



Australian Government

Department of Infrastructure and Regional Development

Coastal Shipping Reforms

Discussion Paper

March 2017



© Commonwealth of Australia 2017
ISBN 978-1-925531-25-1
March 2017 / INFRASTRUCTURE 3138

Ownership of intellectual property rights in this publication

Unless otherwise noted, copyright (and any other intellectual property rights, if any) in this publication is owned by the Commonwealth of Australia (referred to below as the Commonwealth).

Disclaimer

The material contained in this publication is made available on the understanding that the Commonwealth is not providing professional advice, and that users exercise their own skill and care with respect to its use, and seek independent advice if necessary.

The Commonwealth makes no representations or warranties as to the contents or accuracy of the information contained in this publication. To the extent permitted by law, the Commonwealth disclaims liability to any person or organisation in respect of anything done, or omitted to be done, in reliance upon information contained in this publication.

Creative Commons licence

With the exception of (a) the Coat of Arms; (b) the Department of Infrastructure and Regional Development's photos and graphics; and (c) [OTHER], copyright in this publication is licensed under a Creative Commons Attribution 3.0 Australia Licence.

Creative Commons Attribution 3.0 Australia Licence is a standard form licence agreement that allows you to copy, communicate and adapt this publication provided that you attribute the work to the Commonwealth and abide by the other licence terms.

A summary of the licence terms is available from <http://creativecommons.org/licenses/by/3.0/au/deed.en>.

The full licence terms are available from <http://creativecommons.org/licenses/by/3.0/au/legalcode>.

This publication should be attributed in the following way: ©Commonwealth of Australia [year]

Use of the Coat of Arms

The Department of the Prime Minister and Cabinet sets the terms under which the Coat of Arms is used. Please refer to the Department's Commonwealth Coat of Arms and Government Branding web page <http://www.dpmc.gov.au/pmc/about-pmc/core-priorities/guidelines-and-procedures-other-agencies> and in particular, the Commonwealth Coat of Arms - Information and Guidelines publication.

Contact us

This publication is available in hard copy or PDF format. All other rights are reserved, including in relation to any Departmental logos or trade marks which may exist. For enquiries regarding the licence and any use of this publication, please contact:

Director - Publishing and Communications
Communications Branch
Department of Infrastructure and Regional Development
GPO Box 594
Canberra ACT 2601
Australia

Email: publishing@infrastructure.gov.au
Website: www.infrastructure.gov.au

Minister's Foreword

The Australian Government is committed to coastal shipping reform to ensure safe, secure and efficient coastal shipping as part of Australia's national transport system. Coastal shipping has the potential to play an increasingly significant role in our freight transport network. As freight demands on our national transport network grow, coastal shipping can take long-distance cargo off our highways and railway lines. Currently, fifteen per cent of Australia's domestic freight is moved by ship but with Australia's extensive coastline and broad network of ports, there is scope for this figure to increase.

However, it is clear that the current regulatory system does not fully support that potential being realised. Given Australia's export oriented economy, with its focus on minerals and energy, a viable shipping industry, including a sustainable coastal trading sector, is critical to the ongoing prosperity of the nation.



In my consultations over the past year, stakeholders have told me that the current regulation of coastal shipping creates a range of administrative issues for shipping companies and Australian businesses reliant on coastal shipping, resulting in substantial regulatory burden.

Another key message from my recent stakeholder consultations is that regulatory certainty, ideally bipartisan, is essential for investment to be made in the industry and for users of coastal shipping services to plan and invest on the basis that they will rely on coastal shipping services to transport domestic freight.

This discussion paper takes a pragmatic approach to coastal shipping reform by exploring proposed amendments to the existing regulatory regime. It also proposes ways in which the Government can partner with industry in order to meet Australia's maritime training needs.

I invite you, as stakeholders in the coastal shipping sector, to comment on our proposals. We will continue to work with industry to develop a sensible and sustainable approach to coastal shipping regulation going forward.

The Hon. Darren Chester MP
Minister for Infrastructure and Transport
March 2017

Why reform current regulation of coastal trading?

