



# **Navigation (Consequential Amendments) Act 2012**

**No. 129, 2012**

**An Act to deal with consequential matters arising  
from the enactment of the *Navigation Act 2012*, and  
for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# Navigation (Consequential Amendments) Act 2012

No. 129, 2012

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**An Act to deal with consequential matters arising  
from the enactment of the *Navigation Act 2012*, and  
for related purposes**

[Assented to 13 September 2012]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Navigation (Consequential Amendments) Act 2012*.

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## 2 Commencement

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

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	13 September 2012
2. Schedules 1 and 2	At the same time as section 3 of the <i>Navigation Act 2012</i> commences.	1 July 2013
3. Schedule 3	A single day to be fixed by Proclamation. A Proclamation must not specify a day that occurs before the day the Maritime Labour Convention, 2006, done at Geneva on 23 February 2006, comes into force for Australia.  However, if the provision(s) do not commence within the period of 6 months beginning on the day the Convention comes into force for Australia, they commence on the day after the end of that period. If the provision(s) commence in this way, the Minister must announce by notice in the <i>Gazette</i> the day the provision(s) commenced. The notice is not a legislative instrument.	21 August 2013 ( <i>see</i> F2013L00599)

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Note: This table relates only to the provisions of this Act as originally enacted.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

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

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

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

## **Schedule 1—Repeal**

### ***Lighthouses Act 1911***

#### **1 The whole of the Act**

Repeal the Act.

### ***Navigation Act 1912***

#### **2 The whole of the Act**

Repeal the Act.



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## Schedule 2—Consequential amendments

### *Admiralty Act 1988*

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

Insert:

*coastal sea of Australia* means:

- (a) the territorial sea of Australia; and
- (b) the sea on the landward side of the territorial sea of Australia and not within the limits of a State or Territory.

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

Insert:

*off-shore industry fixed structure* means a structure (including a pipeline) that:

- (a) is fixed to the seabed and is not able to move or be moved as a structure from one place to another; and
- (b) is used or intended for use wholly or primarily in, or in any operations or activities associated with or incidental to, exploring or exploiting the mineral and other non-living resources of:
  - (i) the continental shelf of Australia; or
  - (ii) the seabed of the coastal sea of Australia or the subsoil of that seabed.

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

Insert:

*off-shore industry mobile unit* means:

- (a) a vessel, or a structure other than a vessel that is able to float or be floated and to move or be moved as a structure from one place to another, that is used or intended for use wholly or primarily in, or in any operations or activities associated with or incidental to, exploring or exploiting the mineral and other non-living resources of:
  - (i) the continental shelf of Australia; or

- (ii) the seabed of the coastal sea of Australia or the subsoil of that seabed;  
by drilling, or by obtaining substantial quantities of material from, the seabed or its subsoil, with equipment that is on or forms part of the vessel or structure; or
- (b) a barge or similar vessel fitted with living quarters for more than 12 persons and used or intended for use wholly or primarily in connection with the construction, maintenance or repair of off-shore industry fixed structures.

**4 Subsection 3(1) (paragraph (c) of the definition of *ship*)**

Omit “within the meaning of the *Navigation Act 1912*”.

**5 Parts VII, VIII and IX**

Repeal the Parts.

***Age Discrimination Act 2004***

**6 Schedule 2 (table item 8)**

Repeal the item, substitute:

- |   |   |   |
|---|---|---|
| 8 | Regulations and Marine Orders made under the <i>Navigation Act 2012</i> | regulations made for the purposes of paragraph 29(2)(d) of the <i>Navigation Act 2012</i> or a Marine Order made with respect to the matter in that paragraph |
|---|---|---|

***Australian Maritime Safety Authority Act 1990***

**7 Subsection 3(1) (definition of *the Safety Convention*)**

Omit “in the *Navigation Act 1912*”, substitute “*Safety Convention* has in the *Navigation Act 2012*”.

**8 Section 46 (subparagraph (c)(i) of the definition of *charge*)**

Omit “1912”, substitute “2012”.

**9 Section 46 (subparagraph (c)(v) of the definition of *charge*)**

Repeal the subparagraph.

**10 Paragraph 63(3)(a)**

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Repeal the paragraph.

***Australian Meat and Live-stock Industry Act 1997***

**11 Subsection 57AA(5) (definition of *Marine Orders*)**

Omit “425(1AA) of the *Navigation Act 1912*”, substitute “342(1) of the *Navigation Act 2012*”.

