased to be registered.

#### *Ship registered under an overseas registration law*

- (3) If the ship has been registered under an overseas registration law, the identification document is:
  - (a) if the overseas registration certificate contains the information about the ship that is stated in a builder's certificate and all of that information is correct—the overseas registration certificate; or
  - (b) if the overseas registration certificate does not contain the information about the ship that is stated in a builder's certificate or does contain that information but any of that information is incorrect—a statutory declaration by a person that sets out the information or the correct information.

#### *Ship never registered*

- (4) If the ship has never been registered, the identification document is:
  - (a) a builder's certificate; or
  - (b) if the ship's owner or registered agent, after taking all reasonable action, cannot obtain a builder's certificate—a statutory declaration by a person that states the following:
    - (i) the information covered by subsection 11(1);
    - (ii) so much of the information required to be in a builder's certificate that is known to the person;
    - (iii) the grounds on which the person asserts the truth of that information.

### **14 Ownership document**

- (1) For the purposes of paragraph 12(1)(f), this section sets out the ownership document.

Section 15

---

*Ship registered under the Act*

- (2) If the ship has been registered under the Act, the ownership document is the transfer document for any change in the ownership of the ship from the ownership that appeared in the General Register or International Register immediately before the ship last ceased to be registered.

*Ship registered under an overseas registration law*

- (3) If the ship has been registered under an overseas registration law, the ownership document is any document that is evidence of title to the ship under the overseas registration law.

*Ship never registered*

- (4) If the ship has never been registered, the ownership document is:
- (a) a builder's certificate and the transfer document for any change in ownership of the ship (whether occurring before or after the date of the builder's certificate); or
  - (b) if those documents are unavailable and the ship was built, and acquired by the owner, outside Australia—the document by which the ship's owner acquired ownership of the ship.

*Alternative document*

- (5) If the owner of the ship, after taking all reasonable action, cannot obtain a document mentioned in subsection (2), (3) or (4), the ownership document is:
- (a) a statutory declaration by the applicant for registration of the ship that gives the history of the ownership of the ship; or
  - (b) both of the following:
    - (i) a statutory declaration by the applicant stating that the applicant believes that the person who is named in the application as the ship's owner is lawfully entitled to the ownership of the ship and stating the grounds for that belief;
    - (ii) a copy of a notice of intention to apply for registration of the ship that is in accordance with an approved form and that was published on the Authority's website at least 30 days before the application for registration was lodged with the Registrar.

## 15 Builder's certificate

- (1) A builder's certificate in relation to a ship must:
- (a) specify the name (if any) of the ship; and
  - (b) specify the builder's identification of the ship; and
  - (c) specify the place of construction of the ship; and
  - (d) specify the date of completion of construction of the ship; and
  - (e) specify the name and address of the builder; and
  - (f) specify the name and address of the person for whom the ship was built; and
  - (g) specify the date on which the ship was delivered or handed over to the person for whom the ship was built; and

- 
- (h) specify particulars of the characteristics of the ship set out in section 39; and
  - (i) be signed by the builder of the ship.
- (2) If a ship has been built in stages by more than one builder:
- (a) a builder's certificate relating to the ship may consist of several documents in accordance with subsection (1), each of which relates to one or more of those stages; and
  - (b) a builder's certificate that relates to all of those stages, or a document referred to in paragraph (a) that relates to more than one of those stages, must be signed by all of the builders responsible for the building work carried out in those stages.
- (3) Without limiting subsection (2), if a ship that is the subject of an application for registration has been altered (whether by the builder or by another person) after its completion, the ship is taken, for the purposes of subsection (2), to have been built in stages by more than one builder.

## **16 Declaration of ownership and nationality**

- (1) For the purposes of paragraph 12(1)(g), a declaration of ownership and nationality is a written declaration that:
- (a) specifies the ship to which it relates; and
  - (b) specifies in relation to each person who is an owner of the ship:
    - (i) the name, address and nationality of the person; and
    - (ii) the grounds on which the person claims the nationality so specified; and
    - (iii) the extent of the interest of the person in the ship; and
    - (iv) the date on which that interest was acquired; and
  - (c) if the registration of the ship depends on the ship being a ship on demise charter to Australian-based operators—specifies in relation to each charterer under the charterparty:
    - (i) the name, address and nationality of the charterer; and
    - (ii) the grounds on which the charterer claims the nationality so specified; and
    - (iii) the extent of the interest of the charterer in the demise charter of the ship; and
  - (d) is signed by each person referred to in paragraph (b); and
  - (e) is signed by each charterer (if any) referred to in paragraph (c).
- (2) The declaration may consist of several documents in like form that, when taken together, contain the information required by paragraphs (1)(a), (b) and (c) and are signed in accordance with paragraphs (1)(d) and (e).

## **17 Entry of particulars in General Register or International Register**

For the purposes of section 15E or subsection 15F(1) of the Act, the particulars relating to a ship are the following:

- (a) a unique identifying number (to be known as the official number);
- (b) the name;

Section 18

---

- (c) the home port;
- (d) the call sign (if any);
- (e) the year of registration;
- (f) the place of construction;
- (g) the year of completion of construction;
- (h) particulars of the characteristics set out in section 39;
- (i) for a ship to which subsection 16(1) of the Act applies—the gross tonnage, the net tonnage and any alternative tonnages as shown on the tonnage certificate;
- (j) for each person who is an owner of the ship—the name, address and nationality of the person and the extent of the interest of the person in the ship;
- (k) for a ship that is on demise charter to Australian-based operators—the name, address and nationality of each charterer under the charterparty.

