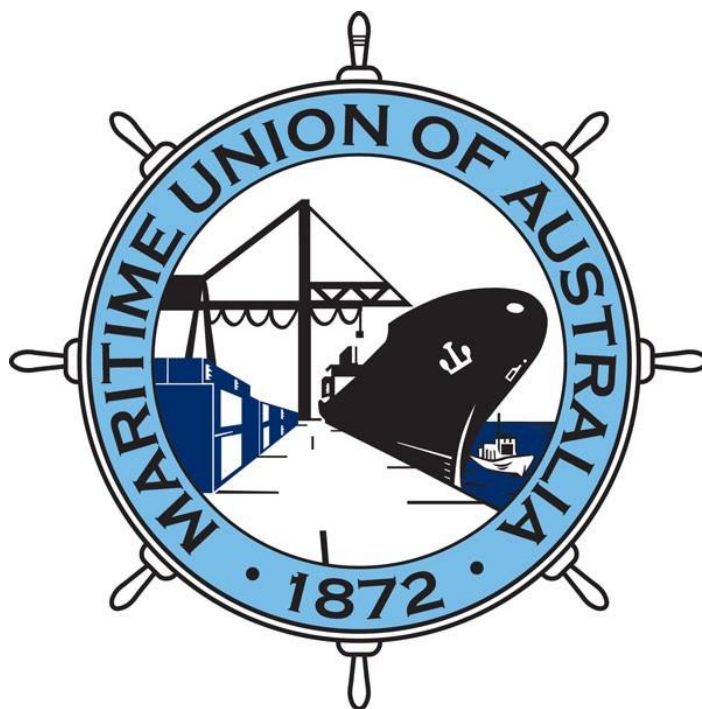


MUA Submission:

**Phase 2 of the
Independent Review of Domestic
Commercial Vessel Safety Legislation
– Costs and Charging**



1 February 2023

Independent Review Panel

Submitted by email: dcvsafetyreview@infrastructure.gov.au

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About us

This submission has been prepared by Maritime Union of Australia (MUA). The MUA is a Division of the 120,000-member Construction, Forestry, Maritime, Mining and Energy Union and an affiliate of the 20-million-member International Transport Workers' Federation (ITF).

The MUA represents approximately 13,000 workers in the shipping, offshore oil and gas, stevedoring, port services and commercial diving sectors of the Australian maritime industry.

Overview

We welcome the opportunity to participate in this phase of the Review.

From the perspective of the maritime workers we represent, there are a few important principles to consider.

1. Equity and labour supply: A clear distinction must be made between:
 - Costs recovered from individuals for certifications and examinations they must secure under the National Law to enter the labour market, and certificates they must renew and upgrade in order to remain in the labour market.
 - Costs recovered from organisations and from for-profit corporations.
2. Equalisation across transport sectors. The maritime industry provides substantial services across multiple sectors of the Australian economy. However, the maritime sector receives very little government subsidy or support for such services, particularly in comparison to the very substantial subsidies provided to road transport and rail transport sectors. This is a good rationale for continued government funding of maritime services, such as the cost of administering the National Law system.
3. Support for a domestic maritime industry. The current government has made a policy decision to support the development of Australian domestic shipping, including through establishing a Strategic Fleet. This policy support should be reflected in how it treats funding for regulatory functions that support the domestic maritime industry. In 2021, there were 26,400 arrivals in Australia by 6,170 separate international flag ships. Fees charged to these vessels should be increased and used to support Australia's domestic maritime industry, including regulatory functions.
4. More revenue can and should be recovered from fines and compliance checks. We believe this is currently under-utilised.

Recommendation 1: Based on the principle of equity in the Government’s Charging Framework, fees should not be charged to individual seafarers for new or renewed certificates of competency, examinations or medical certificates under the National Law, or at the very least these services should not be subject to full cost recovery. The balance between fees charged to individuals and to organisations should be carefully examined to promote greater equity in the industry and its labour force, and to encourage upskilling.

Recommendation 2: Based on the principle of policy consistency within the Government’s Charging Framework, and the current government’s policy of supporting the development of the domestic maritime industry, government subsidy of maritime regulatory functions should continue.

