



# Shipping Registration Regulations 1981

**Statutory Rules 1981 No. 363 as amended**

made under the

*Shipping Registration Act 1981*

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This compilation was prepared on 4 July 2011  
taking into account amendments up to SLI 2011 No. 124

Prepared by the Office of Legislative Drafting and Publishing,  
Attorney-General's Department, Canberra

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**1 Name of Regulations** [see Note 1]

These Regulations are the *Shipping Registration Regulations 1981*.

**2 Interpretation**

- (1) In these Regulations, unless the contrary intention appears:

***address*** means:

- (a) in relation to a natural person — the place at which, for the time being, the person resides.
- (b) in relation to a company incorporated in Australia — the place that is, for the time being, the registered office of the company; and
- (c) in relation to a person other than a person referred to in paragraph (a) or (b) — the place that is, for the time being, the principal place of business of the person in Australia or, if that person has no place of business in Australia, the principal place of business of that person.

***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.

***certificate of competency*** means:

- (a) a certificate as master issued under orders made in pursuance of regulations made under the Navigation Act; or
- (b) a certificate recognized for the purposes of that Act as equivalent to a certificate of the kind referred to in paragraph (a).

***corporation*** means a person other than a natural person.

***home port***, in relation to a ship, means the port that is, for the time being, entered in the 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) in the case of a ship other than 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) in the case of a ship in relation to which the Registrar has made a determination under subsection 10 (2) of the Act — in such vertical plane as the Registrar determines for the purposes of this paragraph in relation to that ship.

***name*** means:

- (a) in relation to a natural person — the full given names and surname of the person;
- (b) in relation to a corporation — the full name of the corporation;
- (c) in relation to a registered ship — the name by which the ship is for the time being registered; or
- (d) in relation to an unregistered ship — the name (if any) by which the ship is for the time being known.

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

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

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

**prescribed office** means:

- (a) a Marine Survey Office maintained by the Authority at a port in Australia; or
- (b) the office of a proper officer.

**prescribed characteristics**, in relation to a ship, means the characteristics specified in Schedule 1.

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

**tonnage certificate**, in relation to a ship, means a certificate relating to the tonnage measurement of the ship issued under, or otherwise having effect by virtue of, the Navigation Act.

- (2) For the purposes of these Regulations, the construction of a ship shall be taken to have been completed when the ship becomes capable of navigating the high seas, whether under its own power or otherwise.
- (4) A reference in these Regulations to a form by number shall be read as a reference to the form so numbered in Schedule 2.

### 3 Signature of documents

- (1) Subject to this regulation, a document that is required by the Act or by these Regulations to be lodged with, or produced to, the Registrar or a proper officer (including an instrument of appointment for the purposes of subregulation (3) or (4)) shall be taken, for the purposes of these Regulations, to have been duly signed by a person if:
  - (a) the document is dated and is signed, in the presence of a witness:
    - (i) where that person is a natural person — by that person; or
    - (ii) where that person is a corporation — by an officer of the corporation; and
  - (b) there is subscribed to the signature of the signatory referred to in paragraph (a):

- (i) the signature of the witness;
  - (ii) a legible statement of the name and address of the witness; and
  - (iii) where that signatory is a person referred to in subparagraph (a) (ii) — a legible statement of the name and designation of the signatory.
- (2) Nothing in subregulation (1) shall be taken to prevent:
  - (a) the formal execution of a document under the corporate seal of a corporation; or
  - (b) the signature on behalf of a person of a document by an attorney under power;but, where a document is signed as mentioned in paragraph (b), the power of attorney shall be produced for noting upon the lodgment of the document in accordance with the Act or these Regulations.
- (3) Subject to subregulation (6), subregulations (1) and (2) apply in relation to a document that is required by a provision of these Regulations to be duly signed by the owner of a ship as if the reference in that provision to the owner of the ship were a reference:
  - (a) in the case of a ship that belongs to one person only — to that person or to a person appointed by that person in accordance with subregulation (5) for the purposes of this subregulation;
  - (b) in the case of a ship, being a ship required to be registered, that belongs to more than one person — to one of the persons to whom the ship belongs or to a person appointed by such a person in accordance with subregulation (5) for the purposes of this subregulation; or
  - (c) in the case of a ship, being a ship permitted to be registered, that belongs to more than one person — to a person appointed in accordance with subregulation (5) for the purposes of this subregulation by persons who:
    - (i) are the owners of interests in the ship the sum of which is equal to not less than 33 shares in the property in the ship; and
    - (ii) unless the ship is a ship on demise charter to an Australian-based operator, are Australian nationals.

- (5) The appointment of a person for the purposes of subregulation (3) shall be in writing and:
  - (a) shall specify the ship to which it relates;
  - (b) shall be duly signed by each person making the appointment; and
  - (c) may consist of several documents in like form, each duly signed by one or more of those persons.
- (6) Where a document is signed by a person appointed for the purposes of subregulation (3), the instrument of appointment of that person shall be produced for noting upon the lodgment or production of the first-mentioned document in accordance with the Act or these Regulations.

#### **4 Specification of nationality of corporations**

A requirement in these Regulations for the specification in a document of the nationality of a person and the grounds on which the person claims the nationality so specified shall be satisfied:

- (a) in relation to a corporation other than a corporation referred to in paragraph (b) or (c) — by the insertion in the document of a statement setting out the nature and place of incorporation of the corporation;
- (b) in relation to a Government authority — by the insertion in the document of the words ‘Government authority’; and
- (c) in relation to a body politic other than Australia, a State or a Territory — by the insertion in the document of the words ‘Foreign Government’.

#### **5 Lodgment of documents**

A document required by these Regulations 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, a mortgage instrument 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.

## **6 Service etc of documents**

- (1) Subject to the Act and these Regulations, a notice or other document that is required or permitted by the Act or these Regulations to be given to, or served upon, a person by the Registrar may be so given or served by delivering it, or sending it by properly pre-paid post or by telegram or facsimile transmission, to the person at the address that is last-known to the Registrar as the address of that person.
- (2) Service of a notice or other document that is sent to a person by telegram in pursuance of subregulation (1) shall be deemed, unless the contrary is proved, to have been effected at the time at which the telegram would be received in the ordinary course of transmission.

## **6A 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 per cent 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 per cent of the least 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) In the case of 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 subregulation (1) shall be parallel to the designed waterline.
- (3) In this regulation, *least moulded depth* of a ship means the shortest measurable moulded depth of the ship.

**7 Application for registration**

- (1) Application under section 15 of the Act for the registration of a ship shall be made by:
  - (a) lodging with the Registrar an application in writing for the registration of the ship in accordance with subregulation (3);
  - (b) lodging with the Registrar:
    - (i) a document that satisfies, or documents that satisfy, the requirements of subregulation (5) as to the description of the ship;
    - (ii) a document that satisfies, or documents that satisfy, the requirements of subregulation (6) as to the ownership of the ship;
    - (iii) where the registration of the ship depends upon its being a ship on demise charter to an Australian-based operator, a copy of the charterparty;
    - (iv) a declaration of ownership and nationality in accordance with regulation 9;
    - (v) a notice in writing specifying the name and address of the person who will be the registered agent of the ship upon its being registered and duly signed by the owner of the ship and, where the owner is not the person whose name and address are so specified, by that person;
    - (vi) evidence in accordance with regulation 20 that the ship has been marked in accordance with that regulation with marks directed by the Registrar under subsection 26 (1) of the Act; and
  - (c) producing to the Registrar, for noting, the licence or other document (if any) authorizing the use of a call sign in relation to the ship.
- (2) The documents referred to in paragraphs (1) (b) and (c) shall be lodged with, or produced to, the Registrar within 12 months after the lodgement of the application referred to in paragraph (1) (a).

