



Marine Safety Amendment (Domestic Commercial Vessel National Law Application) Bill 2012

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Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay.

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [11.14 a.m.]: I move:

That this bill be now read a second time.

The main purpose of this bill is to establish a national law for the regulation of all commercial vessels in Australia. It represents the culmination of a dedicated effort by Transport for NSW, Roads and Maritime Services, the Australian Maritime Safety Authority, other marine safety authorities and industry stakeholders, and will establish a national system for commercial vessel safety to commence possibly as early as January 2013. In 2009 the Council of Australian Governments agreed to a national approach to regulating domestic commercial vessels in Australia and that the Australian Maritime Safety Authority would be the national safety regulator.

In August 2011 the New South Wales Premier, along with other Premiers, Chief Ministers and the Prime Minister, signed the intergovernmental agreement on commercial vessel safety reform, which set out the administrative governance and funding arrangements for the national system. The Marine Safety (Domestic Commercial Vessel) National Law Act 2012 was passed by the Commonwealth Parliament and received royal assent on 12 September 2012. It is to commence by proclamation, possibly as early as January 2013, and will apply the national law to the extent of the Commonwealth's constitutional reach. The New South Wales Marine Safety Amendment (Domestic Commercial Vessel National Law Application) Bill 2012 will apply the national law in New South Wales to cover any gap in the Commonwealth's constitutional reach.

The bill will also establish clear and consistent requirements that will improve safety and provide economic benefits and greater certainty for the New South Wales commercial vessel industry. The national law will establish, through a partnership between the Commonwealth, the States and the Northern Territory, a national system that will unify, simplify and improve commercial vessel safety across Australia. The national law will apply to nearly 9,500 New South Wales commercial vessels and 15,000 people who hold a New South Wales licence to operate a commercial vessel. The national law will apply to vessels used for commercial, government or research activities, subject to some exclusions. It will not apply to recreational vessels, foreign vessels, defence vessels, vessels regulated under the Navigation Act 2012 or vessels owned by primary or secondary schools or community groups. It will not apply to inflatable rafts, sailboards, paddleboards, surf skis, kiteboards or towed recreational equipment.

In developing the national law, great care has been taken to consult with industry to ensure that there are no unintended consequences for industry. Protection measures have been built in to ensure that the inclusion or exclusion of vessels in the national system will be done by regulation and agreed by the Transport and Infrastructure Senior Officials Committee. This process has ensured that recreational boat share vessels will not be captured in the national system. However, boat share vessels used in connection with a commercial activity will continue to be regulated as commercial vessels, as they are currently under New South Wales law.

Similarly, the regulations under the national law ensure that a vessel is not captured simply because it is sponsored during a sporting event, used for a promotional activity, has a person paid to operate the vessel or be a crew member or used for paid training by the vessel owner. Various groups have been consulted, such as the Boating Industry Association of New South Wales, Yachting Australia and the Australian Institute of Sport, to ensure that there are no unintended consequences for particular groups or activities. The national law establishes a national system for commercial vessel safety regulation. It establishes the Australian Maritime Safety Authority as the national regulator, national requirements for vessels and crew, safety obligations for individuals who have a role in the production and operation of commercial vessels, and a national compliance

and enforcement system with consistent offences and penalties for safety breaches that put passengers or crew at risk. The national law will adopt agreed national standards for the design, construction, operation and crewing of commercial vessels and will ensure there is consistency in the application of these safety standards across the country. These standards are already applied in New South Wales.

The consistent application of national standards will allow boat builders in New South Wales to sell their vessels to buyers and operators in other States, safe in the knowledge that the vessel will not be subject to further inspections and possibly costly modifications when it operates in another State. It will also allow qualified crew of commercial vessels to relocate to other States and avoid the costly and time-consuming process of gaining recognition of their qualifications. Transitional arrangements under the national law will ensure that industry can move seamlessly to the new national system. Existing New South Wales vessels will continue to operate under their current arrangements and New South Wales registration and survey certificates will continue to be recognised. As these certificates expire they will be replaced with national certificates. New South Wales crew certificates will also continue to be recognised so that crew can continue to work using their existing certificate or competency until it expires. On their expiry a national certificate of competency will then be issued.