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

For the purposes of subsection 16(2) of the Act, a prescribed class of ships is ships to which the Tonnage Convention (within the meaning of the *Navigation Act 2012*) does not apply.



## **Division 2—Registration certificates and temporary passes**

### **19 New registration certificates and provisional registration certificates**

#### *Application for grant of new registration certificate*

- (1) For the purposes of subsection 21(1) of the Act, an application for the grant of a new registration certificate for a ship must:
  - (a) be in writing; and
  - (b) specify the name and official number of the ship; and
  - (c) specify the reasons why a new registration certificate is required; and
  - (d) if those reasons are that the registration certificate for the ship has been mislaid, lost or destroyed—specify the circumstances of the mislaying, loss or destruction; and
  - (e) be signed by the registered agent of the ship.

#### *Application for grant of provisional registration certificate*

- (2) For the purposes of subsection 21(2) of the Act, a provisional registration certificate must not be granted in respect of a ship unless:
  - (a) there is lodged with the Registrar or the proper officer an application in writing signed by the registered agent of the ship; and
  - (b) the application specifies the particulars of the ship, its owners and its registered agent as specified in the registration certificate; and
  - (c) the application specifies the circumstances of the mislaying, loss or destruction of the registration certificate.

#### *Offences*

- (3) A person commits an offence of strict liability if:
  - (a) the person is the registered agent of a ship or the owner, or one of the joint owners, or owners in common, of one or more shares in a ship; and
  - (b) a new registration certificate in respect of the ship is granted under subsection 21(1) or (7) of the Act because of another registration certificate in respect of the ship having been mislaid or lost; and
  - (c) after that grant, that other registration certificate is found and is in the custody or control of the person; and
  - (d) the person does not, before the end of 30 days starting on the day the other registration certificate came into the custody or control of the person, lodge that other registration certificate with the Registrar for cancellation.

Penalty: 5 penalty units.

- (4) A person commits an offence of strict liability if:
  - (a) the person is the registered agent of a ship or the owner, or one of the joint owners, or owners in common, of one or more shares in a ship; and
  - (b) a provisional registration certificate in respect of the ship is granted under subsection 21(2) or (7) of the Act because of another registration certificate in respect of the ship having been mislaid or lost; and

Section 20

---

- (c) after that grant, that other registration certificate is found and is in the custody or control of the person; and
- (d) the person does not, before the end of 30 days starting on the day the other registration certificate came into the custody or control of the person, give the Registrar written notice that the other registration certificate has been found and lodge the provisional registration certificate with the Registrar.

Penalty: 5 penalty units.

- (5) Subsection (3) or (4) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5): see subsection 13.3(3) of the *Criminal Code*.

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

### *Requirements for grant of provisional registration certificate*

- (1) For the purposes of subsection 22(1) or 22A(1) or (2) of the Act, a proper officer or the Registrar must not grant a provisional registration certificate in respect of a ship unless:
  - (a) there is lodged with the proper officer or Registrar, as the case requires, an application in writing signed by each owner of the ship specifying the matters referred to in subsection (2); and
  - (b) there is produced to the proper officer or the Registrar, as the case requires, for noting the things referred to in subsection (3).
- (2) For the purposes of paragraph (1)(a), the matters are the following:
  - (a) the existing name (if any) of the ship;
  - (b) if the ship is unnamed—the builder’s identification of the ship;
  - (c) the proposed name of the ship;
  - (d) the proposed home port of the ship;
  - (e) the call sign (if any) of the ship;
  - (f) the name and address of the builder of the ship;
  - (g) the year of completion of construction of the ship;
  - (h) particulars of the characteristics of the ship set out in section 39;
  - (i) if the ship is a ship to which subsection 16(1) of the Act applies and a tonnage certificate is not in force in relation to the ship:
    - (i) an estimate of the gross tonnage of the ship; and
    - (ii) an estimate of the net tonnage of the ship; and
    - (iii) the identity of the person by whom those estimates were made;
  - (j) particulars of any previous registration of the ship;
  - (k) in relation to each owner of the ship:
    - (i) the name, address and nationality of the person; and
    - (ii) the extent of the interest of the person in the ship;
  - (l) if the application is in respect of a ship the registration of which depends on the ship being a ship on demise charter to Australian-based operators:
    - (i) the name, address and nationality of each charterer under the charterparty; and

- (ii) the extent of the interest of each charterer in the demise charter of the ship;
  - (m) the date and manner of acquisition of the ship by the current owner;
  - (n) the name, address and description of each of the persons from whom the ship was acquired;
  - (o) details of any application lodged under section 15 of the Act to register the ship.
- (3) For the purposes of paragraph (1)(b), the things are the following:
  - (a) the instrument (if any) by which ownership of the ship passed to the owner named in the application;
  - (b) the tonnage certificate (if any) that is in force in relation to the ship;
  - (c) if the ship has, at any time, been registered under the law of a foreign country, documentary evidence that:
    - (i) the ship is no longer registered under the law of that country; or
    - (ii) 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 grant of the provisional registration certificate.
- (4) However, if an application under subsection (1) includes a statement to the effect that the person signing the application is unable to specify a matter referred to in paragraph (2)(b), (f), (g) or (j) and a statement of the reasons for that inability:
  - (a) the application is not required to specify that matter; and
  - (b) if a matter is the matter referred to in paragraph (2)(j)—paragraph (3)(c) does not apply in relation to the application.