- (3) Subject to subregulation (4), an application referred to in paragraph (1) (a) shall be duly signed by the owner of the ship and shall specify:
- (a) the type of the ship (in terms of its purpose);
  - (b) the method of propulsion of the ship;
  - (c) the overall length of the ship;
  - (d) the principal material of construction of the hull of the ship;
  - (e) in order of preference, 3 proposed names for the ship;
  - (f) the proposed home port of the ship;
  - (g) where the ship has previously been registered (whether in Australia or elsewhere), the year in which the ship was last so registered and the following information in relation to the ship when so registered:
    - (i) the register on which the ship was registered;
    - (ii) the official number of the ship;
    - (iii) the registered name of the ship;
    - (iv) the home port, or port of registry, of the ship; and
  - (h) where the ship has not previously been registered in Australia:
    - (i) the name of the builder of the ship;
    - (ii) the place of construction; and
    - (iii) the builder's identification of the ship or the name (if any) by which the ship is known.
- (4) A statement in an application under subregulation (1) to the effect that the owner of the ship is unable to supply the information, or any part of the information, referred to in paragraph (g) or (h) of subregulation (3), together with a statement of the reason for that inability, shall be taken, for the purposes of that subregulation, to satisfy the requirements of that paragraph.
- (5) For the purposes of subparagraph (1) (b) (i), the requirements of this subregulation as to the description of a ship are satisfied:
- (a) where the ship has not previously been registered as mentioned in paragraphs (b) and (c):

- (i) by a builder's certificate in accordance with regulation 8; or
  - (ii) where the owner, after taking all reasonable action, is unable to obtain a builder's certificate, by a statutory declaration by a person acquainted with the facts of the matter specifying:
    - (A) the prescribed particulars of the ship;
    - (B) such of the other matters required by subregulation 8 (1) to be specified in a builder's certificate as are known to the person making the statutory declaration; and
    - (C) the grounds on which that person asserts the veracity of matters specified in pursuance of clauses (A) and (B);
- (b) where the ship has previously been registered in Australia, whether under the Act or under the previous law, by a statutory declaration by a person acquainted with the facts of the matter specifying the respects (if any) in which the description of the ship differs from the description of the ship appearing in the Register or a register book, as the case requires, immediately before the ship ceased or last ceased, to be so registered; or
- (c) where the ship has been previously registered under the provisions of the law of a foreign country relating to the registration of ships in that country and the document (if any) issued under that law that corresponds with a registration certificate contains the information in respect of the ship that is required to be set out in a builder's certificate prepared in accordance with regulation 8 or any of that information, by:
  - (i) that document; and
  - (ii) to the extent (if any) to which that document does not contain that information or the information contained in that document is in any respect incorrect, a statutory declaration by a person acquainted with the facts of the matter setting out so much of that information as is not contained, or is incorrectly stated, in that document.

- (6) For the purposes of subparagraph (1) (b) (ii), the requirements of this subregulation as to the ownership of a ship are satisfied:
- (a) where the ship has not previously been registered as mentioned in paragraphs (b) and (c), by:
    - (i) a builder's certificate in accordance with regulation 8; and
    - (ii) the relevant documents relating to any changes in the ownership of the ship, whether occurring before or after the date of that certificate;
  - or, where the ship was built and acquired by the owner in a place outside Australia and that certificate or those documents are unavailable, by the document by which the owner of the ship acquired the ownership of the ship;
  - (b) where the ship has previously been registered in Australia, whether under the Act or under the previous law, by the relevant documents relating to any changes in the ownership of the ship that have occurred since the ownership of the ship was as specified in the Register or a register book, as the case requires, immediately before the ship ceased, or last ceased, to be so registered; or
  - (c) where the ship has previously been registered under the provisions of the law of a foreign country relating to the registration of ships in that country, by any document that is, under that law, evidence of title to the ship.
- (7) A reference in subregulation (6) to the relevant documents in relation to any changes in the ownership of a ship shall be read, in relation to each such change, as a reference to:
- (a) a bill of sale or other document transferring ownership of the ship, being a bill of sale or document signed by each transferor and specifying the name of the ship, the nature and extent of the interest in the ship to which the bill of sale or document relates and the name and address of each transferor and transferee; and
  - (b) such of the documents evidencing change of ownership referred to in subregulation 24 (1) as would be applicable if, at the time of the change, the ship had been registered under the Act.

- (8) The requirements of subregulation (5) or (6) as to the description or ownership of a ship shall, for the purposes of subparagraph (1) (b) (i) or (ii), as the case requires, be taken to be satisfied in relation to any particulars of the description of the ship or of the history of the ownership of the ship in relation to which the applicant for registration is unable to produce a document (other than a statutory declaration) specified in that subregulation by a statutory declaration by a person acquainted with the facts of the case setting out those particulars of the description of the ship or of the history of the ownership of the ship.
- (9) Where, by reason of the unavailability of a document (including a statutory declaration) referred to in subregulation (6) or (8), the requirements of subregulation (6) as to the ownership of a ship to which an application under this regulation relates cannot be satisfied, then, subject to subregulation (10), those requirements shall, for the purposes of subparagraph (1) (b) (ii), be taken to be satisfied in relation to that ship by:
  - (a) such (if any) of the documents referred to in subregulation (6) and (8) as are available in relation to the ship; and
  - (b) a statutory declaration by the person who signed the application stating that, to the best of his knowledge, the person in whose name, or the persons in whose names, the ship will, if the application is successful, be registered are lawfully entitled to the ownership of the ship as specified in paragraph 9 (b) and setting out the grounds for that belief.
- (10) The documents referred to in paragraphs (9) (a) and (b) shall not be taken to satisfy the requirements of subregulation (6) as to the ownership of a ship unless, not less than 30 days before the lodgment of the application, notice, in accordance with Form 1, of intention to make application for the registration of the ship was published in the *Gazette*.

## **8 Builder's certificate**

- (1) Subject to subregulation (2), a builder's certificate in relation to a ship shall be duly signed by the builder of the ship and shall specify:

- (a) the name (if any) of the ship;
  - (b) the builder's identification of the ship;
  - (c) the date of completion of the ship;
  - (d) the place of construction of the ship;
  - (e) the name and address of the builder;
  - (f) the name and address of the person for whom the ship was built;
  - (fa) the date on which the ship was delivered or handed over to the person  
for whom the ship was built; and
  - (g) particulars of the prescribed characteristics of the ship.
- (2) Where a ship has been built in stages by more than one builder:
- (a) a builder's certificate in relation to the ship may consist of several documents in accordance with subregulation (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, shall be duly signed by all of the builders responsible for the building work carried out in those stages.
- (3) Without limiting the generality of subregulation (2), where 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 shall be taken, for the purposes of that subregulation, to have been built in stages by more than one builder.

## **9 Declaration of ownership and nationality**

For the purposes of subparagraph 7 (1) (b) (iv), a declaration of ownership and nationality shall:

- (a) specify the ship to which it relates;
- (b) specify, in relation to each person to whom the ship belongs:
  - (i) the name, address and nationality of the person;
  - (ii) the grounds on which the person claims the nationality so specified;

- (iii) the extent of the interest of the person in the ship; and
    - (iv) the date on which that interest was acquired;
  - (c) where the registration of the ship under the Act depends on its being a ship on demise charter to an Australian-based operator, specify, in relation to each charterer under the charterparty:
    - (i) the name, address and nationality of the charterer;
    - (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) shall be duly signed by each person referred to in paragraph (b) or (c);
- and may consist of several documents in like form that, together, contain the information required by paragraphs (a), (b) and (c) and are signed in accordance with paragraph (d).

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

For the purposes of subsection 16 (2) of the Act, there is prescribed a class of ships, each of which is a ship to which the Tonnage Measurement Convention, within the meaning of Part XA of the Navigation Act, does not apply, being ships in respect of which a certificate relating to tonnage measurement:

- (a) has not been issued under that Act; or
- (b) does not otherwise have effect under that Act.

**11 Entry of particulars in Register**

- (1) For the purposes of section 18 of the Act, the prescribed particulars relating to a ship are the following particulars:
  - (a) a unique identifying number, to be known as the official number;
  - (b) the name;
  - (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;
  - (h) the prescribed characteristics;
  - (j) in the case of a ship to which subsection 16 (1) of the Act applies:
    - (i) the gross tonnage;
    - (ii) the net or register tonnage; and
    - (iii) any alternative tonnages;as shown on the tonnage certificate;
  - (k) in relation to each person to whom the ship belongs:
    - (i) the name, address and nationality of the person; and
    - (ii) the extent of the interest of the person in the ship.
- (2) Where an entry is made in the Register under section 18 of the Act in respect of a ship that has previously been registered under that section, the number referred to in paragraph (1) (a) shall be the number that was the official number of the ship when it was so previously registered.

