

2010-2011-2012

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Shipping Registration Amendment  
(Australian International Shipping  
Register) Bill 2012**

**No.     , 2012**

*(Infrastructure and Transport)*

**A Bill for an Act to amend the shipping law, and  
for related purposes**



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1 **A Bill for an Act to amend the shipping law, and**  
2 **for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Shipping Registration Amendment*  
6 *(Australian International Shipping Register) Act 2012*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table  
9 commences, or is taken to have commenced, in accordance with  
10 column 2 of the table. Any other statement in column 2 has effect  
11 according to its terms.  
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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1, 2 and 3	1 July 2012.	1 July 2012
3. Schedule 4, items 1 to 5	1 July 2012.	1 July 2012
4. Schedule 4, items 6 to 12	The day this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally  
2 enacted. It will not be amended to deal with any later amendments of  
3 this Act.

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

### 7 **3 Schedule(s)**

8 Each Act that is specified in a Schedule to this Act is amended or  
9 repealed as set out in the applicable items in the Schedule  
10 concerned, and any other item in a Schedule to this Act has effect  
11 according to its terms.  
12

1  
2 **Schedule 1—The Australian International**  
3 **Shipping Register**

4 **Part 1—Amendments**

5 *Shipping Registration Act 1981*

6 **1 Subsection 3(1)**

7 Insert:

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

10 **2 Subsection 3(1)**

11 Insert:

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

14 **3 Subsection 3(1)**

15 Insert:

16 *Australian resident*: see *resident of Australia*.

17 **4 Subsection 3(1)**

18 Insert:

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

22 **5 Subsection 3(1)**

23 Insert:

24 *General Register* means the Australian General Shipping Register.

25 **6 Subsection 3(1)**

26 Insert:

1                    *International Register* means the Australian International Shipping  
2                    Register.

3                    **7 Subsection 3(1)**

4                    Insert:

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

11                   **8 Subsection 3(1) (definition of Register)**

12                   Repeal the definition.

13                   **9 Subsection 3(1) (definition of registered)**

14                   Repeal the definition, substitute:

15                   *registered* means registered under this Act in:

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

18                   **10 Subsection 3(1) (definition of registered agent)**

19                   Repeal the definition, substitute:

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

24                   **11 Subsection 3(1)**

25                   Insert:

26                   *Registers* means:

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

29                   **12 Subsection 3(1)**

30                   Insert:



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

3                    **18 Subsections 3(3) and (4)**

4                    Repeal the subsections.

5                    **19 After section 3**

6                    Insert:

7                    **3A Effect of closure or cancellation of registration**

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

10                   **20 Subsection 9(1)**

11                   After “paragraph 14(a), (b) or (c)”, insert “or 15B(a), (b) or (c)”.

12                   **21 Before section 12**

13                   Insert:

14                   **Subdivision A—Obligation to register Australian-owned ships**

15                   **22 After subsection 12(3A)**

16                   Insert:

17                   (3B) The owner does not commit an offence against subsection (3), and  
18                   the ship may not be detained under that subsection, if:

19                   (a) the owner has made an application in accordance with  
20                   section 15 or 15C to register the ship; and

21                   (b) the Registrar has not made a decision on the application  
22                   about whether to register the ship under section 15E or  
23                   subsection 15F(1).

24                   (3C) The owner does not commit an offence against subsection (3), and  
25                   the ship may not be detained under that subsection, if:

26                   (a) the owner has made an application in accordance with  
27                   section 15C to register the ship in the International Register;  
28                   and

29                   (b) the Registrar has made a decision not to register the ship  
30                   under subsection 15F(1); and

- 1 (c) either:  
2 (i) the Registrar has not notified the owner of the decision;  
3 or  
4 (ii) the owner has made an application under section 78A  
5 for review of the Registrar's decision, and a decision  
6 has not been made on the application.
- 7 (3D) The owner does not commit an offence against subsection (3), and  
8 the ship may not be detained under that subsection, if:  
9 (a) the Registrar has made a decision to cancel the registration of  
10 the ship under section 33B; and  
11 (b) either:  
12 (i) the Registrar has not notified the owner of the decision;  
13 or  
14 (ii) the owner has made an application under section 78A  
15 for review of the Registrar's decision, and a decision  
16 has not been made on the application.

### 17 **23 After section 13**

18 Insert:

### 19 **Subdivision B—The General Register**

### 20 **24 Sections 14 and 15**

21 Repeal the sections, substitute:

### 22 **14 Ships that may be registered in the General Register**

23 The following ships may be registered in the General Register:

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

### 31 **15 Application for registration in the General Register**

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

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

3 **25 Before section 16**

4 Insert:

5 **Subdivision C—The International Register**

6 **15A Objects of the International Register**

7 The objects of the International Register are to:

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

13 **15B Ships that may be registered in the International Register**

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

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

23 **15C Application for registration in the International Register**

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

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

1 **15D Pre-registration inspection**

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

10 **Subdivision D—Registration**

11 **15E Registration in the General Register**

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

17 **15F Registration in the International Register**

- 18 (1) If an application under section 15C is made to register a ship in the  
19 International Register, then, subject to sections 16 and 17, the  
20 Registrar may register the ship in that register by entering in that  
21 register such particulars relating to the ship as are prescribed by the  
22 regulations.
- 23 (2) When deciding under subsection (1) whether to register a ship in  
24 the International Register, the Registrar must have regard to:
- 25 (a) the age of the ship; and  
26 (b) information contained in the ship's port state control  
27 inspection and report; and  
28 (c) the ship's Classification Society record; and  
29 (d) any inspection of the ship made by a surveyor under  
30 section 15D; and  
31 (e) any matter that the Registrar considers relevant; and  
32 (f) any matter prescribed by the regulations.

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

16 **26 Subsection 16(1)**

17 Repeal the subsection, substitute:

- 18 (1) The Registrar must not register a ship in the General Register or  
19 International Register unless and until a certificate relating to the  
20 tonnage measurement of the ship issued under, or otherwise having  
21 effect because of, the Navigation Act has been lodged with the  
22 Registrar.

23 **27 Section 17 (heading)**

24 Repeal the heading, substitute:

25 **17 No multiple registrations**

26 **28 Subsection 17(1)**

27 Repeal the subsection, substitute:

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

- 1 (i) in the General Register; or  
2 (ii) under a law of a foreign country.

