

# Chapter 2

## Overview of the bill

### Schedules

2.1 Schedule 1 contains the main amendments proposed by the bill. These amendments relate to the Coastal Trading Act.

2.2 Schedule 2 contains amendments to the *Occupational Health and Safety (Maritime Industry) Act 1993* and the *Seafarers Rehabilitation and Compensation Act 1992*.

### Proposed changes to licensing system

2.3 The bill proposes a number of changes to the current licensing system for coastal trading. The following section provides a brief overview of the current system.

#### *Three-tier system*

2.4 The Coastal Trading Act established a three-tier licensing system for coastal trading, General Licence (GL), Temporary Licence (TL) and Emergency Licence (EL).<sup>1</sup> Owners of foreign vessels holding licences issued under Part VI of the *Navigation Act 1912* (as at 30 June 2012) were provided for through a fourth category of licence – a Transitional General Licence (TGL).<sup>2</sup>

#### *General Licence*

2.5 A GL is available to vessels on the Australian General Shipping Register (AGSR) and provides unrestricted access to engage in coastal trading in Australian waters for a period of five years. GL holders are able to compete for trade on the Australian coast and the licence is "intended to maximise the use of vessels registered in the Australian General Shipping Register in coastal trading".<sup>3</sup>

2.6 The Department of Infrastructure and Regional Development (DIRD) noted that under a GL, each seafarer working on the vessel must be an Australian citizen, permanent resident, or hold a visa with appropriate work rights. The vessel must also continue to be registered on the Australian General Shipping Register to hold a GL.<sup>4</sup>

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1 Department of Infrastructure and Regional Development, *Submission 2*, p. 2.

2 Transitional General Licences were continued in force by the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012*. It is noted that applications for this licence type are no longer accepted.

3 Department of Infrastructure and Regional Development, *Submission 2*, p. 2.

4 Department of Infrastructure and Regional Development, *Submission 2*, p. 2.

### ***Transitional General Licence***

2.7 A TGL is available to eligible vessels that held a licence under the previous arrangements in place under Part VI of the *Navigation Act 1912*, and provides the vessel it is issued to the same rights as a GL. A TGL is intended to assist ships operating under the former arrangements to transition to Australian registration. It is issued for a period of five years and may be renewed once.<sup>5</sup>

### ***Temporary Licence***

2.8 A TL may be granted to a shipper, or the owner, charterer, master or agent of a vessel registered on the Australian International Shipping Register (AISR) or under a law of a foreign country. It provides restricted access to engage in specific Australian coastal trading voyages over a 12 month period.

2.9 Applications for a new TL must include a minimum of five voyages. For cruise shipping, this means five 'port to port' journeys, rather than five stops on a single ticket. The same requirement applies to cargo, and means that a licence is required for each 'port to port' cargo movement conducted by a vessel.<sup>6</sup>

2.10 TLs can be varied after they are issued, to add additional voyages or amend the details of voyages that have already been authorised (for example to vary departure or arrival dates, the number of passengers, or the amount of cargo to be carried). DIRD provides all GL holders with information about all applications and allows them to provide notice that a vessel with a GL is available to conduct any of the notified voyages. This triggers a mandatory consultation process between the shipper and the GL holder that may be arbitrated by DIRD.<sup>7</sup>

2.11 DIRD noted that this is a competitive process, and voyages are not automatically granted to Australian operators. A decision is made by the Minister (or the Minister's delegate) and a challenge does not guarantee that the TL will be rejected.

2.12 It is rare that applications are contested – and no licences have been contested in the past 22 months. However, given the fact that a licence may not be approved, the current process reduces productivity and increases uncertainty, particularly because the applicant is not able to load cargo in the mandated 'consultation' period.<sup>8</sup>

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5 Department of Infrastructure and Regional Development, *Submission 2*, p. 2.

6 Department of Infrastructure and Regional Development, *Submission 2*, p. 3.

7 Department of Infrastructure and Regional Development, *Submission 2*, p. 3.

8 Department of Infrastructure and Regional Development, *Submission 2*, p. 3.

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## ***Emergency Licence***

2.13 An EL may be granted to a shipper, or the owner, charterer, master or agent of a vessel registered in the AGSR, the AISR or under the law of a foreign country to respond to 'significant national emergencies' (as outlined in the Regulations).

