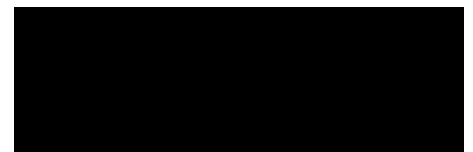




**MARITIME  
INDUSTRY  
AUSTRALIA**  
L I M I T E D

**Review of the Shipping  
Registration Act 1981**



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# 1. About MIAL

- 1.1. Maritime Industry Australia Ltd (MIAL) is the voice and advocate for the Australian maritime industry. MIAL is at the centre of industry transformation; coordinating and unifying the industry and providing a cohesive voice for change.
- 1.2. MIAL represents Australian companies which own or operate a diverse range of maritime assets from international and domestic trading ships; floating production storage and offloading units; cruise ships; offshore oil and gas support vessels; domestic towage and salvage tugs; scientific research vessels; dredges; workboats; construction and utility vessels and ferries. MIAL provides a full suite of maritime knowledge and expertise from local settings to global frameworks. This gives us a unique perspective.
- 1.3. We work with all levels of government, local and international stakeholders ensuring that the Australian maritime industry is heard. We provide leadership, advice and assistance to our members spanning topics that include workforce, environment, safety, operations, fiscal and industry structural policy.
- 1.4. MIAL's vision is for a prosperous Australia with strong sovereign maritime capability.

# 2. The Shipping Registration Act 1981

- 2.1. MIAL appreciates the opportunity to provide further context to the reviewers to assist with improving the operation of the *Shipping Registration Act 1981* (SRA). The most recent changes of any note to the SRA involved the inclusion of the Australian International Shipping Register (AISR) as an option for registration of Australian ships engaged predominantly in international trades.
- 2.2. Given the terms of reference for the review arose out of the report of the strategic fleet taskforce, a clear intended outcome from this review is to ensure that any real or perceived barriers to registration on with the Australian General Shipping Register (AGSR) or the AISR are as far as practical removed.
- 2.3. Attributing nationality to a vessel, particularly one capable of navigating international waters, is a cornerstone of the international shipping industry and is fundamental to the operation of the International regulatory body, the International Maritime Organization (IMO). Ensuring an international framework supported by universally agreed standards is a key to facilitating international trade in a truly international industry.
- 2.4. For convenience, MIAL will largely set out its response to correlate with the questions posed in the consultation paper.

# 3. Objectives of the Act

- 3.1. MIAL agrees that the inclusion of objectives as to the intent of the legislation would be a beneficial addition and aid to interpretation of the intent of the legislation in the event of uncertainty. MIAL

does however note that the SRA does contain an objective of the AISR, and these objectives ought be maintained and enhanced.<sup>1</sup>

- 3.2. The elements highlighted in the consultation document are largely supported. Additionally, given that the AISR registration is in its current form discretionary (AMSA can refuse to register a vessel on the AISR but cannot refuse to register a vessel on the AGSR if the registration criteria for that register is met) thought should be given to an objective which promotes the growth, increased use of both the AGSR and AISR.
- 3.3. From MIAL's perspective, the AISR or indeed a register which is more closely aligned to register rules that are facilitated in other developed maritime nations should be promoted on equal footing to the AGSR in the objectives of the Act. That the strategic fleet recommended for vessels to be registered on the AGSR should in no way be seen to diminish the strategic benefit of a well utilised AISR on Australia's national maritime capability.
- 3.4. To that end, proposed element 4 does seek "encourage the growth of the Australian commercial fleet". MIAL suggest however that a proposed objective should also seek to capture what is in nature a discretionary investment by an owner to register on the AISR when they may opt for another register (for example the Norwegian International Shipping Register<sup>2</sup> (NIS) where a large number of offshore vessels operating in Australia are registered and operated by Australian subsidiary operating companies, or an open registry).

