

Transport Operations (Marine Safety) and Other Legislation Amendment Bill 2015

Explanatory Notes

Short title

The short title of the Bill is the *Transport Operations (Marine Safety) and Other Legislation Amendment Bill 2015*.

Policy objective and the reasons for it

Background

In 2011, an Intergovernmental Agreement was signed by the Council of the Australian Governments that reflected the joint decision of the Commonwealth, states and territories that the Commonwealth take over the safety regulation of *domestic commercial vessels*.

The implementation of this agreement resulted in the Commonwealth *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*. Schedule 1 of this Act contains the Marine Safety (Domestic Commercial Vessel) National Law (the National Law). The National Law, which commenced on 1 July 2013, introduced a national system for regulating *domestic commercial vessels*, which are defined as vessels ‘for use in connection with a commercial, governmental or research activity’.

Domestic commercial vessels work predominately around the Australian coastline. They vary widely in nature and purpose and include vessels such as fishing craft, passenger and trading boats and a wide range of other small and medium sized vessels. The National Law does not, however, regulate vessels which operate internationally or foreign vessels, as they are regulated under the Commonwealth *Navigation Act 2012*. It also does not regulate recreational vessels which continue to be regulated under state legislation.

The overarching policy objective of the National Law is to provide for the consistent regulation of the *domestic commercial vessel* industry across Australia. This is to ensure that, irrespective of where a commercial vessel is in Australian waters, it is required to meet the same nationally-agreed safety standards. This means, for example, that those who design and build commercial vessels in one jurisdiction do not need to have the vessels re-certified for use in another jurisdiction. It also means that companies which operate nationally and have vessels in different jurisdictions do not need to deal with different regulatory requirements to manage their fleet and crew.

Interaction between Commonwealth and Queensland legislation

The policy objective of the Bill is to ensure that there is a seamless interaction between Commonwealth and Queensland legislation for the regulation of *domestic commercial vessels*. Queensland legislation that seeks to regulate *domestic commercial vessels* in relation to registration, licensing and safety matters that the National Law regulates has been of no effect since 1 July 2013. This is because the Commonwealth Act takes precedence over Queensland legislation (see section 6(1) of the Commonwealth Act). Amendments, therefore, need to be made to recognise the transfer of responsibility for these aspects of *domestic commercial vessel* regulation to the National Law.

However, section 6(2) of the Commonwealth Act allows for certain matters in relation to *domestic commercial vessels* to continue to be regulated under state legislation. These are matters such as the transportation of dangerous goods, marine pollution, and waterways management including, for example, provisions dealing with alcohol and drugs testing and provisions dealing with the setting of speed limits.

Amendments are therefore required to remove non-operative provisions and to ensure the continued application of Queensland legislation to *domestic commercial vessels* in relation to subject matter that the National Law does not regulate.

Achievement of the policy objective

The *Transport Operations (Marine Safety) Act 1994* is Queensland's primary maritime statute. Before 1 July 2013, this legislation governed the safe operation of Queensland's commercial and recreational fleet. Since its commencement on 1 July 2013, the National Law has governed general safety duties, vessel construction requirements, vessel operation and crew competency for *domestic commercial vessels*.

However, Queensland's *Transport Operations (Marine Safety) Act 1994* continues to govern other aspects of maritime operations relating to *domestic commercial vessels* and all aspects relating to recreational vessels – that is, those vessels that are used only for private recreation.

The Bill achieves the policy objective of ensuring that there is seamless interaction between the National Law and Queensland legislation by making the amendments discussed below.

Statement of general application

The Bill incorporates a general provision which states that provisions of the *Transport Operations (Marine Safety) Act 1994* do not apply to a *domestic commercial vessel* to the extent that the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (Cwlth) applies to that vessel (new section 14 as inserted by clause 8). This provision reflects the constitutional principle that Commonwealth legislation takes precedence over state legislation to the extent of any inconsistency.

New term - Queensland regulated ship

The Bill incorporates a new defined term, *Queensland regulated ship* (clause 7), which includes recreational ships and those ships that have been excluded from the definition of *domestic commercial vessel* under the National Law. The most common examples of ships that fall into the second category are surf lifesaving vessels and those owned by schools. The reason that the National Law does not regulate these vessels is that they are generally considered to be of a lower safety risk due to the type and area of their operations.

The amendments will clarify that provisions within the *Transport Operations (Marine Safety) Act 1994* that deal with registration, licensing and general safety obligations only apply to *Queensland regulated ships*. Provisions that are to continue to have broad application to all ships, including *domestic commercial vessels*, will continue to use the existing generic term, *ship*.

Consequential amendments

The Bill deletes provisions from the *Transport Operations (Marine Safety) Act 1994* that only had effect for *domestic commercial vessels* and have no further ongoing application to *Queensland regulated ships*. It also makes other general consequential amendments.

Alternative ways of achieving the policy objective

There are no alternative ways of achieving the policy objective other than to make the changes contained in the Bill. This is because the policy objective requires a legislative solution.

Estimated cost for government implementation

Implementation of the Bill will require changes to administrative systems. Any costs incurred will be met from within existing budget allocations.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential fundamental legislative principle considerations are addressed below.

Legislation should have sufficient regard to the institution of Parliament – *Legislative Standards Act 1992*, section 4(2)(b)

Transitional regulation-making power

Clause 60 of the Bill inserts a transitional regulation-making power (new section 256) to allow or facilitate the change from the operation of the *Transport Operations (Marine Safety) Act 1994* as it exists immediately prior to the commencement of the amendments in this Bill to the operation of the Act following the commencement of the amendments.

The consequential amendments required to the *Transport Operations (Marine Safety) Act 1994* as a result of the introduction of the National Law are complex. This is particularly so as some matters for these vessels will be regulated by the National Law while others will continue to be regulated by the Act. It is essential that the amendments clarify which provisions within the *Transport Operations (Marine Safety) Act 1994* apply to all ships connected to Queensland, including *domestic commercial vessels*, and which apply only to ships that are regulated only in Queensland.

It should also be noted that the *Transport Operations (Marine Safety) Regulation 2004*, which is a significant component of maritime regulation in Queensland, is currently under review and, due to its staged expiry under the *Statutory Instruments Act 1992*, is currently being rewritten.