#### *Offence*

- (5) A person commits an offence of strict liability if:
  - (a) a provisional registration certificate granted in respect of a ship ceases to have effect before the ship first arrives at, or returns to, an Australian port after the grant; and
  - (b) the person has the possession of the provisional registration certificate at the time of the cessation; and
  - (c) the person does not, before the end of 30 days starting on the day of the cessation, lodge the provisional registration certificate with the Registrar.

Penalty: 5 penalty units.

- (6) Subsection (5) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6): see subsection 13.3(3) of the *Criminal Code*.

## **21 Extension of period provisional registration certificate is in force**

For the purposes of subsection 21(5), 22(4) or 22A(4) of the Act, an application for the extension of the period during which a provisional registration certificate is in force in respect of a ship must:

- (a) be in writing; and
- (b) specify the reasons for the application; and

**Part 2** Registration of ships

**Division 2** Registration certificates and temporary passes

**Section 22**

---

- (c) specify the name and official number (if any) of the ship; and
- (d) specify the date and place of issue of the provisional registration certificate; and
- (e) specify the name of the Australian port at which it is expected that the ship will next arrive and the date on or near which it is expected that the ship will arrive at that port; and
- (f) be signed by each owner of the ship; and
- (g) be lodged with the Registrar or a proper officer.

**22 Surrender of temporary pass**

- (1) A person commits an offence of strict liability if:
  - (a) either:
    - (i) a voyage specified in a temporary pass granted under section 23 of the Act is completed or abandoned; or
    - (ii) the time during which the pass remains valid ends; and
  - (b) the person has possession of the pass on the occurrence of the event referred to in subparagraph (a)(i) or (ii); and
  - (c) the person does not surrender the pass by lodging it with the Registrar, or delivering it to a proper officer, as follows:
    - (i) within 10 days after the occurrence of that event;
    - (ii) if, because of circumstances beyond the control of the person, it is not practicable for the person to surrender the pass within 10 days after the occurrence of that event—as soon as it is practicable to do so.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

## **Division 3—Identification**

### **23 Marking of ships**

#### *Form of marking*

- (1) For the purposes of subsection 26(1) of the Act, a ship must be marked as follows:
  - (a) the name of the ship must be inscribed, in accordance with subsection (2):
    - (i) on each bow; or
    - (ii) if because of the nature of the constructional features of the ship there is no part of the ship that is readily identifiable as a bow—on such part or parts of the ship as the Registrar determines;
  - (b) the name of the ship and of the ship's home port must be inscribed, in accordance with subsection (2):
    - (i) on the stern; or
    - (ii) if the configuration of the stern is such that those names cannot be legibly displayed on the stern—on each side of the hull as near as practicable to the stern; or
    - (iii) if compliance with subparagraph (i) or (ii) is not practicable or because of the nature of the constructional features of the ship there is no part of the ship that is readily identifiable as the stern—on such part or parts of the ship as the Registrar determines;
  - (c) an inscription, in accordance with subsection (3), must be made:
    - (i) on the main beam of the ship in a position in which the inscription may readily be inspected; or
    - (ii) if the ship has no main beam or it is not practicable to make the inscription on the main beam—on another main structural member or integral part of the ship.
- (2) The inscriptions referred to in paragraphs (1)(a) and (b) must be made in the following manner:
  - (a) all alphabetical characters must be in the form of:
    - (i) upright sans serif block capital letters, not being expanded or condensed forms of those letters, the height of which is not less than 100 millimetres and the thickness of the strokes of which is not less than 20%, and not more than 25%, of their height; or
    - (ii) lettering approved, either generally or in a particular case, by the Registrar, being lettering that is not less legible than lettering of the kind referred to in subparagraph (i);
  - (b) all numerals, whether Arabic or Roman, must be in a style matching that of the alphabetical characters;
  - (c) the inscription must be applied in waterproof paint of a colour that makes a distinct contrast with the colour of the background on which it appears.
- (3) The inscription referred to in paragraph (1)(c) must comprise:
  - (a) the letters 'O.N.' followed by the official number of the ship; and
  - (b) either:

Section 24

---

- (i) the letters ‘N.T.’ followed by the net tonnage of the ship as shown on its tonnage certificate; or
- (ii) if the ship is not a ship to which subsection 16(1) of the Act applies—the letters ‘L.O.A.’ followed by the length of the ship in metres taken to 2 decimal places;

being letters and figures:

- (c) that:
  - (i) are incised into the surface of the portion of the ship to which they are applied; or
  - (ii) form part of the fabric of that portion of the ship and project from the surrounding surface of that portion of the ship; and
- (d) the height of which is:
  - (i) not less than 100 millimetres; or
  - (ii) if the portion of the ship to which they are applied is such that compliance with subparagraph (i) is not practicable—the maximum practicable height.

*Exemptions*

- (4) If the Authority considers that it is unreasonable to require compliance with the requirements of paragraph (1)(a) or (b) in relation to a ship, the Authority may, by written instrument, exempt the ship from the requirements specified in the instrument, subject to the conditions (if any) specified in the instrument.
- (5) If the Authority considers that it is unreasonable to require compliance with the requirements of paragraph (1)(a) or (b) in relation to ships included in a class of ships, the Authority may, by legislative instrument, exempt ships included in a specified class of ships from the requirements specified in the instrument, subject to the conditions (if any) specified in the instrument.

*Evidence of marking*

- (6) For the purposes of subsection 26(1) of the Act, the notice under that subsection, endorsed with a statement signed by the owner of the ship stating that the ship has been marked in accordance with this section with marks directed by the Registrar by that notice, is evidence that the ship has been marked with marks so directed.

