



Senate Rural and Regional Affairs and Transport Legislation Committee

Inquiry into the Provisions of the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017

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Contents

Introduction	3
1 Issues identified as being addressed by the Bill.....	3
2 Other matters not listed above but contained in the Bill:	6

Introduction

This submission is made on behalf of Maritime Industry Australia Ltd (MIAL). MIAL represent the collective interests of maritime businesses, including those operating vessels or facilities from Australia.

MIAL also represents employers of Australian and international maritime labour and operators of vessels under Australian and foreign flags.

The trading fleet Members of MIAL include companies whose primary business is to provide sea transport services to the freight market as well as companies whose shipping operations form an element of their supply chain, hence some of MIAL's Members are very large cargo interests.

MIAL Members participating in domestic trade utilise the existing regime of General Licenses, Temporary Licenses, and Transitional General Licenses. MIAL Members are active in dedicated international trades under both Australian and foreign flags.

MIAL is uniquely positioned to provide dedicated maritime expertise and advice, and is driven to promote a sustainable, vibrant, and competitive Australian maritime industry and to expand the Australian maritime cluster.

1 Issues identified as being addressed by the Bill

1. remove the five-voyage minimum requirement to apply for a temporary licence;

1.1. This is a sensible change that will have a positive impact on the flexibility of the coastal trading regime.

2. streamline the processes for making changes to temporary licences by creating a single variation process;

2.1. The way the regime works is that an entity applies for a Temporary Licence (TL) and then applies for voyages under that licence. There is a meaningful difference between varying the licence for new voyages and for those already approved. Those already approved have been through a process of checking if there is a General Licence (GL) ship available. New voyages have not been through this process.

2.2. The two matters are very different in substance.

2.3. This proposed change undermines the position of GL holder as for new voyages they will only have one day to respond to a TL application rather than the current 2 days.

2.4. The MIAL comment on this proposal at the discussion paper stage was: Any new voyage should be subject to the existing timeframes for GL holders to respond.

3. amend voyage notification requirements so that notifications are only required when voyage details have changed from that approved on the licence;

3.1. This is a sensible administrative change.

4. amend the tolerance provisions for temporary licence voyages to better reflect industry practice;

- 4.1. The integrity of the current structure of the regime is supported by meaningful tolerance provisions.
- 4.2. It is clear that the cargo volume tolerance as currently expressed (in % terms) does not work for the container trade sector of the industry. This should be addressed by specific alterations for that sector rather than changing the tolerance limit for all trades to the point that they become meaningless.
- 4.3. If changes to the tolerances are progressed as proposed, the integrity of the entire regime is destroyed.
- 4.4. On the one hand, the proposed changes go too far in circumstances where the tolerances are necessary to preserve the integrity of the structure of the coastal trading regime where there are GL ships.
- 4.5. On the other hand the proposed changes do not go far enough in eliminating unnecessary red tape in circumstances where there are no GL ships of that type.
- 4.6. It is noted that removing the five voyage requirement will increase flexibility for users of TL voyages. This will reduce advance forecasting of voyages, which in turn will reduce the need to vary voyages.
- 4.7. There is also no justification for tolerances and variations to be required where there is no GL of that vessel type.
- 4.8. However, if there is a GL available then the tolerances are important to preserve the GL interests. Without the tolerances being meaningful, (remembering that these were expanded by the 2012 reforms from 10% and 3 days) the sector is effectively deregulated entirely.
- 4.9. Changes to the tolerance provisions in both time and cargo/passenger volume will have the effect of undermining the licensing regime.
- 4.10. The MIAL comments provided to the discussion paper on this point are as follows:

We are not sure that this will operate to the benefit of the shipper as it is intended. This would also mean that a GL ship could work on a 30 day window to move a cargo at the point of application. We are not sure this achieves the objective.

If there is no GL ship of the right type to carry the cargo, then it is hard to justify any approval being required in advance for a change of volume or dates.

If there is a GL ship of the right type to carry the cargo, then the existing tolerances seem reasonable and there does not appear to be any justification for a change.

- 4.11. These comments were clearly not accepted in the preparation of the Bill.

5. [allow for temporary licences to be issued in emergency situations;](#)

- 5.1. The current Coastal Trading (CT) Act has provision for an emergency licence. This change does not appear to have any material effect.

