

Palmer, Tamara (REPS)

From: Kushy Athureliya
Sent: Thursday, 9 June 2011 2:48 PM
To: Committee, IC (REPS)
Cc: Llew Russell
Subject: RE: New Inquiry - Navigation Amendment Bill

Shipping Australia Limited (SAL) is pleased to provide comments on the inquiry into the Navigation Amendment Bill 2011 to the House Standing Committee on Infrastructure and Communications.

The MLC will come into force generally 12 months after the date on which there have been registered ratifications by at least 30 ILO Members with a total share in the world gross tonnage of ships of 33 per cent. Although the tonnage requirements have been met it is not known the required number of countries will ratify the Convention.

It is noted that if Australia is one of the original 30 countries whose ratifications are registered, then the MLC will come into force for Australia at the same time as it comes into force generally. Otherwise, the MLC will come into force for Australia 12 months after the registration of Australia's instrument of ratification.

Does this mean that Australia will be enforcing the MLC before it enters into force internationally (if 30 ratifications are not received in 12 months)? If this is the case, we expect there to be problems with vessels possessing the required documentation on arrival in Australia.

1 Subsection 6(1) (definition of agreement)

agreement means:

- (a) in relation to a ship—the agreement between the owner of the ship, or a representative of the owner of the ship, and the crew of the ship; and
- (b) in relation to a seaman belonging to a ship—the agreement between the owner of the ship, or a representative of the owner of the ship, and the seaman.

We believe the “representative of the owner of the ship, and the crew of the ship” needs some clarification. A shipping agent in Australia may not be acting on behalf of the shipowner. He could be appointed by the cargo interest or the charterer of the vessel.

This also appears in sections 46, 53 and 115.

10 Subsections 62A(1) and (2)

- (1) The master of a ship commits an offence if:
 - (a) the master discharges a seaman from the ship at a port outside Australia; and
 - (b) the master has not given the seaman at least 7 days notice of the master's intention to discharge the seaman; and
 - (c) the seaman has not consented to being discharged at the particular port (whether or not the seaman consents to the discharge).

What provisions are there in the Act if a seaman is found to have committed a misdemeanour and has to be discharged from the ship?

The phrase (*whether or not the seaman consents to the discharge*) should be deleted as this insinuates that a seaman cannot be discharged for any reason if 7 days-notice is not given - even if he is agreeable to be discharged for the seaman's convenience/requirement.

70(3) - makes it clear that the regulations must not provide for the quantum or amount of wages payable to masters and seamen. The amount or quantum or wages will be set out in a relevant enterprise agreement, therefore there should be no conflict with the Fair Work Act.

We have no objections to the amendment Items 80 & 81, which relate to vessel traffic services.

206 XA and 206 XH