3 **29 Section 18**

4 Repeal the section.

5 **30 Section 19**

6 Repeal the section, substitute:

7 **19 Grant of registration certificate**

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

16 **31 Section 22B**

17 After “section 15”, insert “or 15C”.

18 **32 Paragraph 27(4)(a)**

19 Omit “Register”, substitute “relevant register”.

20 **33 Paragraph 30(1)(a)**

21 After “paragraph 14(d)”, insert “or ships registered by virtue of  
22 section 15B”.

23 **34 At the end of Part II**

24 Add:

1 **Division 5—Special provisions relating to the International**  
2 **Register**

3 **Subdivision A—Conditions of registration in the International**  
4 **Register**

5 **33A Conditions of registration in the International Register**

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

13 Civil penalty: 300 penalty units.

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

19 Civil penalty: 300 penalty units.

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

25 **Subdivision B—Cancellation of registration in the International**  
26 **Register**

27 **33B Cancellation of registration in the International Register**

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

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

## 24 **Subdivision C—Basis of registration in the International** 25 **Register**

### 26 **33C Basis of registration in the International Register**

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

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

3 **35 Subsection 36(2A)**

4 Omit “Register”, substitute “relevant register”.

5 **36 Subparagraph 36(3)(b)(iii)**

6 After “paragraph 14(b) or (c)”, insert “or 15B(b) or (c)”.

7 **37 Subsection 37(1A)**

8 Omit “Register”, substitute “relevant register”.

9 **38 Sections 45 and 46**

10 Omit “Register”, substitute “relevant register”.

11 **39 Subsections 47A(1), (3) and (4)**

12 Omit “Register”, substitute “relevant register”.

13 **40 Subsection 47A(7)**

14 Omit “Register” (wherever occurring), substitute “relevant register”.

15 **41 Subsection 47B(1)**

16 Omit “Register” (wherever occurring), substitute “relevant register”.

17 **42 Subsection 47B(2)**

18 Omit “Register”, substitute “relevant register”.

19 **43 Section 47C**

20 Omit “Register” (wherever occurring), substitute “relevant register”.

21 **44 Subsection 47D(1)**

22 Omit “Register”, substitute “relevant register”.

23 **45 Subsection 47D(2)**

24 Omit “Register” (wherever occurring), substitute “relevant register”.

25 **46 Subsection 47D(3)**

26 Omit “Register”, substitute “relevant register”.

1 **47 Subsection 48(1)**

2 Omit “under the Authority, be responsible for the maintenance of the  
3 Register”, substitute “subject to the control of the Authority, be  
4 responsible for the maintenance of the Registers”.

5 **48 Subsection 49(1)**

6 Omit “Register” (wherever occurring), substitute “Registers”.

7 **49 Part V (heading)**

8 Repeal the heading, substitute:

9 **Part V—The Registers**

10 **50 Section 56**

11 Repeal the section, substitute:

12 **56 The Registers**

13 (1) There is to be a register, to be known as the Australian General  
14 Shipping Register.

15 (2) There is to be a register, to be known as the Australian  
16 International Shipping Register.

17 (3) The Registers are not legislative instruments.

18 **51 Section 57 (heading)**

19 Repeal the heading, substitute:

20 **57 Inspection of the Registers**

21 **52 Subsection 57(1)**

22 Omit “Register”, substitute “Registers”.

23 **53 Subsection 57(1) (note)**

24 Repeal the note.

25 **54 Subsection 57(2)**

1 Omit “Register has been maintained in electronic form, provide for it”,  
2 substitute “Registers have been maintained in electronic form, provide  
3 for them”.

4 **55 Subsections 57(3), (4) and (5)**

5 Repeal the subsections, substitute:

6 (3) A person may inspect the Registers at any reasonable time during  
7 the hours when the Registration Office is open for business on  
8 payment of the fixed fee (if any) for the inspection.

9 (4) A person is entitled to be provided with a copy of, or an extract  
10 from, any entry in the Registers on payment of the fixed fee (if  
11 any) for the copy or extract.

12 (5) If the Registrar has made provision for electronic inspection of the  
13 Registers otherwise than at the Registration Office, a person may  
14 electronically inspect the Registers and make a copy of any  
15 electronic entry in the Registers on payment of the fixed fee (if  
16 any) for the inspection and copy.

17 **56 Section 58 (heading)**

18 Repeal the heading, substitute:

19 **58 Obsolete or incorrect entries in the Registers**

20 **57 Paragraph 58(1)(a)**

21 Omit “, no entry or amendment of an entry has been made in the  
22 Register”, substitute “that is registered in the General Register or  
23 International Register, no entry or amendment of an entry has been  
24 made in the relevant register”.

25 **58 Subparagraphs 58(1)(b)(i) and (ii)**

26 Omit “Register”, substitute “relevant register”.

27 **59 Paragraph 58(2)(b)**

28 Omit “Register”, substitute “relevant register”.

29 **60 Subsection 58(2A)**

30 Omit “Register”, substitute “relevant register”.

1 **61 Paragraph 58(3)(a)**

2 Omit “Register”, substitute “relevant register”.

3 **62 Section 59 (heading)**

4 Repeal the heading, substitute:

5 **59 Rectification of the Registers**

6 **63 Paragraphs 59(1)(a), (b), (c) and (d)**

7 Omit “Register”, substitute “General Register or International  
8 Register”.

9 **64 Subsection 59(1)**

10 Omit “rectification of the Register” (wherever occurring), substitute  
11 “rectification of that register”.

12 **65 Subsection 59(2)**

13 Omit “Register” (first occurring), substitute “General Register or  
14 International Register”.

15 **66 Subsection 59(2)**

16 Omit “the Register” (second and third occurring), substitute “that  
17 register”.

18 **67 Subsection 59(3)**

19 Omit “Register”, substitute “General Register or International  
20 Register”.

21 **68 Subsection 59(5)**

22 Omit “shall, upon receipt of the order, rectify the Register accordingly”,  
23 substitute “must, upon receipt of the order, rectify the General Register  
24 or International Register accordingly”.

25 **69 Section 60 (heading)**

26 Repeal the heading, substitute:

27 **60 Correction of clerical errors in the Registers**

28 **70 Section 60**

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1 Omit “Register”, substitute “General Register or International  
2 Register”.

3 **71 Section 61 (heading)**

4 Repeal the heading, substitute:

5 **61 False entries in the Registers**

6 **72 Section 61**

7 Omit “Register”, substitute “General Register or International  
8 Register”.

9 **73 Section 62 (paragraph (b) of the definition of owner)**

10 After “14(b)”, insert “or 15B(b)”.

11 **74 Section 62 (paragraph (c) of the definition of owner)**

12 Omit “or a ship registered by virtue of paragraph 14(d)”, substitute “,  
13 14(d), 15B(c) or 15B(d)”.

14 **75 Subsection 64(1)**

15 Omit “shall be entered in the Register in respect of every registered  
16 ship”, substitute “must be entered in the General Register or  
17 International Register, in respect of every ship registered in that  
18 register.”.

