



Marine Notice 4/2015

Application of the Wreck Removal Convention

This Marine Notice provides guidance on the application of the Nairobi International Convention on the Removal of Wrecks which enters into force on 14 April 2015.

Background

The Nairobi International Convention on the Removal of Wrecks (WRC) was adopted by an IMO Diplomatic Conference on 18 May 2007. The WRC establishes a sound legal basis for States to remove, or have removed, from their exclusive economic zones (EEZs) (or territorial sea if this option is chosen) wrecks that may pose a hazard to navigation or the marine environment. The WRC will make shipowners financially liable and will require them to take out insurance or provide other financial security to cover the costs of wreck removal.

The term “wreck” following upon a maritime casualty¹, means: (a) a sunken or stranded ship²; or (b) any part of a sunken or stranded ship, including any object that is or has been on board such a ship; or (c) any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or (d) a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken.

Articles in the Convention cover:

- reporting and locating ships and wrecks – covering the reporting of casualties to the nearest coastal State; warnings to mariners and coastal States about the wreck; and action by the coastal State to locate the ship or wreck;
- criteria for determining the hazard posed by wrecks, including depth of water above the wreck, proximity of shipping routes, traffic density and frequency, type of traffic and vulnerability of port facilities. Environmental criteria such as damage likely to result from the release into the marine environment of cargo or oil are also included;
- measures to facilitate the removal of wrecks, including rights and obligations to remove hazardous ships and wrecks – which sets out when the shipowner is responsible for removing the wreck and when a State may intervene;
- liability of the owner for the costs of locating, marking and removing ships and wrecks - the registered shipowner is required to maintain compulsory insurance or other financial security to cover liability under the convention.

The WRC enters into force on 14 April 2015. Australia has not ratified the WRC; however, ships operating in Australian waters should be aware that section 229 of the *Navigation Act 2012* deals with wrecks and addresses all the points above with the exception of insurance.

¹“Maritime casualty” means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it, resulting in material damage or imminent threat of material damage to a ship or its cargo.

²“Ship” means a seagoing vessel of any type whatsoever and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and floating platforms, except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources.

Owners of Australian registered ships of 300 gross tonnage entering or leaving a port in the territory or arriving and leaving from an offshore facility in the territorial sea of a State Party, will need insurance cover arrangements which meet the applicable requirements of the Convention and a certificate from a State Party attesting that such insurance is in force. Such certificate must be carried on board at all times. Note, these obligations arise as a consequence of the domestic laws of States Parties to the WRC, not the domestic laws of Australia.

The WRC closely follows the liability and insurance provisions which currently apply to oil tankers under the Civil Liability Convention and ships under the Bunkers Convention.

The WRC provides that certificates must be obtained from the State in which a ship is flagged, providing that State is party to the Convention. Australia is not presently a State Party to the Convention. Ships flagged in countries that are not parties will need to obtain a certificate from a relevant authority in a State Party. A full list of signatory State Parties is available on the IMO website: www.imo.org/About/Conventions/StatusOfConventions/Pages/Default.aspx

The insurance cover required by the WRC is issued by Protection and Indemnity (P&I) Clubs in the same manner as civil liability insurance. Once cover has been obtained, ship owners should seek a certificate from a State Party attesting that such insurance is in force if they intend operating to a port of a Party to the WRC or arriving or leaving an offshore facility in the territorial sea of a State Party.

Further details and information on how to contact State Parties that have agreed to issue certificates to Australian registered ships can be obtained from Ship Inspection and Registration at fsc@amsa.gov.au.

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