***Carriage of Goods by Sea Act 1991***

**12 Paragraph 19(a)**

Repeal the paragraph, substitute:

(a) Part 4 of Chapter 3 of the *Navigation Act 2012*; or

***Fair Work Act 2009***

**13 Section 12 (definition of *maritime employee*)**

Omit all the words after “master”, substitute “as defined in subsection 14(1) of the *Navigation Act 2012*, a seafarer as so defined or a pilot as so defined”.

***Federal Court of Australia Act 1976***

**14 Paragraph 23DJ(2)(a)**

Omit “section 147 of the *Navigation Act 1912*”, substitute “section 89 of the *Navigation Act 2012*”.

***Great Barrier Reef Marine Park Act 1975***

**15 Subsection 3(1) (definition of *port*)**

Omit “1912”, substitute “2012”.

***Legislative Instruments Act 2003***

**16 Subsection 54(2) (table items 27 and 28)**

Repeal the items.

### ***Marine Navigation Levy Act 1989***

#### **17 Section 3 (paragraph (a) of the definition of *tonnage*)**

Omit “(the English text of which is set out in Schedule 8 to the *Navigation Act 1912*)”.

#### **18 Section 3 (at the end of the definition of *tonnage*)**

Add:

Note: The text of the Convention is set out in Australian Treaty Series 1982 No. 15 ([1982] ATS 15). In 2012, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

### ***Marine Navigation Levy Collection Act 1989***

#### **19 Section 3 (definition of *marine navigational aid*)**

Repeal the definition.

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

Omit “a marine navigational aid under the control of the Commonwealth”, substitute “an AMSA aid to navigation (as defined in the *Navigation Act 2012*)”.

#### **21 Section 3 (definition of *ship*)**

Repeal the definition, substitute:

*ship* includes every description of vessel used in navigation not ordinarily propelled by oars only.

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

#### **22 Section 3 (paragraph (a) of the definition of *tonnage*)**

Omit “(the English text of which is set out in Schedule 8 to the *Navigation Act 1912*)”.

#### **23 Section 3 (at the end of the definition of *tonnage*)**

Add:

Note: The text of the Convention is set out in Australian Treaty Series 1982 No. 15 ([1982] ATS 15). In 2012, the text of a Convention in the

Australian Treaty Series was accessible through the Australian  
Treaties Library on the AustLII website (www.austlii.edu.au).

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

**24 Section 3 (definition of *marine navigational aid*)**

Repeal the definition.

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

Omit “a marine navigational aid under the control of the  
Commonwealth”, substitute “an AMSA aid to navigation (as defined in  
the *Navigation Act 2012*)”.

**26 Section 3 (definition of *ship*)**

Repeal the definition, substitute:

*ship* includes every description of vessel used in navigation not  
ordinarily propelled by oars only.

***Maritime Legislation Amendment Act 2007***

**27 Subitem 17(2) of Schedule 1 (subparagraph (b)(ii) of the  
cell at table item 1.1, column headed “Condition”)**

Omit “under the *Navigation Act 1912*”, substitute “for the purposes of  
the *Navigation Act 2012*”.

***Maritime Transport and Offshore Facilities Security Act  
2003***

**28 Section 10**

Insert:

*AMSA inspector* means an inspector appointed under the  
*Navigation Act 2012*.

**29 Section 10 (definition of *AMSA surveyor*)**

Repeal the definition.

**30 Section 10 (definition of *inter-State voyage*)**

Repeal the definition, substitute:

*inter-State voyage*, in relation to a ship, means a voyage (other than an overseas voyage) in the course of which the ship travels between:

- (a) a port in a State and a port in another State; or
- (b) a port in a State and a port in a Territory; or
- (c) a port in a Territory and a port in another Territory;

whether or not the ship travels between 2 or more ports in any one State or Territory in the course of the voyage.

**31 Section 10 (definition of *overseas voyage*)**

Repeal the definition, substitute:

*overseas voyage*, in relation to a ship, means a voyage in the course of which the ship travels between:

- (a) a port in Australia and a port outside Australia; or
- (b) a port in Australia and a place in the waters of the sea above the continental shelf of a country other than Australia; or
- (c) a port outside Australia and a place in the waters of the sea above the continental shelf of Australia; or
- (d) a place in the waters of the sea above the continental shelf of Australia and a place in the waters of the sea above the continental shelf of a country other than Australia; or
- (e) ports outside Australia; or
- (f) places beyond the continental shelf of Australia;

whether or not the ship travels between 2 or more ports in Australia in the course of the voyage.