19 **76 Paragraph 64(1)(a)**

20 After “14(c)”, insert “or 15B(c)”.

21 **77 Paragraph 64(1)(b)**

22 After “14(d)”, insert “or 15B(d)”.

23 **78 Subsection 64(1A)**

24 Omit “section 15, the name and address of the first person to be the  
25 registered agent of the ship shall be entered in the Register”, substitute  
26 “section 15 or 15C, the name and address of the first person to be the  
27 registered agent of the ship must be entered in the relevant register”.

28 **79 Paragraph 64(2)(a)**

29 Omit “Register”, substitute “relevant register”.

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1 **80 Subsection 65(1)**

2 Omit “Register” (wherever occurring), substitute “relevant register”.

3 **81 Subsection 65(6)**

4 Omit “Register”, substitute “relevant register”.

5 **82 Subsection 66(1)**

6 Omit “if”, substitute “If”.

7 **83 Paragraph 66(1)(a)**

8 Repeal the paragraph, substitute:

- 9 (a) a ship registered in the General Register or International  
10 Register:  
11 (i) is lost (whether actually or constructively); or  
12 (ii) is taken by an enemy; or  
13 (iii) is burnt or broken up; or  
14 (iv) ceases to be entitled to be registered in that register; and

15 **84 Subsection 66(2)**

16 Omit “Register”, substitute “relevant register”.

17 **85 Subsection 66(3)**

18 Omit “Register”, substitute “relevant register”.

19 **86 Paragraph 66(3)(b)**

20 After “registered”, insert “in the relevant register”.

21 **87 Subsection 77(2)**

22 Omit “Register” (first occurring), substitute “General Register or  
23 International Register,”.

24 **88 Subsection 77(2)**

25 Omit “Register” (last occurring), substitute “General Register or  
26 International Register”.

27 **89 Section 78 (heading)**

28 Repeal the heading, substitute:

1 **78 AAT review of certain decisions**

2 **90 After section 78**

3 Insert:

4 **78A Internal review of certain decisions**

5 (1) An application may be made to the Chief Executive Officer of the  
6 Authority for review of a decision made by the Registrar under:

7 (a) subsection 15F(1) (which is about the registration of ships in  
8 the International Register); or

9 (b) subsection 33B(1) (which is about cancelling the registration  
10 of ships in the International Register).

11 (2) The regulations may make provision for review under this section.

12 **91 Paragraph 83(2)(c)**

13 Omit “Register” (wherever occurring), substitute “Registers”.

14 **92 Paragraph 83(2)(d)**

15 Omit “Register”, substitute “Registers”.

16 **93 Paragraph 83(2)(f)**

17 Omit “Register”, substitute “General Register or International  
18 Register”.

19 **94 Subparagraph 83(2)(t)(iv)**

20 Omit “; and”, substitute “;”.

21 **95 Subparagraph 83(2)(t)(v)**

22 Repeal the subparagraph.

23 **96 Subsection 83(5)**

24 Repeal the subsection, substitute:

25 (5) The regulations may:

26 (a) provide for offences against the regulations; and

27 (b) provide for civil penalties for contraventions of the  
28 regulations.

- 1 (5A) The penalties for offences or civil penalties referred to in  
2 subsection (5) must not be more than 50 penalty units for an  
3 individual or 250 penalty units for a body corporate.  
4

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2

## Part 2—Application, saving and transitional provisions relating to Part 1

3

4

### 97 Interpretation

5

In this Part:

6

*commencement* means the day this Schedule commences.

7

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

8

### 98 Application of Part 1

9

(1) The amendments made by Part 1 of this Schedule apply on and after commencement in relation to:

10

11

(a) ships that are registered immediately before commencement;  
and

12

13

(b) ships that are registered, or that are required or permitted to be registered, on or after commencement.

14

15

(2) In addition, the amendment made by item 22 applies on and after commencement in relation to applications to register a ship that are made before, on or after commencement.

16

17

18

### 99 Transitioning the Register, registration and certificates

19

(1) The register known as the Australian Register of Ships that was in existence under section 56 of the Registration Act immediately before commencement continues in existence (and may be dealt with) as if it were the Australian General Shipping Register referred to in subsection 56(1) of that Act (as amended by this Schedule).

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23

24

(2) If, immediately before commencement, a ship is registered in the Australian Register of Ships under section 18 of the Registration Act, then the registration of the ship continues in effect (and may be dealt with) as if the ship were registered in the Australian General Shipping Register under section 15E of that Act (as amended by this Schedule).

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(3) A reference to “the Australian Register of Ships” in:

30

31

(a) a registration certificate granted before commencement under section 19 or 21 of the Registration Act; or

1 (b) a provisional registration certificate granted before  
2 commencement under section 21, 22 or 22A of the  
3 Registration Act;  
4 is taken, on and after commencement, to be a reference to “the  
5 Australian General Shipping Register”.

## 6 **100 Transitioning applications for registration**

7 If, before commencement:  
8 (a) an application had been made in accordance with section 15  
9 of the Registration Act to register a ship; and  
10 (b) the Registrar had not made a decision on the application;  
11 then the application is taken to have been made in accordance with  
12 section 15 of that Act (as amended by this Schedule).

## 13 **101 Saving of regulations relating to registration**

### 14 *Regulations relating to applications for registration*

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

### 21 *Regulations relating to entry of particulars in the Register*

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

### 28 *Regulations relating to grant of registration certificate*

29 (3) Despite the repeal of section 19 of the Registration Act by item 30 of  
30 this Schedule, regulations that:  
31 (a) were made for the purposes of that section; and  
32 (b) were in force immediately before commencement;

1 continue in force (and may be dealt with) as if they had been made for  
2 the purposes of paragraph 19(2)(c) of that Act (as amended by this  
3 Schedule).

4 **102 Saving of regulations providing for offences**

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

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

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

12 **103 Saving of other regulations**

13 Despite the amendment of sections 37, 47A, 58 and 65 and subsection  
14 83(2) of the Registration Act by this Schedule, regulations that:

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

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

20 **104 Transitioning references to “the Register” in regulations**

21 A reference to “the Register” in regulations that:

- 22 (a) were made for the purposes of a provision of the Registration  
23 Act; and  
24 (b) were in force immediately before commencement;

25 is taken, on and after commencement, to be a reference to “the relevant  
26 Register”.

