

**Senate Standing Committee on Education Employment and Workplace  
Relations**

**QUESTIONS ON NOTICE  
Supplementary Budget Estimates 2012-2013**

**Outcome 4 – Workplace Relations and Economic Strategy**

**DEEWR Question No.** EW0652\_13

**Senator Xenophon asked on 17 October 2012 , Hansard page 95**

***Comparison of protection for workers on ships and aircraft***

**Question**

**Comparison between protection for workers on ships and aircraft**

Senator XENOPHON: Would you mind taking on notice, so that there is some clarity on it, the question: is there a distinction between the protections afforded to someone on a vessel going from port to port compared to an aircraft going— Mr Kovacic: I am happy to take it on notice. But again I just highlight that, in respect of vessels that are registered as part of the Australian International Shipping Register—which was one of the initiatives as part of the government's shipping reform package—they are required to meet international standards in terms and conditions of employment. We will take the question on notice.

**Answer**

The *Fair Work Act* 2009 and associated regulations (the Act) operate in the context of the separate and distinct regulatory frameworks that apply to ships and planes.

Whether and how the Act applies in any particular case will depend on the facts and circumstances. However, the Department can provide the following general information regarding the application of the Act.

The Act generally applies to all ships (both Australian and foreign registered) engaged in coastal trading under a general licence, a temporary licence or an emergency licence issued under the *Coastal Trading (Revitalising Australian Shipping) Act* 2012 (Coastal Trading Act) in the territorial sea, Australia's exclusive economic zone (EEZ) and the waters above the continental shelf.

The Act also applies in the territorial sea, the EEZ and the waters above the continental shelf to:

- Australian ships;
- majority Australian-crewed ships (being those where the majority of the crew are Australian residents and the operator is either incorporated in Australia, a resident of Australia, or has its principal place of residence in Australia); and
- ships operated or chartered by an Australian employer (as defined in s 35(1) of the Act) that use Australia as a base.

The FW Act does not apply to ships that are registered on the Australian International Shipping Register (AISR) under the *Shipping Registration Amendment (Australian International Shipping Register) Act* 2012 when those ships are engaging in international trading.

The Department provided detailed information to the Senate Standing Committee on Rural Affairs and Transport (the Committee) inquiry into the Air Navigation and Civil Aviation Amendment (Aircraft Crew) Bill 2011 on the application of the Act in relation to aircraft. That submission, which is attached to this response, includes information about when the Act applies in relation to domestic components of international flights.