**32 Section 146**

Omit “surveyors”, substitute “inspectors”.

**33 Paragraph 147(1)(d)**

Omit “surveyor”, substitute “inspector”.

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***Occupational Health and Safety (Maritime Industry) Act  
1993***

**34 Section 4 (definition of *articles of agreement*)**

Repeal the definition.

**35 Section 4 (paragraph (b) of the definition of *employee*)**

Repeal the paragraph, substitute:

- (b) a person who is on board a prescribed ship or prescribed unit and in relation to whom a work agreement is in force for the purposes of the *Navigation Act 2012*.

**36 Section 4 (definition of *off-shore industry mobile unit*)**

Repeal the definition, substitute:

*off-shore industry mobile unit* has the same meaning as it had in the *Navigation Act 1912* immediately before the repeal of that Act.

**37 Section 4 (definition of *prescribed ship*)**

Repeal the definition, substitute:

*prescribed ship* means a ship that:

- (a) is either:
  - (i) a ship to which Part II of the *Navigation Act 1912* would apply if that Act had not been repealed; or
  - (ii) a ship that is declared under subsection 4A(1) to be a prescribed ship; and
- (b) is not any of the following:
  - (i) a Government ship;
  - (ii) a ship or off-shore industry mobile unit to which the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* applies;
  - (iii) a ship that is declared under subsection 4A(2) not to be a prescribed ship.

**38 Section 4 (definition of *prescribed unit*)**

Repeal the definition, substitute:

*prescribed unit* means:

- (a) an off-shore industry mobile unit that is not self-propelled and is under tow; or
  - (b) a vessel or structure declared under subsection 4B(1) to be a prescribed unit;
- but does not include a vessel or structure declared under subsection 4B(2) not to be a prescribed unit.

### **39 At the end of Division 2 of Part 1**

Add:

#### **4A Declarations that a ship is or is not a prescribed ship**

- (1) The Minister may by legislative instrument declare a ship to be a prescribed ship.
- (2) The Minister may by legislative instrument declare a ship not to be a prescribed ship.

#### **4B Declarations that a vessel or structure is or is not a prescribed unit**

- (1) The Minister may by legislative instrument declare a vessel or structure to be a prescribed unit.
- (2) The Minister may by legislative instrument declare a vessel or structure not to be a prescribed unit.

### **40 Subsection 6(3)**

Repeal the subsection, substitute:

- (3) This Act also applies in relation to:
  - (a) a vessel that would be an off-shore industry vessel within the meaning of the *Navigation Act 1912* if that Act had not been repealed and either:
    - (i) was, immediately before the repeal of that Act, covered by a declaration in force under subsection 8A(2) of that Act; or
    - (ii) is covered by a declaration in force under subsection (3AB) of this section; or



- 
- (b) a ship that would be a trading ship within the meaning of the *Navigation Act 1912* if that Act had not been repealed and either:
- (i) was, immediately before the repeal of that Act, covered by a declaration in force under subsection 8AA(2) of that Act; or
  - (ii) is covered by a declaration in force under subsection (3AB) of this section.
- (3AA) However, this Act does not apply because of subsection (3) to a vessel or ship that is covered by a declaration in force under subsection (3AC).
- (3AB) The Authority may declare in writing that this Act applies to a vessel or ship that would be an off-shore industry vessel, or a trading ship, within the meaning of the *Navigation Act 1912* if that Act had not been repealed.
- (3AC) The Authority may declare in writing that this Act does not apply because of subsection (3) to a vessel or ship that would be an off-shore industry vessel, or a trading ship, within the meaning of the *Navigation Act 1912* if that Act had not been repealed.
- (3AD) A declaration made under subsection (3AB) or (3AC) is not a legislative instrument.

**41 Section 7 (heading)**

Repeal the heading, substitute:

**7 This Act not to affect the *Navigation Act 2012***

**42 Section 7**

Omit “1912”, substitute “2012”.

***Offshore Petroleum and Greenhouse Gas Storage Act 2006***

**43 Subsection 640(3) (paragraph (a) of the definition of *Commonwealth maritime legislation*)**

Omit “1912”, substitute “2012”.