27

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1  
2 **Schedule 2—Seafarers**  
3

4 ***Shipping Registration Act 1981***

5 **1 Subsection 3(1)**

6 Insert:

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

9 **2 Subsection 3(1)**

10 Insert:

11 *employee organisation* means:

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

16 **3 Subsection 3(1)**

17 Insert:

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

23 **4 Subsection 3(1)**

24 Insert:

25 *international trading* has the meaning given by section 61AB.

26 **5 Subsection 3(1)**

27 Insert:

28 *ITF template agreement* means a standard form of agreement that:

- 29 (a) relates to the working conditions of seafarers; and

- 1 (b) is formulated by the International Transport Workers’  
2 Federation; and  
3 (c) is known as the International Transport Workers’ Federation  
4 Uniform Total Crew Cost Collective Agreement; and  
5 (d) is available on the Authority’s website, or is otherwise  
6 available (without charge) from the Authority.

7 **6 Subsection 3(1)**

8 Insert:

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

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

17 **7 Subsection 3(1)**

18 Insert:

19 *Navigation Act* means the *Navigation Act 1912*.

20 **8 Subsection 3(1) (definition of owner)**

21 Repeal the definition, substitute:

22 *owner* of a ship:

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

30 **9 Subsection 3(1)**

31 Insert:

32 *port* includes a harbour.

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**10 Subsection 3(1)**

Insert:

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

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

**11 Subsection 3(1)**

Insert:

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

**12 Section 11A**

Repeal the section, substitute:

**11A Collective agreement with the seafarers' bargaining unit**

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

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

- (2) The *seafarers' bargaining unit* for a ship is a body consisting of a representative from each employee organisation that:
- (a) has, as a member, one or more seafarers who will work on the ship when it is used to engage in international trading;
- and

- 1 (b) is entitled to represent the industrial interests of those  
2 seafarers in relation to that work; and  
3 (c) has given written notice to the owner of the ship that it  
4 wishes to be a member of the body and has not withdrawn  
5 that notice.
- 6 (3) The regulations may prescribe requirements in relation to the  
7 making of a collective agreement under this section.
- 8 (4) The *Fair Work Act 2009* does not apply in relation to the making  
9 of a collective agreement under this section, and a collective  
10 agreement under this section is not an enterprise agreement for the  
11 purposes of that Act.

## 12 **13 After Part V**

13 Insert:

## 14 **Part VA—Seafarers**

### 15 **Division 1—Core provision**

#### 16 **61AA Application of this Part and other laws to certain ships**

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

- 18 (a) this Part applies in relation to when the ship is used to engage  
19 in international trading; and  
20 (b) the *Fair Work Act 2009* and the *Seafarers Rehabilitation and*  
21 *Compensation Act 1992* do not apply in relation to when the  
22 ship is used to engage in international trading; and  
23 (c) any legislation of a State or Territory that:  
24 (i) provides for workers' compensation; or  
25 (ii) is prescribed by the regulations;  
26 does not apply in relation to when the ship is used to engage  
27 in international trading.

#### 28 **61AB When is a ship used to engage in international trading?**

- 29 (1) A ship is used to engage in *international trading* if, for or in  
30 connection with a commercial activity:  
31 (a) the ship:

- 1 (i) takes on board passengers or cargo at one or more ports  
2 in Australia; and
- 3 (ii) carries some or all of the passengers or cargo to one or  
4 more ports in one or more foreign countries; or
- 5 (b) the ship:
- 6 (i) takes on board passengers or cargo at one or more ports  
7 in one or more foreign countries; and
- 8 (ii) carries all of the passengers or cargo to one or more  
9 ports in one or more countries (which could be the same  
10 foreign country, another foreign country or Australia);  
11 or
- 12 (c) the ship undertakes an activity for, or in connection with, an  
13 activity referred to in paragraph (a) or (b).
- 14 (2) However, a ship is not used to engage in *international trading* at  
15 any time it is used to engage in:
- 16 (a) coastal trading; or  
17 (b) intra-State trading.

## 18 Division 2—Work agreements

### 19 Subdivision A—Application of this Division

#### 20 61AC Application of this Division

21 This Division applies to:

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

### 25 Subdivision B—Requirements that apply to work agreements

#### 26 61AD Work agreement must comply with this Division

- 27 (1) In addition to the requirements of section 45A of the Navigation  
28 Act that a work agreement of a seafarer must comply with, the  
29 owner of the ship must ensure that the work agreement complies  
30 with the requirements of this Division.

31 Civil penalty: 300 penalty units.

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

4 **61AE Wages**

- 5 (1) The work agreement must specify the amount of the seafarer's  
6 wages, or the method for working that out.
- 7 (2) The amount of the wages must not be less than the relevant amount  
8 of wages determined by the Minister under subsection (3).
- 9 (3) The Minister must, by legislative instrument, determine the amount  
10 of wages of seafarers performing particular types of work.
- 11 (4) If, when making a determination under subsection (3):  
12 (a) there is an ITF template agreement; and  
13 (b) the ITF template agreement specifies an amount of wages of  
14 seafarers performing particular types of work;  
15 then the amount of wages determined by the Minister under  
16 subsection (3) for a particular type of work must not be less than  
17 the amount of wages specified in the ITF template agreement for  
18 that type of work.
- 19 (5) If, after the Minister makes a determination under subsection (3),  
20 the ITF template agreement changes, then as soon as is reasonably  
21 practicable after becoming aware of that:  
22 (a) the Minister must, by legislative instrument, revoke the  
23 determination made under subsection (3); and  
24 (b) the Minister must make a new determination under  
25 subsection (3).

26 **61AF Paid annual leave**

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

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1 *Calculating service*

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

7 *Paid annual leave not to include other absences*

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

16 **61AG Dispute resolution procedure**

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

1           **Subdivision C—Effect of other agreements on the work**  
2                           **agreement**

3           **61AH Effect of collective agreement with the seafarers’ bargaining**  
4                           **unit**

- 5                           (1) This section applies while a collective agreement made under  
6   section 11A between the owner of the ship and the seafarers’  
7   bargaining unit for the ship is in force.
- 8                           (2) The work agreement referred to in section 45A of the Navigation  
9   Act, to the extent that the work agreement applies to the seafarer  
10    while he or she is working on board the ship when it is used to  
11    engage in international trading, is taken to include the terms and  
12    conditions of the collective agreement.
- 13                           Note:           It does not matter whether the work agreement was made before or  
14   after the collective agreement was made.
- 15                           (3) However, a term or condition of the collective agreement that is  
16    included in the work agreement because of subsection (2) has no  
17    effect to the extent that it is less beneficial to the seafarer than  
18    another term or condition of the work agreement.

