28 May 2014

Shipping Business Unit
Maritime and Shipping Branch
Department of Infrastructure and Regional Development
GPO Box 594
Canberra ACT 2601

By email to: 2014CoastalShippingOptions@infrastructure.gov.au

Dear Sir/Madam

Submission by Seafarers Safety, Rehabilitation and Compensation Authority

I refer to the Australian Government’s Options Paper: Approaches to regulating coastal shipping in Australia and the invitation to provide submissions in response. This letter is the submission by the Seafarers Safety, Rehabilitation and Compensation Authority (“Authority”).


The Authority wishes to point out that changes to the Coastal Trading (Revitalising Australian Shipping) Act 2012 (“Coastal Trading Act”) of the type raised in the Options Paper will potentially have an impact on the coverage of the Seafarers Act and the OHS(MI) Act. For reasons that appear below, however, the impact may be limited.

The introduction of the Coastal Trading Act on 1 July 2012 was accompanied by certain changes to the Seafarers Act and the OHS(MI) Act. Relevant changes were also made to the Navigation Act 1912 (“Navigation Act”).

The situation before 1 July 2012 was that section 19(1) & (1A) of the Seafarers Act and section 6(1) of the OHS(MI) Act – which were the key provisions governing the application of those Acts – relied on the concept of a “prescribed ship”, which was defined to mean a ship to which Part II of the Navigation Act applied (with certain inclusions and exclusions). Section 10 of the Navigation Act provided that Part II of that Act applied, amongst other things, to a ship engaged in the “coasting trade” (as defined in the Navigation Act).

The situation from 1 July 2012 was as follows:

- The definition of “prescribed ship” in the Seafarers Act and the OHS(MI) Act remained unchanged. However, section 10(b) of the Navigation Act was amended to refer to a ship used to engage in “coastal trading” under a “general licence” (as those terms were defined in the Coastal Trading Act).
- Section 19(1AA) of the Seafarers Act and section 6(3A) of the OHS(MI) Act were newly inserted. These provisions did not rely on the concept of a
“prescribed ship”. Rather, they relied directly on Coastal Trading Act concepts by making the Seafarers Act and the OHS(MI) Act applicable to certain ships engaged in “coastal trading” under a “general licence”, “temporary licence” or “emergency licence” (as those terms are variously defined in the Coastal Trading Act).

Please note that, when the Navigation Act was repealed with effect from 1 July 2013, the definitions of “prescribed ship” in the Seafarers Act and the OHS(MI) Act were relevantly amended to refer to a ship to which Part II of the Navigation Act would apply if that Act had not been repealed. This preserved the situation set out above.

The Authority maintains data on ship that are within the scope of the Seafarers Act, as reported by employers, but this does not identify under what provision the ship is covered. Based on the available data, it is not possible to say how many ships were covered before 1 July 2012 because they were engaged in the “coasting trade”, nor is it possible to say how many ships were covered from 1 July 2012 because they were engaged in “coastal trading”. What can be said is that there was no significant increase or decrease in ships around 1 July 2012.

In the circumstances, no specific statement can be made about the impact of the legislative changes that came into effect on 1 July 2012 – either the change to section 10 of the Navigation Act or the insertion of section 19(1AA) of the Seafarers Act and section 6(3A) of the OHS(MI) Act – although there does not seem to have been any significant change. Likewise, no specific statement can be made about the number of ships that would be affected if all regulation of coastal shipping were removed and there were no concept of “coastal trading”, “coasting trade”, etc. for the Seafarers Act and OHS(MI) Act to refer to.

Against this background, the Authority’s submission is simply a request that the impact of any changes to the Coastal Trading Act on the coverage of the Seafarers Act and OHS(MI) Act be fully considered in the course of the processes that result from the Options Paper.

Please feel free to contact me if the Authority can provide any further information or assistance in relation to coastal shipping issues.

Yours sincerely

David Sterrett
Chairperson