## ***Protection of the Sea (Civil Liability) Act 1981***

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

Insert:

***regulated Australian vessel***: a ship is a ***regulated Australian vessel*** if it is a regulated Australian vessel for the purposes of the *Navigation Act 2012*.

### **45 Section 7**

Repeal the section, substitute:

### **7 Application of this Part**

- (1) This Part, the applied provisions of the Convention and regulations made for the purposes of section 12 do not apply in relation to a ship that is not a regulated Australian vessel, when the ship is in a particular area, so far as a law of a State or the Northern Territory gives effect to the applied provisions of the Convention in relation to that ship when it is in that area.
- (2) However, subsection (1) does not apply in relation to an incident that:
  - (a) is an incident Article IV of the Convention applies to; and
  - (b) involves both:
    - (i) one or more ships that are regulated Australian vessels; and
    - (ii) one or more ships that are not regulated Australian vessels.

### **46 At the end of paragraph 15(8)(a)**

Add “or”.

### **47 Paragraph 15(8)(b)**

Repeal the paragraph, substitute:

- (b) an inspector within the meaning of the *Navigation Act 2012*;  
or

### **48 Section 19A (paragraph (b) of the definition of *officer*)**

Repeal the paragraph, substitute:

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- 
- (b) an inspector within the meaning of the *Navigation Act 2012*;  
or

**49 Subsection 20(6)**

Repeal the subsection.

***Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Act 2008***

**50 Section 3 (paragraph (b) of the definition of *enforcement officer*)**

Repeal the paragraph, substitute:

- (b) an inspector within the meaning of the *Navigation Act 2012*;  
or

**51 Section 3**

Insert:

***regulated Australian vessel***: a ship is a ***regulated Australian vessel*** if it is a regulated Australian vessel for the purposes of the *Navigation Act 2012*.

**52 Section 10**

Repeal the section, substitute:

**10 Relationship with corresponding State or Territory laws**

- (1) This Part does not apply in relation to a ship that is not a regulated Australian vessel, when the ship is in a particular area, so far as a law of a State or the Northern Territory gives effect to Articles 3, 5 and 6, paragraph 10 of Article 7, and Article 8, of the Bunker Oil Convention in relation to that ship when it is in that area.
- (2) However, subsection (1) does not apply in relation to an incident that:
- (a) is an incident Article 5 of the Bunker Oil Convention applies to; and
  - (b) involves both:
    - (i) one or more ships that are regulated Australian vessels; and

- (ii) one or more ships that are not regulated Australian vessels.

***Protection of the Sea (Harmful Anti-fouling Systems) Act 2006***

**53 Paragraph 16(1)(b)**

Repeal the paragraph, substitute:

- (b) an inspector within the meaning of the *Navigation Act 2012*;

***Protection of the Sea (Powers of Intervention) Act 1981***

**54 Subsection 3(1) (paragraph (b) of the definition of *ship*)**

Omit “has the same meaning as in the *Navigation Act 1912*”, substitute “has the same meaning as *vessel* has in the *Navigation Act 2012*”.

***Protection of the Sea (Prevention of Pollution from Ships) Act 1983***

**55 Subsection 3(1) (paragraph (a) of the definition of *inspector*)**

Repeal the paragraph, substitute:

- (a) is an inspector within the meaning of the *Navigation Act 2012*; or

**56 Subsection 3(1)**

Insert:

*Marine Safety (Domestic Commercial Vessel) National Law* has the meaning given by section 17 of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*.

**57 Subsection 3(1)**

Insert:

*overseas voyage*: a ship’s voyage is an *overseas voyage* if in the course of the voyage the ship is present (except because of stress of weather, saving life at sea or other unavoidable cause) in waters

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outside the outer limits of the exclusive economic zone of Australia. However, the voyage is not an overseas voyage if:

- (a) the voyage commences from a port in Queensland and ends at the same port or another port in Queensland; and
- (b) as an incidental part of its voyage, the ship is present in waters that are outside the outer limits of the exclusive economic zone of Australia but within the Protected Zone; and
- (c) the ship is not otherwise present in waters that are outside the outer limits of the exclusive economic zone of Australia.

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

Insert:

***Protected Zone*** means the zone that is:

- (a) established under Article 10 of the Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters, done at Sydney on 18 December 1978, as amended and in force for Australia from time to time; and
- (b) the area bounded by the line described in Annex 9 to that Treaty.