## 4. Modernising the Vessel Registration System

- 4.1. Generally, MIAL supports measures which ensures the system of registration keeps pace with industry advancements as well as generally consistent with what happens elsewhere in the world. This will ensure that large ship owning entities will not be discouraged by unnecessarily burdensome administration. In an industry where countries who value the retention of maritime capability through a competitive registration framework seek to maximize vessel numbers, the administration required to achieve and maintain registration should not be a factor in deciding between ship registries. In other words, priority factors should be taxation, cost and quality issues, not the administrative burden of securing registration which should be optimized and efficient.
- 4.2. MIAL supports the capacity for an interim/temporary/provisional registration system including where vessels are under construction. MIAL understands this to be a feature of other vessel registration systems and makes logical sense. Assigning nationality to a vessel under construction will give the regulator jurisdiction to, at the earliest opportunity, ensure that the vessel meets the requirements of the registry and, presumably will assist in the timely issuing of various certificates on behalf of the flag state.

The consultation paper highlights the difficulty of ensuring the information in the register is up to date with ridged requirements for the closure of registrations.

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<sup>1</sup> See s15A of the Shipping Registration Act.

<sup>2</sup> Detail around the differentiation of the NIS can be found here. [act-of-12-june-1987-no.-48-relating-to-a-norwegian-international-ship-register-nis.pdf \(sdir.no\)](https://www.sdir.no/act-of-12-june-1987-no.-48-relating-to-a-norwegian-international-ship-register-nis.pdf)

4.3. Some of the specific problems that have been identified include (as extracted from the consultation paper):

4.3.1. the Act does not allow for temporary or provisional registration in a range of circumstances, including vessels under construction and vessels that are not undertaking a voyage to a foreign port;

4.3.2. the difficulty of ensuring the information in the register is accurate and up-to-date, with rigid requirements for closure of registrations; not having an expiry on registrations; and a compliance toolbox that has limited tools, can be overly burdensome, is inefficient, and has tools that are often ineffective.

## 5. A Single Vessel Register

In response to the issues identified the suggested amendments by the Reviewers have been considered in turn and are accompanied by a response from MIAL.

5.1. A single vessel register that caters to the complexity of the maritime industry by including different requirements for different types of vessels or vessel uses, for example, recreational, commercial, demise charter and internationally trading vessels; and include marking requirements that suit the size and type of vessel being registered.

Currently there are two Australian Registers, the AGSR and the AISR. Many nations that value the economic and strategic benefits of a strong maritime industry have two registers (and also in cases promote registries in their external territories (i.e. Gibraltar)) which allows for elements of national control and commercial decision making while ensuring vessels that are registered on a register other than the countries primary register can provide regulatory compliance that is similar and equivalent to that provided in the international industry. This includes open registers where a close connection with that nation is not a requirement or expectation.

If the suggestion is that the AISR should be absorbed into the AGSR, then MIAL would not support this proposal. While, as contended in the consultation document, the AISR has not met its objective, there are a number of reasons why this is the case. The opportunity for the AISR is to promote it as a high quality register that is capable (provided tax and regulation settings are adjusted) of being competitive with equivalent registers (i.e. NIS) in other countries who recognise the benefits of domestic capability and would encourage investment of businesses who have a significant logistics or shipping need in Australia. Absorbing this opportunity withing the AGSR would, in MIAL's view, make the opportunity harder to recognise and impact the opportunity that the AISR represents to stabilize and strengthen Australia's maritime capability, in terms of both strategic skills and operational capability.

The suggestion that a register needs to cater for different vessel types is unclear. There are regulatory frameworks in place that determine operational safety demands of a vessel registered on the AGSR and AISR, principally the *Navigation Act 2012* and the *National Law (Domestic Commercial Vessel) Act 2012* and associated marine orders. It seems to MIAL that trying to differentiate these requirements via the shipping registration process may result in overly complex

requirements to satisfy to secure registration that unnecessary duplication (and potentially conflict with) pre-existing regulatory frameworks. Without further more detailed explanations as to how it would be envisaged such requirements would work, MIAL would not support this approach.