Given the complexity of the legislative task of developing consequential amendments to the *Transport Operations (Marine Safety) Act 1994* at the same time as rewriting its subordinate legislation, it is appropriate to include a transitional regulation-making power. This will ensure that any additional transitional matters that may arise can be dealt with in a timely manner. The Bill provides that the transitional regulation-making power expires one year after commencement of the Bill, as does any regulation made under that power.

Amendment of an Act – *Legislative Standards Act 1992*, section 4(4)(c)

(a) Recreational ships

The Bill (in Clause 7) defines a *recreational ship* to be a ship that is used only for private recreation or a tender to such a ship. The clause also provides that a regulation may prescribe circumstances in which a ship can be taken to be used only for private recreation. The provision potentially allows the Act's application to be varied by regulation.

Given the significant number of activities in which marine vessels can be engaged, however, it is important to ensure the legislation provides a flexible approach. The regulation-making power will allow the boundaries of what constitutes private recreation to be clarified and developed in a timely manner. In addition, when determining whether a ship is a recreational ship, it may be appropriate to disregard some temporary or very limited non-recreational usage and the regulation can provide for this.

Regulation-making powers

Currently, regulations made under the *Transport Operations (Marine Safety) Act 1994* can:

- require the owner of a ship to register the ship as a commercial ship, fishing ship or recreational ship (see section 56);
- require a person to hold certain marine licences (see section 60); and
- set out a process to be followed by the general manager when amending, suspending or cancelling an approval of a person or ship involved in a marine incident (see section 126(3)(b)).

As a result of the National Law, these provisions must be updated. For example, section 56 must be amended to reflect the new categorisation under Queensland regulated ships as either *recreational ships* or *other Queensland regulated ships*. The re-insertion of these provisions, amended to reflect the changes arising from the National Law, is simply a legislative process and does not raise any new issues relating to the fundamental legislative principles.

**Legislation should have sufficient regard to the rights and liberties of individuals –
*Legislative Standards Act 1992, section 4(2)(a)***

Abrogation of statutory rights

Under the existing *Transport Operations (Marine Safety) Act 1994* (Part 5, Division 4) people could be accredited to act as ship designers, ship builders and marine surveyors to issue certificates of compliance. As certificates of compliance were only in relation to ships that are now *domestic commercial vessels* under the National Law, Queensland ceased issuing these accreditations from July 2013 when the regulation of matters relating to *domestic commercial vessels* was moved to the National Law. As a consequence, these provisions will be removed from the Act by clause 32 of the Bill.

At the time the National Law commenced, transitional provisions in the National Law enabled Queensland accredited ship designers, builders and marine surveyors to be automatically recognised as personnel able to perform survey-type functions under the National Law. These personnel will have until January 2016 to become formally appointed as marine surveyors under the National Law in order to continue performing the functions that they have been able to perform under the national transitional provisions since 1 July 2013.

The Department of Transport and Main Roads has been working closely with industry to assist in the smooth transfer of responsibility for the accreditation scheme from the state to the Commonwealth level. This is to help ensure that those who wish to continue working in this industry in relation to *domestic commercial vessels* can continue to do so.

It is believed that this 2.5 year transitional period, aimed at assisting these accredited personnel to continue performing functions they previously performed under Queensland legislation, adequately takes into account the rights and liberties of these people.

Power of Shipping Inspectors

Currently, the *Transport Operations (Marine Safety) Act 1994* provides shipping inspectors with a range of powers necessary to regulate and enforce the requirements of the Act. For example, section 175 of the Act currently provides the power for a shipping inspector to require a person to produce a document that must be kept by the person under the Act. There is a similar power provided in section 89 of the *Transport Operations (Marine Pollution) Act 1995*.

With the commencement of the National Law, documentation relating to registration, licensing and other general safety matters for *domestic commercial vessels* is no longer required to be kept under the *Transport Operations (Marine Safety) Act 1994*. Relevant documentation is now dealt with under the National Law. It is expected that there will be occasions when a shipping inspector needs to inspect a document issued under the National Law for the purpose of monitoring compliance with matters that continue to be regulated under Queensland legislation. For example, pilotage matters in relation to *domestic commercial vessels* continue to be regulated under Queensland legislation. A pilotage exemption may be granted conditional upon a person holding the relevant master's certificate. Such a certificate is issued under the National Law, rather than under Queensland legislation. Clauses 55 and 72 are therefore making amendments to allow a shipping inspector to require a person to produce a document

required to be kept by the person under the National Law if that document is relevant to a shipping inspector's function under the Queensland legislation.

It is believed that sufficient regard has been given to an individual's rights and liberties as the requirement to produce documents only relates to those that are issued as part of a regulatory scheme. These documents are necessary to ensure compliance with legislative requirements. A person will still have recourse to the existing section 175(2) of the *Transport Operations (Marine Safety) Act 1994* and 89(2) of the *Transport Operations (Marine Pollution) Act 1995* which provide that a person does not need to produce the requested document if that person has a reasonable excuse for not producing it. Prior to the commencement of the National Law, all relevant documentation relating to the regulation of *domestic commercial vessels* was able to be requested under the Queensland Acts. The amendment simply reflects the fact that matters relating to the regulation of safety for *domestic commercial vessels* are now under the National Law.

Similarly, clause 47 amends section 155 of the *Transport Operations (Marine Safety) Act 1994* to extend the powers under part 13 of the Act to places of business mentioned in a document issued by the National Regulator. Clause 49 amends section 162 of the Act to allow the power to enter, without consent or warrant, places mentioned in a document issued by the National Regulator. These amendments of shipping inspectors' powers are purely consequential changes to reflect that the documents that were previously issued under the *Transport Operations (Marine Safety) Act 1994* are now issued under the National Law.

Appropriateness of offences and penalties

Clause 20 amends section 40 of the *Transport Operations (Marine Safety) Act 1994* to provide that it is an offence for a competent person to issue a survey report about a ship's seaworthiness that is not correct in every material particular. The offence provision carries a maximum penalty of 500 penalty units or imprisonment for 1 year. The offence provision replaces the current offence provision in section 40 which is aimed at preventing accredited ship designers, builders or marine surveyors from making a declaration in a certificate of compliance that is not correct in every particular. The level of the penalty for the revised offence is the same as the existing offence. It is believed that it is proportionate to the seriousness of the offence and is consistent with other comparable offences within the *Transport Operations (Marine Safety) Act 1994*.