Some parts of the fishing industry have been concerned that the national law may impose additional requirements. Let me assure the industry that that is not the case. All existing vessels and crew will be able to continue operating as they do now. Current registration certificates, survey certificates and crew certificates will continue to be recognised until they expire or until 2016. As New South Wales certificates expire new national certificates will be issued. For fishing vessels that do not require a survey certificate now that will not change. For fishing vessels that do not require a commercial licence now that will also not change—they will still be able to be operated by a person holding a recreational boat licence. However, there will be some impacts on industry as new national standards are developed and as existing standards are reviewed. These impacts will be assessed through the development of a regulatory impact statement to ensure any new requirements do not impose an undue burden on industry. Further, new standards must be unanimously approved by transport ministers in all States and Territories.

The new standards will bring benefits to the industry. For example, new licences specifically designed for the aquaculture industry are proposed as part of the review of the National Standard for Commercial Vessels [NSCV], part D, Crew Competencies. These new licences require minimal sea service and only entry level training. They will make it easier for those entering the fishing industry to obtain a commercial licence and they will provide industry with access to a larger qualified labour pool. New South Wales will retain responsibility for regulating New South Wales waterways, ports, harbours and moorings and will continue to enforce speed limits and drug and alcohol offences on New South Wales waterways. Roads and Maritime Services will be responsible for the day-to-day administration of the national system in New South Wales under delegation from the Australian Marine Safety Authority [AMSA]. Roads and Maritime Services will also continue to conduct survey inspections and issue survey, crew and operating certificates. Fees for these services will continue to be set by New South Wales.

In early discussions to establish the new national system the Commonwealth proposed that the cost of the national system—including all Australian Marine Safety Authority and jurisdictional costs—be recovered directly from the industry. This would have imposed excessive and unsustainable fee increases on industry and was unanimously rejected by all jurisdictions. Instead, the new national system is based on a unique funding model, the Council of Australian Governments [COAG] Intergovernmental Agreement [IGA] on Commercial Vessel Safety Reform, which establishes a budget for the national regulator of \$4 million in 2011 dollars for 2013. This is double the funding provided to the National Marine Safety Committee [NMSC] for the development of national standards for commercial vessels. The additional funding recognises the extra oversight and coordination that will be required to ensure the effective implementation of the new national system.

The Commonwealth and all jurisdictions will fund the national regulator in accordance with arrangements set out in the intergovernmental agreement. The New South Wales contribution will be \$0.89 million in 2013 and \$1.04 million in 2014 and beyond. The New South Wales contribution for 2013 will be \$0.29 million, more than the current New South Wales contribution to the National Marine Safety Committee. Funding arrangements are to be reviewed by the Standing Council on Transport and Infrastructure, known as SCOTI, in the first half of 2016 or on a later agreed date. The bill will have no impact on current fees or funding arrangements. The New South Wales fee structure will continue to apply. Transport for NSW will absorb the additional cost of funding the national regulator, which is, as I indicated, \$0.29 million in 2013.

However, the Council of Australian Governments intergovernmental agreement does commit all jurisdictions to progressively moving to full cost recovery in the longer term and Transport for NSW will work with industry to develop a new fee structure that will achieve this objective in the future. The new national system is a significant achievement that will reduce the regulatory burden on the maritime industry by providing for the consistent regulation of the domestic commercial vessel industry across Australia without compromising safety. Extensive consultation has occurred with industry and other stakeholders on the new national system and there has been strong support for the system. I trust honourable members will lend their support to this bill and I commend the bill to the House.

Debate adjourned on motion by the Hon. Amanda Fazio and set down as an order of the day for a future day.