**12 Grant of registration certificate**

A registration certificate granted under section 19 of the Act shall be in accordance with Form 2.

**13 Particulars of master to be endorsed on registration certificate of ship leaving Australia or foreign port**

- (1) A registered ship may:
- (a) depart from an Australian port to a place outside Australia; or
  - (b) depart from a foreign port at which there is a proper officer to Australia or any other foreign port;
- only if there is endorsed on the registration certificate in relation to each person who is, for the time being, authorized to be the master of the ship:
- (c) the name and address of the person; and

(d) where, under the Navigation Act, the person is required to be the holder of a certificate of competency, the number of that certificate.

(2) If a ship departs from a port and fails to comply with subregulation (1), the owner and master of the ship are each guilty of an offence.

Penalty: 5 penalty units.

(2A) An offence against subregulation (2) is an offence of strict liability.

*Note* For **strict liability**, see section 6.1 of the *Criminal Code*.

(3) An endorsement for the purposes of subregulation (1) shall not be made or cancelled, as the case may be, unless:

- (a) there is lodged with the Registrar or, where the registered ship is at a foreign port at which there is a proper officer, with the proper officer:
  - (i) the registration certificate; and
  - (ii) a request in writing to that intent duly signed by the registered agent or master of the ship; and
- (b) where the request is signed by the master of the ship, there is produced to the Registrar or the proper officer, for noting, documentary evidence of the appointment of the master.

(4) A document mentioned in subregulation (3) is taken to be lodged if:

- (a) for lodgment with the Registrar:
  - (i) the document is lodged in the manner mentioned in paragraph 5 (a); or
  - (ii) the document, addressed to the Registrar, is received at a prescribed office; and
- (b) for lodgment with a proper officer — the document, addressed to the proper officer, is received at the office of the proper officer; and
- (c) 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.

**14 New certificates and provisional certificates**

- (1) An application under subsection 21 (1) of the Act for the grant of a new registration certificate in respect of a ship shall:
  - (a) be in writing;
  - (b) specify:
    - (i) the name and official number of the ship;
    - (ii) the reason why a new registration certificate is required; and
    - (iii) where that reason is that the registration certificate of the ship has been mislaid, lost or destroyed, the circumstances of the mislaying, loss or destruction;
  - (c) be duly signed by the registered agent or the master of the ship; and
  - (d) where the application is duly signed by the master of the ship — have affixed to it documentary evidence of the appointment of the master.
- (2) A provisional registration certificate granted under subsection 21 (2) or (7) of the Act shall be in accordance with Form 3.
- (3) A provisional registration certificate shall not be granted under subsection 21 (2) of the Act in relation to a ship unless:
  - (a) there is lodged with the Registrar or the proper officer an application in writing duly signed by the registered agent or master of the ship specifying:
    - (i) the particulars of the ship, of its owners and of its registered agent as specified in the registration certificate; and
    - (ii) the circumstances of the mislaying, loss or destruction of the registration certificate; and
  - (b) where the application is signed by the master of the ship, there is produced to the Registrar or the proper officer, for noting, documentary evidence of the appointment of the master and of his authority to sign the application.

- (4) Where, after the grant in respect of a ship of a new registration certificate under subsection 21 (1) or (7) of the Act by reason of the registration certificate in respect of that ship having been lost or mislaid, that registration certificate is found and is in the custody or control of a relevant person, that person shall, before the expiration of the relevant period, lodge that registration certificate with the Registrar for cancellation.
- (5) Where, after the grant in respect of a ship of a provisional registration certificate under subsection 21 (2) or (7) of the Act by reason of the registration certificate in respect of that ship having been lost or mislaid, that registration certificate is found and is in the custody or control of a relevant person, that person shall, before the expiration of the relevant period, lodge with the Registrar notice in writing to that effect together with the provisional registration certificate.
- (6) For the purposes of subregulations (4) and (5):
  - (a) a person is a relevant person in relation to a ship if that person is the master or registered agent of the ship or the owner, or one of the joint owners, or owners in common, of one or more shares in the ship; and
  - (b) the relevant period is the period of 30 days commencing on:
    - (i) the date on which the registration certificate was found; or
    - (ii) the date on which the registration certificate came into the custody or control of the relevant person;whichever is the later date.
- (7) A person who fails to comply with subregulation (4) or (5) is guilty of an offence.

Penalty: 5 penalty units.
- (8) An offence against subregulation (7) is an offence of strict liability.

*Note* For **strict liability**, see section 6.1 of the *Criminal Code*.
- (9) It is a defence to a prosecution under subregulation (7) that the defendant had a reasonable excuse.

*Note* A defendant bears an evidential burden in relation to whether or not he or she had a reasonable excuse for his or her conduct (see subsection 13.3 (3) of the *Criminal Code*).

## **15 Provisional certificates for ships becoming entitled to be registered when abroad**

- (1) A provisional registration certificate granted under subsection 22 (1) or (6), or subsection 22A (1), (2) or (6) of the Act shall be in accordance with Form 3.
- (2) Subject to subregulation (3), a provisional registration certificate shall not be granted by a proper officer under subsection 22 (1) of the Act or by the Registrar under subsection 22A (1) or (2) of the Act in relation to a ship unless:
  - (a) there is lodged with the proper officer or the Registrar, as the case requires, an application in writing duly signed by the owner or the master of the ship specifying:
    - (i) the existing name (if any) of the ship;
    - (ii) where the ship is unnamed, the builder's identification of the ship;
    - (iii) the proposed name of the ship;
    - (iv) the proposed home port of the ship;
    - (v) the call sign (if any) of the ship;
    - (vi) the name and address of the builder of the ship;
    - (vii) the year of completion of the ship;
    - (viii) particulars of the prescribed characteristics of the ship;
    - (ix) 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:
      - (A) an estimate of the gross tonnage of the ship;
      - (B) an estimate of the register tonnage of the ship; and
      - (C) the identity of the person by whom those estimates were made;
    - (x) particulars of any previous registration of the ship;
    - (xi) in relation to each person to whom the ship belongs:

- (A) the name, address and nationality of the person; and
  - (B) the extent of the interest of the person in the ship;
- (xii) if the application is in respect of a ship the registration of which under the Act depends upon its being a ship on demise charter to an Australian-based operator:
  - (A) the name, address and nationality of each charterer under the charterparty; and
  - (B) the extent of the interest of each charterer in the demise charter of the ship;
- (xiii) the date and manner of acquisition of the ship by the present owner;
- (xiv) the name, address and description of each of the persons from whom the ship was acquired;
- (xv) details of any application, being an application for the registration of the ship under section 15 of the Act, that has been lodged in accordance with regulation 7; and
- (xvi) in relation to each person authorized by the owner to be, at any time during the currency of the provisional registration certificate, the master of the ship:
  - (A) the name and address of the person; and
  - (B) where, under the Navigation Act, the person is required to be the holder of a certificate of competency, the number of that certificate; and
- (b) there is produced to the proper officer or the Registrar, as the case requires, for noting:
  - (i) the instrument (if any) by which ownership of the ship passed to the owner named in the application;
  - (ii) where the application is signed by the master of the ship, documentary evidence of his appointment as master and of his authority to sign the application;
  - (iii) the tonnage certificate (if any) that is in force in relation to the ship; and

- (iv) where the ship has, at any time, been registered under the law of a foreign country, documentary evidence that:
    - (A) the ship is no longer registered under the law of that country; or
    - (B) 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.
- (3) A statement in an application under subregulation (2) to the effect that the person signing the application is unable to supply the information referred to in subparagraph (2) (a) (ii), (vi), (vii), or (x), together with a statement of the reason for that inability, shall be taken, for the purposes of that subregulation, to satisfy the requirements of that subparagraph and, where that inability is in respect of the information referred to in subparagraph (2) (a) (x), subparagraph (2) (b) (iv) does not apply in relation to that application.
- (4) Where 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, the person who has possession of the certificate shall, within 30 days after the certificate so ceases to have effect, lodge the certificate with the Registrar.
- (5) A person who fails to comply with subregulation (4) is guilty of an offence.