In terms of smaller vessels not being required to be registered on the AGSR, MIAL does not hold a particular view on this.

#### 5.2. Providing a mechanism for the registration of vessels under construction.

MIAL supports this proposal to attribute vessel nationality early and allow the future operator to secure necessary certifications as soon as is reasonably possible. MIAL members view changes that eases the way for certification for vessels under construction as positive.

#### 5.3. Expansion of the circumstances where a temporary registration can be issued to provide more flexibility to account for future changes in the maritime landscape.

MIAL would be keen to see this proposal developed further to allow for broader temporary or interim registration to occur than is currently provided. As is well understood, attributing nationality to a vessel, particularly one which travels outside of territorial waters, is critical to the fundamental application of international law and attributing responsibility and jurisdiction under international conventions. MIAL members would not want to see the reputation of the Australian Flag compromised but recognises that all steps to ensure the mechanisms for registering should be as user friendly and flexible as possible to ensure its attractiveness for business who are adept at identifying suitable jurisdictions in which to base their shipping operations.

#### 5.4. Flexibility in the registration process allowing it to remain contemporary, for example, the introduction of a digital registration process in the future.

Certainly MIAL supports a frameworks which allows the shipping register to implement economy wide best practice processes. There is no reason why processes should not be capable of adopting the most contemporary available technology. To do so should be a matter of appropriate legislative drafting to allow the implementation of technology as it is developed.

#### 5.5. Simplification of the process for closure of a registration, for example, where an owner no longer wants the vessel in the register or where the vessel is no longer entitled to be Australian registered.

MIAL supports efforts to simplify any administrative process to the maximum extent possible. This to MIAL is a simpler, more user friendly and effective proposal that the later suggestion for fixed term periods of registration.

#### 5.6. That the requirement to provide supporting documentation such as builder's certificates, alteration certificates and statutory declarations be replaced with a single declaration.

To the extent that supporting documentation is required to complete registration (currently registration is compulsory provided certain criteria is met), such documentation should be

provided in a way that reduces the administrative burden on the applicant for registration while ensuring that the ship registry has all necessary information to complete registration whether that is on the AGSR or the AISR.

5.7. That the documents that can be accepted as proof of ownership are expanded beyond the requirement for a Bill of Sale, as currently defined under the Act.

MIAL supports an approach whereby registration on an Australian register may be satisfied by a variety of means that have the requisite integrity associated with them. Depending on the outcome of this review, it is likely that there will be some circumstances where registration is mandatory and other circumstances where it is optional but permissible on the satisfaction of identified criteria. There will be many different ways that such criteria should be satisfied with the focus being on eligibility rather than a specific piece of documentation which may or may not be easily accessible/deliverable by the registration applicant.

5.8. Retaining the requirement for home ports but removing the requirement for Gazettal of a home port and instead allowing selection from an existing (but wider and more flexible) list of recognised place names

MIAL considers on balance it is sensible and appropriate to retain the concept of a home port. This is a concept that is used in many guises in the Australian industry and may also assist in identifying a specific state jurisdiction for some ships (i.e OHS and workers compensation legislation) through demonstrating the state of connection. If this could be achieved through a selection of pre-recognised places rather than requiring a gazettal, MIAL would be comfortable with this approach.

5.9. A registration term to help keep the register current, with a simple but low-cost renewal process that provides owners with a prompt to confirm or update their information.

MIAL is not certain of the benefits of imposing a registration term and fears this could possibly lead to a scenario where a ship is unregistered through effluxion of time, meaning no nationality is attributed creating legal and jurisdictional uncertainty for that ship, the Australian register as the most recent flag and any crew who may be on the ship at any given time. Attributing nationality to a vessel provides the industry with an avenue of recourse in the event a ship (and/or its crew) are abandoned. While hopefully not an issue for operators who would look to register under the Australian flag, there have been instances where vessels (some potentially with dangerous cargo) have been abandoned and it is for the international industry through bodies like the IMO and various Port State Memorandums of Understanding (MOU) to exert influence to try to achieve a resolution. The capacity for efficiency in closing registration is in MIAL's view a more appropriate course.