2.14 An EL is issued for a period of no more than 30 days and allows an applicant to respond to a specific emergency. An EL holder must provide details of each aspect of the intended voyages – including the reasons why the voyages cannot be undertaken by a vessel authorised to engage in coastal trading under a GL. DIRD noted that no EL has been applied for since the commencement of the Coastal Trading Act.<sup>9</sup>

## **Provisions of the bill – Schedule 1**

2.15 The following section of the report provides an overview of the more significant amendments contained in Schedule 1 of the bill, as detailed in the EM.<sup>10</sup>

### ***Definition - 'acceptable tolerance limits'***

2.16 Item 5 amends the definition of 'acceptable tolerance limits' in relation to cargo or passengers authorised to be carried on a vessel under a TL. The amended definition of acceptable tolerance limits is not more than 200 per cent more, or 100 per cent less, than the volume of cargo or number of passengers authorised to be carried under a TL. The tolerance limits have been increased from not more than 20 per cent more or less of the authorised cargo or number of passengers.

2.17 The EM provides the following scenario as an example of how these tolerance limits will operate in practice:

A temporary licence is approved for the agent of vessel A to transport four shipping containers from Newcastle to Melbourne for a customer. If the order is changed, and the customer wants to send five shipping containers instead of four, the previous tolerance limits meant that the agent of vessel A would have to apply for a variation to their temporary licence to allow the carriage of the additional container. The amended tolerance limits in Item 5 would negate the need for an application to vary the temporary licence for vessel A's voyage, because vessel A could take up to 12 containers without needing to apply for a variation.<sup>11</sup>

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9 Department of Infrastructure and Regional Development, *Submission 2*, p. 3.

10 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, pp 1-16.

11 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 4.

2.18 Item 6 amends the definition of 'acceptable tolerance limits' in relation to loading dates from 5 days to 30 days before or after the loading date authorised on a TL.

2.19 The EM notes that this will allow TL holders to load cargo, passengers or liquid fuel from an offshore facility up to 30 days before or after the original loading date approved on the TL.

***Definition - 'docked for service'***

2.20 Item 7 inserts a definition of 'docked for service' into Subsection 6(1). Under the bill, a vessel is docked for service if it is:

- in dry-dock; or
- docked for maintenance, repairs, cleaning or painting and not engaged in a voyage.

2.21 The EM notes that the definition of 'docked for service' is required as TL holders will be able to dock their vessel for service and be afforded the statutory presumption against importation by Section 112 of the Coastal Trading Act. The purpose of this clause is to encourage vessel owners and operators to utilise dry-docking services in Australia (by removing the significant financial disincentive that customs importation represents).<sup>12</sup>

***Definitions - 'emergency licence' and 'energy security situation'***

2.22 The category of ELs is being removed from the Coastal Trading Act under Item 8, which repeals the definition of 'emergency licence'. It is noted that TLs will be available in emergency situations (as per Item 21).

2.23 Item 9 repeals the definition of 'energy security situation' detailed at Subsection 6(1A) (see Item 16). The EM notes that TL variations will be available in emergency situations (see Item 21).

***Definition – for the 'IMO number' of a vessel***

2.24 Item 10 inserts a definition for the 'IMO number' of a vessel. IMO numbers are the numbers assigned to a vessel by the International Maritime Organization (IMO). A definition for IMO numbers is required at Subsection 6(1) as all TL holders will be required to include a vessel's IMO number in TL applications where known (see Item 23), in voyage notifications (see Item 47) and in all voyage reports (see Item 50).

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12 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 5.

2.25 The EM notes that the current Coastal Trading Act does not require the provision of a vessel's IMO number for a TL application, voyage notification, or voyage report. It is also noted that the requirement to provide an IMO number adds no burden to industry and it is considered a key identifier that could be useful to the DIRD and other Commonwealth agencies undertaking compliance activities.<sup>13</sup>

***Definitions – 'offshore facility', 'offshore industry vessel' and 'port'***

2.26 Item 12 inserts a definition for an 'offshore facility'. The definition given is the same as that in the *Maritime Transport and Offshore Facilities Security Act 2003*. The inclusion of this definition is required because of Item 18, which will extend the coverage of the Coastal Trading Act to allow ships transporting liquid fuel products from offshore facilities to the mainland to be covered by coastal trading licences.