Penalty: 5 penalty units.

- (6) An offence against subregulation (5) is an offence of strict liability.

*Note* For **strict liability**, see section 6.1 of the *Criminal Code*.

- (7) It is a defence to a prosecution under subregulation (5) that the defendant had a reasonable excuse.

*Note* A defendant bears an evidential burden in relation to whether or not he or she had a reasonable excuse for his or her conduct (see subsection 13.3 (3) of the *Criminal Code*).

**16 Extension of period of currency of provisional certificate**

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

- (a) be in writing;
- (b) specify:
  - (i) the name and official number (if any) of the ship;
  - (ii) the date and place of issue of the provisional registration certificate;
  - (iii) 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
  - (iv) the reason for making the application;
- (c) be duly signed by the owner or the master of the ship; and
- (d) be lodged with the Registrar or a proper officer.

**17 Temporary Passes**

- (1) Application for the grant of a temporary pass under section 23 of the Act shall be made by lodging with the Registrar an application in writing signed in accordance with subregulation (2), being an application specifying:
  - (a) the name (if any) of the ship or, if the ship has no name, the builder's identification of the ship (if known to the applicant);
  - (b) the year of completion of the ship (if known to the applicant);
  - (c) the type of the ship (in terms of its purpose);
  - (d) the method of propulsion of the ship;
  - (e) the principal material of construction of the hull of the ship;
  - (f) the length of the ship;
  - (g) the name and address of the builder of the ship (if known to the applicant);



- (h) 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) the estimated gross tonnage of the ship;
    - (ii) the estimated register tonnage of the ship; and
    - (iii) the identity of the person by whom those estimates were made;
  - (j) the name and address of each of the persons to whom the ship belongs;
  - (k) where the application is signed as mentioned in subregulation (3), the name and address of each person who is a charterer under the charterparty;
  - (m) the port at which it is proposed that the voyage be commenced;
  - (n) the port at which it is proposed that the voyage be concluded;
  - (o) the anticipated duration of the voyage; and
  - (p) the reasons for seeking the grant of the pass.
- (2) Subject to subsection (3), an application under subregulation (1) shall be duly signed by the owner of the ship or, where the proposed voyage is to be undertaken by the builder of the ship for the purposes of delivering the ship to the owner, by the builder.
- (3) An application under subregulation (1) in relation to a ship that is on demise charter (whether to an Australian-based operator or not) shall be taken to be signed in accordance with subregulation (2) if it is duly signed:
- (a) by each of the charterers under the charterparty; or
  - (b) by a person appointed for the purposes of this paragraph by instrument in writing duly signed by each of those charterers.
- (4) There shall be produced to the Registrar for noting, at the time of lodgment of an application under subregulation (1):
- (a) where the application is signed as mentioned in subregulation (3) — documentary evidence of the grant by the owner of permission for the undertaking by the ship of

- the voyage to which the application relates or of voyages of a class in which that voyage is included;
  - (b) where the application is signed as mentioned in paragraph (3) (b) — the instrument referred to in that paragraph; and
  - (c) the tonnage certificate (if any) in force in relation to the ship.
- (5) Upon receipt of an application under subregulation (1), the Registrar shall forward the application, together with such other documents as the Registrar thinks fit, to the Authority for consideration.
- (6) A temporary pass granted under section 23 of the Act shall be in accordance with Form 4.
- (7) Subject to subregulation (8), where:
- (a) a voyage specified in a temporary pass granted under section 23 of the Act is completed or abandoned; or
  - (b) the period of validity of such a pass expires;  
the person who has possession of the pass shall, within 10 days after the occurrence of the event referred to in paragraph (a) or (b), surrender the pass by:
  - (c) lodging it with the Registrar; or
  - (d) delivering it to a proper officer.
- (8) Where, by reason of circumstances beyond the control of the person referred to in subregulation (7), it is not practicable for that person to surrender the pass within the time specified in that subregulation, that person shall surrender the pass as soon as it is practicable to do so.
- (9) A person who fails to comply with subregulation (7) or (8) is guilty of an offence.
- Penalty: 5 penalty units.
- (10) An offence against subregulation (9) is an offence of strict liability.

*Note* For **strict liability**, see section 6.1 of the *Criminal Code*.

- (11) It is a defence to a prosecution under subregulation (9) that the defendant had a reasonable excuse.

*Note* A defendant bears an evidential burden in relation to whether or not he or she had a reasonable excuse for his or her conduct (see subsection 13.3 (3) of the *Criminal Code*).

## **19 Change of name, address or nationality**

- (1) Where a change occurs in:
- (a) the name, address or nationality of a person whose name appears in the Register as that of an owner or charterer of a ship; or
  - (b) the name of the person whose name appears in the Register as that of the registered agent of a ship;
- the registered agent of that ship shall, within 14 days after the change occurs, comply with the requirements of subregulation (3).

Penalty: 5 penalty units.

- (2) Where a change occurs in the name or address of a person whose name appears in the Register as that of a mortgagee of a ship, that person shall, within 14 days after the change occurs, comply with the requirements of subregulation (3).

Penalty: 5 penalty units.

- (2A) An offence against subregulation (1) or (2) is an offence of strict liability.

*Note* For **strict liability**, see section 6.1 of the *Criminal Code*.

- (3) The requirements referred to in subregulations (1) and (2) are as follows:
- (a) to lodge with the Registrar:
    - (i) a notice of the change; and
    - (ii) in the case of a change in the name of a natural person — a statutory declaration by a person well acquainted with the facts of the case, and not having any direct or indirect interest 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) (a) or (b), or subregulation (2), as the case requires, and that the qualifications of the declarant are as specified in this subparagraph;

- (b) to produce to the Registrar for noting:
  - (i) in the case of a change in the name of a natural person upon marriage — the relevant marriage certificate;
  - (ii) in the case of a change in the name of a natural person by deed poll — the relevant deed;
  - (iii) in the case of a change in the name of a body corporate incorporated under a law relating generally to the incorporation of companies, co-operative societies or other bodies corporate — a certificate of the change of name issued under that law; or
  - (iv) in the case of a change in the name of a person other than a person referred to in subparagraph (i), (ii) or (iii) — an authentic copy of the law or instrument by which the change was effected.

- (4) A notice lodged with the Registrar in pursuance of subregulation (3) with respect to a change in the nationality of a person shall set out particulars of the manner in which the change occurred.

## **20 Marking of Ships**

- (1) Subject to this regulation, a ship shall, for the purposes of section 26 of the Act, be marked as follows:
  - (a) the name of the ship shall be inscribed, in accordance with subregulation (2), on each bow;
  - (b) the names of the ship and its home port shall be inscribed, in accordance with subregulation (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 — on such other part or parts of the ship as the Registrar permits;
  - (c) an inscription in accordance with subregulation (3) shall be made, in a position in which it may readily be inspected, on the main beam of the ship or, if the ship has no main beam or it is impracticable so 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) shall be made in the following manner:
  - (a) all alphabetical characters shall 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, shall be in a style matching that of the alphabetical characters;
  - (c) the inscription shall 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) shall comprise:
  - (a) the letters 'O.N.' followed by the official number of the ship; and
  - (b) either:
    - (i) the letters 'N.T.' followed by the net tonnage of the ship as shown on its tonnage certificate;
    - (ii) the letters 'R.T' followed by the register tonnage of the ship as shown on its tonnage certificate; or

- (iii) where the ship is not a ship to which section 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) where the portion of the ship to which they are applied is such that compliance with subparagraph (i) is not practicable, the maximum practicable height.
- (4) Where, by reason of the nature of the constructional features of a ship, there is no part of the ship that is readily identifiable as a bow, or as the stern, of the ship, an inscription required by paragraph (1) (a) or (b) to be made on a bow or on the stern of the ship, as the case requires, shall be made on such part of the ship as the Registrar determines.
- (5) Where, in the opinion of the Minister, it is unreasonable to require compliance, or compliance in full, with the requirements of paragraph (1) (a) or (b) in relation to a ship, or in relation to ships included in a class of ships, the Minister may, by instrument in writing, exempt the ship, or ships included in the class of ships, from the requirements specified in the instrument, subject to compliance with the conditions (if any) specified in the instrument.
- (6) For the purposes of subsection 26 (1) of the Act, a certificate in writing endorsed on or attached to a notice served on the owner, or one of the owners, of a ship under that subsection, being a certificate that:

- (a) states that the ship to which the notice relates has been marked in accordance with the requirements of this regulation with marks directed by the Registrar by the notice; and
- (b) is duly signed by the owner, or one of the owners, of the ship;

is evidence that the ship has been marked in accordance with this regulation with marks directed by the Registrar under that subsection.