## 24 Change of name of registered ship

*Application for change of name*

- (1) For the purposes of subsection 27(2) of the Act, an application for a change in the name of a registered ship must:
  - (a) be in writing; and
  - (b) be signed by:
    - (i) each owner of the ship; and
    - (ii) if an owner of the ship is not the registered agent of the ship—the person who is the registered agent of the ship; and

- (c) specify the current name of the ship, the official number of the ship and, in order of preference, 3 proposed names for the ship.

*Prohibited names*

- (2) For the purposes of subsection 27(3) of the Act, the following classes of names are prescribed:
- (a) names of existing registered ships;
  - (b) names approved by the Registrar in respect of ships in the course of registration;
  - (c) names that are likely to be confused with, or mistaken for, names referred to in paragraph (a) or (b);
  - (d) names that are likely to be offensive to members of the public;
  - (e) names of, or suggesting connection with, members of the Royal family or suggesting Royal patronage;
  - (f) names falsely suggesting connection with:
    - (i) the Crown; or
    - (ii) the Commonwealth of Nations; or
    - (iii) the Government of the Commonwealth, of a State, of a Territory, of any other country or of any legal subdivision of another country; or
    - (iv) the United Nations; or
    - (v) the Defence Force or an arm of the Defence Force; or
    - (vi) a government department, authority or instrumentality of the Commonwealth, a State or a Territory; or
    - (vii) a municipal or other local government authority;
  - (g) names that include a prefix comprising any letter or letters capable of indicating a type of ship.

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

- (1) A person (the *first person*) commits an offence of strict liability if:
- (a) the first person is the registered agent of a ship; and
  - (b) a change occurs in:
    - (i) the name, address or nationality of a person whose name appears in the General Register or International Register as that of an owner or charterer of the ship; or
    - (ii) the name of the person whose name appears in the General Register or International Register as that of the registered agent of the ship; and
  - (c) the first person does not, before the end of 14 days starting on the day of the change, comply with the requirements of subsection (2).

Penalty: 5 penalty units.

- (2) For the purposes of paragraph (1)(c), the requirements are all of the following:
- (a) lodge with the Registrar a notice of the change;
  - (b) for a change in the name of an individual—lodge with the Registrar a statutory declaration, by a person not having any direct or indirect interest

Section 25

---

in the ship or its operation, to the effect that the person whose name has changed is the same person as the person referred to in paragraph (1)(b);

- (c) for a change in the name of an individual upon marriage—produce to the Registrar for noting the relevant marriage certificate;
- (d) for a change in the name of an individual by deed poll—produce to the Registrar for noting the relevant deed;
- (e) for a change in the name of a body corporate incorporated under a law relating generally to the incorporation of companies, cooperative societies or other bodies corporate—produce to the Registrar for noting a certificate of the change of name issued under that law;
- (f) for a change in the name of the person in circumstances not covered by paragraph (c), (d) or (e)—lodge with the Registrar a notice identifying the provision of the law or instrument by which the change was effected;
- (g) for a change in the nationality of a person—lodge with the Registrar a notice setting out particulars of how the change occurred.

- (3) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.



## **Division 4—National colours and other flags**

### **26 National colours and other flags**

#### *Ships outside Australian waters*

- (1) For the purposes of paragraph 30(2)(a) of the Act, a ship to which paragraph 30(1)(a) of the Act applies must fly the red ensign:
  - (a) while entering or leaving, or otherwise under way within, a port in daylight; and
  - (b) while berthed or at anchor in a port during the period commencing at 8 o'clock in the morning on a day and ending at sunset on that day.
- (2) For the purposes of paragraph 30(2)(b) of the Act, a registered ship, other than a ship to which paragraph 30(1)(a) of the Act applies, must fly the national flag or the red ensign while entering or leaving, or otherwise under way within, a foreign port in daylight.

#### *Ships in Australian waters*

- (3) For the purposes of subsection 30(3) of the Act, a registered ship must fly the national flag or the red ensign:
  - (a) while entering or leaving, or otherwise under way within, a port in daylight; and
  - (b) while berthed or at anchor in a port during the period commencing at 8 o'clock in the morning on a day and ending at sunset on that day.

#### *How flag to be flown*

- (4) For the purposes of paragraphs 30(2)(a) and (b) and subsection 30(3) of the Act, the national flag or the red ensign must be flown:
  - (a) at the stern; or
  - (b) if, because of the design of the ship or the use to which the ship is put, it is not practicable to fly a flag at the stern—as near as practicable to the stern; or
  - (c) if the design of the ship is such that the ship has no stern—in such position as is approved by the Registrar in relation to the ship by notice in writing given to the registered agent of the ship.

#### *Application for certificate for unregistered ships*

- (5) For the purposes of subsection 30(10) of the Act, an application must be lodged with the Registrar and must:
  - (a) be in writing; and
  - (b) specify the name of the ship; and
  - (c) specify the port at which the ship is usually berthed or moored; and
  - (d) specify a description of the ship (including any identifying markings); and
  - (e) specify the name, address and nationality of each owner of the ship; and