Registration should not elapse through efflux of time, it should be actively closed. If the purpose of a time limited registration is to ensure the registry has contemporary information in relation to the vessels, there are other tools which the registration system could adopt to achieve this.

5.10. Adding a broader suite of compliance tools (such as, including administrative action rather than solely criminal sanctions) to more effectively and appropriately ensure vessel registration requirements are met.

Most maritime legislation in Australia has seen the adopting of a broader range of measures designed to achieve legislative objectives. Indeed changes to the *Navigation Act 2012* and *National Law (Domestic Commercial Vessels) Act 2012* saw the inclusion of additional powers by the regulator to achieve a compliance outcome. Provided such measures are in keeping with ensuring the achievement of the stated (or implied as is currently the case) objectives of the SRA, and not some wider and less transparent objective, then MIAL considers further work to develop a suite of compliance tools would be welcome. However MIAL would need a better understanding of what they would look like including their interaction with and impact on industry before providing definitive support.

## 6. How can we make Australian registration more attractive?

- 6.1. The Reviews have asked for feedback to enable them to have a better understanding of why numbers have declined and how the Australian register may be more attractive. While overly complex administrative requirements are less than ideal, there are fundamental structural imperatives outside of the registration process of great importance. Indeed the Strategic Fleet Taskforce Report has highlighted structural issues around taxation that have prevented the Australian register being considered in any way commercially competitive with other flags that offer a real zero or negligible tax rate for shipping together with dispensation from some of the requirements which contribute to a higher cost base (i.e a full national crew).
- 6.2. The decline of the registration in large ships that are either engaged in coastal trading, international shipping or the offshore oil and gas sector is because commercially the Australian ship register is not competitive and operationally, vessels are owned and commercially operated from entities specifically set up in jurisdictions which provide commercially favourable conditions.
- 6.3. The nature of international shipping in particular is such that ship owners consolidate and deploy their resources to jurisdictions which value and support operations being centred in that jurisdiction. The industry is such that vessels need not necessarily operate in the jurisdiction in which they are flagged, but that commercial and operational acumen is placed in strategically important areas.
- 6.4. Given Australia's natural geography and inherent resources/ advantages for both offshore oil and gas and as part of a transition to emerging energy, the opportunity exists to encourage shipowners and operators to deploy assets to Australia, potentially even for the life of that asset. That the operator may decide to flag their asset in another jurisdiction likely indicates other registers provide more commercial advantages that the Australian register does. As a nation with a critical reliance on maritime capability we have not yet established a framework which provides a level field in which operators have a choice to elect to flag in Australia or used the other registries which provide greater commercial incentives and operational imperatives that while consistent with international law and IMO conventions don't apply a layer or administrative and cost burden over the top.



## 7. The AGSR

The Reviewers, taking again as the starting point the recommendations of the Strategic Fleet Review Final Report, would like to understand why there has been a decline in the number of commercial vessels registered in the AGSR. They would also like to understand what would make Australian flagging more attractive to Australian owners and operators—this could include other incentives and improvements to current processes and arrangements.