## **21 Name of registered ship and change of name**

- (1) An application under subsection 27 (2) of the Act for a change in the name of a registered ship shall be made by lodging with the Registrar a request in writing for approval of the change duly signed by the owner or registered agent of the ship and specifying:
  - (a) the present name of the ship;
  - (b) the official number of the ship; and
  - (c) in order of preference, 3 proposed names for the ship.
- (2) For the purposes of subsection 27 (3) of the Act, the following classes of names are prescribed classes of names:
  - (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 paragraphs (a) and (b);
  - (d) names that are blasphemous or 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;
    - (ii) the Commonwealth of Nations;
    - (iii) the Government of the Commonwealth, of a State, of a Territory, of any other country or of any legal subdivision of another country;

- (iv) the United Nations;
- (v) the Defence Force or an arm of the Defence Force;
- (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.

## **22 National colours and other flags**

- (1) For the purposes of subsections 30 (2) and (3) of the Act, a ship to which paragraph 30 (1) (a) of the Act applies shall 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 subsection 30 (2) of the Act, a registered ship, other than a ship to which paragraph 30 (1) (a) of the Act applies, shall fly the national flag or the red ensign while entering or leaving, or otherwise under way within, a foreign port in daylight.
- (3) When the national flag or the red ensign is flown by a ship, it shall be flown at the stern or:
  - (a) where, by reason of the design of the ship or the use to which it is put, it is not practicable to fly a flag at the stern, as near as practicable to the stern; or
  - (b) where the design of the ship is such that it 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.
- (4) Application under subsection 30 (10) of the Act shall be made by lodging with the Registrar an application in writing signed in the manner specified in subregulation (5), being an application specifying:
  - (a) the name of the ship;



- (b) the port at which the ship is usually berthed or moored;
- (c) a description of the ship, including any identifying markings;
- (d) the name, address and nationality of each person to whom the ship belongs;
- (e) if the application relates to a ship of the kind referred to in subparagraph 29 (1) (b) (iii) of the Act — the name, address and nationality of each operator of the ship; and
- (f) where a person, being:
  - (i) in the case of an application in relation to a ship of the kind referred to in subparagraph 29 (1) (b) (i) or (ii) of the Act — the person, or one of the persons, to whom the ship belongs; or
  - (ii) in the case of an application in relation to a ship of the kind referred to in subparagraph 29 (1) (b) (iii) of the Act — the operator, or one of the operators, of the ship;

is not an Australian national, information as to the status of that person as a resident of Australia.

- (5) An application referred to in subregulation (4) shall be taken, for the purposes of that subregulation, to have been signed in the manner specified in this subregulation if:
  - (a) in the case of an application in relation to a ship of the kind referred to in subparagraph 29 (1) (b) (i) of the Act — it is duly signed by the owner of the ship;
  - (b) in the case of an application in relation to a ship of the kind referred to in subparagraph 29 (1) (b) (ii) of the Act — it is duly signed:
    - (i) where the ship belongs to one person only — by that person; or
    - (ii) where the ship belongs to more than one person — by a person appointed in accordance with subregulation (6) for the purposes of this subregulation by persons who are the owners of interests in the ship the sum of which is equal to not less than 33 shares in the property in the ship; or

- (c) in the case of an application in relation to a ship of the kind referred to in subparagraph 29 (1) (b) (iii) of the Act — it is duly signed:
    - (i) where the ship is operated by one person only — by that person; or
    - (ii) where the ship is operated by more than one person — by a person appointed in accordance with subregulation (6) for the purposes of this subregulation by the persons by whom the ship is operated.
- (6) The appointment of a person for the purposes of subregulation (5) shall be in writing and:
  - (a) shall specify the ship to which it relates;
  - (b) shall be duly signed by each person making the appointment; and
  - (c) may consist of several documents in like form each duly signed by one or more of the persons referred to in paragraph (b).
- (7) Where an application referred to in subregulation (4) is signed by a person appointed for the purposes of subregulation (5), the instrument of appointment of that person shall be produced for noting upon the lodgment of the application.
- (8) A certificate under subsection 30 (10) of the Act shall be signed by the Registrar and sealed with the seal of the Registration Office and shall:
  - (a) specify the name of the ship and of the port at which it is usually berthed or moored;
  - (b) set out a description of the ship, including any identifying markings;
  - (c) set out the name, address and nationality of the person or persons to whom it is granted and indicate whether the certificate is granted to that person or those persons as owner or owners, or as operator or operators, of the ship; and
  - (d) where the person, or any of the persons, to whom the certificate is granted is not an Australian national but is a resident of Australia, contain a statement to that effect.

**23      Transfer of ship etc**

- (1) A bill of sale for the purposes of subsection 36 (1) of the Act in relation to a ship shall:
  - (a) specify:
    - (i) the name and official number of the ship;
    - (ii) the number of shares in the ship to which the bill of sale relates;
    - (iii) the name and address of each transferor;
    - (iv) the name and address of each transferee; and
    - (v) particulars of any mortgage registered in relation to the ship; and
  - (b) be duly signed by each transferor.
- (2) A declaration of transfer made under subsection 36 (3) of the Act shall:
  - (a) be in writing;
  - (b) specify:
    - (i) the name and official number of the ship; and
    - (ii) the date of the bill of sale to which it relates;
  - (c) specify, in relation to each person who is a transferee under the bill of sale, in addition to the matters referred to in subsection 36 (3) of the Act:
    - (i) the grounds on which the person, if a natural person, claims the nationality specified in the declaration in relation to the person; and
    - (ii) the extent of the interest of the person in the ship; and
  - (d) be duly signed by each transferee.
- (3) Where, by reason of the transfer of a ship or a share of a ship, there is a change in the person who is the registered agent of that ship, the bill of sale in relation to the transfer shall, when lodged with the Registrar in accordance with subsection 36 (2) of the Act, be accompanied by a notice of change of the registered agent in accordance with subsection 64 (2) of the Act.

**24 Transmission of ship etc by operation of law**

- (1) For the purposes of subsection 37 (1) of the Act the following evidence of lawful transmission is prescribed evidence:
  - (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 that person, or an office copy of any such document; and
    - (ii) a statutory declaration by a person well acquainted with the facts of the case to the effect that the person referred to in subparagraph (i) is the same person as the joint owner named in the 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 the legal personal representative, or constituting persons the legal personal representatives, of the deceased person or an office copy of such an instrument; and
    - (ii) an instrument identifying the person who is to become, by reason of the transmission, the owner, or one of the owners, of the ship or share; and
  - (c) in the case of transmission upon the making of an order by a court — an office copy of the order.
- (2) A declaration of transmission under subsection 37 (2) of the Act shall:
  - (a) be in writing;
  - (b) specify:
    - (i) the name and official number of the ship;
    - (ii) 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
    - (iii) the name, address and nationality of the person to whom the ship or share is transmitted; and
  - (c) be duly signed by the person to whom the ship or share is transmitted.

**25 Mortgage of ship etc**

For the purposes of subsection 38 (2) of the Act, an instrument of mortgage of a ship or a share in a ship shall:

- (a) specify:
  - (i) the name and official number of the ship;
  - (ii) the number of shares affected;
  - (iii) the name and address of each mortgagor; and
  - (iv) the name, address and nationality of each mortgagee; and
- (b) be duly signed by each mortgagor.

**25A Mortgagee to have power of disposal**

A notice of intention to dispose of a ship or of a share in a ship under subsection 41 (2) of the Act shall specify:

- (a) the name and official number of the ship; and
- (b) the place, date and manner of the intended disposal.