19           **61AI Effect of other agreements**

- 20                           (1) This section applies if:
- 21    (a) on or after the commencement of this section, the owner of  
22    the ship makes an agreement with another person or persons  
23    about the terms and conditions of employment or  
24    engagement of one or more seafarers working on board the  
25    ship when it is used to engage in international trading; and
- 26    (b) the agreement is not a work agreement referred to in  
27    section 45A of the Navigation Act; and
- 28    (c) the agreement is not a collective agreement made under  
29    section 11A.
- 30                           (2) If the work agreement referred to in section 45A of the Navigation  
31    Act incorporates any of the terms or conditions of the agreement  
32    referred to in paragraph (1)(a), then those terms or conditions have  
33    no effect to the extent that they apply to the seafarer while he or  
34    she is working on board the ship when it is used to engage in  
35    international trading.

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

3 **61AJ Wages to be paid**

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

7 Civil penalty: 300 penalty units.

8 **61AK Annual leave may be taken**

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

12 Civil penalty: 300 penalty units.

13 **Division 3—Protection against victimisation of seafarers**

14 **61AL Protection against victimisation**

15 (1) This section applies to:

- 16 (a) a ship that is registered in the International Register; and  
17 (b) a seafarer who works, or a prospective seafarer who proposes  
18 to work, on board the ship when it is used to engage in  
19 international trading.

20 (2) A person must not victimise the seafarer because the seafarer:

- 21 (a) has made, proposes to make, or at any time has proposed to  
22 make a complaint under the dispute resolution procedure in  
23 the seafarer's work agreement (unless the complaint is  
24 manifestly vexatious or maliciously made); or  
25 (b) has refused to make, proposes to refuse to make, or at any  
26 time has proposed to refuse to make a complaint under the  
27 dispute resolution procedure in the seafarer's work  
28 agreement; or  
29 (c) has participated, proposes to participate, or at any time has  
30 proposed to participate in collective bargaining; or

- 1 (d) has refused to participate, proposes to refuse to participate, or  
2 at any time has refused to participate in collective bargaining;  
3 or  
4 (e) has exercised, proposes to exercise, or at any time has  
5 proposed to exercise the right to organise and to take  
6 industrial action; or  
7 (f) has refused to exercise, proposes to refuse to exercise, or at  
8 any time has proposed to refuse to exercise the right to  
9 organise and to take industrial action; or  
10 (g) has joined, proposes to join, or at any time has proposed to  
11 join an employee organisation; or  
12 (h) has refused to join, proposes to refuse to join, or at any time  
13 has proposed to refuse to join an employee organisation; or  
14 (i) has participated, proposes to participate, or at any time has  
15 proposed to participate in the activities of an employee  
16 organisation; or  
17 (j) has refused to participate, proposes to refuse to participate, or  
18 at any time has proposed to refuse to participate in the  
19 activities of an employee organisation; or  
20 (k) has requested, proposes to request, or at any time has  
21 proposed to request representation by an employee  
22 organisation; or  
23 (l) has refused, proposes to refuse, or at any time has proposed  
24 to refuse representation by an employee organisation.

25 Civil penalty: 300 penalty units.

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

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**Division 4—Injury etc. of seafarers****61AM Compulsory insurance for death or long-term disability**

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

Civil penalty: 300 penalty units.

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

1 **61AN Liability for medical attendance etc.**

2 (1) This section applies if the owner of a ship that is registered in the  
3 International Register would, apart from subsection (2), be liable  
4 under section 127 of the Navigation Act to pay expenses relating to  
5 a hurt or injury received, disease contracted or illness suffered by a  
6 seafarer while on board the ship when it was used to engage in  
7 international trading.

8 (2) Any liability of the owner under that section ceases on the earlier  
9 of the following days:

- 10 (a) the day after the seafarer has recovered;
- 11 (b) the day that is 16 weeks after the first day the seafarer  
12 received the hurt or injury, contracted the disease or suffered  
13 the illness.

14 **61AO Liability for wages of sick or injured seafarers**

15 (1) This section applies if the owner of a ship that is registered in the  
16 International Register would, apart from subsection (2), be liable  
17 under section 132 of the Navigation Act to pay wages to a seafarer  
18 who is hurt or injured, or becomes ill, while on board the ship  
19 when it was used to engage in international trading.

20 (2) Any liability of the owner under that section ceases on the earlier  
21 of the following days:

- 22 (a) the day after the seafarer has recovered;
- 23 (b) the day that is 16 weeks after the first day the seafarer was  
24 hurt or injured, or became ill.  
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## Schedule 3—Enforcement

### *Shipping Registration Act 1981*

#### **1 Subsection 3(1)**

Insert:

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

#### **2 Subsection 3(1)**

Insert:

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

#### **3 Subsection 3(1)**

Insert:

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

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

#### **4 Before Part VI**

Insert:

1 **Part VB—Enforcement**

2 **Division 1—Civil penalty provisions**

3 **Subdivision A—Obtaining a civil penalty order**

4 **61BA Civil penalty orders**

5 *Application for order*

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

11 *Relevant court may order person to pay pecuniary penalty*

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

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

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

19 *Determining pecuniary penalty*

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

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1 (d) whether the person has previously been found by a court in  
2 proceedings under one or more of the following Acts to have  
3 engaged in any similar conduct:

4 (i) this Act;

5 (ii) the Navigation Act;

6 (iii) the *Crimes Act 1914* or the *Criminal Code* in relation to  
7 this Act.

#### 8 **61BB Civil enforcement of penalty**

9 (1) A pecuniary penalty is a debt payable to the Authority on behalf of  
10 the Commonwealth.

11 (2) The Authority may enforce a civil penalty order as if it were an  
12 order made in civil proceedings against the person to recover a  
13 debt due by the person. The debt arising from the order is taken to  
14 be a judgement debt.

#### 15 **61BC Conduct contravening more than one civil penalty provision**

16 (1) If conduct constitutes a contravention of 2 or more civil penalty  
17 provisions, proceedings may be instituted under this Division  
18 against a person in relation to the contravention of any one or more  
19 of those provisions.

20 (2) However, the person is not liable to more than one pecuniary  
21 penalty under this Division in relation to the same conduct.