Section 26

---

- (f) for an application in relation to a ship of a kind referred to in subparagraph 29(1)(b)(iii) of the Act—specify the name, address and nationality of each operator of the ship; and
  - (g) if:
    - (i) for an application in relation to a ship of a kind referred to in subparagraph 29(1)(b)(i) or (ii) of the Act—any person who is an owner of the ship; or
    - (ii) for an application in relation to a ship of a kind referred to in subparagraph 29(1)(b)(iii) of the Act—any person who is an operator of the ship;  
is not an Australian national—specify information as to the status of the person as a resident of Australia; and
  - (h) be signed in accordance with subsection (6) of this section.
- (6) The application must be signed:
- (a) if the ship is of a kind referred to in subparagraph 29(1)(b)(i) or (ii) of the Act—by the owner of the ship; and
  - (b) if the ship is of a kind referred to in subparagraph 29(1)(b)(iii) of the Act:
    - (i) if there is one operator of the ship—by that person; or
    - (ii) otherwise—by a person appointed under subsection (7) by all the persons operating the ship.
- (7) The appointment of a person for the purposes of subparagraph (6)(b)(ii) must:
- (a) be in writing; and
  - (b) specify the ship to which the appointment relates; and
  - (c) be signed by each person making the appointment.
- (8) The appointment may consist of several documents in like form, each of which satisfies paragraphs (7)(a) and (b) and that, when taken together, satisfy paragraph (7)(c).
- (9) If the application is signed by a person appointed under subsection (7), each instrument of appointment of that person must be produced to the Registrar for noting upon the lodgement of the application.

*Form of certificate*

- (10) For the purposes of paragraph 83(2)(w) of the Act, a certificate granted under subsection 30(10) of the Act must:
- (a) be signed by the Registrar; and
  - (b) be sealed with the seal of the Registration Office; and
  - (c) specify the name of the ship; and
  - (d) specify the port at which the ship is usually berthed or moored; and
  - (e) specify a description of the ship (including any identifying markings); and
  - (f) specify the name, address and nationality of each person to whom the certificate is granted and indicate whether the certificate is granted to that person as owner of operator of the ship; and
  - (g) if a person to whom the certificate is granted is not an Australian national but is a resident of Australia—contain a statement to that effect.

## **Division 5—Registration in the International Register**

### **27 Cancellation of registration in the International Register**

#### *Contravention of laws*

- (1) For the purposes of subparagraph 33B(1)(a)(iv) of the Act, the laws are as follows:
  - (a) the *Occupational Health and Safety (Maritime Industry) Act 1993*;
  - (b) a law of a foreign country that implements a convention of the International Maritime Organization to which Australia is a party.

#### *Failure to meet requirements of this instrument*

- (2) For the purposes of paragraph 33B(1)(e) of the Act, a ground for cancelling the registration of a ship is the failure of the ship or the ship's owner to continue to meet the requirements of this instrument in relation to the registration of the ship.

#### *Requirements applying after cancellation*

- (3) For the purposes of subsection 33B(3) of the Act, the requirements are:
  - (a) the ship's owner must surrender the registration certificate for the ship to the Registrar as soon as possible after the cancellation; and
  - (b) the Registrar must record the cancellation of registration of the ship in the entry for the ship in the International Register, without deleting the entry.

### **28 Review of decisions about registration in the International Register**

#### *Application for review*

- (1) For the purposes of subsection 78A(2) of the Act, an owner of the ship concerned may apply to the Chief Executive Officer of the Authority to review the decision made by the Registrar under subsection 15F(1) or 33B(1) of the Act.
- (2) The application must:
  - (a) be in writing; and
  - (b) set out the reasons for the application; and
  - (c) contain enough information to enable the Chief Executive Officer of the Authority to decide the application.
- (3) The application must be made within:
  - (a) 28 days after the applicant is informed of the decision; or
  - (b) if, before or after the end of that period of 28 days, the Chief Executive Officer of the Authority extends the period within which the application may be made—the extended period.

#### *Decision on review*

- (4) On receiving an application, the Chief Executive Officer of the Authority must:
  - (a) review the Registrar's decision; and

**Section 28**

---

(b) decide to affirm or revoke the decision.

- (5) Any person who assisted the Registrar in making the Registrar's decision must not assist the Chief Executive Officer of the Authority in reviewing the decision.

*Notice of decision*

- (6) The Chief Executive Officer of the Authority must, within 28 days after receiving the application, give the applicant a written notice that states:
- (a) the Chief Executive Officer's decision; and
  - (b) the Chief Executive Officer's reasons for the decision.

*When the Chief Executive Officer is taken to have affirmed Registrar's decision*

- (7) If the Chief Executive Officer of the Authority does not give the written notice to the applicant within 28 days after receiving the application, the Chief Executive Officer is taken to have made a decision to affirm the Registrar's decision.

---

## **Part 3—Transfers and transmissions of ships**

### **29 Transfers of ships**

#### *Bill of sale*

- (1) For the purposes of subsection 36(1) of the Act, a bill of sale must:
  - (a) specify the name and official number of the ship; and
  - (b) specify the number of shares in the ship to which the bill of sale relates; and
  - (c) specify the name and address of each transferor; and
  - (d) specify the name and address of each transferee; and
  - (e) be signed by each transferor.

#### *Declaration of transfer*

- (2) For the purposes of subsection 36(3) of the Act, a declaration of transfer must:
  - (a) be in writing; and
  - (b) specify the name and official number of the ship; and
  - (c) specify the date of the bill of sale to which the declaration of transfer relates; and
  - (d) in relation to each person who is a transferee under the bill of sale—specify:
    - (i) for an individual—the grounds on which the individual claims the nationality specified in the declaration; and
    - (ii) the extent of the interest of the person in the ship; and
  - (e) be signed by each transferee.