Cabotage regulation reserves domestic trading opportunities for a nation's own registered carriers. In Australia, cabotage is regulated through the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (Coastal Trading Act).

The Coastal Trading Act was introduced in 2012 and replaced Part VI of the *Navigation Act 1912*. An overview of the current coastal trading regulatory regime is provided at **Appendix A**.

Operators and agents of both Australian and foreign flagged ships have raised a number of concerns about the operation of the current regulatory regime, particularly around the five voyage minimum requirement for a Temporary Licence (TL), TL variation arrangements, tolerance limits for TLs, notification requirements for TLs and the geographical reach of the Coastal Trading Act.

This discussion paper proposes retaining the basic structure of the current regulatory regime, with amendments to remove the aspects reported as unreasonably limiting, inflexible or onerous for stakeholders. These amendments will provide greater flexibility to buyers and suppliers of shipping services and allow a path forward for coastal shipping reform to be agreed by all relevant parties. The unambiguous objective of these proposed amendments is to ensure safe, secure and efficient coastal shipping as part of Australia's national transport system.

This discussion paper also identifies potential seafarer training initiatives that could be included as part of a broader package to reform coastal shipping. These seafarer training options are aimed at developing and retaining critical maritime skills in Australia.

Purpose

The purpose of this discussion paper is to seek the views of stakeholders on the proposed amendments to the regulatory regime. This consultation process will seek to:

- identify any implications of the proposed changes to the regulatory regime and related legislation; and
- identify any further possible improvements to the regulatory regime.

Submissions are encouraged from stakeholders including, but not limited to: ship owners and operators, employee and employer representatives, users of shipping services, industry associations, maritime unions, government agencies, and interested members of the public.

Submissions in response to this discussion paper should be made by **Friday 28 April 2017**.

Submissions can be made via email: shipping@infrastructure.gov.au

or via post: Coastal Trading, Department of Infrastructure and Regional Development, GPO Box 594, CANBERRA ACT 2601.

Proposed amendments to the Coastal Trading Act

1. Remove the five voyage minimum requirement for a TL

Under the current regime, a TL cannot be obtained for a single voyage and applicants must know the details of five voyages in advance. In practice, this leads to companies varying voyages multiple times. It also means single coastal trading voyages cannot be conducted by a ship at the end of an international voyage to Australia, and Australian businesses are unable to use spot hire at short notice for passengers or cargo. Allowing organisations to apply for single voyages will alleviate this issue.

2. Streamline the licensing process where no General Licence (GL) vessels are available

It is proposed to amend the Coastal Trading Act to remove the need to consult GL holders and other stakeholders if there is no GL holder who wishes to be consulted and/or GL vessel which is able to carry the product. For example, there are no Australian flagged vessels capable of carrying petroleum products. Under the current regime, consultation is still required on all applications for TLs and voyage variations to carry petroleum.

3. Streamline the TL variation process

Currently, there are two types of licence variations to an existing TL – ‘authorised matters’ (a change to a loading date or volume on an existing planned voyage) and ‘new matters’ (authorising an entirely new voyage on an existing TL). Replacing these two types of licence variations with a single TL variation provision would streamline the process, and would allow only one business day for consultations (currently it is up to two business days).

4. Amend voyage notification requirements

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. Changing this requirement to only apply to voyages if there are changes to details that were previously provided in the application would reduce regulatory burden on industry.

5. Amend the tolerance provisions

The Coastal Trading Act establishes acceptable tolerance limits for TL voyages, being ± 20 per cent for the nominated cargo volume and \pm five days for the authorised loading date.

Some TL holders have suggested the existing tolerance provisions do not allow for late changes to shipping arrangements beyond the control of the operator, for example the late addition of 2 containers to a 5 container consignment, or cancellation of cargo or changes to loading arrangements.

It is proposed to amend the tolerance limit for loading dates to 30 days, from the current 5 day limit. It is also proposed to remove volume tolerances altogether.

