

## **EXPLANATORY STATEMENT**

### *Coastal Trading (Revitalising Australian Shipping) Act 2012*

### *Coastal Trading (Revitalising Australian Shipping) Regulations 2022*

Issued under the authority of the Minister for Infrastructure, Transport,  
Regional Development and Local Government

The *Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Act) provides a regulatory framework for coastal shipping in Australia by providing for licences to be granted that authorise vessels to carry passengers or cargo between ports in different states and territories in Australia in connection with a commercial activity. The Act implements a tiered licensing system that facilitates access to the Australian coast, prioritising Australian owned ships.

The Act establishes three types of licences (general, temporary or emergency) which authorise vessels to engage in trade on Australian coastal waters. It also provides for the application process for each type of licence including requirements and criteria for making a decision; conditions of licences; grounds for cancellation of licences; and enforcement of the requirements.

Section 113 of the Act provides that the Governor-General may make regulations prescribing matters required or necessary or convenient to be prescribed for carrying out or giving effect to the Act

The purpose of the *Coastal Trading (Revitalising Australian Shipping) Regulations 2022* (the new Regulations) is to replace the *Coastal Trading (Revitalising Australian Shipping) Regulations 2012* (the sunseting Regulations) which are due to sunset on 1 October 2022.

Minor amendments have been made to remove redundant transitional provisions and simplify language to align with contemporary drafting practices, including clarifying the circumstances under which an emergency licence can be used. These changes do not alter the substantive meaning or operation of the provisions.

All references to Transitional General Licences contained in the sunseting Regulations have been removed in the new Regulations because there are no longer any Transitional General Licences in force, and there is no ability to grant new Transitional General Licences.

Similarly, all reference to transitional provisions contained in the sunseting Regulations have been removed in the new Regulations. There were a number of provisions in the sunseting Regulations that related to the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012* (the Transitional Act). The Transitional Act was implemented to amend certain Commonwealth laws and provide for transitional arrangements consequential to the enactment of the Act.

The Regulations supplement the requirements provided in the Act by providing licencing and fee requirements. The Regulations are necessary for the functioning of the coastal trading licencing system under the Act because an application for a licence must be accompanied by the application fee prescribed by the Regulations.

Part 1 of the new Regulations provides for the name, commencement, authority, schedules and definitions used in the new Regulations. It also prescribes the special circumstances where an energy security situation, as defined in the Act, occurs.

Part 2 of the new Regulations provides for additional information requirements that must be included in applications for temporary licences where dangerous goods are to be carried. It also provides details for the kinds of severe weather and natural disaster emergencies where an application for an emergency licence can be made. These requirements are in addition to matters already listed in the Act.

Part 3 of the new Regulations provides for the fees payable when applying for a licence under the Act. There has been no change to the fee structure from the sunseting Regulations. Revenues collected through the fees outlined in the instrument amount to partial cost recovery, as set out in the Australian Government Cost Recovery Guidelines.

Schedule 1 provides for the repeal of the sunseting Regulations.

Details of the new Regulations are set out in the [Attachment](#).

Replacing the sunseting Regulations will provide certainty for the shipping industry and users of shipping by providing a continuation of the existing regulatory framework for coastal shipping in Australia.

Section 5 of the new Regulations provides that *dangerous goods* has the same meaning as the International Maritime Dangerous Goods Code (the Code) published by the International Maritime Organization, as in force at the commencement of this instrument.

The Code was developed as an international code for the maritime transport of dangerous goods in packaged form, in order to enhance and harmonise the safe carriage of dangerous goods and to prevent pollution to the environment.

The Code is not freely and publicly available, but can be purchased as an International Maritime Organization publication at: <https://www.imo.org/en/publications/Pages/Home.aspx>.

Publications are an important revenue stream for the International Maritime Organization and copyright restrictions restrict the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) from sharing copies of the Code.

Stakeholders in the coastal trading industry seeking to move dangerous goods are likely to have access to the Code.

A copy of the Code may be available for inspection if and as required by either House of the Parliament while this instrument is open to disallowance, and for public inspection upon request to DITRDCA.

DITRDCA undertook extensive consultation with industry on reform of Australia's coastal trading framework between 2019 and 2021. While consensus was not reached between stakeholders on reform options, the operation of the sunseting Regulations, including its fee structure, were not raised as an issue. Therefore, no specific consultation on the new Regulations has been undertaken.