### **30 Transmissions of ships**

#### *Evidence of transmission*

- (1) For the purposes of subsection 37(1) of the Act, the evidence of transmission is the following:
  - (a) in the case of transmission upon the death of a joint owner:
    - (i) a certificate of death or of burial of the deceased person, or probate or letters of administration of the estate of the deceased person, or a copy of any such document; and
    - (ii) a statutory declaration by a person to the effect that the deceased person is the same person as the joint owner named in the General Register or International Register;
  - (b) in the case of transmission upon the death of a sole owner or an owner in common:
    - (i) an instrument constituting a person as the legal personal representative, or constituting persons as the legal personal representatives, of the deceased person, or a copy of such an instrument; and

**Section 30**

---

- (ii) an instrument identifying the person who is to become, because of the transmission, the owner, or one of the owners, of the ship or share;
- (c) in the case of transmission upon the making of an order by a court—a copy of the order;
- (d) in the case of any other transmission—a copy of the instrument by which the transmission was effected.

*Declaration of transmission*

- (2) For the purposes of subsection 37(2) of the Act, a declaration of transmission must:
  - (a) be in writing; and
  - (b) specify the name and official number of the ship; and
  - (c) specify the name and address of the person who has ceased, by reason of the transmission, to be the owner, or one of the owners, of the ship or share; and
  - (d) specify the name and address of each person to whom the ship or share is transmitted; and
  - (e) be signed by each person to whom the ship or share is transmitted.

## **Part 4—The Registers**

### **31 Information to be recorded in entries in the Registers**

- (1) For the purposes of paragraph 83(2)(d) of the Act, the Registers must contain in respect of each entry of a matter under the Act:
  - (a) the date and time the entry was made; and
  - (b) authentication of the entry by signature, or other suitable means, by the Registrar or a Deputy Registrar.
- (2) The time to be recorded in the Registers when an entry is made is the legal time in the Australian Capital Territory at the time the entry is made.

### **32 Obsolete or incorrect entries in the Registers**

For the purposes of paragraph 58(1)(a) of the Act, the period is 30 days.

## Part 5—Other matters

### 33 Change in registered agent of a ship

For the purposes of subsection 64(2) of the Act, the information is:

- (a) the name and official number of the ship; and
- (b) the name and address of the registered agent as appearing in the General Register or International Register; and
- (c) the name and address of the registered agent as changed; and
- (d) the date on which the change occurred.

### 34 Alterations to ships

#### *Manner of giving notice*

- (1) For the purposes of subsection 65(1) of the Act, the manner of giving notice of an alteration to a registered ship is a notice in writing that:
  - (a) specifies the name and official number of the ship; and
  - (b) specifies the nature of the alteration; and
  - (c) is signed by the registered agent of the ship.
- (2) The notice must be accompanied by:
  - (a) a certificate that is in relation to the alteration of the ship and that is in accordance with subsection (3); and
  - (b) if, because of the alteration, the particulars in the tonnage certificate (if any) in force for the ship immediately before the alteration are no longer correct or the ship has become a ship to which subsection 16(1) of the Act applies—the tonnage certificate (if any) in force for the ship as altered; and
  - (c) the registration certificate, or provisional registration certificate, in force in respect of the ship.
- (3) The certificate in relation to the alteration of the ship must:
  - (a) specify the name and official number of the ship; and
  - (b) specify the date of completion of the alteration; and
  - (c) specify the place at which the alteration was done; and
  - (d) specify the name and address of the person who did the alteration; and
  - (e) specify the name and address of the person for whom the alteration was undertaken; and
  - (f) specify particulars of the characteristics of the ship set out in section 39 as altered; and
  - (g) specify the gross tonnage and net tonnage of the ship as altered, estimated by the person who did the alterations if:
    - (i) because of the alteration, the particulars in the tonnage certificate for the ship are no longer correct or the ship has become a ship to which subsection 16(1) of the Act applies; and
    - (ii) a tonnage certificate is not in force for the ship as altered; and
  - (h) be signed by the person who did the alteration.



- 
- (4) If the alteration of the ship has been carried out in stages by more than one person:
- (a) a certificate in relation to the alteration may consist of several documents in accordance with subsection (3), each of which relates to one or more of those stages; and
  - (b) a certificate that relates to all of those stages, or a document referred to in paragraph (a) that relates to more than one of those stages, must be signed by all of the persons responsible for the work carried out in those stages.

*Time for giving notice*

- (5) For the purposes of subsection 65(1) of the Act, notice of an alteration to a registered ship must be given:
- (a) for an alteration referred to in paragraph 65(1)(a) of the Act:
    - (i) before the end of 14 days after the completion of the alteration; or
    - (ii) if the first departure of the ship from the foreign port after the completion of the alteration is before the end of that period—before that first departure; or
  - (b) for an alteration referred to in paragraph 65(1)(b) of the Act:
    - (i) before the end of 14 days after the first arrival of the ship at a foreign port after the completion of the alteration at which there is a proper officer; or
    - (ii) if the first departure of the ship from that port after the completion of the alteration is before the end of that period—before that first departure; or
  - (c) in any other case—before the end of 14 days after the completion of the alteration.

*Forwarding documents to Registrar*

- (6) For the purposes of paragraph 65(3)(b) of the Act, the statement to be forwarded by a proper officer must:
- (a) be in writing; and
  - (b) specify the name and official number of the ship; and
  - (c) specify the documents lodged with the proper officer under this section in connection with the grant of the provisional registration certificate and the dates of lodgement of those documents; and
  - (d) be signed by the proper officer.
- (7) For the purposes of paragraph 65(3)(c) of the Act, the documents to be forwarded by a proper officer are:
- (a) the certificate covered by paragraph (2)(a) of this section (as affected by subsection (4) of this section); and
  - (b) if paragraph (2)(b) of this section applies—the certificate covered by that paragraph.