6. Replace the current three-tier regime with two tiers

The current regime is a three tiered licensing system made up of GLs, TLs and Emergency licences (ELs). To date, ELs have never been granted under the regime, so it is proposed to abolish ELs and modify the criteria for issuing GLs and TLs to allow for emergency situations. This can be achieved through changes to the *Coastal Trading (Revitalising Australian Shipping) Regulations 2012*.

7. Extend the geographical reach of the Coastal Trading Act

The scope of the Coastal Trading Act as it stands covers voyages to and from places within the waters of a State or Territory. Vessel operators on voyages from the mainland to, or between, places outside the coastal waters of a State or Territory such as some offshore installations, floating production, storage and offloading (FPSO) vessels and roadsteads (places less enclosed than a harbour where ships may ride at anchor) are not within the coverage of the Coastal Trading Act and cannot apply for a TL. It is important to note that voyages between any of these places would be eligible for a licence if the places were inside the coastal waters of a State or Territory.

It is proposed to amend the definition of 'coastal trading' to include voyages to and from other defined places in Australian waters such as offshore installations in Australian territory to the mainland. This would allow petroleum companies to obtain a licence enabling foreign-flagged vessels to undertake this type of movement – the carriage of petroleum products from offshore installations in Australian territory to the mainland - potentially increasing the use of Australian refineries, and opening this shipping market to GL vessels.

8. Allow dry-docking

Under current regulatory arrangements, vessels undertaking scheduled maintenance in dry-docking facilities are subject to importation under the *Customs Act 1901*.

It is proposed to amend the definition of 'coastal trading' in the Coastal Trading Act to include vessels docked for service in dry dock, or docked for maintenance, repairs, cleaning or painting, and not engaged on a voyage. This will streamline the regulatory process for foreign vessels carrying out scheduled maintenance in dry-docking facilities and potentially increase the use of Australian facilities. This amendment will also provide certainty to operators that vessels undergoing scheduled maintenance in a dry dock will not be subject to importation.

9. Minor technical amendments

There are several definitions of the Coastal Trading Act that require clarification to assist with administration. These include:

- clarifying that the 'person' referred to in section 43(1) must be a holder of a TL;
- clarifying what constitutes a 'port in a State or Territory' in section 6, and
- clarifying that agents can apply for a TL on behalf of owners or masters in section 28(1).

It is proposed to amend the Coastal Trading Act to require TL holders to include a vessel's International Maritime Organization (IMO) number in voyage reports. This unique reference for vessels will assist in readily identifying vessels.

Potential Seafarer Training Initiative Options

The following seafarer training initiatives are aimed at developing and retaining critical maritime skills in Australia, to support a vibrant maritime sector. These options will not require legislative change but will assist Government in maintaining a skilled maritime workforce.

1. Establish an Industry Maritime Workforce Skills and Training Reference Group

This working group would be provided with specific Terms of Reference for the development and implementation of a strategy to establish, train and maintain a sustainable maritime workforce that meets the needs of all facets of the Australian maritime industry now and in the future.

2. Implement a government maritime training support scheme

This training support scheme could support courses approved by the Australian Maritime Safety Authority and recommended by the Industry Maritime Workforce Skills and Training Reference Group for the training of officers, officer cadets and ratings. The principal objective of such a scheme would be to meet Australia's economic and strategic requirements, both at sea and ashore. The SMaRT scheme in the United Kingdom is an example of a scheme that could be emulated as part of any Australian Government initiative.

3. Develop a public-private partnership arrangement with industry

This public-private partnership would involve an arrangement between government and industry to fund berths for Australian seafarers. A declining Australian fleet means there are fewer berths available for Australian trainee seafarers. A public-private partnership which increases the number of berths available could alleviate this issue.

4. Introduce a maritime workforce census

This census would be funded and overseen by the Government and would be run at regular intervals, potentially every three years. The census would provide an evidence base for workforce and skill demand predictions and workforce planning.

Funding for Seafarer Training Initiatives

The Government will also need to consider how any seafarer training initiative is funded. An option, put forward by industry,¹ involves the creation of a fund derived from payments by shipowners equivalent to wages that would normally be paid to foreign seafarers under Part B of the Seagoing Industry Award 2010. In this way, this money could be redirected to support Australian seafarer training.