6. [amend the definition of coastal trading to include voyages commencing and concluding at the same port;](#)

Maritime Industry Australia Ltd Submission, Senate Inquiry – Coastal Trading Amendment Bill 2017

- 6.1. The intent of this change as described in the Explanatory Memorandum *“is to open the coastal trading regime to chartered recreational vessels that typically embark and disembark at the same port... thereby being afforded protection from importation by section 112 of the Act.”*
 - 6.2. It seems unusual that the CT Act, which is about economic regulation of domestic trading vessels, is being extended to encompass ‘recreational’ vessels.
 - 6.3. The proposed change raises two points, how does the inclusion of these ‘chartered recreational’ vessels impact on other tourism operators; and what is the impact on other non-tourism/recreational operations that would now be captured.
 - 6.4. No consideration is evident regarding the impact that arises from other activities that would be captured by this coverage extension such as transshipment vessels and bunker barges.
 - 6.5. There are Australian operators conducting tourism activities at present that operate to and from the same port. Considering that the service offering of a ‘chartered recreational’ vessel is perhaps different to a public tourism operator, it is not obvious how the terms of the CT Act will operate – i.e. will declarations of ‘passenger’ numbers be made in order that a GL vessel can consider if they provide a notice in response?
 - 6.6. Given the current exemption for large cruise ships and the complexity of the operation of this proposal and potential impacts, this proposal demonstrates how inappropriate it is for the transport portfolio to be regulating the commercial settings affecting the tourism sector via the CT Act.
7. amend the definition of coastal trading to include ships engaged in dry-docking;
- 7.1. MIAL’s position on this has not changed. MIAL has long sought clarity around importation and identifying circumstances where importation is not required is wholeheartedly supported.
 - 7.2. MIAL takes the position that issues with Customs are best solved at the source, i.e. with Customs.
 - 7.3. It is not clear what is expected in terms of the detail of the voyage that will be requested for the purposes of going to dry-dock.
 - 7.4. MIAL note that application of the CT Act has consequential impacts, such as the application of Fair Work Act, Seagoing Award Part B wages for some voyages.
 - 7.5. This ‘fix’ is unlikely to provide a robust solution – and if it is meant for the cruise sector (who have been the major parties affected by this in the past, although not the only ones), then they are exempted from the Coastal Trading Act currently anyway – so this will not work for them in that circumstance.
 - 7.6. Given that no direct solution with Customs has been found, the proposed may be useful to some vessels.
8. amend the definition of coastal trading to include voyages between ports and other defined places in Australian waters such as offshore facilities;

Maritime Industry Australia Ltd Submission, Senate Inquiry – Coastal Trading Amendment Bill 2017

- 8.1. Since this task is currently being performed by foreign-flagged vessels, it is assumed that this change is in response to Customs treatment of vessels and removing the 'risk' that those ships would be imported.
- 8.2. Albeit that MIAL takes the position that issues with Customs are best solved at the source (that is with Customs), MIAL has previously indicated that this extension of geographical reach would make sense.

9. allow vessels to be covered by a coastal trading licence while dry-docking;

- 9.1. See comments under point 7.

10. clarify that applications for a variation to a temporary licence must be made by the temporary licence holder; and

- 10.1. No comment.

11. require temporary licence holders to provide a vessel's International Maritime Organization (IMO) number to assist with easy identification of vessels.

- 11.1. This is a sensible administrative change.

2 Other matters not listed above but contained in the Bill:

12. Minister to determine

- 12.1. The Overview of the Bill provided in the Explanatory Memorandum includes the following additional matter addressed by the Bill:

b) provides the Minister the power to determine that the movement of certain kinds of cargoes and passengers must be consulted on when applied for under a temporary licence or a variation to a temporary licence;

- 12.2. This ought to be a matter of fact, not a matter for the Minister to determine. There is either a GL ship of a certain type, or there is not.

- 12.3. Albeit that any determination made by the Minister would be a Legislative Instrument, therefore subject to disallowance, the process for a future new GL ship would involve an additional step of having any existing Determination changed. This would be an unhelpful regulatory burden on an Australian operator wishing to commence operations.

13. Extension of coverage

- 13.1. There are three changes that result in an extension of coverage, all for the purpose of those operations being afforded protection from importation by section 112 of the Act.
- 13.2. It is regrettable that this is the solution the Government has settled on to the issues faced by the imposition of the Customs Act re importation for various vessels operations because being covered by the CT Act has consequential impacts of its own.
- 13.3. It would be much clearer if the issues could be solved directly within the Customs portfolio.