- 7.1. First and foremost fixing the taxation arrangements will remove a large disincentive that the Australian register currently has that other registries whose vessels operate in Australia do not. Franking credits to ensure Australia's zero tax rate for shipping is, in actual fact, a zero rate for shipping is a key measure to be adopted. This would likely have to be processes through taxation legislation rather than reforms to SRA and its associated regulations. In MIAL's view these issues are so inherent to the attractiveness of registration that they must be considered holistically as reforms in isolation to registration processes fail to address commercial imperatives.
- 7.2. The concept of the AISR is inherently sound. However the lack of support shows that it is not sufficiently attractive to either encourage entrepreneurial Australian businesses to invest in it nor foreign investor operators who have a connection with Australian operations (through cargo or operational area) to chose this register over an open register who they have no genuine connection with other than that register providing a commercially beneficial environment. While an Australian register is likely to be considered high quality for the perspective of ensuring a social licence to operate and meeting standards of safety, ensuring protection of the marine environment, the same can be said of a number of registers, whether they are open registers or second/international registers, many of whom appear consistently on regional memorandum of understanding (MOU) "white lists" (meaning Port state inspections reveal vessels flagged in that country comply with international laws and expected standards) and who meet and exceed other requirements put in place by the market.
- 7.3. In this environment, where the Australian register is not necessarily more desirable reputationally than other registers, it needs to understand and as far as it reasonably practicable address commercial differentiators.
- 7.4. Australia as a nation is held in high regard at the IMO and it continues to have a large port state control presence. This situation would likely be further enhanced through the growth in its presences as a flag state, putting Australia in a position to improve international standards. Where Australia increases obligations on ships that fly its flags and no international obligation increases in parallel, the Australian registry becomes less attractive and harder to justify for shipping business who tend to have their commercial decision making centralised in European and Asian maritime hubs.
- 7.5. The AISR as a register could and should be reviewed and seen as an area of potential reform and growth. Currently it is an international register that is less beneficial with more stringent regulatory requirements than any open register and many international registers. The only "benefit" is so niche as to be almost worthless (a consideration in the granting of a Temporary Licence where an AISR ship is carrying its own cargo).

7.6. It is time for the Australian industry to recognise the dire state that it finds itself in, and that efforts that it will likely take to stabilise and grow the industry must be intensified. The AISR can, in combination with the strategic fleet, be used as a mechanism by which initial stabilisation and growth can be achieved and a platform in which future parts of the industry including those that rely heavily on a pipeline of strategically significant maritime skills can flourish.

## 8. Is the current registration system acting as a disincentive to registration. If so, in what way?

8.1. Whilst the registration system itself as a mechanism is unlikely to be a significant disincentive, the reality is it is outdated and cumbersome and could be improved to add administrative efficiency while still giving the Australian registry sufficient assurance that vessels registered on it maintain appropriate standards.

8.2. The context in which the Australian registry operates is that is not compulsory for vessels operating in Australia to be registered on it. For vessels complying with international requirements it is in reality easier and more commercially viable to register ships on other registers due to the tax and crewing dispensations readily available.

## 9. In what ways are foreign registers more attractive?

9.1. There are numerous examples of foreign registers all around the world being more attractive than not only the AGSR, but the AISR. This is because many foreign ship registers value benefits that the industry provides to the national economy together with the strategic value of having ocean trading assets and the businesses who control them domiciled in their jurisdiction.

9.2. Generally those nations that value their maritime industries protect, subsidise or incentivise their domestic industry. Australia has to date been unable or unwilling to create a regulatory framework that enables the Australian register to compete commercially with other registers. Issues including:

9.2.1. ease of administrative registration

9.2.2. regulatory compliance burdens that sit higher than the international standard

9.2.3. high wage and insurance costs

9.2.4. lack of proper taxation arrangements and limitations on the vessel types to which such arrangements apply are but some of the issues.

9.3. There is a distinct difference between traditional national registries and open registries, which is where a large portion of the world's tonnage is flagged.<sup>3</sup> While MIAL does not suggest, or understand there to be a will to try to model Australia's registry on an open register, these registries have in reality attracted a large proportion of the world's fleet, through a combination of low costs of registration (reportedly between 25%-50% lower than Western European and US costs), regulations which mirror international regulations (which while becoming more stringent are still usually lower or at least more easily satisfied than those which apply to ships registered in Australia), lower crew costs (due to the absence of national crewing requirements which allow crewing from developing nations on conditions which while considered low in nation with standards of living equivalent to those enjoyed in Australia, are very attractive to nationals of

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<sup>3</sup> [Largest Countries of Ship Registry, 2020 | The Geography of Transport Systems \(transportgeography.org\)](#)

labour supply countries such as the Philippines), and the provision of registry expertise and support services cultivated with the intention of promoting registration with that registry.