2.27 Item 13 amends the definition of an 'offshore industry vessel' to ensure that offshore industry vessels engaged in coastal trading as defined at paragraph 7(1)(d) (see Item 18) are covered by the Coastal Trading Act. All other offshore industry vessels will remain excluded from coverage by Section 10.

2.28 Item 14 amends the definition of a port to include a reference to Subsection 6(3), which clarifies how the Coastal Trading Act determines if a port is in a state or territory (see Item 17).

***Definition – 'voyage'***

2.29 Item 15 amends the definition of a voyage to reflect the changes made to Subsection 7(1) by Item 18. Item 15 also extends the definition of a voyage to include voyages that commence from and conclude at the same port.

2.30 The EM notes that the purpose of this amendment is to open the coastal trading regime to chartered recreational vessels that typically embark and disembark at the same port, and wish to apply to the Minister for a declaration under Section 12 of the Coastal Trading Act.<sup>14</sup>

2.31 A declaration under Section 12 of the Coastal Trading Act allows vessels engaged in intrastate voyages to be covered by coastal trading licences, thereby being afforded protection from importation by Section 112 of the Act.

***Definition – 'energy security situation'***

2.32 Item 16 repeals Subsection 6(1A), which detailed the definition of an 'energy security situation', which allowed an application to vary existing voyages in the

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13 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 5.

14 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 6.

specific circumstances of such a situation. Subsection 6(1A) prescribed that an energy security situation exists if a vessel is carrying liquid fuel on a voyage authorised by a TL, and there are special circumstances (as prescribed by the Regulations) that require the vessel to unload liquid fuel at a port not authorised by the licence. The Regulations prescribe very specific circumstances for an energy security situation, including shortfalls in supply from overseas, shutdowns of refineries, failure of energy supply to a refinery, unsuitable fuel, or a severe weather event.

2.33 Subsection 6(1A) and its interaction with the regulations has been found to be overly restrictive, and not sufficiently flexible to allow for the loading and unloading of fuel in circumstances not prescribed by the regulations but which may nonetheless threaten energy security. Because Subsection 6(1A) only applies to vessels that are already engaged on a voyage authorised by a TL, and are already carrying liquid fuel, it precludes the rapid authorisation of a vessel to engage in coastal trading in genuine energy security situations.

2.34 The EM notes that, along with the repeal of Subsection 6(1A), the Minister will be provided with the flexibility to respond quickly to energy security situations through the mechanism of granting a TL in an emergency situation (see Item 21).

#### ***Clarity in determining whether a port is in a state or territory***

2.35 Item 17 inserts a subsection to provide clarity on how the Coastal Trading Act determines if a port is in a state or territory. Subsection 6(3) is intended to provide clarity that ports such as roadsteads,<sup>15</sup> which are often connected with a state or territory but not strictly within its waters, can be considered to be 'in' a state or territory for the purposes of the Coastal Trading Act. A roadstead that has a demonstrable (although not necessarily physical) connection with a port within the waters of a state or territory can be considered to be 'in a state or territory' for the purposes of the Coastal Trading Act, even if the roadstead is not wholly within the limits of a state or territory.<sup>16</sup>

#### ***Definition – 'coastal trading'***

2.36 Item 18 broadens the definition of 'coastal trading' to include vessels that transport liquid fuel product between offshore facilities and ports in states or territories where some or all of the fuel product is unloaded.

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15 A roadstead is a body of water sheltered from rip currents, spring tides or ocean swell where ships can lie with reasonable safety at anchor. A roadstead can be an area of safe anchorage for ships waiting to enter a port (or to form a convoy); if sufficiently sheltered and convenient it can be used for transshipment (or transfer to and from shore by lighters) of goods and stores or troops.

16 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 7.

2.37 The EM notes that this will extend the reach of the Coastal Trading Act to include vessels undertaking voyages between Floating Product, Storage and Offtake (FPSO) units and Floating Storage Units (FSUs) and Australian ports. The lack of coverage of coastal trading licences for these movements has resulted in shipments of crude oil being sent to international refineries instead of Australian refineries for processing. The inclusion of certain voyages between FPSOs and FSUs (as defined by Item 18) is intended to support the use of Australian refineries where possible.<sup>17</sup>

### ***Vessels undertaking intrastate voyages***

2.38 Item 19 (Section 12(2)) provides that the Minister can declare in writing that the Coastal Trading Act applies to vessels undertaking intrastate voyages. Item 19 amends paragraph 12(2)(a) to specify that the Minister can make a declaration in relation to intrastate voyages where a vessel takes on board liquid fuel product from an offshore facility in a state or territory. This will allow the granting of declarations under Section 12 where a vessel takes on board liquid fuel from on offshore facility in a state or territory.

