



Australian Government

**Department of Infrastructure, Transport,
Regional Development, Communications and the Arts**

Independent Review of the Shipping Registration Act 1981

October 2024



Introduction

The Government agreed to review the *Shipping Registration Act 1981* (the Act) in its response to Recommendations 4 and 5 of the [Strategic Fleet Taskforce Final Report](#). On 20 August 2024, the Australian Government appointed Ms Lynelle Briggs and Professor Nicholas Gaskell to co-chair the Review of the Act.

The scope of the Review includes the current registration processes for maritime vessels and whether exemplary registration processes from other jurisdictions can be applied in an Australian context. The Review will also address other known areas where the legislation can be improved, particularly around the introduction of electronic registration processes and systems. A written report will be provided to the Minister for Infrastructure, Transport, Regional Development and Local Government at the conclusion of the Review.

The full Terms of Reference including the scope for the Review of the Shipping Registration Act are at <https://www.infrastructure.gov.au/sites/default/files/documents/terms-of-reference-sra-review.pdf>

This Review is being undertaken in parallel with the Review of the *Coastal Trading (Revitalising Australian Shipping) Act 2012*, and by the same co-chairs.

Strategic Fleet

The Australian Government committed to establishing a strategic fleet of up to 12 Australian-flagged and crewed vessels. They will be privately owned and operate on a commercial basis, but could be requisitioned by the Government in times of national crisis such as natural disaster or conflict. The Government appointed the Strategic Fleet Taskforce to guide the establishment of the fleet. The Taskforce provided their final report and recommendations to Government in June 2023.

The Reviewers take as their starting point the findings and recommendations of the Strategic Fleet Taskforce Final Report.

Have your say

The Reviewers are seeking submissions from interested stakeholders to inform the Review. Your input is valuable to ensure the recommendations to the Australian Government are relevant and meet stakeholders' needs.

The Review of the Act and consultation process is distinct from the Review of the *Coastal Trading (Revitalising Australian Shipping) Act 2012*. However, we encourage stakeholders interested in providing a submission/response to this paper to consider the consultation process being undertaken on the Review of the *Coastal Trading (Revitalising Australian Shipping) Act* and the consultation paper which can be found on the Department of Infrastructure, Transport, Regional Development, Communications and the Arts Have Your Say website at: www.infrastructure.gov.au/coastal-trading-review.

Next steps

Further consultation will be conducted throughout the Review. Consultation will involve a number of processes including meeting with a range of key stakeholders to discuss their interests and concerns.

1. Background to vessel registration

1.1 Why vessels are registered

Registration is important to domestic and international shipping as a mechanism to grant nationality to a vessel. It is a requirement under Article 91 of the United Nations Convention on the Law of the Sea. Registering a vessel also provides a record of ownership for that vessel. The record of ownership is recognised domestically and internationally.

The Act establishes the requirements for the registration of Australian-owned vessels and maintenance of Australian shipping registers. Australian-owned vessels can be granted nationality through registration in the Australian General Shipping Register (AGSR) or the Australian International Shipping Register (AISR).

This Review is not considering registration of naval vessels, which are subject to different requirements and registered in the Defence Vessel Register.

1.2 Why is this Review important?

The way vessels are registered in Australia today is much the same as it was when the Australian shipping register was introduced in 1982. Since then, shipping has modernised, business practices have changed, the world is largely digitised, and the regime for registration has not kept pace.

The Review of the Act is an opportunity to revisit the objectives of registration, consider the gaps in the current system and look at options to improve how we go about registering vessels in the future.

Inadequacies in the current regime for vessel registration have been identified over time through previous reviews of the Act and by a range of stakeholders. This Review provides an opportunity to identify areas for improvement or change, and make recommendations to ensure that we have a registration system that is fit for purpose and serves us into the future.

1.3 Context

The Shipping Registration Act sets out the eligibility and requirements for registration of vessels in the AISR and AGSR. These include requirements associated with ownership and management of the vessel, as well as collection of information about the vessel.

An Australian owned ship (vessel) is:

- a ship owned by an Australian national or nationals¹;
- a ship owned by three or more people as joint owners where the majority of owners are Australian nationals;
- a ship owned in common where more than half the shares are owned by an Australian national or Australian nationals.

Vessels cannot be registered under trade names, trusts or partnerships.

¹ The Act includes Australian corporations in the definition of “national”

The Australian Maritime Safety Authority (AMSA) is responsible for overseeing registration of vessels in the AISR and AGSR.

An Australian owned vessel must, unless exempt under the Act, be registered in the AGSR if it is one of the following:

- a commercial vessel, 24 metres or over in length, capable of navigating the high seas; or
- any vessel travelling overseas.

The AISR is an optional register for Australian companies that own or operate maritime vessels. Eligible vessels are international trading ships that are at least 24 metres in tonnage length and:

- are wholly owned by Australian residents, or by Australian residents and Australian nationals;
- are operated solely by Australian residents, Australian nationals, or both; or
- are on demise charter to Australian based operators.