Clause 25 reinserts the offence currently contained in section 43 of the *Transport Operations (Marine Safety) Act 1994* into a new section 45 following a restructure of the Act. The offence is for a pilot who has the conduct of a ship causing it to be operated unsafely. The maximum penalty is 500 penalty units or imprisonment for 1 year. Clause 26 reinserts the offences relating to contravention of registration obligations into section 57. The maximum penalty for these offences is 200 penalty units. It is believed that the penalties are proportionate to the seriousness of the offences and are consistent with the penalties for similar offences within the Act. As noted in section 34(j) of the Act, the maximum penalties are substantial if a person is found contravening the Act. This is due to the seriousness of the offences contained within the Act.

Clause 55 amends the offence in section 175(2) of the *Transport Operations (Marine Safety) Act 1994* to clarify the time within which a person is required to produce a document to a shipping inspector who has boarded a ship under the Act. It is believed that the rights and liberties of individuals are adequately taken into account, as only documents that are required

under the Act to be kept on a ship must be produced to the inspector at the time that the request to produce is made by the shipping inspector. In all other instances, documents required to be kept under the Act which are requested may be produced at a 'reasonable time and place nominated by the shipping inspector'. The maximum penalty for failure to comply with the provision is 40 penalty units which is proportionate to the seriousness of the offence.

Consultation

Consultation on the national reforms was previously undertaken by the Australian Maritime Safety Authority.

Consistency with legislation of other jurisdictions

The clauses in the Bill contain consequential amendments required as a result of the national scheme. As such, these clauses are consistent in their operation with similar consequential amendments made to legislation administered by each of the states who have entered the scheme and the Northern Territory.

Notes on provisions

Part 1 Preliminary

Clause 1 provides that the Act may be cited as the *Transport Operations (Marine Safety) and Other Legislation Amendment Act 2015*.

Clause 2 provides that the Act will commence on a day to be fixed by proclamation. It is proposed to commence the Act at the same time as a new regulation is made to replace the *Transport Operations (Marine Safety) Regulation 2004*, which must be reviewed and remade prior to its expiry under the *Statutory Instruments Act 1992*.

Part 2 Amendment of Transport Operations (Marine Safety) Act 1994

Clause 3 provides that part 2 amends the *Transport Operations (Marine Safety) Act 1994* (which is referred to below as ‘the Act’).

Clause 4 amends section 3 (Objectives of this Act) to reflect the fact that certain provisions of the Act will no longer apply to commercial ships. The specific changes are as follows: -

- Section 3(3) is amended to indicate that the general safety obligations in the Act (see Part 4) are to be imposed on *Queensland regulated ships* and no longer apply to commercial ships that are regulated under the National Law. The term *Queensland regulated ship* is a newly defined term which has been inserted into the Act by clause 7. In general, these are ships used only for private recreation and other types of ships that continue to be regulated under Queensland legislation, such as surf lifesaving vessels. For a further explanation of the types of ships that continue to be regulated under Queensland legislation, refer to the explanatory note for clause 7.
- Section 3(4) is amended to clarify that certificates of survey will no longer be relevant to *Queensland regulated ships*. Survey reports, however, may be issued by competent persons in relation to some ships regulated under Queensland legislation. The amendment, therefore, omits the reference to certificates of survey and replaces this with *survey reports* issued by *competent persons*. These are newly defined terms included in the schedule by clause 61. For a further explanation of these terms, refer to the explanatory note for that clause.

Clause 5 omits section 5 (Meaning of *certificate of compliance*) as certificates of compliance will no longer be issued for *Queensland regulated ships*. These certificates were only issued in relation to the higher risk commercial ships that are now regulated under the National Law as *domestic commercial vessels*.

Clause 6 amends section 9 (Meaning of *owner*) to make a consequential amendment to reflect the fact that *domestic commercial vessels* will no longer be registered under this Act and, instead, a certificate of operation will be issued for them under the National Law. The clause does not, however, make any substantive change to the meaning of *owner* set out in section 9, which remains the person who owns the ship, whether or not the person is registered as the ship’s owner.

Clause 7 replaces section 10A (Meaning of *commercial ship*, *fishing ship* and *recreational ship*, and related provision) with new sections 10A and 10B.

New section 10A defines the term *Queensland regulated ship*. This term has been introduced to encapsulate all those ships that continue to be regulated in relation to registration, licensing and safety obligations under the Act. It has been defined to mean a ship that is a *recreational ship* (which is defined in new section 10B) or an *other Queensland regulated ship* (as mentioned in section 10A(b)). The term *other Queensland regulated ship* has been used to describe ships that are used for purposes other than private recreation but, due to their relatively low risk, have been excluded from the coverage of the National Law. Surf lifesaving ships operating close to shore fall within this new term as do those ships that are owned by primary or secondary schools, or certain community groups provided that they are not being used for commercial-type purposes or activities as prescribed by the national regulation. If a ship is being used for such purposes or activities they will be categorised as a *domestic commercial vessel* and will be regulated under the National Law.

The definition of *other Queensland regulated ship* has been drafted to automatically pick up ships that are excluded from the coverage of the National Law. This is to ensure that ships that may be excluded in the future from the coverage of the National Law will automatically become regulated under Queensland legislation.

New section 10B contains the meaning of *recreational ship*, which corresponds to the meaning contained in the Act prior to these amendments. As such, a *recreational ship* is a ship used only for private recreation or a tender to such a ship. (A tender is defined in the dictionary in the schedule. This is basically a ship that attends to another ship and is smaller than the ship). *Recreational ships* range from small open aluminium boats (commonly known as ‘tinnies’) to very large boats such as luxury yachts, provided they are only used for private recreation. For example, a ship which carries paying passengers or is engaged in any other commercial activity would not qualify as being used only for private recreation.

Clause 8 inserts new section 14 (Relationship with the national law). The purpose of this section is ensure that there is no overlap between the coverage of the Act and the coverage of the National Law. It specifies that the Act does not apply to a *domestic commercial vessel* to the extent that the National Law applies to it. The note in subsection 14(2) cross references section 6(2) of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012 (Cwlth)* which sets out a list of matters in relation to which a law of a state may apply to *domestic commercial vessels*. Subsection 14(3) explains that this Act expressly identifies the provisions that do not apply to a *domestic commercial vessel* by stating that the provision applies only to a *Queensland regulated ship*.

Clause 9 amends section 15 (Section 11 is subject to certain provisions). The purpose of section 15 is to set out which sections of the Act are the exceptions to the statement of general coverage of the Act set out in section 11. The amendment is a consequential amendment to reflect the renumbering of the sections that are referred to in the dotpoints in section 15.