#### 22 **61BD Multiple contraventions**

23 (1) A relevant court may make a single civil penalty order against a  
24 person for multiple contraventions of a civil penalty provision if  
25 proceedings for the contraventions are founded on the same facts,  
26 or if the contraventions form, or are part of, a series of  
27 contraventions of the same or a similar character.

28 (2) However, the penalty must not exceed the sum of the maximum  
29 penalties that could be ordered if a separate penalty were ordered  
30 for each of the contraventions.

1 **61BE Proceedings may be heard together**

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

4 **61BF Civil evidence and procedure rules for civil penalty orders**

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

8 **61BG Contravening a civil penalty provision is not an offence**

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

10 **Subdivision B—Civil proceedings and criminal proceedings**

11 **61BH Civil proceedings after criminal proceedings**

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

17 **61BI Criminal proceedings during civil proceedings**

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

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**61BJ Criminal proceedings after civil proceedings**

Criminal proceedings may be commenced against a person for conduct that is the same, or substantially the same, as conduct that would constitute a contravention of a civil penalty provision, regardless of whether a civil penalty order has been made against the person in relation to the contravention.

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

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

**Subdivision C—Miscellaneous****61BL Ancillary contravention of civil penalty provisions**

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

1 Note: Section 61BN (which provides that a person's state of mind does not  
2 need to be proven in relation to a civil penalty provision) does not  
3 apply to this subsection.

4 (2) A person who contravenes subsection (1) in relation to a civil  
5 penalty provision is taken to have contravened the provision.

6 **61BM Mistake of fact**

7 (1) A person is not liable to have a civil penalty order made against the  
8 person for a contravention of a civil penalty provision if:

- 9 (a) at or before the time of the conduct constituting the  
10 contravention, the person:  
11 (i) considered whether or not facts existed; and  
12 (ii) was under a mistaken but reasonable belief about those  
13 facts; and  
14 (b) had those facts existed, the conduct would not have  
15 constituted a contravention of the civil penalty provision.

16 (2) For the purposes of subsection (1), a person may be regarded as  
17 having considered whether or not facts existed if:

- 18 (a) the person had considered, on a previous occasion, whether  
19 those facts existed in the circumstances surrounding that  
20 occasion; and  
21 (b) the person honestly and reasonably believed that the  
22 circumstances surrounding the present occasion were the  
23 same, or substantially the same, as those surrounding the  
24 previous occasion.

25 (3) A person who wishes to rely on a matter in subsection (1) or (2) in  
26 proceedings for a civil penalty order bears an evidential burden in  
27 relation to that matter.

28 **61BN State of mind**

29 (1) In proceedings for a civil penalty order against a person for a  
30 contravention of a civil penalty provision (other than because of  
31 subsection 61BL(1)), it is not necessary to prove:

- 32 (a) the person's intention; or  
33 (b) the person's knowledge; or  
34 (c) the person's recklessness; or  
35 (d) the person's negligence; or
-

---

1 (e) any other state of mind of the person;  
2 other than as expressly provided.

3 (2) Subsection (1) does not affect the operation of section 61BM  
4 (mistake of fact).

5 **61BO Civil penalty provisions contravened by employees, agents or**  
6 **officers**

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

12 **61BP Continuing contraventions of civil penalty provisions**

13 (1) If an act or thing is required under a civil penalty provision to be  
14 done:

15 (a) within a particular period; or

16 (b) before a particular time;

17 then the obligation to do that act or thing continues until the act or  
18 thing is done (even if the period has expired or the time has  
19 passed).

20 (2) A person who contravenes a civil penalty provision that requires an  
21 act or thing to be done:

22 (a) within a particular period; or

23 (b) before a particular time;

24 commits a separate contravention of that provision in respect of  
25 each day during which the contravention occurs (including the day  
26 the relevant civil penalty order is made or any later day).

1 **Division 2—Infringement notices, voluntary enforceable**  
2 **undertakings and injunctions**

3 **Subdivision A—Infringement notices**

4 **61BQ When an infringement notice may be given**

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

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

25 **61BR Matters to be included in an infringement notice**

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

- 1 (ii) the maximum penalty a court could impose for the
- 2 contravention; and
- 3 (iii) the time (if known) and day of, and the place of, the
- 4 alleged contravention; and
- 5 (f) state the amount that is payable under the notice; and
- 6 (g) give an explanation of how payment of the amount is to be
- 7 made; and
- 8 (h) state that, if the person to whom the notice is given pays the
- 9 amount within 28 days after the day the notice is given, then
- 10 (unless the notice is withdrawn):
- 11 (i) if the provision is an offence provision and does not also
- 12 constitute a civil penalty provision—the person will not
- 13 be liable to be prosecuted in a court for the alleged
- 14 contravention; or
- 15 (ii) if the provision is an offence provision that can also
- 16 constitute a civil penalty provision—the person is not
- 17 liable to be prosecuted in a court, and proceedings
- 18 seeking a civil penalty order will not be brought, in
- 19 relation to the alleged contravention; or
- 20 (iii) if the provision is a civil penalty provision—
- 21 proceedings seeking a civil penalty order will not be
- 22 brought in relation to the alleged contravention; and
- 23 (i) state that payment of the amount is not an admission of guilt
- 24 or liability; and
- 25 (j) state that the person may apply to the Authority to have the
- 26 period in which to pay the amount extended; and
- 27 (k) state that the person may choose not to pay the amount and, if
- 28 the person does so:
- 29 (i) if the provision is an offence provision and does not also
- 30 constitute a civil penalty provision—the person may be
- 31 prosecuted in a court for the alleged contravention; or
- 32 (ii) if the provision is an offence provision and can also
- 33 constitute a civil penalty provision—the person may be
- 34 prosecuted in a court, or proceedings seeking a civil
- 35 penalty order may be brought, in relation to the alleged
- 36 contravention; or
- 37 (iii) if the provision is a civil penalty provision—
- 38 proceedings seeking a civil penalty order may be
- 39 brought in relation to the alleged contravention; and

- 1 (l) set out how the notice can be withdrawn; and  
2 (m) state that if the notice is withdrawn:  
3 (i) if the provision is an offence provision and does not also  
4 constitute a civil penalty provision—the person may be  
5 prosecuted in a court for the alleged contravention; or  
6 (ii) if the provision is an offence provision and can also  
7 constitute a civil penalty provision—the person may be  
8 prosecuted in a court, or proceedings seeking a civil  
9 penalty order may be brought, in relation to the alleged  
10 contravention; or  
11 (iii) if the provision is a civil penalty provision—  
12 proceedings seeking a civil penalty order may be  
13 brought in relation to the alleged contravention; and  
14 (n) state that the person may make written representations to the  
15 Authority seeking the withdrawal of the notice.
- 16 (2) For the purposes of paragraph (1)(f), the amount to be stated in the  
17 notice for the alleged contravention of the provision must be equal  
18 to one-fifth of the maximum penalty that the court could impose on  
19 the person for that contravention.