Note: The text of the Treaty is set out in Australian Treaty Series 1985 No. 4 ([1985] ATS 4). In 2012, the text of a Treaty in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

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

Insert:

***regulated Australian vessel***: a ship is a ***regulated Australian vessel*** if it is a regulated Australian vessel for the purposes of the *Navigation Act 2012*.

### **60 Subsection 3(1) (definition of *Tonnage Measurement Convention*)**

Repeal the definition, substitute:

***Tonnage Measurement Convention*** means the Tonnage Convention within the meaning of the *Navigation Act 2012*.

**61 Subparagraphs 9(4)(a)(iii) and (b)(iii)**

Omit all the words after “requirements”, substitute “under regulations made for the purposes of section 130 of the *Navigation Act 2012*”.

**62 Subparagraph 9(4)(c)(iii)**

Omit all the words from and including “set” to and including “ensures”, substitute “under regulations made for the purposes of section 130 of the *Navigation Act 2012*, that ensures”.

**63 Subparagraphs 9(4)(d)(vii) and (e)(vi)**

Omit all the words after “required”, substitute “under regulations made for the purposes of section 130 of the *Navigation Act 2012*; and”.

**64 Paragraphs 21A(1)(a) and (2)(a)**

Omit “Division 12A of Part IV of the *Navigation Act 1912*”, substitute “regulations made for the purposes of section 130 of the *Navigation Act 2012*”.

**65 Paragraph 22A(1)(b)**

Omit “referred to in section 267V of the *Navigation Act 1912*”, substitute “under regulations made for the purposes of section 130 of the *Navigation Act 2012*”.

**66 Section 26EAA**

Repeal the section.

**67 Subsection 26FET(9)**

Repeal the subsection.

**68 Subsection 33(2)**

Repeal the subsection, substitute:

- (2) Regulations, and orders made under section 34, giving effect to Annex I, II, III, IV, V or VI to the Convention do not apply in relation to a ship that is not a regulated Australian vessel, when the ship is in a particular area, so far as:
  - (a) a provision of the Marine Safety (Domestic Commercial Vessel) National Law gives effect to that Annex in relation to that ship when it is in that area; or

- 
- (b) if paragraph (a) does not apply—a provision of a law of a State or the Northern Territory gives effect to that Annex in relation to that ship when it is in that area.

**69 Subsection 33(3)**

Omit “not to be a ship as defined by subsection (4)”, substitute “to be a regulated Australian vessel”.

**70 Subsections 33(4) and (5)**

Repeal the subsections.

***Protection of the Sea (Shipping Levy Collection) Act 1981***

**71 Subsection 4(1) (definition of *light dues*)**

Repeal the definition.

**72 Subsection 4(1) (definition of *overseas voyage*)**

Repeal the definition, substitute:

***overseas voyage***: a ship’s voyage is an ***overseas voyage*** if in the course of the voyage the ship is present (except because of stress of weather, saving life at sea or other unavoidable cause) in waters outside the outer limits of the exclusive economic zone of Australia. However, the voyage is not an overseas voyage if:

- (a) the voyage commences from a port in Queensland and ends at the same port or another port in Queensland; and
- (b) as an incidental part of its voyage, the ship is present in waters that are outside the outer limits of the exclusive economic zone of Australia but within the Protected Zone; and
- (c) the ship is not otherwise present in waters that are outside the outer limits of the exclusive economic zone of Australia.

**73 Subsection 4(1)**

Insert:

***Protected Zone*** means the zone that is:

- (a) established under Article 10 of the Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between

the two Countries, including the area known as Torres Strait, and Related Matters, done at Sydney on 18 December 1978, as amended and in force for Australia from time to time; and

- (b) the area bounded by the line described in Annex 9 to that Treaty.

Note: The text of the Treaty is set out in Australian Treaty Series 1985 No. 4 ([1985] ATS 4). In 2012, the text of a Treaty in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

#### **74 Subsection 4(1) (definition of *ship*)**

Repeal the definition, substitute:

*ship* means any kind of vessel used in navigation by water, however propelled or moved, and includes the following:

- (a) a barge, lighter or other floating craft;  
(b) an air-cushion vehicle, or other similar craft, used wholly or primarily in navigation by water.

#### **75 Subsection 4(1) (definition of *Tonnage Measurement Convention*)**

Repeal the definition, substitute:

*Tonnage Measurement Convention* means the International Convention on Tonnage Measurement of Ships, done at London on 23 June 1969, as amended and in force for Australia from time to time.