Recommendation 3: An industry levy would be a more equitable method of paying for the regulatory system than the current reliance on fees paid by individual seafarers.

Further information required

It would be useful if further information could be provided on current costs, charges and revenue to give a better idea of the full impact of cost recovery.

The document explains that “AMSA partially recovers its cost of its fee-based activities. It estimated that in the 2021–22 financial year its fee-based activities under the National Law cost approximately \$8.4 million and it expected to recover less than half this amount (\$3.7 million)” (p.3).

We could infer from this that under full cost-recovery fees would approximately double. However it is unclear how this would be distributed between fees charged to individuals and fees charged to organisation and corporations who may be better able to absorb such costs.

It would be useful to get more information on:

- Details of current fee income, and the balance between payments from individual seafarers and from organisations
- The distribution of costs in the system, and the balance between the costs of processing applications from individuals for certificates of competency and the costs of processing certificates of operation and survey for whole vessels.
 - It would be useful to know if these costs also included the cost of compliance, for example, to conduct any inspections associated with a certificate of survey or operation.

Response to consultation questions

Question 1

What is the nature of the costs that you (or your DCV sector) incur? This can include for example charges recovered by AMSA for fee-based activity, any relevant jurisdiction-specific fees and charges, accredited marine surveyor costs, etc and can include one-off and regular costs.

- *It would be useful if you could provide an indicative estimate of the current annual costs of a DCV operator within your subsector in your jurisdiction.*
- *It would also be useful if you could provide an indicative estimate of the percentage increase or decrease in these costs since 2017–2018.*
- *The Panel is also interested in understanding the annual cost for the same/similar services incurred by you (or your DCV sector) under the pre-National regulator state-based system.*

Question 2: *What are the considerations that you believe should be taken into account in determining whether full or partial recovery of the costs of the National System is appropriate, and to determine the level of cost recovery? Please provide examples to support/illustrate your response.*

Fees charged to individual workers should be avoided, or at the very least these services should not be fully cost recovered.

Individuals seeking a certificate of competency already need to pay for:

- The cost of courses required to secure a certificate of competency, including a first aid course and cost of any AMSA Mandated Practical Assessment
- Potentially the cost of travel to the training centre
- Cost of a radio licence
- Living expenses and forgone wages while studying
- Cost of medical examinations required under the National Law to obtain a medical certificate

Once these steps are complete, the individual must pay fees to AMSA for (see Appendix A):

- The certificate of competency (\$163-282)
- Higher level qualifications also require AMSA to conduct an examination, which requires a much larger fee (\$372)
- A separate fee isn't currently required for the medical certificate, but full cost-recovery could mean a fee would be introduced
- Cost of renewing a certificate (\$150-238)

While the sums involved are not large, they can become a significant obstacle if a person is unemployed, working casually or seasonally, is injured and unable to work for a period of time, is low-paid, or is affected by the current cost-of-living and housing crises. A significant portion of the work on domestic vessels is casual or seasonal, and in regional or remote locations. This creates significant obstacles for these workers to obtain and retain

qualifications, and to upskill. Government agencies and policy should be aiming to reduce these obstacles, not add to them.

Such fees also make entry to the seagoing labour force more difficult for sections of the population who are historically lower paid or less wealthy, such as women or First Nations workers.

Fees to enter the workforce have other negative implications for the maritime industry. They act as a disincentive for individuals to access training or to upgrade their qualifications. Organisations across the maritime industry are reporting labour shortages and difficulty in finding qualified crew. Any increase in the fees individual workers are required to pay could impact the number of available and qualified workers.

We note that the fees paid by organisations are actually quite similar to the fees paid by individuals, including:

- Certificate of operation (\$212 new and renewal)
- Certificate of survey (\$401 new, \$224 for renewal)

This fee is very low compared to the size and complexity of some of the vessels it covers. As noted in our previous submissions, some larger vessels previously regulated under the Navigation Act have shifted to the National Law jurisdiction. These include complex high-risk vessels such as bunker barges. Low fees in the National Law system offer employers a significant incentive to make this shift. Some DCVs are also owned and operated by large multimodal corporations operating internationally such as the Kelsian Group (Sealink) and Transdev.