## Section 35

---

### 35 Closure of registration of ships

- (1) For the purposes of paragraph 83(2)(j) of the Act, an application for the closure of the registration of a registered ship (except a ship required to be registered) may be lodged with the Registrar by one or more owners of the ship.

#### *Form of application*

- (2) The application must:
  - (a) be in writing; and
  - (b) specify the registered name of the ship; and
  - (c) specify the official number of the ship; and
  - (d) specify the home port of the ship; and
  - (e) be accompanied by the registration certificate or provisional registration certificate, as the case requires; and
  - (f) be accompanied by a statutory declaration by the applicant that states the extent of the interest of the person in the ship and the date on which that interest was acquired; and
  - (g) be signed:
    - (i) if there is one owner of the ship—by that owner; or
    - (ii) otherwise—either by each owner of the ship or by a person appointed under subsection (3) by persons who are the owners of interests in the ship the sum of which is equal to at least 33 shares in the property in the ship.

#### *Appointments*

- (3) The appointment of a person for the purposes of subparagraph (2)(g)(ii) must:
  - (a) be in writing; and
  - (b) specify the ship to which the appointment relates; and
  - (c) be signed by each person making the appointment.
- (4) The appointment may consist of several documents in like form, each of which satisfies paragraphs (3)(a) and (b) and that, when taken together, satisfy paragraph (3)(c).
- (5) If the application is signed by a person appointed under subsection (3), each instrument of appointment of that person must be produced to the Registrar for noting upon the lodgement of the application.

#### *Closure of registration*

- (6) If the Registrar receives an application lodged in accordance with this section relating to a ship:
  - (a) the Registrar must make an entry in the General Register or International Register to that effect; and
  - (b) the registration of the ship is then closed.

Note: Section 3A of the Act provides that if the registration of a ship is closed, the ship ceases to be registered.

---

*Delivery of registration certificate or provisional registration certificate if registration of ship is closed*

- (7) For the purposes of subsection 66(10) of the Act, the certificate is to be delivered to the Registrar or a proper officer within 30 days after the Registrar gives a notice under subsection (8) of this section.
- (8) The Registrar must give a written notice to a person whose name appeared in the General Register or International Register, immediately before the registration of the ship was closed or deemed to be closed under section 66 of the Act, as the owner, or one of the owners, of the ship:
  - (a) identifying the ship; and
  - (b) setting out particulars of the closure, or deemed closure, of the registration of the ship; and
  - (c) setting out the obligation under subsection 66(10) of the Act.

### **36 Unregistered ships exempt from leaving ports**

For the purposes of subsections 68(4) and 69(3) of the Act, the following classes of ships are prescribed:

- (a) small craft operated by traditional inhabitants;
- (b) ships propelled only by means of oars;
- (c) ships on demise charters to Australian-based operators.

### **37 Admissibility of documents in evidence**

For the purposes of paragraph 83(2)(v) of the Act, a certificate or pass issued under the Act or this instrument is declared to be admissible in evidence for the purposes of section 77 of the Act.

### **38 Home ports**

*Selection of home port*

- (1) For the purposes of paragraph 83(2)(n) of the Act, the port that may be selected as the home port for a registered ship is one of the ports determined in a notice in force under subsection (2).
- (2) The Authority may, by notice published in the Gazette, determine ports for the purposes of subsection (1).

*Change of home port*

- (3) For the purposes of paragraph 83(2)(n) of the Act, the following may lodge an application with the Registrar for a change in the home port of a registered ship:
  - (a) the registered agent of the ship;
  - (b) for a ship other than a ship on demise charter to Australian-based operators—an owner of the ship.
- (4) The application must:
  - (a) be in writing; and

## Section 39

---

- (b) specify the name and official number of the ship; and
  - (c) specify the current home port of the ship; and
  - (d) specify the proposed home port of the ship (which must be a port covered by subsection (1)); and
  - (e) be signed by:
    - (i) the registered agent of the ship; and
    - (ii) for a ship other than a ship on demise charter to Australian-based operators—each owner of the ship.
- (5) If the Registrar receives an application made in accordance with subsection (4), the Registrar must give a written notice to the applicant stating that the inscription of the home port on the ship may be altered with the new home port being inscribed on the ship in accordance with section 23.

### *Offence*

- (6) A person commits an offence of strict liability if:
- (a) the Registrar gives the person a notice under subsection (5); and
  - (b) the person does not, within 30 days after the date of the notice, endorse on the notice a statement signed by the person stating that the inscription of the home port on the ship has been altered with the new home port inscribed on the ship in accordance with section 23; and
  - (c) the person does not, within 30 days after the date of the notice, lodge with the Registrar that notice as so endorsed.

Penalty: 5 penalty units.

- (7) Subsection (6) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (7): see subsection 13.3(3) of the *Criminal Code*.

### *Registrar's role*

- (8) If the Registrar receives the notice referred to in paragraph (6)(c) and the ship's registration certificate, the Registrar must:
- (a) enter the new home port for the ship in the General Register or International Register; and
  - (b) endorse the change of home port on the ship's registration certificate and return it to the registered agent.