Note: The text of the Convention is set out in Australian Treaty Series 1982 No. 15 ([1982] ATS 15). In 2012, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

#### **76 Subsection 8(2)**

Repeal the subsection.

### ***Radiocommunications Act 1992***

#### **77 Paragraph 108(2)(f)**

Omit “subsection 269A(2) of the *Navigation Act 1912*”, substitute “section 187 of the *Navigation Act 2012*”.



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***Seafarers Rehabilitation and Compensation Act 1992*****78 Section 3 (definition of *Navigation Act*)**

Repeal the definition.

**79 Section 3 (definition of *prescribed ship*)**

Repeal the definition, substitute:

***prescribed ship*** means a ship that:

(a) is either:

- (i) a ship to which Part II of the *Navigation Act 1912* would apply if that Act had not been repealed; or
- (ii) a ship that is declared under subsection 3A(1) to be a prescribed ship; and

(b) is neither a Government ship nor a ship declared under subsection 3A(2) not to be a prescribed ship.

**80 Section 3 (definition of *seafarer*)**

Repeal the definition, substitute:

***seafarer*** means a seafarer, as defined in the *Navigation Act 2012*, who is employed in any capacity on a prescribed ship, on the business of the ship.

**81 After section 3**

Insert:

**3A Declarations that a ship is or is not a prescribed ship**

- (1) The Minister may by legislative instrument declare a ship to be a prescribed ship.
- (2) The Minister may by legislative instrument declare a ship not to be a prescribed ship.

**82 Subsection 19(1A)**

Repeal the subsection, substitute:

- (1A) This Act also applies to the employment of employees on any prescribed ship that:

- (a) would be an off-shore industry vessel within the meaning of the *Navigation Act 1912* if that Act had not been repealed and either:
    - (i) was, immediately before the repeal of that Act, covered by a declaration in force under subsection 8A(2) of that Act; or
    - (ii) is covered by a declaration in force under subsection (1C) of this section; or
  - (b) would be a trading ship within the meaning of the *Navigation Act 1912* if that Act had not been repealed and either:
    - (i) was, immediately before the repeal of that Act, covered by a declaration in force under subsection 8AA(2) of that Act; or
    - (ii) is covered by a declaration in force under subsection (1C) of this section.
- (1B) However, this Act does not apply because of subsection (1A) to a prescribed ship that is covered by a declaration in force under subsection (1D).
- (1C) The Authority may declare in writing that this Act applies to a prescribed ship that would be an off-shore industry vessel, or a trading ship, within the meaning of the *Navigation Act 1912* if that Act had not been repealed.
- (1D) The Authority may declare in writing that this Act does not apply because of subsection (1A) to a prescribed ship that would be an off-shore industry vessel, or a trading ship, within the meaning of the *Navigation Act 1912* if that Act had not been repealed.
- (1E) A declaration made under subsection (1C) or (1D) is not a legislative instrument.

**83 Subsection 31(3)**

Omit “proper return port”, substitute “home port (as defined in the *Navigation Act 2012*)”.

**84 Subsection 31(15)**

Repeal the subsection.

**85 Application of amendments of section 31 of the *Seafarers Rehabilitation and Compensation Act 1992***

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The amendments of section 31 of the *Seafarers Rehabilitation and Compensation Act 1992* made by this Schedule apply in relation to incapacitation that starts after the commencement of the amendments.

### ***Sea Installations Act 1987***

#### **86 Subsection 4(1) (paragraph (b) of the definition of *excluded wreck*)**

Repeal the paragraph, substitute:

- (b) a wreck described in paragraph 238(1)(b) of the *Navigation Act 2012*.

#### **87 Subsection 4(1) (paragraph (d) of the definition of *sea installation*)**

Omit “within the meaning of Part IV of the *Navigation Act 1912*”.

### ***Shipping Registration Act 1981***

#### **88 Subsection 3(1) (definition of *harbour*)**

Repeal the definition, substitute:

*harbour* means a natural or artificial harbour, and includes:

- (a) a navigable estuary, river, creek or channel; or
- (b) a haven, roadstead, dock, pier, jetty or offshore terminal; or
- (c) any other place in or at which ships can obtain shelter or load and unload goods or embark and disembark passengers.

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

Insert:

*issuing body* has the same meaning as in the *Navigation Act*.

#### **90 Subsection 3(1) (definition of *Navigation Act*)**

Omit “1912”, substitute “2012”.

