



Australian Shipping Industry Reform

Shipping & Transport Group

August 2012

The recent shipping industry reforms proposed by the Australian Government commenced operation on 1 July 2012.

The reforms are an attempt to revitalise the Australian shipping industry which has been in decline for some time despite increasing resource exports. There has been an ever falling number of vessels operating under the Australian flag and this has had a flow on effect within the industry with greater reliance on overseas shipping interests. There has also been concern in some sections of the industry that Australia's coastal trade was being accessed unfairly under the permit system.

The reforms include:

1. The creation of an Australian International Shipping Register (International Register) – The International Register will allow Australian owned trading vessels or vessels on demise charter to Australian based operators to be registered on a new register in order to provide certain benefits to a ship owner when trading internationally.

The Seafarers Rehabilitation & Compensation Act 1992 will not apply to a vessel registered on the International Register and the Fair Work Act 2009 will also not apply when a vessel registered on the International Register is engaged in international trading.

In order to achieve registration, the vessel must be predominantly used to engage in international trading and the vessel owner will also need to have a collective agreement in place with the ship's seafarers bargaining unit (union). It is also a condition of registration on the International Register that an Australian national or resident is at least one of the master or chief mate and one of the chief engineer or first engineer of the vessel. The register does not however allow for dual flag registration so any vessel to be registered cannot also be registered on a foreign registry.



2. Tax concessions – An income tax exemption will be available for operators of Australian registered vessels on qualifying shipping income as well as accelerated tax depreciation and rollover relief, a refundable tax offset for employers of Australian seafarers and a royalty withholding tax exemption for foreign owners for vessels which are bareboat or demise chartered to an Australian operator.
3. A new coastal trading licensing regime – There are changes to the way coastal cargo can be carried around Australia and there is now a three-tier licensing regime to replace the former permit regime. Vessels will now be required to hold either a general licence, a temporary licence or an emergency licence in order to carry coastal cargo.
 - (a) General licence - provides unrestricted access to engage in coastal trading for five years. The licence however is only available to vessels registered on the Australian General Shipping Register and where each seafarer working on the vessel during the coastal trade is an Australian citizen or holds an appropriate Australian visa.

This newsletter and its contents are intended to provide a general summary only and should not be relied on as a substitute for legal advice.

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(b) Temporary licence – provides access to coastal trading for a period of 12 months and is limited to the voyages authorised by the licence.

Either vessel or shipper interests can apply for a temporary licence and applicants are required to provide specific information in relation to the intended carriage including: the number of voyages (with a minimum of 5 voyages to be notified in advance); the expected cargo type and volume; the ports and expected dates of loading and discharge; and the vessel operator's details and name of the vessel (if known). Applicants however do not need to identify the shipper of the cargo at the time of the application.

(c) Emergency licence - provides access to coastal trading for a stated period (up to 30 days) in identified emergency circumstances. Either vessel or shipper interests can apply for a temporary licence and applicants are required to provide specific information in relation to the intended carriage including: details of the emergency (in accordance with prescribed events); the number of voyages; the expected cargo type and volume and the shipper of the cargo; the ports and expected dates of loading and discharge; and the reasons why the voyage/s cannot be undertaken by a vessel authorised to engage in coastal trading under a general licence.

It remains to be seen whether the reform package will achieve the desired effect of reinvigorating the Australian shipping industry and we anticipate the success of the reforms will depend on whether the fiscal changes and the operation of the new International Register will be attractive enough to entice shipping companies to flag and operate their vessels in Australia. It will also be interesting to see whether the new coastal trading regime will improve the coastal trade as there would appear to be a risk that the new licensing and application requirements may actually make coastal services



less flexible as vessel or cargo interests may have difficulty forecasting cargo movements or moving urgent or one-off cargo.

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