



Australian Government

Department of Immigration and Citizenship

ACTING SECRETARY

The Secretary
Senate Economics Committee
SG.64
PO Box 6100
Parliament House
CANBERRA ACT 2600
18 May 2012

Dear Mr Byant,

Inquiry into the Coastal Trading (Revitalising Australian Shipping) Bill 2012 and related bills

I am responding to your invitation of 23 March 2012, to make a submission to the Senate Economics Legislation Committee Inquiry into the *Coastal Trading (Revitalising Australian Shipping) Bill 2012* and related bills.

Introduction

On 22 March 2012, the Hon Anthony Abanese, MP, Minister for Infrastructure and Transport, Leader of the House, introduced in the House of Representatives the following five bills to implement the Government's shipping reform agenda.

- *Coastal Trading (Revitalising Australian Shipping) Bill 2012;*
- *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Bill 2012;*
- *Shipping Registration Amendment (Australian International Shipping Register) Bill 2012;*
- *Shipping Reform (Tax Incentives) Bill 2012; and*
- *Tax Laws Amendment (Shipping Reform) Bill 2012.*

The overarching aims of the package are to revitalise the Australian shipping industry and rebuild its workforce capability through a framework of integrated tax, regulatory and industry reforms. These historic reforms are designed to make the Australian shipping industry more internationally competitive and allow Australian shipping companies to compete on international routes.

The key issues for the Department of Immigration and Citizenship (DIAC) will be the impact of the new coastal trading licencing arrangements and the introduction of the Australian International Shipping Register (AISR).

In the context of the above, I am providing information relating to appropriate visa pathways under the revised regulatory framework. I will outline for the Committee the policy and operational framework for the visas that are relevant to the Committee's enquiry and potential long term impacts.

Discussion

The *Coastal Trading (Revitalising Australian Shipping) Bill 2012* [CT (RAS) Bill] will establish three types of licences to enable a vessel to engage in coastal trading.

The appropriate visa arrangements under the licences is as follows:

General Licence: open only to Australian vessels registered in the Australian General Shipping Register (the primary register under the *Shipping Registration Act 1981*). Vessels operating under a General Licence will be required under the provisions of that Act to employ seafarers who are Australian citizens, permanent residents or persons with temporary visas with the appropriate work rights.

For foreign seafarers on ships registered under the General Licence, the Temporary Business (Long Stay) (Subclass 457) visa is the most appropriate visa option. The Subclass 457 visa is designed to enable employers to address labour shortages by bringing in genuinely skilled workers where they cannot find an appropriately skilled Australian. The Subclass 457 visa is the most commonly used program for employers to sponsor overseas workers to work in Australia on a temporary basis.

The Subclass 457 visa allows businesses to employ overseas workers for up to 4 years in skilled occupations only. A list of occupations that are eligible under the Subclass 457 visa program is provided at Attachment A.

Where an employer seeks to sponsor overseas skilled workers including specialised semi-skilled workers who are not eligible for standard immigration options, they may be able to negotiate a labour agreement through a stream of the Subclass 457 program. A labour agreement is a formal arrangement between an Australian employer and the Australian Government, which provides for the recruitment of skilled overseas workers when a genuine skills shortage exists and there are no suitably qualified Australian workers available.

In addition to the Subclass 457 visa, incidental work vacancies can be addressed for skilled crew working for very short periods in Australia on vessels holding a General Licence through Business Visitor visas, such as the Business (Short Stay) (Subclass 456).

Business Visitor visas allow very-short term work in strictly limited circumstances and are subject to condition 8112, which provides that *the holder must not engage in work in Australia that might otherwise be carried out by an Australian citizen or an Australian permanent resident*.

Primarily, Business Visitor visas are used by travellers who intend to visit Australia to:
people our business

- explore existing or future business opportunities in Australia;
- attend a conference or meeting relevant to applicant's occupation or business;
- undertake training relevant to the applicant's occupation or business activities (this would not generally include work placements).

However, under policy, work consistent with condition 8112 is permitted where it is highly specialised in nature and not ongoing. A position is 'not ongoing' where it is filled on a short term basis, generally not exceeding six weeks. Longer periods up to the maximum stay period of up to three months may be considered where the work is in Australia's interests.

Business Visitor visas are not appropriate for rotating a number of overseas workers through a position on a short-term basis. Where this occurs the position is considered to be ongoing, even if individual employment contracts are not.

Temporary Licence: open only to foreign-registered vessels and Australian vessels registered in the AISR established under the Shipping Registration Act 2012. Vessels operating under a temporary licence may employ foreign seafarers; a temporary licence is valid for 12 months (but with provisions to extend for a further 12 months), and will replace the current three month Continuous Voyage permits and Single Voyage Permits.

Emergency Licence: open to any type of vessel, whether foreign or Australian registered. These vessels would be available only to carry cargo or passengers in an emergency situation. Vessels operating under an Emergency Licence may employ foreign seafarers; an emergency licence is valid for up to 30 days.

For vessels operating on Temporary and Emergency licences, Subclass 457 visas or Business Visitor visas may be appropriate, depending on the skill level of the crew member and the length of time the crew member is required to work. In general, it is anticipated that the Maritime Crew Visa (Subclass 998) (MCV) will be the most commonly used visa pathway for foreign crew on vessels holding Temporary and Emergency licences.

The MCV was devised and implemented to accommodate foreign crew on commercial vessels temporarily visiting Australia in the context of an international voyage. MCVs are valid for three years.

Since the Government's decision in August 2011 to support the reforms, agencies have had the opportunity to consider and clarify the details of implementation of the proposals. As part of this process DIAC has also further considered the ways in which the Migration legislation will continue to support Government policy objectives into the future, while ensuring the integrity of our programs.

To enable the implementation of the reforms DIAC will facilitate the use of MCVs for crew on vessels with Temporary and Emergency licences.

Over the coming year DIAC will continue to monitor the implementation of the new arrangements, with a view to tailoring visa arrangements while supporting the Government's policy objectives.

To provide a complete response to the Committee about visa pathways available to foreign crew, I should also mention the Superyacht Crew (Subclass 488) visa, which allows crew members to work onboard a Superyacht and remain in Australia for up to 12 months. As Superyachts exclude vessels that are used for carrying cargo, it is anticipated that the proposed changes to coastal trading regulations will not have any impacts on this visa subclass.

I trust that this information is of assistance to you.

Yours sincerely

Martin Bowles, PSM