### ***Voyage report process***

2.39 Subsection 27(1) specifies the information that GL holders must include in voyage reports. The amendment in Item 20 requires that the details of voyages to transport liquid fuel from offshore facilities to ports in Australian states and territories be included in the information that GL holders provide.

### ***Persons able to apply for a temporary licence to be used in an emergency situation***

2.40 Item 21 amends Subsection 28(1) to include an additional subsection 28(1A), which permits certain persons such as owners, charterers, masters or agents of vessels, or shippers, to apply for a TL to be used in an emergency situation, as prescribed by the Regulations.

2.41 The EM notes that this item is required because the category of ELs has been removed from the Coastal Trading Act (see Item 54) and this new provision will allow for the expedited consideration of applications in certain emergency circumstances. It is intended that this amendment will make it easier for the Minister to respond promptly to emergency situations, including where the emergency relates to energy security. This licence will be valid for 65 days to allow sufficient time to respond to the relevant emergency.<sup>18</sup>

2.42 Item 31 specifies the required timeframes for Ministerial decisions on the granting of TLs in emergency situations.

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17 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 7.

18 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 7.

### ***Five-voyage minimum requirement for a temporary licence***

2.43 Item 22 amends the number of voyages required to be specified on a TL application. Under the current regime, a TL cannot be obtained for a single voyage, and applicants must know in advance the details of at least five voyages. This makes the system impractical for some operators, for example international shipping companies, which might otherwise conduct coastal trade at the end of an international voyage to Australia before departing.

2.44 Item 22 allows an application for a TL to consist of a single voyage. The EM notes that in their feedback during the consultation process, shipping stakeholders were of the view that this change would improve flexibility for their operations.<sup>19</sup>

### ***Temporary licences***

2.45 Items 23, 24 and 25 relate to specific information that, under the new legislation will be required to be included in TL applications.

2.46 The following amendments also relate to the TL process:

#### *Timeframes in which the Minister must decide applications for temporary licences*

2.47 Item 31 amends the timeframes in which the Minister must decide applications for TLs to 10 business days for applications made under Subsection 28(1), and 3 business days for applications made under Subsection 28 (1A). It is intended that reducing the required time for the Minister to decide an application for a TL under Subsection 28(1) will provide additional certainty to the shipping industry and reduce the costs associated with time delays.<sup>20</sup>

2.48 The EM notes that the insertion of the 3 day decision time for applications made under Subsection 28(1A) means that TL applications made for a vessel to engage in coastal trading in an emergency situation must be decided within the same timeframe that was previously specified for ELs under Subsection 66(4). Due to the proposed removal of the EL category at Item 54 – and the insertion of Subsection 28(1A) at Item 21 – it is necessary to specify a decision time for TL applications in emergency situations. This will allow a response to an emergency situation to occur in a timely manner, while still allowing a mandated consultation process to take place if required.<sup>21</sup>

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19 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 8.

20 The current timeframes are: 15 business days for applications made under Subsection 28(1) and 7 business days for applications made under Subsection 28 (1A).

21 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, pp 9-10.

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*The length of time for which a temporary licence is valid*

2.49 Subsection 35(1) details the length of time for which a TL is valid. Item 32 amends the subsection to insert a validity period for TLs granted in emergency situations. Under the amended Coastal Trading Act, TLs granted for non-emergency situations will be valid for 12 months, while TLs granted for emergency situations will be valid for 65 days.

*The addition of new voyages and the variation of existing voyages*

2.50 The amendments in Items 38 and 45 consolidate the addition of new voyages and the variation of existing voyages into one application to vary a TL, instead of having these two types of variations within separate subdivisions. Item 38 also clarifies that it is the 'holder of a temporary licence' that can apply to vary the licence, and not just any person. The EM notes that this amendment has been included to streamline the processes of the Coastal Trading Act.