AMSA says there are 31,000 active DCVs and has estimated that there are 66,000 seafarers on DCVs. A person working in the maritime industry is also likely to progress through multiple qualifications during their working life. It appears likely to us that the bulk of AMSA's current fee income of \$3.7 million is coming from individual seafarers. It would be useful to get more information on this point.

Recommendation 1: Based on the principle of equity in the Government's Charging Framework, fees should not be charged to individual seafarers for new or renewed certificates of competency, examinations or medical certificates under the National Law, or at the very least these services should not be subject to full cost recovery. The balance between fees charged to individuals and to organisations should be carefully examined to promote greater equity in the industry and its labour force, and to encourage upskilling.

Recommendation 2: Based on the principle of policy consistency within the Government's Charging Framework, and the current government's policy of supporting the development of the domestic maritime industry, government subsidy of maritime regulatory functions should continue.

Question 3: *What funding approach or mix of approaches do you believe would best achieve secure and stable resourcing of the National System?*

We are concerned at the assumption built into this question that government funding is inherently insecure and unstable. There is a good policy rationale for government to pay for maritime regulatory functions as the maritime industry provides services across the economy, and receives far less subsidy than the road and rail transport sectors.

We are concerned that the current fee system is highly inequitable as it appears that individual workers are paying the majority of fees that AMSA collects, and not their employers. A levy on industry would be a more equitable outcome as it is likely that the levy would be paid by employers, and not by individual workers. Paying for this system via a levy and removing or reducing the current fees paid by individuals could also have the effect of encouraging seafarers to upgrade their qualifications.

Fees charged to individual workers for entering the labour force cut against the policy objectives of the current government to increase labour force participation, labour supply, to reduce barriers and disincentives to employment (particularly for women and other groups underrepresented in the workforce), and to improve skills and incentivize upskilling.¹

We believe AMSA's current levies (the Marine Navigation Levy, the Regulatory Function Levy, and the Protection of the Sea Levy) should also be restructured to increase the fees paid by international ships and to reduce the fees paid by Australian-registered ships as part of a package of reforms to support the domestic maritime industry.²

Recommendation 3: An industry levy would be a more equitable method of paying for the regulatory system than the current reliance on fees paid by individual seafarers.

Question 4: *What are the aspects of a vessel or its operation that could form a suitable basis for levy-based cost recovery?*

Current AMSA levies are based on tonnage. This seems a reasonable proxy for the capital investment in a vessel, and therefore a company's ability to pay a levy. Consistency with other levies is helpful for the transparency of the system.

¹ See [Budget Strategy and Outlook Budget Paper No.1](#) October 2022-3, p.11, p.14 [Women's Budget Statement](#) October 2022-3, p.27. Australian Government Treasury, [Jobs and Skills Summit September 2022 – Outcomes](#), September 2022. Australian Government Treasury, Employment White Paper [Terms of Reference](#), September 2022

² MUA submission to the Senate Inquiry into The policy, regulatory, taxation, administrative and funding priorities for Australian shipping of 2019-2020, p.114.

Question 5: *Having regard to Finding 1 and Recommendation 1 of the draft Report, how could a potential levy be structured to better reflect the level of regulatory effort and resources directed towards sectors of the DCV industry differentiated on the basis of risk? Are there sectors, or part of sectors, that should be exempted from any future levy; if so why should they be exempt?*

We are concerned that charging according to risk could be subjective and such a classification could be manipulated unless it was very clearly defined. We prefer charges to be based on tonnage, or some other objective measure.

Question 6: *What are the industry subsectors most likely to be affected by the proposed winding back of grandfathering arrangements?*

Question 7: *What is the nature of the impacts that these subsectors are likely to experience? For example, survey costs, costs of upgrades to vessels, costs of upgrading crew competencies, difficulties finding crew with requisite competencies, etc.*

Question 8: *What form/s of targeted support do you consider would be effective in assisting the DCV fleet impacted by the phased withdrawal of grandfathering arrangements?*

The text of the draft report mentions potential cash for retiring older vessels that cannot be brought up to current standards. Care should be taken in designing any such scheme that it is not used for profiteering, and that any public funds allocated ensure that inappropriate vessels are recycled or disposed of properly and not simply moved to another jurisdiction with lower safety standards.