**26 Transfer of mortgage**

An instrument of transfer under subsection 42 (1) of the Act shall:

- (a) specify:
  - (i) the name and official number of the ship;
  - (ii) the name and address of each transferor;
  - (iii) the name, address and nationality of each transferee; and
  - (iv) the amount of the consideration and any conditions of the transfer;
- (b) be duly signed by each transferor; and
- (c) be affixed to the instrument of mortgage to which it relates.

**27 Transmission of mortgage by operation of law**

- (1) A declaration of transmission under section 43 of the Act shall:
  - (a) be in writing;

- (b) specify:
    - (i) the name and official number of the ship;
    - (ii) the name and address of each person from whom the interest is transmitted; and
    - (iii) the name, address and nationality of each person to whom the interest is transmitted; and
  - (c) be duly signed by each person to whom the interest is transmitted.
- (2) For the purposes of section 43 of the Act, the following evidence of lawful transmission is prescribed evidence:
- (a) in the case of transmission upon the death of a joint mortgagee:
    - (i) a certificate of death or of burial of the deceased person, probate or letters of administration of the estate of that person or an office copy of any such document; and
    - (ii) a statutory declaration by a person well acquainted with the facts of the case to the effect that the person referred to in subparagraph (i) is the same person as the joint mortgagee named in the Register;
  - (b) in the case of transmission upon the death of a sole mortgagee — an instrument constituting a person the legal personal representative, or constituting persons the legal personal representatives, of the deceased person or an office copy of such an instrument; and
  - (c) in the case of transmission upon the making of an order by a court — an office copy of the order.

## **28 Discharge of mortgage**

- (1) The prescribed evidence, for the purposes of subsection 44 (1) of the Act, of the discharge of a mortgage is a memorandum to that effect endorsed on, or firmly affixed to, the instrument of mortgage and duly signed by each mortgagee under the mortgage.

- (2) For the purposes of subsection 44 (3) of the Act, the prescribed particulars relating to the ship in respect of which a mortgage was given, the mortgage and its discharge are the following particulars:
- (a) the name and official number of the ship;
  - (b) the name and address of each mortgagor;
  - (c) the name and address of each mortgagee;
  - (d) the date of the mortgage;
  - (e) the date and time of entry of particulars of the mortgage in the Register;
  - (f) the date of discharge of the mortgage;
  - (g) the reason why the instrument of mortgage cannot be lodged with the Registrar.

**28AA Voluntary closure of Register so far as it relates to a mortgage**

For the purposes of subsection 44A (3) of the Act, the prescribed particulars relating to the mortgage are the following particulars:

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

**28A Caveats**

- (1) A caveat under section 47A of the Act shall be in accordance with Form 5.
- (2) A notice under subsection 47A (4) of the Act shall be in accordance with Form 6.

**28B Fee for inspection of Register**

For subsection 57 (3) of the Act:

- (a) the fee to inspect the Register is \$28; and
- (b) the fee for a copy of, or an extract from, an entry on the Register is \$50.

**29 Obsolete or incorrect entries in Register**

The prescribed period for the purposes of section 58 of the Act is 30 days.

**30 Registered agent**

- (1) For the purposes of subsection 64 (2) of the Act, the following information is prescribed:
  - (a) the name and official number of the ship;
  - (b) the name and address of the registered agent as appearing in the Register;
  - (c) the name and address of the registered agent as changed;
  - (d) the date on which the change occurred.
- (2) In paragraph (1) (c), *address* has the same meaning as in section 64 of the Act.

**31 Alterations to ships**

- (1) The prescribed manner, for the purposes of subsection 65 (1) of the Act, for the giving of notice of an alteration to a ship is the lodging with the person referred to in whichever of paragraphs (a), (b) and (c) of that subsection is applicable of a notice in writing that:
  - (a) specifies:
    - (i) the name and official number of the ship; and
    - (ii) the nature of the alteration;
  - (b) is duly signed by the registered agent of the ship; and
  - (c) is accompanied by:
    - (i) a builder's certificate in accordance with subregulation (2) in relation to the alteration of the ship;



- (ii) where, by reason of the alteration of the ship, the tonnage certificate (if any) applicable to the ship immediately before the making of the alteration is no longer correct in every particular or the ship has become a ship to which subsection 16 (1) of the Act applies, the tonnage certificate (if any) in force in relation to the ship as altered; and
  - (iii) the registration certificate, or provisional registration certificate, applicable in respect of the ship.
- (2) Subject to subregulation (3), a builder's certificate in relation to the alteration of a ship shall be duly signed by the builder, or, where the alteration relates only to the engines of the ship, by the installer who undertook the alteration of the ship and shall specify:
  - (a) the name and registered number of the ship;
  - (b) the date of completion of the alteration of the ship;
  - (c) the place at which the alteration of the ship was undertaken;
  - (d) the name and address of the builder or installer who undertook the alteration of the ship;
  - (e) the name and address of the person for whom the alteration of the ship was undertaken;
  - (f) particulars of the prescribed characteristics of the ship as altered; and
  - (g) if:
    - (i) by reason of the alteration of the ship, the tonnage certificate (if any) applicable to the ship immediately before the making of the alteration is no longer correct in every particular 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 in relation to the ship as altered;the gross tonnage, and the register tonnage, of the ship as altered, as estimated by the builder or installer who undertook the alterations.

- (3) Where the alteration of a ship has been carried out in stages by more than one builder or, where the alteration relates only to the engines of the ship, by more than one installer:
  - (a) a builder's certificate in relation to the alteration of the ship may consist of several documents in accordance with subregulation (2), 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, shall be duly signed by all of the builders or installers, as the case may be, responsible for the work carried out in those stages.
- (4) The time within which notice shall be given for the purposes of subsection 65 (1) of the Act is:
  - (a) if the alteration is an alteration referred to in paragraph 65 (1) (a) of the Act:
    - (i) the period ending 14 days after the completion of the alteration; or
    - (ii) the period ending immediately before the first departure of the ship from the port referred to in that paragraph after the completion of the alteration;whichever is the shorter period;
  - (b) if the alteration is an alteration referred to in paragraph 65 (1) (b) of the Act:
    - (i) the period ending 14 days after the first arrival of the ship at the port last referred to in that paragraph after the completion of the alteration; or
    - (ii) the period ending immediately before the first departure of the ship from that port after the completion of the alteration;whichever is the shorter period; or
  - (c) in any other case — the period ending 14 days after the completion of the alteration.
- (5) A provisional registration certificate granted under subsection 65 (1) of the Act shall be in accordance with Form 3.

- (6) The statement required by subsection (3) of section 65 of the Act to be forwarded by a proper officer to the Registrar in relation to the grant of a provisional registration certificate under that section shall be in writing signed by the proper officer and shall specify:
  - (a) the name and registered number of the ship to which the certificate relates; and
  - (b) the documents lodged with the proper officer in pursuance of subregulation (1) in connection with the grant of the certificate and their respective dates of lodgment.
- (7) Where a proper officer grants a provisional registration certificate under section 65 of the Act, he shall forward to the Registrar, together with the documents referred to in subsection (3) of that section, the documents referred to in subregulation (1).
- (8) Where a ship is so altered as not to correspond with the particulars relating to its net, or register, tonnage contained in the Register, the Registrar shall not enter the alteration in the Register under paragraph 65 (1) (c), or subsection 65 (6), of the Act unless the portion of the inscription referred to in paragraph 20 (1) (c) that relates to the net, or register, tonnage of the ship has been altered to correspond with the net, or register, tonnage of the ship as so altered.

## **32 Ship lost etc or ceasing to be entitled to be registered**

- (1) Delivery of the registration certificate or provisional registration certificate relating to a ship to the Registrar or a proper officer under subsection (10) of section 66 of the Act shall be effected within 30 days after the giving by the Registrar of a notice in writing in accordance with subregulation (2) to a person whose name appeared on the Register, immediately before the registration of the ship was closed or deemed to be closed under that section, as the owner, or one of the owners, of the ship.
- (2) A notice of the kind referred to in subregulation (1) shall:
  - (a) identify the ship to which it relates;

- (b) set out particulars of the closure, or deemed closure, of the registration of the ship; and
- (c) contain a statement of the obligations, in the circumstances, of the person having possession of the registration certificate or provisional registration certificate.