Vessels in the AISR can operate with mixed crews. The AISR permits mixed crewing arrangements with non-Australian nationals, with the exception of at least two senior positions—master and chief engineer—that are to be filled by Australians.

If a vessel is required to be registered and is not registered in the AISR, it must be registered in the AGSR.

2. Objects of the Act

Australian legislation often has an objects clause outlining the underlying purposes of the legislation. Objects clauses have been described as a ‘modern day variant on the use of a preamble to indicate the intended purpose of legislation’.² Objects clauses are used to give readers a general understanding of the purpose of legislation, or to set out general aims or principles that help readers to interpret the detailed provisions of legislation.³ Often the Objects clause is used to resolve uncertainty and ambiguity in decision making under legislation.

The Shipping Registration Act does not have an object clause and this makes its overarching purpose unclear.

The independent Reviewers believe the Act should have an Object. The following elements may inform the development of the Object:

1. To provide owners of Australian vessels with an internationally recognised record of ownership and grant of Australian nationality to their vessels.
2. To provide an accurate record of all Australian registered vessels.
3. To facilitate participation in domestic and international trade for Australian vessel owners and operators.
4. To be competitive with other ship registries and encourage growth of the Australian commercial fleet.

² Australian Law Reform Commission, *For Your Information: Australian Privacy Law and Practice* (ALRC Report 108)

³ Office of the Parliamentary Council, *OPC's drafting services: a guide for clients*, [s13ag320.v55.pdf \(opc.gov.au\)](#).

Consultation questions

1. Feedback is invited on whether you agree the elements of an object stated above are aligned with your expectations.
2. If you are not in agreement, state what an alternative might be.

3. Modernising the vessel registration system

Australia's vessel registration system has not kept pace with advancements in shipping and business practices, and the global shift to digitalisation. The Act is dated in its drafting, unclear on its objectives and overly prescriptive. The result is a registration process that is overly complex and difficult to navigate.

Some of the specific problems that have been identified include:

- the Act also 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; and
- 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.

The Reviewers believe that significant improvements could be achieved through changes to the system of registration, and are considering the following:

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.
2. Providing a mechanism for the registration of vessels under construction.
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.
4. Flexibility in the registration process allowing it to remain contemporary, for example, the introduction of a digital registration process in the future.
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.
6. That the requirement to provide supporting documentation such as builder's certificates, alteration certificates and statutory declarations be replaced with a single declaration.
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.
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.
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.

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.

Consultation questions

3. Indicate your agreement or otherwise to the proposed changes listed above.
4. If you are not in agreement, please state the reasons why.
5. Provide any suggestions as to alternative ways or enhancements to the proposed changes that will improve the operation of vessel registration.
6. Do you have any additional comments or suggestions for other improvements to the registration system?

4. How can we make Australian registration more attractive?

Over the past 20 years, Australia has seen a steady decline in the number of commercial vessels registered in the Australian shipping registers. The Reviewers understand that there are issues with the outdated administrative requirements but would like to have a better understanding of other reasons for why Australian registration is not attractive to Australian owners.

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.

Consultation questions

7. Indicate if you think the current registration system is acting as a disincentive to registration. If so, in what way?
8. In what ways are foreign registers more attractive?
9. What would make Australian flagging of a vessel more attractive?

5. Australian International Shipping Register

The AISR was introduced in 2012. The intention was that it be a competitive alternative to other foreign ship registries and to encourage participation of Australian vessels in international trade. For this reason, it was targeted at Australian owned and/or operated internationally trading vessels. Since it was established, the AISR has remained largely unused and has had only three vessels registered in it. As such, it has not met its objectives.

The Reviewers would like to understand why registration in the AISR has not been viable, noting the tax incentives and mixed crewing arrangements available, and what the main impediments to the use of this register have been.

Consultation questions

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

6. Are the current exemptions to the Act appropriate?

Some vessel types, providing they are not undertaking an international voyage, are exempt from registration requirements under the Act. The Reviewers are considering whether these exemptions, based on type and use of vessel, are still appropriate.

Under the Act, all Australian owned or operated vessels 24 metres and over in tonnage length and capable of navigating the high seas must be registered, unless they are Government, fishing or recreational vessels. However, all vessels, including Government, fishing and recreational vessels, regardless of size, sailing to or from a foreign port, must be registered. This requirement exists because these vessels require Australian nationality to travel to and from international ports.

While the Reviewers note that these vessels may be required to be registered under state or territory legislation, removing the current exemptions under the Act for Government, fishing or recreational vessels could ensure consistency of requirements for commercial vessels and allow greater visibility of the Australian fleet.

Consultation questions

12. Indicate if you think it is appropriate to remove of any of the current exemptions, as noted above.
13. If you are not in agreement, please state the reasons why.

7. Other relevant matters

The Reviewers invite any additional insights or comments stakeholders would like to provide to inform the Review.

Consultation questions

14. Are there additional insights or comments you would like to offer as part of this review process?