- 9.4. Many higher cost nations who provide a level of domestic overly to their national registers also provide and international/second register in the way that Australia does. MIAL's observation however is that these have been significantly more successful than the AISR. This is because the framework for these registries has been crafted to attract operators or beneficial owners who may have discretion over where to register their vessels.
- 9.5. An obvious example of Australia's failure to properly embrace the potential is demonstrated in the high number of vessels registered on the NIS that are operating (or have previously done so) in the Australian offshore oil and gas sector. By contrast, offshore vessels are not eligible for registration on the AISR. It appears demonstrative of a mindset to encourage investment in the NIS whereas the current AISR framework seems more intent on restricting access to it, the rationale for doing so unclear given the continuing decline of vessels registered on the AGSR.

## 10. What would make Australian flagging of a vessel more attractive?

- 10.1. MIAL's response above, as well as commentary throughout its responses, provide a high level outline as to why vessels do not register on the Australian register. Regulatory change in terms of competitive tax arrangements and registration framework and options that allow the Australian industry to operate from a lower cost base are critical. Stability of regulation is also critical. Operators will not invest tonnage or remove their existing tonnage from other registers which promote and support registration with them through active support, lower cost, and providing seamless regulatory oversight to a register where a change of government could see the abandonment of key policies designed to support the industry.
- 10.2. A whole of government strategy that has bi-partison support and is reflective of the economic contribution of the industry is essential. Previous studies which while currently outdated in terms of raw data still retain applicable principals show an enormous economic contribution of the maritime industry to the National Economy.<sup>4</sup> In Europe and other parts of the world the creation of hubs of commercial maritime activity are cornerstones of national economies. The UK Government in its vision for the maritime industry "Maritime 2050: navigating the future"<sup>5</sup> sets out a clear, articulate vision, together with financial commitments for training and other supports to allow the maritime industry in the UK to thrive. Sadly this industry has not enjoyed that level of support in Australia for decades. For those looking to invest in Australia and become part of the industry fabric, a level of political certainty is critical.

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<sup>4</sup> [The economic contribution of the Australia Maritime Industry: PWC, Feb 2015.](#)

<sup>5</sup> [Maritime 2050: navigating the future - GOV.UK \(www.gov.uk\)](#)

## 11. Indicate what have been the main impediments to registering a vessel in the AISR.

- 11.1. What would remove the barriers to registration and improve the attractiveness of an international register for Australian owners and operators to increase the size of the Australian fleet?
- 11.2. The measures established in 2012, including the advent of the AISR, were designed to assist Australian businesses involved in shipping by levelling the playing field between Australian and international businesses, thus allowing greater levels of Australian shipping participation across vessels which would benefit from association with a quality register at a lower cost base.
- 11.3. An international register is a feature of some of the most vibrant economic maritime clusters the world over and a key reason why international shipping costs are kept low. Examples of where an international register has been successful in maintaining or expanding the pool of national maritime assets include Norway, Denmark, Netherlands and the United Kingdom.
- 11.4. Currently the AISR provides the opportunity to have a vessel flagged in Australia and requires the two most senior positions on board to be filled by Australians, thus growing the strategic skills base the nation requires while allowing for the employment of the ratings from the international seafarer pool.
- 11.5. Having ships on the AISR and having Australians employed on those ships creates an Australian presence; a capability “on the water”; and a training ground for Australian Deck and Marine Engineer Officers who go on to fill the nation’s skills requirement.
- 11.6. The lack of interest in registration on the AISR can be broadly characterized in the following terms:
  - 11.6.1. Too many restrictions: the types of vessels and trading patterns to be eligible for registration are severely limited. A natural fit for vessels registered in this country is that they be able to operate in the domestic or regional markets.
  - 11.6.2. Not competitive enough: as MIAL has highlighted on numerous occasions, the shipping reforms in 2012 did not go far enough to level the playing field with international shipping. In particular, the taxation arrangements were not equivalent to international best practice tax regime through the “conditional” zero tax which, in effect was a tax deferral to when dividends are paid.
  - 11.6.3. No incentive to register on the AISR: in essence an AISR was put on the same footing (subject to consideration if the cargo owner was also the ship owner), in terms of its access to domestic cargo, as an international ship.
  - 11.6.4. The uncertainty of the application of Australian employment laws to non-Australian crew which in effect undermines the mixed crew model available on other registries.