### **33 Closure of registration**

- (1) Application for the closure of the registration of a registered ship, not being a ship that is required to be registered under the Act, may be made by lodging with the Registrar:
  - (a) an application in writing for the closure of the registration of the ship duly signed:
    - (i) in the case of a ship that belongs to one person only — by that person; or
    - (ii) in the case of a ship that belongs to more than one person — by a person appointed for the purpose by persons who are the owners of interests in the ship the sum of which is equal to not less than 33 shares in the property in the ship;
  - (b) where the application is signed by a person appointed for the purpose in pursuance of subparagraph (a) (ii), the document or documents constituting the appointment of that person; and
  - (c) the registration certificate or provisional registration certificate, as the case requires.
- (2) The appointment of a person in pursuance of subparagraph (1) (a) (ii) for the purpose of signing an application referred to in subregulation (1) shall be in writing and:
  - (a) shall specify the ship to which it relates;
  - (b) shall be duly signed by each person making the appointment; and
  - (c) where the appointment is made by more than one person, may consist of several documents in like form, each duly signed by one or more of those persons.
- (3) An application under subregulation (1) shall specify:
  - (a) the registered name of the ship;

- (b) the official number of the ship; and
- (c) the home port of the ship.
- (4) Where the Registrar receives an application under subregulation (1) relating to a ship, he shall make an entry in the Register to that effect, and the registration of the ship shall, subject to subregulation (5), be deemed to be closed.
- (5) Where a ship in relation to which the Registrar has made an entry in the Register under subregulation (4) is subject to an unsatisfied mortgage or mortgages, subsections 66 (4) to (9), inclusive, and 66 (11), of the Act apply in relation to the ship as if it were a ship to which those subsections apply otherwise than by virtue of this subregulation.

**33A      Ships exempted from the requirements of section 68 of the Act**

- (1) For the purposes of subsection 68 (4) 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.
- (2) In this regulation:

*Torres Strait Treaty* means the Treaty between Australia and the Independent State of Papua New Guinea that was signed at Sydney on 18 December 1978;

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

**34            Admissibility of documents in evidence**

For the purposes of subsection 77 (1) of the Act, a certificate or pass issued under the Act or these Regulations is hereby declared to be admissible in evidence.

**35 Home ports**

- (1) The port that may be selected as the home port of a registered ship shall be one of the ports for the time being approved by the Authority, by notice published in the Gazette, for the purposes of this subregulation.
- (2) The ports in Australia that were, immediately before the commencement of the Act, ports of registry under the previous law shall, until the publication of a notice under subregulation (1), be taken to be ports for the time being approved by the Authority in accordance with that subregulation.
- (3) Application may be made for a change in the home port of a registered ship by lodging with the Registrar a request in writing that:
  - (a) specifies:
    - (i) the name and official number of the ship;
    - (ii) the present home port of the ship; and
    - (iii) the proposed home port of the ship; and
  - (b) is duly signed by the registered agent of the ship.
- (4) Upon the receipt of an application under subregulation (3), the Registrar shall, if the proposed home port is a port that is, for the time being, a port that is, or is to be taken to be, a port approved by the Authority for the purposes of subregulation (1), give notice in writing to the registered agent to the effect that registration of the change of home port in relation to the ship may proceed upon that part of the inscription referred to in paragraph 20 (1) (b) that relates to the home port of the ship being altered accordingly.
- (4A) Where the Registrar gives a notice to the registered agent of a ship under subregulation (4), the registered agent shall, within 30 days after the date of the notice, lodge with the Registrar a certificate in writing endorsed on that notice and duly signed by the registered agent stating that that part of the marking on the ship relating to the name of its home port has been altered in a manner that complies with regulation 20.

- (4B) A registered agent of a ship who fails to comply with subregulation (4A) is guilty of an offence.

Penalty: 5 penalty units.

- (4C) An offence against subregulation (4B) is an offence of strict liability.

*Note* For **strict liability**, see section 6.1 of the *Criminal Code*.

- (4D) It is a defence to a prosecution under subregulation (4B) that the defendant had a reasonable excuse.

*Note* A defendant bears an evidential burden in relation to whether or not he or she had a reasonable excuse for his or her conduct (see subsection 13.3 (3) of the *Criminal Code*).

- (5) Upon the receipt of:

- (a) the certificate referred to in subregulation (4A); and
- (b) the ship's registration certificate;

the Registrar shall:

- (c) cause the new home port to be entered in the Register in relation to the ship; and
- (d) endorse the change of home port on the ship's registration certificate and return it to the registered agent.

### **36      Transfer of registration from foreign ports of ships entitled to be registered**

- (1) Application under section 87 of the Act for the registration of a ship shall be made by:
- (a) lodging with the Registrar:
    - (i) an application in writing for the registration of the ship duly signed by the owner of the ship;
    - (ii) where the registration of the ship depends upon its being a ship on demise charter to an Australian-based operator, a copy of the charterparty;
    - (iii) a declaration of ownership and nationality in accordance with regulation 9; and

- (iv) a notice in writing duly signed by the owner of the ship specifying the name and address of the person who will be, or of each of the persons who will constitute, the registered agent of the ship upon its being registered; and
  - (b) producing to the Registrar, for noting, the licence or other document (if any) authorizing the use of a call sign in relation to the ship.
- (2) An application under subregulation (1) shall specify:
  - (a) in order of preference, 3 proposed names for the ship;
  - (b) the proposed home port of the ship;
  - (c) the foreign register concerned;
  - (d) the official number of the ship on that register;
  - (e) the name of the ship appearing on that register; and
  - (f) the home port, or port of registry, of the ship appearing on that register.

**36A Verification of particulars — Registers kept under previous law etc**

The prescribed period for the purposes of subsection 92 (3) of the Act is 25 years.

**37 Certificates etc in respect of ships deemed registered under Act**

- (1) In this regulation:
  - relevant document* means a certificate granted, or other document granted or issued, under these Regulations;
  - relevant record* means an entry or record that, immediately before the date fixed under section 2 of the Act, appeared in the register book kept at a port in Australia under the previous law in relation to a ship that is deemed, on and from that date, to be registered under the Act.



- (2) Where a relevant document 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 these Regulations to be expressed, that information may be expressed in a relevant document in relation to that ship in terms of either or both of those measurements.
- (3) Where a relevant record includes information in relation to a ship that is not required by the Act or these Regulations to be entered in the Register, that information shall be omitted from a relevant document in relation to that ship.
- (4) Where a relevant record does not include information in relation to a ship that is required by the Act or these Regulations to be entered in the Register:
  - (a) the Registrar may take such action as is reasonable for the purpose of obtaining that information; and
  - (b) the failure to include that information in a relevant document granted or issued in relation to that ship at a time when the Registrar is not in possession of that information shall not affect the validity of that document.

### **39 Extension of time**

- (1) The Registrar may extend the time for the lodgement of a document required by these Regulations to be lodged with him, and may so extend that time although that time has expired.
- (2) A request for an extension of time under this regulation:
  - (a) shall be in writing duly signed by the person making the request;
  - (b) shall set out the grounds of the request; and
  - (c) shall be lodged with the Registrar.

### **40 Verification of information etc**

- (1) Subject to the Act and these Regulations, the Registrar may, in relation to any document lodged with him or produced to him for noting:
  - (a) require the verification, by statutory declaration or otherwise, of:

- (i) the authenticity of the document; or
    - (ii) any information contained in the document;
  - (b) require the submission to him of such further documents or information as appear to him to be necessary in support of, or in substitution for, a document, or information, referred to in paragraph (a); and
  - (c) refuse to make an entry in the Register, or to perform any function or exercise any power under the Act or these Regulations, to which a requirement under paragraph (a) relates until that requirement is satisfied.
- (2) A requirement under paragraph (1) (a) or (b) shall be set out in a notice in writing signed by or on behalf of the Registrar and given to:
- (a) the person by 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 subregulation (1) for the verification of information relating to the identity, nationality or residential status of a person may require:
- (a) that the verification be by a statutory declaration by a person other than the person to whom it relates who has known the last-mentioned 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 person to whom it relates.