¹ Maritime Industry Australia Limited proposed this option in its paper, "Coastal Trading Green paper – A Maritime Transition" (November 2016)

Discussion Questions:

- 1) Are the issues identified in the Discussion Paper consistent with the issues you have experienced with the current coastal trading regulatory regime? Please explain how.
- 2) Do any of these issues give rise to other matters that require further consideration?
- 3) Do you support the proposed amendments to the Coastal Trading Act? If not, please describe why.
- 4) Do you believe the proposed amendments to the Coastal Trading Act will improve the current regulation of coastal trading, and reduce regulatory burden? If not, please describe why this is the case.
- 5) Are there any other amendments to the Coastal Trading Act the Government should consider implementing?
- 6) Which of the proposed seafarer training initiatives do you support (either separately or in combination)?
- 7) In your opinion, will any of the proposed seafarer training initiatives be successful in developing and retaining critical Australian maritime skills?
- 8) Do you consider the funding option proposed, where the equivalent of Part B wages are used to finance seafarer training, viable?

Overview of the Coastal Trading regulatory regime

The Coastal Trading Act established a three-tier licensing system for coastal trading: General Licence, Temporary Licence and Emergency Licence. A fourth category, Transitional General Licence, is a transitional mechanism from the previous provisions of Part VI of the *Navigation Act 1912*.

General Licence

A General Licence is available to vessels on the Australian General Shipping Register² and provides unrestricted access to engage in coastal trading in Australian waters for a period of five years.

The licence affords holders the opportunity to compete for trade on the Australian coast and is intended to maximise the use of vessels registered in the Australian General Shipping Register in coastal trading.

Each seafarer working on the vessel must be an Australian citizen or permanent resident or hold a visa with appropriate work rights. A copy of the licence must be displayed on the vessel and the holder of the licence must comply with the relevant reporting requirements. The vessel must continue to be registered on the Australian General Shipping Register to meet the conditions of holding a General Licence.

Transitional General Licence

A Transitional General Licence is available to eligible vessels that held a licence under the previous arrangements in place under part VI of the *Navigation Act 1912*. A Transitional General Licence is intended to assist ships operating under the former arrangements to transition to Australian registration, is issued for a period of five years and may be renewed once. A Transitional General Licence affords the ship it is issued to the same rights as a General Licence.

Temporary Licence

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

Applications for new Temporary Licences must include a minimum of five voyages – for cruise shipping this means five end to end journeys, not five stops on a single ticket. The same requirement applies to cargo with a licence being required for each end to end cargo movement conducted by the ship.

Temporary Licences can be varied after they are issued, to either add additional voyages (in minimum groups of five) or to amend the details of already authorised voyages (for example to vary departure or arrival dates or the number of passengers to be carried).

Information about applications is provided by the Department to all General Licence holders and allows them to provide notice that a General Licensed vessel is available to conduct any of the notified voyages. This triggers a mandatory consultation process between the shipper and the General Licence holder that may be arbitrated by the Department.

This is a competitive process and does not automatically grant voyages to Australian operators. A decision is made by the Minister or their delegate and a challenge does not guarantee that the Temporary Licence

² The Australian General Register is where Australian ships seeking to engage in both domestic and international trade are registered.

application will be rejected. Few applications are contested but this process reduces productivity and increases uncertainty.

Once issued, a copy of the licence must be displayed on the vessel and the holder of the licence must comply with the relevant conditions and reporting requirements.

Emergency Licence

An Emergency Licence may be granted to a shipper, or the owner, charterer, master or agent of a vessel registered in the Australian General Shipping Register, the Australian International Shipping Register or under a law of a foreign country to respond to significant national emergencies, as outlined in the regulations, for a period of no more than 30 days.

The licence allows an applicant to respond to a specific emergency of a kind identified in the regulations and must give details of each aspect of the intended voyages including the reasons why the voyages cannot be undertaken by a vessel authorised to be used to engage in coastal trading under a General Licence.

A copy of the licence must be displayed on the vessel and the holder of the licence must comply with the relevant conditions and reporting requirements.