

REVIEW OF CABOTAGE IN AUSTRALIA

Introduction

The high cost of Australian coastal shipping has long been the subject of debate in the shipping industry with reform to the cabotage regime being implemented in 2012 in the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (the CTA).

The laws have been the subject of much discussion within industry circles due to the high cost of shipping within Australia as compared to the costs of shipping internationally with a discussion paper released by the Government in March 2017.

The significant inland rail project recently approved in the 2018 budget by the Government has also lead to questions surrounding the infrastructure already in place at Australian ports and the low number of ships on the Australian General Shipping Register. The “blue highway” and the significant potential to develop a thriving coastal trading industry in Australia utilising existing infrastructure is something which has been advocated for many years.

Current regime

Cabotage concerns the right to operate sea, air, or other transport services within a territory. The current licencing regime authorises vessels to carry cargo and passengers between Australian ports provided they hold the correct licence. All domestic movements of cargo or passengers must be authorised by one the three types of licences provided by the CTA regime:

- General licences (for Australian Registered Vessels);
- Temporary licences (for foreign-flagged vessels); and
- Emergency licences (for emergency situations – valid for 30 days).

General licences

A general licence will allow a vessel that is registered on the Australian General Shipping Register unrestricted access to trade intrastate within Australian waters for a term of 5 years.

The application must be accompanied by a statement that each seafarer working on the vessel is either an Australian citizen, holds a permanent visa or holds a temporary visa that will allow the seafarer to work on the vessel.

Temporary licenses

A temporary licence will allow a foreign-flagged vessel to engage in coastal trading in Australian waters for 12 months. Such a licence is limited to those authorised voyages with voyages able to be added and amended if necessary. A minimum of 5 voyages from one port to another port in different states and territories in Australia must be detailed in such an application.

Applications for licences and reports in relation to a voyage are then submitted through the Coastal Trading Licensing System through the Department of Infrastructure, Regional Development and Cities.

Failure to obtain one of the above licenses before engaging in coastal trading may lead to significant penalties including up to A\$315,000 for a company or A\$63,000 for an individual.

There is a mandatory consultation period of 2 days which will apply to any application for a new temporary license with the application taking approximately 15 business days to process.

Energy Security Situation

A temporary licence can be amended when there is or will be a shortfall in the Australian supply of liquid fuel by making an energy security situation application. Before deciding whether to apply under this category the Shipping Business Unit at the Department of Infrastructure, Regional Development and Cities should be consulted.

Developments

It has been reported that the *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017* aimed at changing Australia’s cabotage regime is likely to go before parliament in September this year. It has been reported that the revised regime seeks to address a range of administrative issues in the CTA, which arguably places unnecessary financial and administrative burdens on shipping companies and the Australian businesses that rely on coastal shipping.

It has been suggested that the reforms will make it easier for international shipowners to apply for temporary licences and therefore operate in Australian waters. Although this may not immediately benefit some Australian seafarers or Australian shipping companies, if the bill is able to divert those goods that would usually be transported by long haul road or rail to the “blue highway” there may be significant savings to be had at a national level for decades to come.

For more information in relation to Australia’s cabotage regime please contact the author or the Thomas Miller Law office in Sydney.



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