20 **61BS Extension of time to pay amount**

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

1 (b) the day that is 7 days after the day the person was given  
2 notice of the Authority's decision not to extend.

3 (5) The Authority may extend the period more than once under  
4 subsection (2).

## 5 **61BT Withdrawal of an infringement notice**

### 6 *Representations seeking withdrawal of notice*

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

### 10 *Withdrawal of notice*

11 (2) The Authority may withdraw an infringement notice given to a  
12 person (whether or not the person has made written representations  
13 seeking the withdrawal).

14 (3) When deciding whether or not to withdraw an infringement notice  
15 (the *relevant infringement notice*), the Authority:

16 (a) must take into account any written representations seeking  
17 the withdrawal that were given by the person to the  
18 Authority; and

19 (b) may take into account the following:

20 (i) whether a court has previously imposed a penalty on the  
21 person for a contravention of a civil penalty provision;

22 (ii) the circumstances of the alleged contravention;

23 (iii) whether the person has paid an amount, stated in an  
24 earlier infringement notice, for a contravention of a civil  
25 penalty provision if the contravention is constituted by  
26 conduct that is the same, or substantially the same, as  
27 the conduct alleged to constitute the contravention in the  
28 relevant infringement notice;

29 (iv) any other matter the Authority considers relevant.

### 30 *Notice of withdrawal*

31 (4) Notice of the withdrawal of the infringement notice must be given  
32 to the person. The withdrawal notice must state:

33 (a) the person's name and address; and

- 1 (b) the day the infringement notice was given; and  
2 (c) the identifying number of the infringement notice; and  
3 (d) that the infringement notice is withdrawn; and  
4 (e) that:  
5 (i) if the provision is an offence provision and does not also  
6 constitute a civil penalty provision—the person may be  
7 prosecuted in a court for the alleged contravention; or  
8 (ii) if the provision is an offence provision and can also  
9 constitute a civil penalty provision—the person may be  
10 prosecuted in a court, or proceedings seeking a civil  
11 penalty order may be brought, in relation to the alleged  
12 contravention; or  
13 (iii) if the provision is a civil penalty provision—  
14 proceedings seeking a civil penalty order may be  
15 brought in relation to the alleged contravention.

16 *Refund of amount if infringement notice withdrawn*

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

22 **61BU Effect of payment of amount**

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

---

1 (c) the person is not regarded as having admitted guilt or liability  
2 for the alleged contravention; and

3 (d) if the provision is an offence provision—the person is not  
4 regarded as having been convicted of the alleged offence.

5 (2) Subsection (1) does not apply if the notice has been withdrawn.

6 **61BV Effect of this Division**

7 This Division does not:

8 (a) require an infringement notice to be given to a person for an  
9 alleged contravention of a civil penalty provision; or

10 (b) affect the liability of a person for an alleged contravention of  
11 a civil penalty provision if:

12 (i) the person does not comply with an infringement notice  
13 given to the person for the contravention; or

14 (ii) an infringement notice is not given to the person for the  
15 contravention; or

16 (iii) an infringement notice is given to the person for the  
17 contravention and is subsequently withdrawn; or

18 (c) prevent the giving of 2 or more infringement notices to a  
19 person for an alleged contravention of a civil penalty  
20 provision; or

21 (d) limit the court’s discretion to determine the amount of a  
22 penalty to be imposed on a person who is found to have  
23 contravened a civil penalty provision.

24 **Subdivision B—Enforceable undertakings**

25 **61BW Acceptance of undertakings**

26 (1) The Authority may accept any of the following undertakings:

27 (a) a written undertaking given by a person that the person will,  
28 in order to comply with a civil penalty provision, take  
29 specified action;

30 (b) a written undertaking given by a person that the person will,  
31 in order to comply with a civil penalty provision, refrain from  
32 taking specified action;

33 (c) a written undertaking given by a person that the person will  
34 take specified action directed towards ensuring that the

- 1 person does not contravene a civil penalty provision, or is  
2 unlikely to contravene such a provision, in the future.
- 3 (2) The undertaking must be expressed to be an undertaking under this  
4 section.
- 5 (3) The person may withdraw or vary the undertaking at any time, but  
6 only with the written consent of the Authority.
- 7 (4) The consent of the Authority is not a legislative instrument.
- 8 (5) The Authority may, by written notice given to the person, cancel  
9 the undertaking.

### 10 **61BX Enforcement of undertakings**

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

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**Subdivision C—Injunctions****61BY Grant of injunctions***Restraining injunctions*

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

*Performance injunctions*

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

**61BZ Interim injunctions***Grant of interim injunctions*

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

*No undertakings as to damages*

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

1       **61BZA Discharging or varying injunctions**

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

4       **61BZB Certain limits on granting injunctions not to apply**

5                     *Restraining injunctions*

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

17                     *Performance injunctions*

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

28       **61BZC Other powers of a relevant court unaffected**

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

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**Division 3—Civil jurisdiction of courts**
**61BZD Civil jurisdiction of courts**

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

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

- (2) Jurisdiction is conferred on the courts of a Territory only to the extent that the Constitution permits.

- (3) Section 15C of the *Acts Interpretation Act 1901* does not apply to civil proceedings under this Part.

1

2

3

## Schedule 4—Other amendments

4

### *Australian Maritime Safety Authority Act 1990*

5

#### **1 Section 46 (at the end of the definition of *charge*)**

6

Add:

7

; or (d) a fee in respect of a matter referred to in section 15, 15C,  
15D or 57 of the *Shipping Registration Act 1981*.

8

9

### *Marine Navigation (Regulatory Functions) Levy Collection Act 1991*

10

11

#### **2 Section 3**

12

Insert:

13

*Australian International Shipping Register* has the same meaning  
as in the *Shipping Registration Act 1981*.

14

15

#### **3 Section 3 (definition of *sea-going ship*)**

16

Repeal the definition, substitute:

17

*sea-going ship* means:

18

(a) a ship which, in the course of a voyage to or from an  
Australian port, passes a marine navigational aid under the  
control of the Commonwealth; or

19

20

21

(b) a ship that is registered in the Australian International  
Shipping Register.

22

23

#### **4 Subsection 6(3)**

24

Omit “or (2)”, substitute “, (2) or (4A)”.