*Responsibility of the Minister to consult*

2.51 Subsection 45(1) sets out the responsibility of the Minister to consult with certain persons in relation to applications to vary a TL. Item 41 amends Subsection 45(1) to remove references to energy security situation variations, which are being removed from the Coastal Trading Act (as per Items 9 and 16). It also amends Subsection 45(1) so that the Minister must only engage in consultation when an application to vary a TL relates to the carriage of people, cargo or liquid fuel from offshore facilities determined under the proposed Subsection 30(2).

2.52 The EM notes that, in practice, this will mean that if a TL holder wishes to vary their licence, and their cargo has not been determined by the Minister under Subsection 30(2), there will be no requirement for the Minister to consult on variations to the voyage. It is also noted that this is consistent with the intention of Item 29, which is to improve efficiency by limiting consultation to sectors where there is a genuine opportunity for Australian vessels to compete with foreign-flagged vessels.<sup>22</sup>

*Information temporary licence holders must include in voyage notifications*

2.53 Section 61 specifies the information that TL holders must include in voyage notifications. Item 49 exempts TL holders from the voyage notification requirements listed in Subsection 61(1) when that information has already been provided as part of a TL application or an application to vary a TL.

2.54 The EM notes that, in practice, this means that if a TL holder has already provided complete and accurate information regarding voyages, and intends to

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22 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 9.

undertake those voyages as specified in the TL, there is no need to provide a notification to the Minister.

2.55 The EM also notes that currently, voyage notifications must be lodged two business days before the loading date for a voyage, even when the details have not changed from the authorised voyage on the licence. In many cases, licence applications provide all of the information required by Section 61 and notification in those instances is considered redundant. It is proposed that changing this requirement (to only apply to voyages if there are changes to details that were previously provided in the application) will reduce the regulatory impost on industry.<sup>23</sup>

*Information temporary licence holders are required to include in voyage reports*

2.56 TL holders are required to provide reports on voyages to the Minister in writing within 10 business days of a voyage being undertaken. Section 62 specifies the information TL holders are required to include in voyage reports. Item 50 amends Subsection 62(1) to include a vessel's IMO number in the list of information required to be included in voyage reports.

*Use of temporary licence*

2.57 Subsection 63(1) stipulates what elements the Minister should have regard to when considering whether a TL is being used in a way that circumvents the object of the Coastal Trading Act. Item 52 enables the Minister to have regard to the offshore facilities at which liquid fuel is taken on board.

*People from whom the Minister may require additional information*

2.58 The EM notes that, on occasion, the Minister may require additional information in order to decide an application for a TL, whether that application relates to a new TL, or a TL that has been varied to include a new voyage or voyages.

2.59 Subsection 77(1) specifies the people from whom the Minister may request additional information. Item 58 relocates a reference from Subsection 77(1) to Section 51, which relates to variation of a licence to include new matters. Item 58 replaces the reference to Section 51 with a reference to Section 43 to reflect the consolidation of TL variations under Items 38 and 45.

2.60 It is noted that the changes under Item 58 are required so that the Minister may continue to request further information from specified persons when an application has been submitted to vary a TL.<sup>24</sup>

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23 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 15.

24 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 14.

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*Right of review*

2.61 Subsection 107(5) provides the right of review through the Administrative Appeals Tribunal for holders of GLs who have filed a notice in response to an application to vary a TL made under Section 51. The right of review is afforded for decisions by the Minister to grant the application under Section 55 (paragraph 107(5)(a)) and to have taken to have granted the application under Section 56 (paragraph 107(5)(b)).

2.62 The EM notes that Item 63 repeals this Subsection 107(5) and replaces it with a provision that references Sections 43 and 47 to reflect the consolidation of TL variations under Items 38 and 45, and the repeal of Subdivision D of Part 4. It is also noted that the changes under Item 63 are required so that the right of review continues to apply to the persons listed in Subsection 107(5) in regards to applications to vary TLs. A reference to Section 56 is no longer required as there is no longer an automatic grant provision for variation applications.<sup>25</sup>

*Ministerial power – consultation*

2.63 Item 29 inserts Subsection 30(2), which gives the Minister the power to determine the kinds of cargo or passengers for which consultation with the persons listed in paragraph 30(1)(b) of the amended Coastal Trading Act must occur. This is intended to promote efficiency in the coastal trading regime and remove the need for unnecessary consultation where there are no relevant general licensed ships. The Determination is a Legislative Instrument.