Clause 10 amends section 18A (Exempting of person or ship from regulatory provision). Section 18A currently allows the general manager to exempt a person or ship from a provision of a regulation subject to being satisfied of all relevant matters including those set out in subsection (2) of the provision. The clause inserts a new subsection (9). The purpose of this new subsection is to put beyond doubt that transitional-type provisions can be included in the

regulation which preserve the continued application of exemptions issued under section 18A when the regulatory provisions from which a person or ship is exempted are repealed and replaced by corresponding provisions. The need for this type of provision is particularly relevant when, for example, the *Transport Operations (Marine Safety) Regulation 2004* is reviewed and remade according to the requirements of the *Statutory Instruments Act 1992*. The amendment will facilitate the continuation of the exemptions where relevant under corresponding provisions of the replacement regulation.

Clause 11 omits part 2 (Marine safety strategies). This part deals with the development and approval of marine safety strategies. As the chief executive is committed to developing and publishing marine safety strategies, it is unnecessary to impose a legislative obligation and, as a result, part 2 is being omitted.

Clause 12 amends section 28 (To which ships does this Act apply). Section 28 is located in part 3 of the Act which contains provisions that give guidance as to how to understand the Act. Part 3 does not contain substantive provisions, rather it contains interpretative provisions. The amendments to section 28 clarify that the Act does not apply to a ship to the extent to which the National Law applies to the ship and that the application of the National Law varies depending on the subject matter concerned. This means, for example, that provisions in the Act dealing with pilotage apply to all ships, including those that are *domestic commercial vessels* under the National Law, as the National Law does not regulate pilotage. However, provisions within the Act dealing with registration and licensing do not apply to *domestic commercial vessels* as the National Law deals with these subject matters.

Clause 13 replaces section 30 (What is the system that is established) to clarify that general safety obligations for ship designers, ship builders and marine surveyors are no longer imposed under the Act. This is because their activities are only relevant to *domestic commercial vessels* that are now regulated under the National Law. As a result, ship designers, builders and marine surveyors are no longer referred to in the amended section. For the same reason, the examples contained in existing subsections 30(3) to (5) are not included in the replaced section. Rather, new section 30 explains how the general safety obligations in part 4, division 1 of the Act apply in relation to *Queensland regulated ships* and ships in general. For *Queensland regulated ships*, general safety obligations are placed on owners, masters and crew, and also on *competent persons* who issue *survey reports*. General safety obligations continue to be imposed on pilots and on managing pilotage entities for all ships.

New subsection (3) retains existing subsection (2) which states that the general safety obligations under the Act are generally intended to be performance based rather than prescriptive and allow people to find more cost efficient ways of achieving safety.

Clause 14 amends section 31 (What is a standard) to clarify in subsection (1) that the imposition of general safety obligations (that are contained in part 4, division 1 of the Act) are only imposed in relation to *Queensland regulated ships*. The amendment in subsection (2) changes the example about what standards may deal with to make it more relevant to *Queensland regulated ships* rather than the existing example which is applicable to commercial type ships now regulated under the National Law.

Clause 15 amends section 32 (What happens if a person does not comply with a relevant standard) to modify the example at the end of subsection (2) so that it is tailored to *Queensland regulated ships* which are the only ships to which the general safety obligations apply.

Clause 16 replaces section 33 (What happens if a ship has a certificate of compliance or survey) to reflect the fact that certificates of compliance and certificates of survey are no longer relevant to *Queensland regulated ships*. These documents were only relevant to the higher risk ships that are now regulated under the National Law. A *survey report* issued by a *competent person* may be issued for some *Queensland regulated ships*. Such a report may be used to establish that a general safety obligation under sections 40 and 41 has been complied with in whole or part. This is set out in section 42(3)(a) of the Act.

Clause 17 amends section 34 (What mechanisms ensure safety) to make technical changes to reflect that certain provisions of the Act no longer have any application due to the National Law. Specifically the clause:-

- omits all references to the accreditation of ship designers, ship builders and marine surveyors as the Act no longer provides an accreditation scheme since this was relevant only in relation to *domestic commercial vessels*; and
- clarifies when subject matter regulated under the Act is to apply to all ships and when it is only to apply in relation to *Queensland regulated ships*.

Subsection (6) of this clause omits the reference to boards of inquiry. This is because provisions dealing with boards of inquiry are being deleted by clause 45. An explanation supporting the removal of these provisions is contained in the explanatory notes for that clause.

Clause 18 amends section 38 (Does the Act mention everything that will appear in the regulations and standards) to clarify in the example at the end of the section that registration under the Act is only in relation to *Queensland regulated ships*. This is because *domestic commercial vessels* are no longer registered under the Act as they are dealt with under the National Law.

Clause 19 amends part 4 (General safety obligations and standards) by providing a new heading for part 4. This change to the heading is to reflect the fact that the provisions dealing with standards have been relocated to a more appropriate part of the Act – namely part 18 (refer to clause 23). The clause also inserts a new division 1 heading and an application provision (new section 39A) to clarify that the division only applies in relation to *Queensland regulated ships*. This is because safety obligations for *domestic commercial vessels* are contained in the National Law.

Clause 20 amends section 40 (General safety obligation of ship designers, ship builders and marine surveyors about condition of ships). The current section places an obligation on accredited ship designers, ship builders and marine surveyors to issue a certificate of compliance for a ship that is correct in every particular. However, designers, builders and marine surveyors are no longer accredited under the Act to perform functions in relation to *Queensland regulated ships*. Rather, *survey reports* may be issued in relation to *Queensland regulated ships*. These reports must be issued by a *competent person*. The terms *survey report* and *competent person* are defined in the schedule as inserted by clause 61).

The amendment provides that if a competent person issues a survey report for a *Queensland regulated ship* the person must ensure that each statement made in the report about the ship's seaworthiness is correct in every material particular. The proposed penalty for failing to comply

with this obligation is equivalent to the existing penalty in section 40 for an accredited person who issues a certificate of compliance which is not correct in every particular.

Clause 21 amends section 42 (Relationship between regulatory provisions and general safety obligations about the condition of ships). The amendment to the heading makes clear that the section relates to competent persons, ship owners and masters.