The Office of Best Practice Regulation agreed with DITRDCA assessment that remaking the sunseting Regulations would have no regulatory impact (OBPR22-02535).

**Details of the *Coastal Trading (Revitalising Australian Shipping) Regulations 2022***

**Part 1 – Preliminary**

**Section 1 – Name**

The instrument is the *Coastal Trading (Revitalising Australian Shipping) Regulations 2022* (the new Regulations)

**Section 2 – Commencement**

The new Regulations commence on the day after registration on the Federal Register of Legislation.

**Section 3 – Authority**

The instrument is made under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Act).

**Section 4 – Schedules**

Each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms

**Section 5 - Definitions**

This section inserts a note and provides definitions for expressions used in the proposed Regulations as defined in the Act. The definition for ‘dangerous goods’ would be consistent with the meaning in the International Maritime Dangerous Goods Code published by the International Maritime Organization.

**Section 6 – Special circumstances for *energy security situation***

This section prescribes the special circumstances where an energy security situation, as defined in the Act, occurs. Minor changes to the chapeau in the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (the sunseting Regulations) have been made. The changes are machinery in nature to reflect contemporary drafting practices. There are no substantive changes.

**Part 2 – Licences**

**Section 7 – Information for application for temporary licence**

This section prescribes additional information that must be provided in an application for a temporary licence when cargo contains dangerous goods, consistent with the definition as described in section 5.

**Section 8 – Kinds of emergency application for emergency licence**

This section provides for the kind of severe weather or natural disaster emergencies where an application for an emergency licence can be made.

This section has been amended to account for the possibility of other weather events or natural disasters not included in the closed list of emergency situations under Section 8(a) of the sunseting Regulations.

This in effect broadens the circumstances in which an application for an emergency licence could be made, without altering the intent of the provision, and aligns it with the use of “severe weather event” in paragraph 6(b)(v) of the new Regulations.

Examples of severe weather conditions may include:

- a cyclone or major storm cell
- a thunderstorm or storm surge
- a flood, including a flash flood
- a space weather event
- a tornado

Examples of a natural disaster may include:

- an earthquake
- a tsunami
- a volcanic eruption
- a wildfire
- a landslide
- a mudslide

Proposals to broaden the scope of an emergency were tested with stakeholders during coastal trading consultations throughout 2019 and 2020 and the proposed changes as described above were not considered controversial.

### **Part 3 - Fees**

#### **Section 9 – Application fees**

This section prescribes the fee that must accompany an application for a licence.

#### **Schedule 1 – Repeals**

Schedule 1 repeals the *Coastal Trading (Revitalising Australian Shipping) Regulations 2012*.

## **Statement of Compatibility with Human Rights**

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

### **Coastal Trading (Revitalising Australian Shipping) Regulations 2022**

The Coastal Trading (Revitalising Australian Shipping) Regulations 2022 (the Regulations) are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Regulations**

The Regulations supplement the requirements provided in the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Act) by providing licencing and fee requirements for vessels to engage in voyages in Australian waters. The Regulations are necessary for the functioning of the coastal trading licencing system under the Act because an application for a licence must accompany the application fee prescribed by the Regulations.

Part 1 of the Regulations provides for the name, commencement, authority, schedules and definitions used in the Regulations. It also prescribes the special circumstances where an energy security situation, as defined in the Act, occurs.

Part 2 of the Regulations provides for additional information requirements that must be included in applications for temporary licences where dangerous goods are to be carried. It also provides details for the kinds of severe weather and natural disaster emergencies where an application for an emergency licence can be made. These requirements are in addition to matters already listed in the Act.

Part 3 provides for the fees payable when applying for a licence under the Act. There has been no change to the fee structure. Revenues collected through the fees outlined in the instrument amount to partial cost recovery, as set out in the Australian Government Cost Recovery Guidelines.

Schedule 1 provides for the repeal of the *Coastal Trading (Revitalising Australian Shipping) Regulations 2012*.

#### **Human rights implications**

The Regulations do not engage any of the applicable rights or freedoms.

#### **Conclusion**

The Regulations are compatible with human rights as they do not raise any human rights issues.

**Minister for Infrastructure, Transport, Regional Development and Local Government,  
the Hon Catherine King MP**