2.64 The EM notes that there are currently no Australian ships operating across a number of sectors in Australian waters, such as oil or gas tankers. It is therefore inefficient and unnecessary to consult all GL holders for every TL application that is received. This amendment allows the Minister to designate cargo and passenger types where consultation must take place, thereby limiting consultation to those sectors where Australian vessels can provide competition to foreign flagged vessels. The EM argues that this reduces the impost and uncertainty caused to industry due to unnecessary consultation and allows for the more efficient consideration of licence applications.<sup>26</sup>

*New tolerance limits*

2.65 Item 30 amends Subsection 34(3)(c) of the Coastal Trading Act to reflect the new tolerance limits (see Item 6). This provision will allow the Minister to have regard to whether passengers or cargo can be carried on the expected loading dates or

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25 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 15.

26 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 9.

within 30 days before or after the relevant date when considering an application which has received one or more notices in response.

### ***Information to be published on the Department's website***

2.66 Subsection 35(2) provides that if the Minister grants an application for a TL, the Minister must cause certain information regarding the licence to be published on DIRD's website.

2.67 The EM notes that the amendment in Item 33 will ensure that the details of voyages to transport liquid fuel from offshore facilities must be included in the information that is published.<sup>27</sup>

### ***Amendment relating to 'docked for service'***

2.68 Item 64 removes a reference to an EL as the category of EL is being removed from the Coastal Trading Act (see Item 54).

2.69 The EM notes that the amendment relating to 'docked for service' will allow for the statutory presumption against importation provided by Section 112 to extend to vessels that engage in dry-docking. This means that a vessel that is authorised to conduct a voyage under a TL will be able to dry-dock in Australia.<sup>28</sup>

### ***Application of amendments***

2.70 Subitem 1 ensures that all the conditions for licences under the amended Coastal Trading Act will apply to any TL regardless of whether they were granted before, on, or after the commencement of the amended regime. Licences as varied are included in the operation of this section.

2.71 Subitem 2 ensures that this Schedule applies in relation to applications for a licence pending immediately before commencement of the new regime. As per Subitem 1, if these applications are granted, then the new law will apply to these licences.

2.72 Subitem 3 provides that the requirements for licence variation applications under the new law will apply in relation to any application made to vary a licence, regardless of when the licence was approved.

2.73 Subitem 4 provides that applications to vary a licence made under Sections 43 or 51 of the Coastal Trading Act that were pending immediately before the

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27 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 10.

28 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 15.

commencement of the new law will be taken to be applications to vary a licence under Section 43 of the amended Coastal Trading Act.

2.74 The EM notes that, in practice, this means that applications for 'new matters' or 'authorised matters', which are pending at the time the amended Coastal Trading Act commences, will be treated as applications to vary a licence under Section 43 of the amended Coastal Trading Act.<sup>29</sup>

2.75 Subitem 5 provides that applications for ELs under Section 64 of the Coastal Trading Act that are pending at the time of the commencement of the amended Coastal Trading Act will be taken to be applications for a TL made under Subsection 28(1A) of the new law.

### ***Transitional provision***

2.76 Item 66 provides a transitional arrangement to allow an EL that is in force immediately before the commencement of this Act to continue in force despite the repeal of Division 3 of Part 4.

## **Provisions of the bill – Schedule 2**

### ***Amendments to the Occupational Health and Safety (Maritime Industry) Act 1993***

2.77 Item 1 removes a reference to an EL in the *Occupational Health and Safety (Maritime Industry) Act 1993* as the category of EL is being removed from the Coastal Trading Act (see Item 54 of Schedule 1).

2.78 Item 2 ensures that the paragraph has punctuation consistent with the repeal of paragraph 6(3A)(c) in the *Occupational Health and Safety (Maritime Industry) Act 1993*.

2.79 Item 3 removes a reference to an EL in the *Occupational Health and Safety (Maritime Industry) Act 1993* as the category of EL is being removed from the Coastal Trading Act (see Item 54 of Schedule 1).

### ***Amendments to the Seafarers Rehabilitation and Compensation Act 1992***

2.80 Item 4 removes a reference to an EL in the *Seafarers Rehabilitation and Compensation Act 1992* as the category of EL is being removed from the Coastal Trading Act (see Item 54 of Schedule 1).

2.81 Item 5 removes a reference to an EL in the *Seafarers Rehabilitation and Compensation Act 1992* as the category of EL is being removed from the Coastal Trading Act (see Item 54 of Schedule 1).

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29 Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, pp 15-16.