Section 42 is relevant if it is claimed that a person breached section 40 or 41 of the Act because of the condition of a ship or its equipping or crewing. This is referred in section 42 as ‘the safety issue’. Amended section 40 contains the offence of a competent person who completes a survey report but fails to ensure that each declaration in the report is correct in every material particular (see explanation contained in clause 20 above). Section 41 provides that the owner and master of a ship must not operate the ship unless the ship is safe.

Section 42 provides that if the safety issue is not dealt with in the way provided for in a regulation or in a standard about the condition, equipping or crewing of ships, the person is taken to have breached either section 40 or 41 unless the court is satisfied of the defence provided for in section 42.

Clause 21 amends part of the defence to reflect the fact that certificates of survey, certificates of compliance and approvals of design given by the general manager are no longer relevant under the Act as these were only issued in relation to *domestic commercial vessels*. The amended defence provision reflects the new concepts of *survey reports* issued by *competent persons*. The part of the defence now provided for in subsection (3)(a) is for the court to be satisfied that it was reasonable for a person to rely on a survey report issued by a competent person that was in force for the ship and covered the safety issue, completely or partly, to satisfy compliance with the relevant safety provisions in section 40 or 41.

Clause 22 amends section 43 (General obligation on persons involved with operation of ship to operate it safely) to make a technical consequential amendment to reflect that the division in which this section is located only applies to *Queensland regulated ships*. Currently, section 43 places an obligation on persons involved with a ship’s operation not to cause the ship to be operated unsafely. A pilot is included in the list of those identified on whom the obligation is placed. However, matters relating to pilotage under the Act apply not only in relation to *Queensland regulated ships* but to ships in general, including *domestic commercial vessels*. This is because the National Law does not deal with pilotage and is expressed to allow pilotage to continue to be regulated under the jurisdiction of the states and territories. Therefore, the amendment removes pilots from the coverage of the section and a new section 45 which is tailored to deal only with pilots is being inserted by clause 25.

The amendment in subsection (3) is to clarify that the reference to a ship’s registration is registration under this Act.

Clause 23 relocates and renumbers part 4 division 2 to be part 18, division 2 containing sections 219A to 219J. This division, which deals with standards made under the Act, is more appropriately placed in part 18 which currently deals with the making of regulations under the Act.

Clause 24 relocates and renumbers section 43A (General obligation on managing pilotage entity to provide piloted movement of ships safely) to newly created part 4 division 2. The new

division deals with general safety obligations placed on pilots and managing pilotage entities. The reason for this relocation is that section 43A is currently in a division that is being amended to apply only in relation to *Queensland regulated ships*. However, as section 43A applies to pilotage which relates to ships in general, it is being shifted to a newly created division which deals with all ships. The new section number is section 46.

Clause 25 inserts new part 4 division 2 which contains general safety obligations applying to ships in general, rather than just to *Queensland regulated ships*. This new division contains a new section 45 (General safety obligation on pilot who has conduct of ship). This section extracts from existing section 43 the general obligation placed on pilots to not cause a ship to be operated unsafely. This amendment is consequential on the amendment in clause 22 which removed pilots from being covered by the general safety obligation contained in section 43. The new section contains some very minor wording changes and tailors the obligation to just pilots, rather than all the people involved in a ship's operation which are covered by section 43.

Clause 26 replaces the headings to part 5 and to divisions 1 and 2 within part 5 to clarify that they apply only to the registration and licensing of *Queensland regulated ships*. Registration and licensing matters for *domestic commercial vessels* is now dealt with under the National Law.

New section 54 (Application of div 1) provides that the provisions of part 5, division 1 (Registration of Queensland regulated ships) apply only to those *Queensland regulated ships* that are declared by regulation to be ships to which the provisions apply. The purpose of this section is to allow the regulation to specify that some *Queensland regulated ships* – such as non powered or low powered ships – do not need to be subject to registration requirements.

The note included in the section indicates the part of the National Law which deals with certifications of operation for *domestic commercial vessels*, which are the national equivalent of registration.

The clause also inserts a new section 55 which simply clarifies that the term *registered* means registered under the Act.

The clause also replaces section 56 (Regulation may require registration of ship). The references to commercial and fishing ships are removed as they are no longer regulated under the Act. The new section 56 provides that a regulation may require the owner of a ship to register the ship as a *recreational ship* or an *other Queensland regulated ship*. These terms are defined in sections 10A and 10B of the Act as inserted by clause 7.

The clause also replaces section 57 (Contravention of registration obligations). The changes from the previous version of this section are: -

- the reference to commercial ship has been changed to an *other Queensland regulated ship* in subsection (3). The section has been redrafted to clarify that the offence is that of using an *other Queensland regulated ship* for private recreation if this is not permitted under the regulation. The substance of this newly drafted offence prohibits the same activities as the existing offence in subsection (3);
- subsection (4) has been removed as this subsection deals with a ship registered as a fishing ship. Fishing ships are no longer registered under Queensland legislation but instead are registered under the National Law; and

- the maximum penalty has been inserted after each subsection so as to put beyond doubt that the penalty applies in relation to each offence provision.

Clause 27 omits the heading to part 5, division 3 and replaces it with a new division 2 heading which indicates that the division is about the licensing of masters and crew members of *Queensland regulated ships*. Licensing of masters and crew members of *domestic commercial vessels* is dealt with under the National Law.

Clause 27 also inserts new section 59A (Application of div 2) which provides that a provision of part 5, division 2 (Licensing of masters and crew members of Queensland regulated ships) applies only to *Queensland regulated ships* declared by regulation to be ships to which the provision applies. The Note provides the part of the National Law which deals with the issue of certificates of competency which are the national equivalent of licenses.

Clause 28 amends section 60 (Regulation may require licence) to delete subsection (1)(c). This subsection deals with the requirement placed in a regulation about a person to hold a licence to have the conduct of a ship as its pilot. Pilotage remains regulated under the Act for ships in general, not just for *Queensland regulated ships*. For this reason, this subsection is being removed and placed in a newly created part 5, division 3 which deals with the licensing of pilots.

Clause 29 amends section 61 (Operation of ship as master etc. without required licence) to clarify that the penalty provision currently only appearing at the end of subsection (3) is also to apply to the offence provisions in subsections (1) and (2). The clause also deletes subsection 3 as this subsection is in relation to the licensing of pilots. Pilotage remains regulated under the Act for ships in general, not just for *Queensland regulated ships*. For this reason, this subsection is being removed and placed in a newly created part 5, division 3 which deals with the licensing of pilots.

