



**Marine Notice 6/2011
Supersedes 9/2009**

Update on Application of the Bunkers Convention in Australia

General

The purpose of this Marine Notice is to update shipowners and operators on the application of the *International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001* ('the Bunkers Convention') in Australia. This Marine Notice supersedes Marine Notice 9 of 2009 and includes updated information on the application of the Bunkers Convention to oil tankers.

The Bunkers Convention entered into force internationally on 21 November 2008 and the *Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Act 2008* implements the Convention in Australia.

Ships of more than 1000 gross tonnes entering an Australian port or offshore facility are required to carry a 'Certificate of Insurance or Other Financial Security in Respect of Civil Liability for Bunker Oil Pollution Damage' ('Bunkers Certificate'), in accordance with the Convention's specified format. The term 'ship' in the Convention is defined as any seagoing vessel and seaborne craft, of any type whatsoever. Vessels operating in inland waterways or solely within the limits of a port or harbour are therefore exempt. The Bunkers Certificate is issued by parties to the Bunkers Convention and attests that insurance or other financial security is in force with respect to the ship to cover the liability of the registered owner for pollution damage up to the limits specified in the *Convention on Limitation of Liability for Maritime Claims, 1976*, as amended.

Australian and Foreign Registered Ships

Australian registered ships are required to have a Bunkers Certificate issued by the Australian Maritime Safety Authority (AMSA). All foreign registered vessels to which the Convention applies entering Australian ports or offshore

facilities need a Bunkers Certificate issued by either:

- their flag State, if their flag State is a Party to the Bunkers Convention; or,
- any party to the Bunkers Convention, if their flag State is not a Party.

As indicated above, Bunkers Certificates may only be issued by the Administration of any country that is a Party to the Bunkers Convention. There are currently 58 Parties to the Bunkers Convention, with details available on the International Maritime Organization's (IMO) web site, www.imo.org/About/Conventions/StatusOfConventions/Pages/Default.aspx (and follow the link to "Status of conventions"). Owners and operators of ships flying the flag of a non-Party to the Bunkers Convention should obtain a Bunkers Certificate from one of the countries already Party to the Convention.

In addition to issuing certificates for Australian flagged vessels, AMSA is also able to issue Bunkers Certificates to ships flying the flag of a non-Party if a certificate has not already been obtained from another Party.

Applications

Shipowners and operators of both Australian and foreign flagged vessels applying for a Bunkers Certificate from AMSA should submit an application form. The application forms are available on the AMSA web site, www.amsa.gov.au/Forms/AMSA350B.pdf. The form will need to be accompanied by a P&I Club Blue Card or similar financial guarantee, and a fee of \$70 applies to initial issue of all certificates. The fee for renewals is \$40. Further details are set out in the application form. AMSA will issue certificates as soon as possible. Certificates will be issued according to the commencement and expiry dates stipulated on the Blue Card or financial guarantee. In no case will AMSA issue certificates for periods greater than 12 months.

Oil Tankers

IMO's Legal Committee has recognised that the *International Convention on Civil Liability for Oil Pollution Damage 1992* ('the Civil Liability Convention') has a narrow definition of oil, and that it is possible for an oil tanker to also carry oil not covered by the Civil Liability Convention definition (for example, non-persistent oil or lubricating oil used in the operation of the ship, as opposed to oil carried as cargo). It is also difficult in practical terms for maritime Administrations to know, in every case and at all times, what commercial use may be made of a particular tanker. As a consequence, and to avoid any possibility of encountering problems during port State control inspections in both domestic and foreign ports, Australia is aligning its position to that adopted internationally by the IMO.

Therefore Australia requires the carriage of a Bunkers Certificate by all oil tankers that carry persistent oil as cargo (for example, crude oil, fuel oil, heavy diesel oil and lubricating oil) in addition to the appropriate certificate issued in accordance with the Civil Liability Convention.

Australia also requires the carriage of a Bunkers Certificate by all oil tankers that are carrying, or may potentially carry, non-persistent oils as cargo (for example, motor gasoline, kerosene, aviation gasolines).

Thus, regardless of the type of oil being carried, owners and operators of Australian tankers who do not currently hold a Bunkers Certificate must obtain a Bunkers Certificate from AMSA. Owners and operators of Australian tankers who currently hold a foreign issued Bunkers Certificate should replace their certificate with AMSA upon its expiry.

In line with the above, owners and operators of Australian registered oil tankers should request an Australian-issued Bunkers Certificate through AMSA effective from 20 February each year.

To avoid any misunderstanding or confusion, owners and operators of foreign flagged oil tankers should also carry both a certificate issued under the Bunkers Convention and a certificate issued under the Civil Liability Convention from an appropriate maritime Administration when visiting a port or offshore facility in Australia.

Penalties

If a ship to which the Bunkers Convention applies enters or leaves an Australian port or offshore facility and does not carry a valid Bunkers Certificate the owner or master of the ship may be subject to a penalty of up to AUD\$55,000. A penalty of AUD\$2,200 applies to the master of a ship who fails to produce a valid Bunkers Certificate if requested to do so by an officer of the Australian Customs and Border Protection Service or AMSA. Officers may also detain a ship in port if the officer has reasonable grounds to believe that a Bunkers Certificate is invalid.

In April 2001, Australia introduced a requirement for ships (other than oil tankers to which the Civil Liability Convention applies) that have a gross tonnage of 400 or more and are carrying oil as cargo or bunkers to carry a 'relevant insurance certificate' when entering an Australian port. For ships over 1000 gross tonnes, the carriage of a Bunkers Certificate replaces this obligation. For ships that have a gross tonnage of 400 or more but less than or equal to 1000, the requirements introduced in April 2001 still apply.

Questions regarding the above should be directed to eps@amsa.gov.au

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