11.7. Making the AISR a compelling option for investment for both Australian and foreign businesses will require amendments to the current requirements of the SRA, including:

11.7.1. Broadening of the types of vessels are eligible. If the aim of the register is to encourage registration on it that may otherwise be discretionary, the maximum possible range of vessels should be eligible for registration. The easy example is in the offshore oil and gas sector, where many vessels involved in that industry are foreign flagged, notwithstanding Australia's migration zone determines, in most instances, those vessels be Australian crewed. It seems that operators based in Australia may be encouraged to utilize the AISR if they were eligible to do so.

11.7.2. Remove the requirement for a vessel to be predominantly engaged in international trading. Quite simply, the Australian register has declined to the point of crisis. While nations with mature and demonstrated policies to support their domestic industry may be in a position to funnel some preferred operations to their national register as distinct from an international register, that luxury is not available to the Australian register which has for decades been in decline. If the AISR is a registration mechanism by which Australian maritime capability is developed, then it needs to be promoted and broadly accessible.

11.7.3. Requiring a minimum Australian crew component rather than designated roles, to provide flexibility regarding where the Australian component best fits.

11.7.4. Removing reference to the Single Bargaining Unit as the exclusive means of determining terms and conditions on board AISR vessels. A single bargaining unit deprives any crew of the freedom to determine if they need to be represented and by whom. Australian workers are not forced to join a union to negotiate the terms of their employment, it seems absurd that crew of an AISR ship would not enjoy similar freedoms of association. Some legislated minima in terms of wages and workplace accident insurance on the AISR already exists, although there may be a more effective and contemporary way to ensure internationally acceptable safety nets are maintained. These are consistent with the requirements of the Maritime Labour Convention. If a genuine concern related to the undercutting of international standards, then this could be set as a minima. In reality, most AISR vessels would likely negotiate a collective agreement to cover most positions on the vessel regardless of whether the owner was compelled to do so, however to require this as a precondition to registration is unnecessary provided the AISR maintains legislated minima which can be inspected in any Flag or Port State inspection.

11.7.5. Implementing improvements to the process of obtaining certificates of equivalence for seafarers. Currently mixed crewing arrangements are implemented through the issuing of certificates of equivalence by AMSA. Such a process should be akin to flag state endorsement that are currently provided to AMSA certificates held by Australians sailing on foreign vessels. The Standards of Training and Certification for Watchkeepers (STCW) Convention is the convention universally recognised as outlining competence required of seafarers to operate a vessel that plies the high seas. Seafarers with qualifications obtained under this Convention routinely operate vessels in and out of Australian ports, far more so than AMSA certified seafarers. Accordingly the endorsement process for seafarers should be as streamlined and simplified as possible. There are a number of exemplar administrations that are demonstrative

of a streamlined process.<sup>6</sup> It may be appropriate that the highest ranking officers (Master and Chief Engineer), in the event that their underlying certification is not AMSA issued be subject to a level of examination of their competence for the operational requirement of the vessel (such a requirement to undertake a course about Norwegian maritime legislation exists for non-Norwegian masters on Norwegian flagged vessels). In some cases certificates of recognition are not required for ratings occupation and less senior officers are approved automatically.<sup>7</sup>

11.7.6. Implementing improvements (difficulty and expense) to the survey requirements for re-flagging in Australia. Registered classifications societies are used by AMSA for a range of different functions and their expertise and networks should be used to the maximise efficiencies to deliver inspection and certification for re-flagging to the Australian register.