Clause 30 inserts a new part 5, division 3. This new division deals with the licensing of pilots and contains sections 61A to 61C. These sections are required as provisions dealing with pilotage were omitted from existing sections 60(1)(c) and 61(3) as these sections are now in a part which deals only with *Queensland regulated ships*. The clause also inserts a new division 4 heading, 'General licence provisions', before section 62. The sections contained in this division apply to the licensing of masters and crew members of *Queensland regulated ships* and to pilots of ships. These sections are existing provisions dealing with matters such as the grant, amendment, renewal, cancellation and suspension of licences.

Clause 31 amends section 62 (Grant, amendment and renewal of licences) to provide that the training programs referred to in subsection (3)(b) must be about *Queensland regulated ships* rather than ships in general.

Clause 32 omits part 5, division 4 (Accreditation of ship designers, ship builders and marine surveyors) as Queensland no longer accredits ship designers, ship builders and marine surveyors. This is because functions performed by these people were only in relation to ships that are now *domestic commercial vessels* under the National Law. The provisions are therefore no longer required and are being deleted. The clause also omits part 5, division 5 (Other provisions about ship design and survey) as the approval by the general manager of ship design and certificates of survey were only relevant to ships that are now *domestic*

commercial vessels under the National Law. The provisions are therefore no longer required and are being deleted.

Clause 33 amends section 87A (Owner of ship lost, abandoned or stranded) to provide that, for the purposes of the section, the recorded owner of a *domestic commercial vessel* is the holder of the ship's certificate of operation under the National Law.

Clause 34 inserts a new part 11, division 1 heading which identifies that the division deals with preliminary matters for the part.

Clause 35 amends section 123 (What is a *marine incident*) to change references to 'material damage' and 'serious damage' to 'significant damage'. The term 'significant damage' is used in the National Law in relation to the level of damage to a ship that triggers the requirement to report the marine incident. For consistency, the amendments will adopt that term in the Queensland Act for the purpose of determining when a marine incident must be reported to a shipping inspector.

Clause 36 inserts a new part 11, division 2 heading which identifies the division as dealing with marine incidents involving a *Queensland regulated ship*. The clause also inserts new section 123A. The purpose of the new section is to clarify that the reporting and other obligations contained in the part only apply if a marine incident involves at least one *Queensland regulated ship*. If a marine incident exclusively involves ships that are not *Queensland regulated ships*, the obligations are under different pieces of legislation. For *domestic commercial vessels*, this is provided for under the National Law.

Clause 37 amends section 124 (Duties of masters to help if a marine incident happens involving 2 or more ships) to clarify that the obligations placed on masters involved in a marine incident to render assistance to other ships involved in the incident are only placed on masters of *Queensland regulated ships*. Obligations on masters of other ships are contained in other legislation. For *domestic commercial vessels*, this is contained in the National Law.

Clause 38 amends section 125 (Marine incidents must be reported) to clarify that the obligation to report a marine incident causing the loss or abandonment of a ship is only placed on an owner if the ship is a *Queensland regulated ship*. Reporting obligations in relation to other ships are contained in other legislation. For *domestic commercial vessels*, this is contained in the National Law.

Clause 39 amends section 125B (Failure to comply with declaration of exclusion zone by general manager) to update a cross reference. Section 125A, which is referred to in subsection (1), has been renumbered as section 130A by clause 40.

Clause 40 relocates sections 125A and 125B to part 11, division 3 and renumbers the sections as 130A and 130B.

Clause 41 amends section 126 (Investigation process into marine incident). Currently, section 126 allows the general manager, having considered the report of an investigation into a marine incident, to cancel, suspend or amend the approval of a ship or a person. The amendment will clarify that this power exists only in relation to *Queensland regulated ships*. The amendment will also remove the ability of the general manager to recommend that a board of inquiry into the incident be established. Boards of inquiry are not established as Maritime Safety

Queensland has the power and function to investigate marine incidents and safety matters in Queensland.

Clause 42 amends section 128 (Report and any recommendations to be tabled) to extend the time period in which a report about the marine incidents in each calendar year must be tabled in the Legislative Assembly. The time has been extended from 14 days to 30 days. This will provide time for analysis of the report and consideration prior to its tabling, particularly where the Minister may have appointed a person, under section 127(4), who is not an officer or employee of a public sector unit to review the report and provide recommendations.

Clause 43 inserts a new part 11, division 3 heading after section 128 which indicates that the part deals with other obligations and exclusion zones. This new division contains provisions that have general application to all ships. The division contains existing section 129 which deals with the obligation of the master of a ship to report dangers to navigation and contains new sections 130A and 130B, which were previously sections 125A and 125B respectively, and which deal with exclusion zones that may be declared around a ship involved in a marine incident.

Clause 44 amends section 130 to clarify that the obligation on the master of a ship to help persons on a ship or aircraft that is in distress at sea is only in relation to the master of a *Queensland regulated ship*. The National Law deals with obligations on masters of *domestic commercial vessels*.

Clause 45 omits part 12 (Boards of inquiry) which contains provisions that deal with the establishment and role of boards of inquiry. These provisions are no longer necessary as Maritime Safety Queensland already has the power and function to investigate in relation to incidents and safety matters in Queensland. The National Law deals with investigations of marine incidents involving *domestic commercial vessels*.

Clause 46 amends section 153 (Functions of shipping inspectors) to make a series of minor amendments which are consequential on the substantive amendments made in other parts of the Bill. In particular, the clause

- clarifies that the obligation on shipping inspectors is only to investigate a marine incident which involved a *Queensland regulated ship* (amendment to paragraph (d)); and
- removes reference to boards of inquiry since part 12 of the Act, which deals with the establishment and role of boards of inquiry, is being removed by clause 45 (amendment to paragraph (e)).

Clause 47 amends section 155 (Powers of shipping inspectors under this part) to reflect the fact that certain matters regulated under the Act apply not only in relation to *Queensland regulated ships* but also to *domestic commercial vessels*. This includes, for example, matters relating to the carriage of dangerous goods, pilotage, speed limits and harbour management. Section 155(2)(b) currently provides that a shipping inspector may exercise powers in relation to places specified in an approval as a place of business. Since *domestic commercial vessels* no longer have an approval that is a registration under the Act indicating a place of business, an amendment is required to reflect that the place of business is now specified in a certificate or document issued or held by the National Regulator.