#### **41 Entries in Register**

- (1) The Register must contain in respect of each entry of a matter under subsection 56 (1) of 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 date and time to be recorded in the Register when an entry is made:
- (a) for the purposes of subregulation (1); or
  - (b) for the purposes of making an endorsement required by the Act or these Regulations to be made on any document;
- is the date and time in the Australian Capital Territory determined under the Standard Time and Summer Time Act 1972 of the Australian Capital Territory at the moment that the entry is made.

## Schedule 1 Prescribed characteristics of ships

(subregulation 2 (1))

### PRESCRIBED CHARACTERISTICS OF SHIPS

Column 1	Column 2
Item No.	Characteristic
1.	Type of ship (in terms of purpose)
2.	<b>Method of propulsion, including:</b> (a) number and type of boilers; (b) number and type of engines; and (c) means of power transmission (including number of screws, paddles, or 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 whichever of the following is or are applicable: (a) brake power; (b) indicated power; (c) shaft power
15.	Estimated speed

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## Schedule 2 Prescribed forms

(subregulation 2 (4))

### Form 1 Notice of intention to apply for registration

(subregulation 7 (10))

*Shipping Registration Act 1981*

#### NOTICE OF INTENTION TO APPLY FOR REGISTRATION

Notice is hereby given of the intention of (Name(s) and address(es) of owner(s)) to apply, after the expiration of the period of 30 days commencing on the date of publication of this notice, for the registration under the abovementioned Act of the ship particulars of which are set out below. Objections to the registration of the ship in the name(s) of the abovementioned person(s), by persons claiming a legal proprietary right in respect of the ship, should, together with any relevant documents that will verify the claim, be delivered to the Registrar of Ships at the Australian Shipping Registration Office, (street address), or sent by properly prepaid post to the Registrar of Ships at (postal address) before the expiry of the period referred to above.

#### Particulars of ship

Present name (if any):

Former names (if any):

Former number (if previously registered):

Present whereabouts:

Length:           metres

Principal material of construction of hull:

Type of ship:

## **Form 2      Registration certificate**

(regulation 12)

*Shipping Registration Act 1981*

REGISTRATION CERTIFICATE

(FORM OMITTED)

## **Form 3      Provisional registration certificate**

(subregulations 14 (2),  
15 (1) and 31 (5))

*Shipping Registration Act 1981*

PROVISIONAL REGISTRATION CERTIFICATE

(FORM OMITTED)

## **Form 4      Temporary pass**

(subregulation 17 (6))

*Shipping Registration Act 1981*

TEMPORARY PASS

(FORM OMITTED)

## **Form 5      Caveat**

(subregulation 28A (1))

COMMONWEALTH OF AUSTRALIA

*Shipping Registration Act 1981*

CAVEAT

(FORM OMITTED)

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**Form 6      Notice of change of name of caveator or  
of address for service**

(subregulation 28A (2))

COMMONWEALTH OF AUSTRALIA

*Shipping Registration Act 1981*

NOTICE OF CHANGE OF NAME OF CAVEATOR OR OF  
ADDRESS FOR SERVICE

(FORM OMITTED)

**Table of Instruments****Notes to the *Shipping Registration Regulations 1981*****Note 1**

The *Shipping Registration Regulations 1981* (in force under the *Shipping Registration Act 1981*) as shown in this compilation comprise Statutory Rules 1981 No. 363 amended as indicated in the Tables below.

**Table of Instruments**

<b>Year and number</b>	<b>Date of notification in <i>Gazette</i> or FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
1981 No. 363	18 Dec 1981	18 Dec 1981	
1982 No. 181	30 July 1982	30 July 1982	—
1983 No. 211	30 Sept 1983	R. 1: 1 Oct 1983 Remainder: 30 Sept 1983	—
1984 No. 273	28 Sept 1984	R. 1: 1 Oct 1984 Remainder: 28 Sept 1984	—
1985 No. 262	1 Oct 1985	1 Oct 1985	—
1986 No. 267	30 Sept 1986	1 Oct 1986	—
1986 No. 268	30 Sept 1986	1 Oct 1986	—
1987 No. 234	14 Oct 1987	19 Oct 1987	—
1988 No. 237	30 Sept 1988	1 Oct 1988	—
1989 No. 384	21 Dec 1989	1 Jan 1990	—
1990 No. 313	12 Oct 1990	15 Oct 1990	—
1991 No. 430	19 Dec 1991	19 Dec 1991	—
1993 No. 286	5 Nov 1993	5 Nov 1993	—
1994 No. 92	7 Apr 1994	7 Apr 1994	—
2001 No. 351 (a)	21 Dec 2001	21 Dec 2001	—
2006 No. 361	15 Dec 2006 (see F2006L04082)	16 Dec 2006	—
2011 No. 124	1 July 2011 (see F2011L01395)	4 July 2011	—

(a) Statutory Rules 2001 No. 351 was made under the *Navigation Act 1912*, the *Protection of the Sea (Oil Pollution Compensation Fund) Act 1993*, the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* and the *Shipping Registration Act 1981*.



**Table of Amendments****Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 1 .....	rs. 2001 No. 351
R. 2 .....	am. 1985 No. 262; 1991 No. 430
R. 3 .....	am. 1985 No. 262
R. 5 .....	am. 1991 No. 430 rs. 2011 No. 124
R. 6 .....	am. 1991 No. 430
R. 6A .....	ad. 1985 No. 262 am. 1991 No. 430
R. 7 .....	am. 1985 No. 262
R. 8 .....	am. 1985 No. 262
R. 9 .....	am. 1985 No. 262
R. 10 .....	am. 1985 No. 262 rs. 1986 No. 267; 1991 No. 430
R. 11 .....	am. 1991 No. 430
R. 13 .....	rs. 1985 No. 262 am. 2001 No. 351; 2011 No. 124
R. 14 .....	am. 1985 No. 262; 1986 No. 267; 2001 No. 351
R. 15 .....	am. 1985 No. 262; 1986 No. 268; 2001 No. 351
R. 16 .....	am. 1985 No. 262; 1986 No. 268
R. 17 .....	am. 1985 No. 262; 1991 No. 430; 2001 No. 351; 2011 No. 124
R. 18 .....	rep. 1985 No. 262
R. 19 .....	am. 1985 No. 262; 2001 No. 351
R. 20 .....	am. 1985 No. 262; 1991 No. 430; 1994 No. 92
R. 21 .....	am. 1985 No. 262
R. 22 .....	am. 1985 No. 262
R. 23 .....	am. 1985 No. 262
R. 24 .....	am. 1985 No. 262
R. 25A .....	ad. 1985 No. 262
R. 26 .....	am. 1985 No. 262
R. 28 .....	rs. 1985 No. 262
R. 28AA .....	ad. 2006 No. 361
R. 28A .....	ad. 1985 No. 262
R. 28B .....	ad. 2011 No. 124
R. 29 .....	am. 1985 No. 262
R. 30 .....	rs. 1985 No. 262 am. 1986 No. 267

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 31 .....	am. 1985 No. 262
R. 33A .....	ad. 1982 No. 181 am. 1985 No. 262
R. 35 .....	am. 1985 No. 262; 1991 No. 430; 2001 No. 351
R. 36A .....	ad. 1985 No. 262
R. 37 .....	am. 2006 No. 361
R. 38 .....	am. 1991 No. 430 rep. 2011 No. 124
R. 41 .....	am. 1991 No. 430; 1993 No. 286
<b>Schedule 2</b>	
Schedule 2 .....	am. 1985 No. 262; 1986 No. 268; 1991 No. 430
Form 1 .....	1981 No. 363 am. 1991 No. 430
Form 2 .....	1981 No. 363
Form 3 .....	1981 No. 363 am. 1986 No. 268
Form 4 .....	1981 No. 363
Form 5 .....	1981 No. 363 rs. 1985 No. 262
Form 6 .....	ad. 1985 No. 262
<b>Schedule 3</b>	
Schedule 3 .....	rs. 1983 No. 211; 1984 No. 273; 1985 No. 262; 1986 No. 267 am. 1986 No. 268 rs. 1987 No. 234; 1988 No. 237; 1989 No. 384 am. 1990 No. 313 rs. 2006 No. 361 rep. 2011 No. 124