## 39 Characteristics of ships

For the purposes of paragraphs 15(1)(h), 17(h), 20(2)(h) and 34(3)(f), the characteristics of a ship are set out in the following table:

---

Characteristics of ships	
Item	Characteristic
1	Type of ship (in terms of purpose)
2	Method of propulsion, including the number and type of boilers, the number and type of engines and the means of power transmission (including the number of screws, paddles or

---

## Section 40

**Characteristics of ships**

<b>Item</b>	<b>Characteristic</b>
	jets)
3	Number of decks
4	Number of bulkheads
5	Number of masts
6	Stem
7	Stern
8	Build
9	Rigging
10	Principal material of construction of hull
11	Length
12	Maximum breadth
13	Moulded depth amidships
14	Power, being one or more of brake power, indicated power and shaft power
15	Estimated speed

**40 Period in which no entry has been made in the Registers**

For the purposes of subsection 92(3) of the Act, the period is 25 years.

**41 References to measurements in documents**

If a certificate or other document granted or issued under this instrument includes information in relation to a ship that is expressed in terms of measurements other than measurements in terms of which that information is required by this instrument to be expressed, that information may be expressed in the certificate or other document in relation to that ship in terms of either or both of those measurements.

**42 Extension of time**

- (1) For the purposes of paragraph 83(2)(e) of the Act, the Registrar may, upon application, extend the time for the lodgement of a document or information required by this instrument to be lodged with the Registrar. The Registrar may do so even though that time has ended.
- (2) An application for an extension of time must be lodged with the Registrar and must:
  - (a) be in writing; and
  - (b) set out the grounds for the application; and
  - (c) be signed by the applicant.

**43 Verification of information etc.**

- (1) Subject to the Act and this instrument, the Registrar may, in relation to any document lodged with or produced to the Registrar for noting, do one or more of the following:

Section 43

---

- (a) require the verification, by statutory declaration, of:
    - (i) the authenticity of the document; or
    - (ii) any information contained in the document;
  - (b) require the submission of further documents or information in support of, or in substitution for a document or information referred to in paragraph (a);
  - (c) refuse to make an entry in the General Register or International Register, or to perform any function or exercise any power under the Act or this instrument, to which a requirement under paragraph (a) relates until that requirement is satisfied.
- (2) A requirement under paragraph (1)(a) or (b) must be set out in a notice in writing signed by or on behalf of the Registrar and be given to:
- (a) the person in respect of whom the document to which the requirement relates was lodged with, or produced to, the Registrar; or
  - (b) the person, or any one of the persons, in whose interest that document was so lodged or produced.
- (3) A notice setting out a requirement under subsection (1) for the verification of information relating to the identity, nationality or residential status of a person (the **first person**) may require:
- (a) that the verification be by a statutory declaration by a person (other than the first person) who has known the first person for a period of no less duration than that specified in the notice; and
  - (b) that such a statutory declaration specify the period during which the declarant has known the first person.

---

## **Part 6—Application, saving and transitional provisions**

### **44 Application for registration of a ship**

If:

- (a) an application referred to in regulation 7 of the *Shipping Registration Regulations 1981* was made before the commencement of this section; and
- (b) the applicant had not complied with regulation 7A of the *Shipping Registration Regulations 1981* immediately before that commencement; and
- (c) the Registrar had not decided the application immediately before that commencement;

then subregulation 7A(3) of the *Shipping Registration Regulations 1981* continues to apply on and after that commencement in relation to that application despite the repeal of the *Shipping Registration Regulations 1981* made by Schedule 1 to the *Shipping Registration (Repeal and Consequential Amendments) Regulations 2019*.

### **45 Surrender of temporary pass**

Section 22 applies in relation to the following:

- (a) a temporary pass granted under section 23 of the Act on or after the commencement of this section;
- (b) a temporary pass granted under section 23 of the Act before the commencement of this section, where immediately before that commencement:
  - (i) the voyage specified in the pass had neither been completed nor abandoned; and
  - (ii) the period of the validity of the pass had not expired.

### **46 Closure of registration of ships**

If:

- (a) an application was made before the commencement of this section under subregulation 33(1) of the *Shipping Registration Regulations 1981*; and
- (b) before that commencement, subregulations 33(1) to (3) of the *Shipping Registration Regulations 1981* were satisfied in relation to the application; and
- (c) immediately before that commencement, the Registrar had not made an entry of the kind referred to in subregulation 33(4) of the *Shipping Registration Regulations 1981*;

then subregulation 33(4) of the *Shipping Registration Regulations 1981* continues to apply on and after that commencement in relation to that application despite the repeal of the *Shipping Registration Regulations 1981* made by Schedule 1 to the *Shipping Registration (Repeal and Consequential Amendments) Regulations 2019*.

## Section 47

---

### 47 Home ports

A notice published in the Gazette before the commencement of this section under subregulation 35(1) of the *Shipping Registration Regulations 1981* and that was in force immediately before that commencement has effect on and after that commencement as if it were a notice in force under subsection 38(2) of this instrument.

### 48 Extension of time

(1) If:

- (a) an extension was given before the commencement of this section under subregulation 39(1) of the *Shipping Registration Regulations 1981* for the lodgement of a document; and
- (b) immediately before that commencement, the time for the lodgement of the document had not ended;

the extension has effect on and after that commencement as if it had been given under subsection 42(1) of this instrument.

(2) If:

- (a) a request was made before the commencement of this section under subregulation 39(2) of the *Shipping Registration Regulations 1981*; and
- (b) immediately before that commencement, the Registrar had not decided the request;

the request has effect on and after that commencement as if it were an application made under subsection 42(2) of this instrument.

### 49 Effect of this Part on section 7 of the *Acts Interpretation Act 1901*

This Part does not limit the operation of section 7 of the *Acts Interpretation Act 1901* in relation to the repeal of the *Shipping Registration Regulations 1981* made by Schedule 1 to the *Shipping Registration (Repeal and Consequential Amendments) Regulations 2019*.