SHIPPING REGISTRATION BILL 1981

Date Introduced: 26 February 1981
House: House of Representatives
Presented by: Hon. R.J. Hunt, M.P., Minister for Transport

Short Digest of Bill

Purpose

To repeal the Merchant Shipping Act 1894 (U.K.) insofar as it is part of the law of Australia, and to establish an Australian system of shipping registration.

Background

The registration of Australian ships is still governed by the Merchant Shipping Act 1894 (U.K.). Originally this Act applied throughout the British Empire, on the basis that a ship was a British ship if it was owned by a British subject or corporation anywhere in the Empire.

Under the Statute of Westminster 1931 the various Commonwealth countries were free to repeal the Merchant Shipping Act 1894 and establish their own shipping registers. An Agreement negotiated at the same time, however, the British Commonwealth Merchant Shipping Agreement 1931, provided that the laws of each country would adopt a common status of "British ship" and closely follow the 1894 Act. The 1931 Agreement was rescinded by all member countries by mutual agreement in 1978.

Australia is the only major independent member of the Commonwealth (other than Britain) to continue to operate under the Merchant Shipping Act system. The Commonwealth countries have recently agreed on common principles for the future registration of their own shipping registers. Britain is expected to legislate to confine the Merchant Shipping Act system to Britain and to ships owned 50% by residents of Britain.

Main Provisions

The proposed Act is essentially the same as the Shipping Registration Bill 1980. The amendments made have been to further clarify a number of minor points to do with administration of the Act and penalties involved with
offences defined by the Act.

Part I, Preliminary (Clauses 1-11)

The proposed Act will commence on proclamation (clause 1).

Part I of the Merchant Shipping Act 1894, in its present operation as part of the law of Australia, is repealed (clause 4).

Clause 8 defines an Australian owned ship as one that is wholly owned by Australian nationals, or generally where the majority of the owners of a ship are Australian.

Part II, Registration of Ships (Clauses 12-33)

Clause 12 is a key clause. It provides that every Australian owned ship, other than those exempt under Clause 13, shall be registered. The exemptions are Government ships, fishing vessels, pleasure craft and small craft (clause 13). The Bill does not apply to defence force ships (clause 7). However, some ships for which registration is not compulsory may be registered on a voluntary basis (clause 14); these include those exempted under clause 13, and small craft owned or operated by Australian residents.

Clauses 19-25 relate to the grant and custody of Registration Certificates, the issue of new and provisional certificates and temporary passes.

Clause 26 provides that registered ships shall be marked in accordance with the regulations. Clauses 27-28 deal with naming of ships.

Clause 29 is another key clause in the Bill. It provides that the following ships shall be Australian ships and have Australian nationality -

(a) registered ships;
(b) unregistered Australian owned ships referred to in Clause 13;
(c) unregistered ships (other than those required to be registered) wholly owned or operated by residents of Australia.

It is an offence for a person to use the national flag on board a ship or assume Australian nationality in relation to a ship, if the ship is not an Australian ship (clause 32). It is also an offence to conceal the nationality of an Australian ship or cause it to appear not to be an Australian ship (clause 33).
Clause 30 declares the national colours and appropriate flags for all Australian ships when in and out of Australian waters (these are the red ensign or the national flag or both) and the continued use in some cases of the British blue ensign.

Part III Transfers, Transmissions and Mortgages (Clauses 34-37)

Subject to clause 37, a registered ship shall be transferred by a bill of sale and the transfer registered (clause 36). A ship may be lawfully transferred other than by a bill of sale but the transfer shall be registered (clause 37). An Australian ship may be mortgaged but the mortgage shall be registered (clauses 38-47).

Part IV, Administration (Clauses 48-56)

A Registrar of Ships is established, under the Permanent Head of the Department. Deputy Registrars are also provided for (clause 48). The function of the Registrar is to maintain the Register and issue all certificates under the Act (clause 49). The Registrar and Deputy Registrars shall be appointed by the Minister and be members of the Australian Public Service (clause 50). The Minister and the Registrar may delegate their powers (clauses 52-53).

There shall be an Australian Shipping Registration Office and branch offices (clause 54). The office shall have a seal (clause 55).

Part V, The Register of Ships (Clauses 57-61)

There shall be an Australian Register of Ships, open to the public (clause 57). Obsolete or incorrect entries in the Register may be corrected and aggrieved parties may apply to a Court for rectification of the Register (clauses 58-59).

Part VI, Miscellaneous (Clauses 62-83)

A ship required to be registered that is not registered shall have none of the benefits or protection of a registered ship but is still liable to fees, fines, forfeiture and punishment for offences committed by persons on board (clause 63).

The operator, charterer, agent or managing owner of a ship shall be registered (clause 64). Alterations to ships shall be registered (clause 65). Ships lost or ceasing to be entitled to be registered shall be notified to
the Registrar (clause 66). The Minister may investigate the ownership of a registered ship (clause 67). An unregistered ship which is entitled to be registered shall not depart from an Australian port to a place outside Australia, nor shall such a ship leave a foreign port (clauses 68-69).

It is an offence to make a false statement in relation to the Act (clause 73). Failure to comply with other provisions dealing with registration, identification and so on is also an offence. A person dissatisfied by a decision under specified provisions of the Act by the Minister or the Registrar may request them to reconsider the decision. If still dissatisfied an application for review of the decision may be made to the Administrative Appeals Tribunal (clause 78). The Governor-General may make regulations under the Act (clause 83).


Ships registered in Australia under the previous law are deemed to be registered under the Act, and matters already entered in any register are deemed to be entered in the Register under the Act (clause 86). Any orders or papers issued under the previous law are deemed to continue in force under the Act and applications under the previous law are to be treated as applications under the Act (clauses 88-89).

For further information, if required, contact:

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