11.8. Whilst not specifically contained within the SRA, the eligibility for the beneficial tax regime in Australian is critical to any potential growth in registrations on the Australian registry and particularly the AISR. While MIAL recognises and supports the objectives of the AISR<sup>8</sup> the current settings with regard to specific settings around positions on board occupied by Australians and specific management functions occurring out of Australia in order to be eligible for the beneficial tax regime.<sup>9</sup> However these have failed to attract vessel registrations to the AISR. It is possible to provide greater flexibility as to which commercial elements of shipping are to be conducted out of Australia without losing the benefit of the development of strategic maritime skills specifically highlighted in the AISR objectives. Reforms that allow business to determine the structure of their business while retaining an element of Australian content is a far superior outcome to what currently occurs. Currently for eligibility for tax incentives, there are requirements set out in the regulations which state:

Section 6 of *Shipping Reform (Tax Incentive) Act 2012* states:

*Without limiting subsection (1), the regulations may require certain management activities to be conducted within Australia, including specified activities relating to any or all of the following:*

- (a) strategic management;*
- (b) technical management;*
- (c) commercial management;*
- (d) crew management.*

The *Shipping Reform (Tax Incentive) Regulations 2023* state:

### **7 Management requirements**

*(1) This section specifies requirements (**management requirements**) for the purposes of section 6 of the Act in relation to an entity for a vessel of the entity.*

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<sup>6</sup> [Apply for endorsement - Norwegian Maritime Authority \(sdir.no\)](https://sdir.no)

<sup>7</sup> [Certificate of recognition | dma.dk](https://dma.dk)

<sup>8</sup> As contained in s15A of the *Shipping Registration Act 1981*

<sup>9</sup> As contained in r7 of the [Income Tax \(Shipping Reform\) Regulations 2023](#)

*(2) The entity must conduct in Australia:*

*(a) crew management, in accordance with the requirements of subsection (3); and*

*(b) at least one of the following:*

*(i) strategic management, in accordance with the requirements of subsection (4);*

*(ii) commercial management, in accordance with the requirements of subsection (5);*

*(iii) technical management, in accordance with the requirements of subsection (6).*

11.9. Whilst beyond the remit of the SRA, the measures which are a barrier to greater registration on either the AGSR and the AISR are worthy of consideration. The Regulations should allow businesses to select which of the management functions ought occur out of Australia giving them the flexibility to work within their existing business set up. MIAL can see no reason that the Regulations should not determine a proportion of management function for be conducted in Australia, while allowing individual businesses to select which functions.

11.10. A decision to register a vessel under the AISR is entirely market driven and while it is expected that with the improved policy settings suggested above the register would grow, it will take time as market confidence in policy certainty builds. The modest improvements to the current regime would in MIAL's view leave the AISR much better place for success and therefore meeting the objectives of delivering greater Australian maritime capability that is competitive with the international market place.

## 12. Are the current exemptions to the Act appropriate?

12.1. MIAL notes that some vessels are exempt from registration including fishing and recreational vessels and without traversing the reasons why such vessels were initially exempt when the SRA was initially introduced, MIAL does not have a particular view as to whether these exemptions are appropriate.

12.2. MIAL suggests that should the exemptions be removed or substantially narrowed then the number of vessels registered would likely increase, but it is unclear as to why this is necessary and desirable. Small recreational vessels and fishing vessels operate in a way that is substantially different from commercial vessels. Would it be proposed that they be subject to different registration requirements. Would a kayak need to change registration when sold at a garage sale? While this may be an extreme example, MIAL suggests the reviewers reflect on the benefit that greater visibility would provide against the likely significantly increased resources required to maintain the register and the levels of compliance likely to be achieved if the change were to occur.