Clause 48 amends the heading to part 13, division 3 to clarify that the division contains general powers of shipping inspectors.

Clause 49 amends section 162 (Entry to place by shipping inspector). This amendment recognises that certain matters regulated under the Act apply not only in relation to *Queensland regulated ships* but also to *domestic commercial vessels*. These includes for example, matters relating to the carriage of dangerous goods, pilotage, speed limits, and harbour management. Currently, the effect of section 162(c) is that a shipping inspector may enter a place mentioned in an approval as a place of business. Since *domestic commercial vessels* no longer have an approval that is a registration under the Act indicating a place of business, an amendment is required to reflect that the place of business is now specified in a certificate or document issued or held by the National Regulator.

Clause 50 relocates and renumbers section 167A (Power to require production of marine safety equipment) to be section 170B in new part 13 division 3A. This is because the power in this section for a shipping inspector to require the production of prescribed safety equipment will apply only in relation to *Queensland regulated ships*. Safety equipment relating to *domestic commercial vessels* is provided for under the National Law.

Clause 51 inserts a new division 3A into part 13 of the Act. This division contains additional powers in relation to *Queensland regulated ships*. The clause also inserts a new application section which is section 170A (Application of part 13, division 3A). This section provides that the division only applies to a *Queensland regulated ship*. The sections in this new division deal with matters such as the directions that a shipping inspector can give if it is believed a ship cannot be operated safely (section 171), the power of a shipping inspector to order that a ship be surveyed and repaired (section 172), the power of a shipping inspector to declare that a ship is unseaworthy (section 172AA) and powers in relation to registration, licensing and safety equipment (section 172A). Similar powers in relation to *domestic commercial vessels* are contained in part 6 of the National law.

Clause 52 amends section 171 (Direction if shipping inspector reasonably believes ship is not safe or can not be operated safely) to make a drafting improvement by inserting the word ‘type’ as a way that licences may be categorised.

Clause 53 amends section 172 (Shipping inspector may direct ship is surveyed and order repairs) to reflect the new terminology of *survey reports* issued by a *competent person*. These are newly defined terms that have been inserted into the dictionary in the schedule by clause 61. The amendment retains the current policy position but adopts the new terminology. A shipping inspector may give a direction to the owner or master of a *Queensland regulated ship* that the shipping inspector reasonably believes may be unsafe to have it surveyed if the shipping inspector considers that it is necessary.

Clause 54 amends section 172A (Other directions) to clarify that registration in subsection (1) means registration under the Act.

Clause 55 amends section 175 (Power to require production of documents) to reflect the fact that documents relating to *domestic commercial vessels* that were previously required to be kept under the *Transport Operations (Marine Safety) Act 1994* are now, in many instances, required to be kept under the National Law. The amendment, therefore, caters for the fact that a document may be required to be produced that is required to be kept under the National Law.

These documents may be required to be produced for the purpose of enforcing compliance with provisions that continue to govern *domestic commercial vessels* under the Act.

The clause also clarifies the time periods in which documents must be produced. If the shipping inspector has boarded the ship under section 165(1) and requests that a document be produced that is required under the Act, an exemption, or the National Law to be kept on board, then the document must be produced at the time the shipping inspector requests it. In all other instances the document must be produced at a reasonable time and place nominated by the inspector.

Clause 56 amends section 186 (Unlawful interference with ship) to clarify that the prohibition within the *Transport Operations (Marine Safety) Act 1994* against unlawfully interfering with a ship only applies to a *Queensland regulated ship*. Similar prohibitions regarding *domestic commercial vessels* are in the National Law.

Clause 57 amends section 202D (Restricted licence for disqualified person) to make a consequential amendment to reflect the fact that the general safety obligation for pilots has been removed into a separate section 45. This section, therefore, needs to be included in the list of relevant sections that activate the application of section 202D. The clause also removes the reference to ‘class’ of licence as this is not relevant in the context of *Queensland regulated ships* that remain regulated under the Act.

Clause 58 amends section 202E (Other limitations on ordering a restricted licence) by inserting a new subsection (5). Subsection (2)(a)(i) currently provides that a relevant consideration for a court in determining whether a restricted licence should be granted is whether the applicant was disqualified from holding or obtaining a licence or whether a licence held by the applicant was suspended or cancelled. New subsection (5) clarifies that the reference to licence in subsection (2) includes a reference to a type or class of licence that is no longer granted under the Act – for example a commercial type licence.

Clause 59 amends section 208 (Marine safety regulations—generally) to clarify that the matters listed in subsection (2) about which a regulation may be made are to apply only in relation to *Queensland regulated ships*.

Clause 60 inserts new part 19, division 7 which contains transitional provisions. These transitional provisions cater in particular for the reclassification of ships that are excluded from the operation of the National Law from being commercial ships under the Act to being other *Queensland regulated ships* under the Act. The transitional provisions also cater for the fact that matters in relation to the operation of these vessels that are currently dealt with by specific regulatory provisions will be reflected by means of a deemed condition of their existing registration. This will enable these ships to be regulated according to the same operating requirements until the ships’ respective registrations cease. At such time, relevant matters will be considered prior to issuing a new registration as a *Queensland regulated ship* under the amended legislation.

Clause 61 amends the schedule (Dictionary) to make consequential changes to reflect the changes in the body of the Act necessary in light of the National Law.

Included in the definitional changes is a new definition of a *competent person* for the issue of a *survey report* which is also a newly defined term. These concepts are relevant to the category of ships that have been excluded from the National Law as they are considered lower risk. A

survey report is one which deals with an aspect of a ship's seaworthiness – for example, its design, construction, safety equipment or stability. A *competent person* is defined to be an individual accredited under the National Law as a marine surveyor or another individual who has the appropriate level of training, qualification and experience.

A *survey report* issued by a *competent person* may be relevant in the consideration of whether a person has adequately discharged their general safety obligations under the Act (see sections 40 to 42).

Part 3 Amendment of the Criminal Proceeds Confiscation Act 2002

Clause 62 provides that part 3 amends the *Criminal Proceeds Confiscation Act 2002*.

Clause 63 amends the definition of *boat* in the dictionary contained in schedule 6 of the Act. This is a consequential amendment to ensure that *domestic commercial vessels* are still incorporated in the reference to *boat* wherever this term is used throughout the *Criminal Proceeds Confiscation Act 2002*. The amendment is necessary as *domestic commercial vessels* are no longer registered under the *Transport Operations (Marine Safety) Act 1994* due to the operation of the National Law.