25

#### **5 After subsection 6(4)**

26

Insert:

27

(4A) Levy in respect of a ship that is registered in the Australian  
International Shipping Register is payable on the first day of each  
quarter.

28

29

1 ***Navigation Amendment Act 2011***2 **6 Subsection 2(1) (table item 2)**

3 Repeal the item, substitute:

2. Schedule 1, item 1	1 July 2012.	1 July 2012
2A. Schedule 1, items 2 and 3	A single day to be fixed by Proclamation. A Proclamation must not specify a day that occurs before the day the Maritime Labour Convention, 2006, done at Geneva on 23 February 2006, comes into force for Australia. However, if the provision(s) do not commence within the period of 6 months beginning on the day the Convention comes into force for Australia, they commence on the day after the end of that period. If the provision(s) commence in this way, the Minister must announce by notice in the <i>Gazette</i> the day the provision(s) commenced. The notice is not a legislative instrument.	
2B. Schedule 1, items 3A to 33	1 July 2012.	1 July 2012
2C. Schedule 1, items 34 to 40	At the same time as the provision(s) covered by table item 2A.	
2D. Schedule 1, items 41 and 42	1 July 2012.	1 July 2012
2E. Schedule 1, items 43 and 44	At the same time as the provision(s) covered by table item 2A.	
2F. Schedule 1, item 45	1 July 2012.	1 July 2012
2G. Schedule 1, items 46 and 47	At the same time as the provision(s) covered by table item 2A.	
2H. Schedule 1, item 48	1 July 2012.	1 July 2012
2J. Schedule 1, items 49 to 57	At the same time as the provision(s) covered by table item 2A.	
2K. Schedule 1,	1 July 2012.	1 July 2012

**Schedule 4** Other amendments

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items 58 to 62		
2L. Schedule 1, items 63 to 72	At the same time as the provision(s) covered by table item 2A.	
2M. Schedule 1, item 73	1 July 2012.	1 July 2012
2N. Schedule 1, items 74 to 77	At the same time as the provision(s) covered by table item 2A.	
2P. Schedule 1, items 78 to 79A	1 July 2012.	1 July 2012

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1 **7 After item 3 of Schedule 1**

2 Insert:

3 **3A Subsection 6(1)**

4 Insert:

5 *owner* of a ship means:

- 6 (a) if paragraph (b) does not apply—the owner of the ship; and  
7 (b) if a person has assumed responsibility for the ship from the  
8 owner and agreed to take over all the duties and  
9 responsibilities of the owner that are imposed by this Act—  
10 that person.

11 **3B Subsection 6(4)**

12 Repeal the subsection.

13 **8 Item 4 of Schedule 1**

14 Repeal the item, substitute:

15 **4 Division 8 of Part II (heading)**

16 Repeal the heading, substitute:

---

1 **Division 8—Engagement of seamen and masters etc.**

2 **Subdivision A—Work agreements**

3 **45A Work agreements**

4 *Requirement that seaman have a work agreement*

- 5 (1) A person commits an offence if:
- 6 (a) the person is the master or owner of a ship; and
  - 7 (b) the master takes the ship to sea; and
  - 8 (c) a seaman is on board the ship; and
  - 9 (d) when the ship is taken to sea, a work agreement that complies
  - 10 with this section is not in force in relation to the seaman.

11 Penalty: 20 penalty units.

12 *When a work agreement complies with this section*

- 13 (2) A work agreement complies with this section if the work
- 14 agreement is in accordance with any regulations made for the
- 15 purposes of subsection (3).

16 *Regulations about work agreements*

- 17 (3) The regulations may prescribe matters relating to work agreements
- 18 including, but not limited to, the following:
- 19 (a) the content and form of work agreements (including terms
  - 20 and conditions about the amount of wages and paid annual
  - 21 leave);
  - 22 (b) the right of a seaman to review, and seek advice on, a work
  - 23 agreement before signing it;
  - 24 (c) the process for signing work agreements;
  - 25 (d) the information or documents that must be given to, or made
  - 26 available to, seamen in relation to work agreements and the
  - 27 manner in which such information or documents must be
  - 28 given or made available;
  - 29 (e) the termination of work agreements.

1                    *Definitions*

2                    (4) In this section:

3                    *agreement* has its ordinary meaning.

4                    *seaman* includes the master of a ship.

5                    *work agreement* means an agreement that is made between a  
6                    seaman and the owner of a ship.

7                    **Subdivision B—Articles of agreement etc.**

8                    **9 Item 6 of Schedule 1**

9                    Repeal the item.

10                   **10 Items 11 and 21 of Schedule 1**

11                   Repeal the items.

12                   **11 Items 61 and 62 of Schedule 1**

13                   Repeal the items, substitute:

14                   **61 After subsection 190AA(2)**

15                   Insert:

16                   (2AA) The powers of a surveyor under subsection (1) extend to:

17                        (a) the inspection of a ship for the purpose of ascertaining  
18                        whether the ship complies with such of the provisions of:

19                                (i) this Act, the regulations and orders; and

20                                (ii) Part VA of the *Shipping Registration Act 1981*;

21                        relating to the working and living conditions of the seamen  
22                        on board the ship and of the master of the ship as apply to the  
23                        ship; and

24                        (b) requiring the production to the surveyor of any document  
25                        relating to those conditions.

26                   (2AB) The powers of a surveyor under subsection (1) extend to:

27                        (a) the inspection of a ship for the purpose of ascertaining  
28                        whether the ship complies with section 33A of the *Shipping  
29                        Registration Act 1981* (which is about registration conditions  
30                        for certain ships); and

1 (b) requiring the production to the surveyor of any document  
 2 relating to compliance with that section.

3 (2AC) Subsections (2), (2AA) and (2AB) do not limit subsection (1).

4 **62 Subsection 190AA(2A)**

5 Omit “or (2)”, substitute “, (2), (2AA) or (2AB)”.

6 **12 At the end of Part 1 of Schedule 1**

7 Add:

8 **79A Application of items that commence on 1 July 2012**

- 9 (1) The amendments made by the items of this Schedule that commence on  
 10 1 July 2012 (see the commencement table in section 2) apply, on and  
 11 after that day, in relation to ships that are registered in the Australian  
 12 International Shipping Register (within the meaning of the *Shipping*  
 13 *Registration Act 1981*).
- 14 (2) The amendments made by those items also apply, on and after  
 15 1 January 2013, in relation to ships that are registered in the Australian  
 16 General Shipping Register (within the meaning of that Act).