As grandfathering also covers qualifications, there should also be grants available to cover the cost of upgrading qualifications, or fees could be waived in these circumstances.

Question 9: *What are the relevant economic impacts and/or costs or resourcing implications (positive or negative) of any of the recommendations in the draft Report that the Panel should consider?*

The key issue for us is that AMSA is properly resourced to meet the challenge of effective vessel safety regulation, and this resourcing is achieved in a equitable fashion that doesn't place an undue burden on individual seafarers.

We do not believe that AMSA currently has an adequate presence in ports and on vessels to ensure compliance, or to address safety incidents. There is far too much reliance on desk audits and paperwork, which can be manipulated. Directions to address safety issues must always be followed up with a vessel visit to ensure compliance has actually been achieved.

Appendix A: Fees charged by AMSA

From AMSA, [Fees for services—domestic commercial vessel safety](#), 28 December 2022.

Application for a new certificate of competency—near coastal	
Coxswain grade 1	\$ 163
Coxswain grade 2	\$ 163
Coxswain grade 3	\$ 163
General purpose hand	\$ 163
Sailing master coastal	\$ 163
Sailing master offshore	\$ 163
Marine engine driver grade 2	\$ 163
Marine engine driver grade 3	\$ 163
Master inland waters	\$ 163
Master less than 24 metres	\$ 163
Engineer class 3	\$ 282
Marine engine driver grade 1	\$ 282
Master less than 45 metres	\$ 282
Master less than 100 metres	\$ 282

Application to renew a certificate of competency—near coastal	
Coxswain grade 1	\$ 150
Coxswain grade 2	\$ 150
Coxswain grade 3	\$ 150
General purpose hand	\$ 150
Sailing master coastal	\$ 150

Application to renew a certificate of competency—near coastal	
Sailing master offshore	\$ 150
Marine engine driver grade 2	\$ 150
Marine engine driver grade 3	\$ 150
Master inland waters	\$ 150
Master less than 24 metres	\$ 150
Engineer class 3	\$ 238
Marine engine driver grade 1	\$ 238
Master less than 45 metres	\$ 238
Master less than 100 metres	\$ 238

Application to replace or vary a certificate	
Application to vary to existing certificate of competency (i.e. remove a restriction, add an endorsement, change name on certificate)	\$ 150
Application to replace a lost, stolen, or destroyed certificate of competency	\$ 150
Conduct an examination (if applicable)	\$ 372

Certificate of operation	
Application for a new certificate of operation	\$ 212
Application to renew a certificate of operation	\$ 212
Application to vary an existing certificate of operation	\$ 198
Application to voluntarily suspend a certificate of operation	\$ 227
Application to replace a certificate of operation	\$ 38
Certificate of survey	
Application for a new certificate of survey	\$ 401

Certificate of operation	
Application to renew a certificate of survey	\$ 224
Application to vary an existing certificate of survey	\$ 208
Application to voluntarily suspend a certificate of survey	\$ 227
Application to replace a certificate of survey	\$ 38
Application for a unique vessel identifier	\$ 173

Surveyor accreditation scheme	
Application 1 to 5 categories of surveying	\$ 1,588
Application 6 to 10 categories of surveying	\$ 2,435
Application 11 to 16 categories of surveying	\$ 3,281
Application to renew marine surveyor accreditation	\$ 286
Application to replace a lost or stolen accreditation card	\$ 51
Application to vary an existing accreditation	\$ 297

National Law exemptions	
Application for scheme non-survey (exemption 2)	\$ 200
Application for an operation beyond survey time (exemption 6)	\$ 243
Application for temporary operations permit (exemption 7)	\$ 316
Application for class C restricted operations (exemption 40)	\$ 345
Application for an exemption from the application of the National Law, or specified provisions of the National Law	\$ 260 (hourly rate)
Application for an approval, under a marine order, of an equivalent means of compliance	\$ 260 (hourly rate)

Note: Fees are in Australian Dollars and excluding Goods & Services Tax (GST).