Part 4 Amendment of Maritime Safety Queensland Act 2002

Clause 64 provides that part 4 amends the *Maritime Safety Queensland Act 2002*.

Clause 65 amends section 5 (Application of Act) to replace the reference to the *Transport Operations (Marine Safety) Act 1994* with the defined term *TOMSA*.

Clause 66 amends section 8 (Functions and powers of MSQ) to make a number of amendments necessary as a consequence of the National Law. These include the following changes to the list of functions and powers of Maritime Safety Queensland: -

- the removal of the entry relating to the accreditation of ship designers, ship builders and marine surveyors. This function is no longer performed by Maritime Safety Queensland as these formerly accredited persons only performed roles in relation to *domestic commercial vessels*. These roles are now dealt with under the National Law;
- the inclusion of an entry that sets out the functions and powers for the National Law. Specifically these are to exercise powers and perform functions delegated or subdelegated to Maritime Safety Queensland under the National Law and collect fees prescribed by regulation for anything done by Maritime Safety Queensland under that law.

The clause also clarifies that one of the functions of Maritime Safety Queensland is to licence masters of *recreational ships*. It also includes a minor restructuring of section 8 to place functions relating to the development of strategies together.

Part 5 Amendment of Transport Operations (Marine Pollution) Act 1995

Clause 67 provides that part 5 amends the *Transport Operations (Marine Pollution) Act 1995*.

Clause 68 amends section 7 (Meaning of agent) to reflect that fact that the performance of functions in relation to *domestic commercial vessels* is under the National Law as well as the *Transport Operations (Marine Safety) Act 1994*. Therefore, the meaning of agent is amended to reflect that a person is an agent of the ship owner if they perform a function under the National Law for the owner. The role of an *agent* under the *Transport Operations (Marine Pollution) Act 1995* includes the function of accepting the service of documents or making reports under the Act.

Clause 69 replaces section 13 (Ship construction, survey and certification) to make consequential amendments to reflect changes to the *Transport Operations (Marine Safety) Act 1994* and to clarify under which legislation different obligations are imposed for the different categories of ship. The section provides that general safety obligations for *domestic commercial vessels* and issues about their survey and registration are generally dealt with under the National Law whereas the *Transport Operations (Marine Safety) Act 1994* generally deals with these matters in relation to *Queensland regulated ships*.

Clause 70 omits part 3 (Marine pollution strategies). This part deals with the development and the approval of marine pollution strategies. The chief executive is committed to developing and publishing marine pollution strategies and, as such, it is unnecessary to impose a legislative obligation in this regard. As a result, part 3 is being omitted.

Clause 71 amends section 49 (Declared ship operating in prescribed nil discharge waters to be fitted with sewage holding device) to reflect that fact that the maximum number of persons a *domestic commercial vessel* is permitted to carry is provided for under the National Law.

Clause 72 amends section 89 (Power to require production of documents) to reflect the fact that documents relating to *domestic commercial vessels* that were previously required to be kept under the *Transport Operations (Marine Safety) Act 1994* are now in many instances required to be kept under the National Law.

Clause 73 amends the schedule (Dictionary) to insert the definition for *domestic commercial vessel*, the *National Law* and *Queensland regulated ship*.

Part 6 Amendment of Transport Operations (Road Use Management) Act 1995

Clause 74 provides that part 6 amends the *Transport Operations (Road Use Management) Act 1995*.

Clause 75 amends section 79 (Vehicle offences involving liquor or other drugs) to ensure that the existing alcohol restriction (zero blood alcohol limit) for commercial vessels is retained by making changes to reflect updated terminology. Specifically, the amendment provides that the alcohol restriction applies to non-recreational vessels that carry or are authorised to carry more than 12 passengers.

Part 7 Minor and consequential amendments

Clause 76 provides that schedule 1 to the Bill amends the Acts it mentions.

The *Maritime Safety Queensland Act 2002* is amended to replace two sectional references to the *Transport Operations (Marine Safety) Act 1994* with references to the defined term *TOMSA*.

The definition of *smartcard transport authority* in section 195A of the *Police Powers and Responsibilities Act 2000* is amended to reflect the renumbering of the schedule in the *Transport Operations (Marine Safety) Act 1994* to schedule '1'.

A number of referencing amendments are made to the *Transport Operations (Marine Pollution) Act 1995*. The definition of *gross tonnage* in the schedule has been updated to reflect the correct reference to the Tonnage Convention within the meaning of the *Navigation Act 2012 (Cwlth)*.

The remaining amendments are to the *Transport Operations (Marine Safety) Act 1994* and include:

- An update to the reference to 'schedule' in section 4 to reflect the fact that the dictionary is now contained in 'schedule 1'.
- Consequential amendments to sections 48, 50, 51 and 54 to reflect the renumbering of cross-sections contained in the sections. The renumbering is due to the relocation of all the provisions relating to standards made under the Act to new part 18, division 2 of the Act.
- A consequential amendment to section 200A which reflects the fact that part 12 of the Act relating to boards of inquiry is being deleted. Therefore, cross-section references to section 148 and 149 in section 200A are no longer relevant as they deal with the giving of false or misleading statements in relation to boards of inquiry.
- A consequential amendment to section 202A to reflect the fact that matters dealing with pilots have been moved into new separate sections 45 and 61C. These sections, therefore, need to be included in the list of relevant sections that activate the application of section 202A.
- The insertion of a definition of *QCAT information notice* into section 203C. This amendment is not related to the other amendments in the Bill which relate to the National Law. The definition was overlooked at the time the term was first included into the legislation.
- A consequential amendment to section 203D which reflects the fact that part 12 of the Act relating to boards of inquiry is being deleted. Therefore, the reference to the decision of the Minister about a board of inquiry is no longer relevant and is being removed.
- Consequential amendments to sections 205A and 205AA to clarify that training programs that may be conducted in the operation of ships may only be conducted in relation to *Queensland regulated ships*.

- A consequential amendment to section 211 to update the cross reference to the relevant part of the *Navigation Act 2012 (Cwlth)* in the examples that are listed in the regulation-making power.
- A minor change to section 212 to remove the example and editor's note at the end of the section as they have been superseded.
- Consequential amendments to the definitions contained in the schedule
- Renumbering of the schedule containing the definitions to 'schedule 1'.

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