

SENATE AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 29

Senator Ludwig asked the following question at the hearing on 24 May 2006:

In relation to cruise ships and crimes committed at sea, not in Australian waters:

- a) Which law would be applicable?
- b) How does the relevant state criminal law apply in regard to the port of return or the port of departure concerning the application of the Crimes at Sea Act?
- c) Would Jervis Bay (type) apply in terms of the applicable law and what would be the differences considering whether it was an Australian-flagged vessel or a foreign-flagged vessel?
- d) What liquor licensing laws apply to Australian-flagged cruise ships?
- e) What liquor licensing laws apply to foreign flagged ships?

The answer to the honourable senator's question is as follows:

- a) In international waters, ships fly the flag of the nation in which the ship is registered.

Under the *Crimes at Sea Act 2000*, the law of the Jervis Bay Territory is the applicable law where a crime is committed on an Australian-flagged ship, where the criminal act is committed by an Australian citizen, and where the crime is committed on a foreign-flagged ship which subsequently lands in Australian territory, without first landing in the territory of a foreign country.

Crimes committed on a foreign-flagged ship in international waters are subject to the laws of the nation whose flag the ship is flying, although the nation where the ship lands might also choose to claim jurisdiction.

- b) The ports of departure and return are not relevant to the provisions of the *Crimes at Sea Act*, except where a crime is committed in international waters on a foreign-flagged vessel and the next port of call of the vessel is an Australian territory. In such cases the applicable law is the law of the Jervis Bay Territory.
- c) The laws of the Jervis Bay Territory apply to crimes committed on Australian-flagged ships in international waters, to all crimes committed by Australian citizens on ships in international waters, and to crimes committed on foreign-flagged ships which land in Australian territory, without first landing in the territory of another country.

Crimes aboard a foreign-flagged ship in international waters come under the jurisdiction of the nation whose flag the ship is flying, and possibly also the nation where the ship first makes landfall.

- d) Each State and Territory has its own liquor laws. Such laws do not apply in international waters and the Commonwealth is not involved in the liquor licensing of cruise ships
- e) Ships are generally subject to the jurisdiction of the flag State or Territory.