#### **91 Subsection 3(1) (paragraph (d) of the definition of *seafarer*)**

Repeal the paragraph, substitute:

- (d) if the ship is a special purpose vessel within the meaning of the Navigation Act—special personnel, within the meaning of that Act, in relation to the vessel;

**92 Subsection 3(1) (definition of *surveyor*)**

Repeal the definition.

**93 Subsection 3(1)**

Insert:

*work agreement* has the same meaning as in the Navigation Act.

**94 At the end of section 13**

Add “but are subject to section 68 if they are unregistered ships”.

**95 Subsection 15D(1)**

Omit “a surveyor”, substitute “an employee or agent of an issuing body”.

**96 Subsection 15D(2)**

Omit “A surveyor”, substitute “An employee or agent of an issuing body”.

**97 Subsection 15D(3)**

Omit “a surveyor”, substitute “an employee or agent of an issuing body”.

**98 Paragraph 15F(2)(d)**

Omit “a surveyor”, substitute “an employee or agent of an issuing body”.

**99 Subsection 15F(4)**

Omit “a surveyor”, substitute “an employee or agent of an issuing body”.

**100 At the end of section 33A**

Add:

- (4) Sections 257, 258 and 259 of the Navigation Act, and definitions in Chapter 1 of that Act of terms relevant to any of those sections,

apply in relation to this section as if this section were included in that Act.

Note 1: Those sections of the Navigation Act deal with boarding ships and exercising monitoring powers to find out whether that Act is being, or has been, complied with.

Note 2: Part VB is also relevant to enforcement of this section.

**101 Subparagraph 33B(1)(b)(i)**

Omit “section 207 of”.

**102 Subparagraph 33B(1)(b)(ii)**

Omit “section 207A of”.

**103 Subsection 61AD(1)**

Omit “section 45A”, substitute “regulations made for the purposes of subsection 54(5)”.

**104 Subsection 61AG(1)**

Omit “Part II”, substitute “Part 4 or 5 of Chapter 2”.

**105 Subsection 61AH(2)**

Repeal the subsection, substitute:

- (2) So far as a work agreement applies to the seafarer while he or she is working on board the ship when it is used to engage in international trading, the work agreement is taken to include the terms and conditions of the collective agreement.

Note: It does not matter whether the work agreement was made before or after the collective agreement was made.

**106 Paragraph 61AI(1)(b)**

Omit “referred to in section 45A of the Navigation Act”.

**107 Subsection 61AI(2)**

Omit “referred to in section 45A of the Navigation Act”.

**108 Subsection 61AN(1)**

Omit “section 127”, substitute “section 68”.

**109 Subsection 61AO(1)**

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Omit “section 132”, substitute “regulations made for the purposes of section 59”.

**110 At the end of Part VA**

Add:

**Division 5—Enforcement of this Part**

**61AP Some provisions of the Navigation Act apply for enforcement of this Part**

Parts 1, 2, 3 and 4 of Chapter 8 of the Navigation Act, and definitions in Chapter 1 of that Act of terms relevant to any of those Parts, apply in relation to this Part as if:

- (a) this Part were included in that Act; and
- (b) a civil penalty provision (as defined in this Act) in this Part were, for the purposes of that Act, a civil penalty provision (as defined in that Act).

Note: Part VB is also relevant to enforcement of this Part.

***Transport Safety Investigation Act 2003***

**111 Paragraphs 18(3)(a) and 19(3)(a)**

Omit “1912”, substitute “2012”.

## **Schedule 3—Amendments relating to the Maritime Labour Convention**

### *Navigation Act 2012*

#### **1 At the end of paragraph 12(c)**

Add “or”.

#### **2 After paragraph 12(c)**

Insert:

(ca) the Maritime Labour Convention;

#### **3 Subsection 14(1)**

Insert:

*Maritime Labour Convention* means the Maritime Labour Convention, 2006, done at Geneva on 23 February 2006, as amended and in force for Australia from time to time.

#### **4 Section 24**

Omit “or the Prevention of Pollution Convention” substitute “, the Prevention of Pollution Convention or the Maritime Labour Convention”

#### **5 At the end of subsection 340(1)**

Add:

; (i) the Maritime Labour Convention.

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*[Minister's second reading speech made in—  
House of Representatives on 24 May 2012  
Senate on 20 June 2012]*

(97/12)

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28      *Navigation (Consequential Amendments) Act 2012*      *No. 129, 2012*