

SHIP BAN: NEW AMSA CEO CHANGES COURSE



The Australian Maritime Safety Authority (AMSA) has appointed a twenty year veteran and former Deputy CEO of the authority, Mick Kinley, as its new Chief Executive.

The Minister for Infrastructure and Regional Development, Warren Truss, announced the appointment in late August, and drew attention to the new CEO's extensive experience in the maritime sector. The Minister also noted that in this role, Mr. Kinley takes on responsibility for maritime safety, combatting ship-based pollution, and coordinating maritime search and rescue operations.

In his short tenure at the helm, Mr. Kinley has already made history, by guiding AMSA to exercise its powers under the *Navigation Act 2012* in order to ban the MSC chartered vessel *VEGA AURIGA* from Australia for three months. The enforcement directive is a result of repeated breaches of seafarer welfare and ship maintenance, which have resulted in the vessel being detained seven times in Australia, with three of those detentions occurring since

last July. The extensive record of breaches includes maintenance of the ship and equipment; wires/ropes; fire detection/alarm system and fire-fighting equipment; cold room cleanliness and temperature; galley issues and quantity of provisions; machinery; wages; certifications; operational readiness of life-saving appliances including life rafts; charts and compass issues; engine room oil accumulation; adequate lockers and facility sanitation.

Mr. Kinley had clearly foreshadowed such an action prior to the ban, when he declared that *"when port state control fails...you're not welcome in Australian ports"*. When considering that AMSA have only had the power to impose Maritime Labour Convention sanctions on vessels from non-signatory countries since 20 August 2014, this may have been the first opportunity for the Authority to exercise these new controls and, accordingly, the banning of the Liberian flagged containership has been seen as a warning signal to the industry.



Not surprisingly, the International Transport Workers Federation and the Maritime Union of Australia have welcomed the decision by AMSA and urged the safety authority to continue to exercise their powers with full effect.

The implications arising from the ban placed on the *VEGA AURIGA* are far-reaching and Owners/Operators should take the utmost care to ensure that any deficiencies or maintenance issues detected are rectified forthwith, so as to protect against the risk of a ban being placed on their vessels. In this context, it should be noted also that in accordance with the Navigation Act, AMSA might only give directions to the master or the owner of a vessel. As a result, any Charterers may not be privy to discussions between AMSA and the vessel's owners, with the result that they may only be notified of the ban once Owners make contact. Consequently, Charterers too are strongly advised to be proactive in the event of any detention or delay to their vessels by AMSA. Ordinarily, of course, Charterers would place a vessel off-hire in the event of a delay or detention. However, a total ban is wholly different, as it would likely have a serious impact on the vessel's schedule.

Following the ban placed on the *VEGA AURIGA* in Australia, she proceeded to New Zealand where the vessel was also inspected by Maritime New Zealand and fourteen deficiencies were found, eleven of which were to be rectified before the vessel could sail again.

In setting out details of his policy agenda, Mr. Kinley commented that AMSA are unlikely to make any major policy changes in relation to their core mission of safer, cleaner ships, and safety of life at sea, and affirmed this view by noting he is not one



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ROBERT SPRINGALL, PARTNER

to *"do change for change's sake"*. Nevertheless, upon his appointment, Mr. Kinley addressed three key areas of special concern for AMSA. Firstly, although AMSA's role as the national regulator of domestic commercial vessels is *"working"*, their focus now is to engage new stakeholders, being the vessel operators, without *"losing sight"* of those existing stakeholders in the sector. Secondly, with regard to the deregulation agenda, he confirmed that AMSA was onboard, and is now in the process of consulting with industry to ensure their expectations are met. Finally, in respect of shipping safety, the new CEO has identified the areas of fatigue, proper safety management and proper bridge management as areas being monitored closely by AMSA.



For more information, please contact the authors of this Briefing:

Robert Springall

Partner, Melbourne
T: +61 (0)3 8601 4515
E: robert.springall@hfw.com

Simon Gamboni

Associate, Melbourne
T: +61 (0)3 8601 4522
E: simon.gamboni@hfw.com

HFW's Australian offices are part of an international network of 13 offices in 11 countries. For more information about shipping issues in Australia, please contact:

Gavin Vallely

Partner, Melbourne
T: +61 (0)3 8601 4523
E: gavin.vallely@hfw.com

Stephen Thompson

Partner, Sydney
T: +61 (0)2 9320 4646
E: stephen.thompson@hfw.com

Nic van der Reyden

Partner, Sydney
T: +61 (0)2 9320 4618
E: nic.vanderreyden@hfw.com

Hazel Brewer

Partner, Perth
T: +61 (0)8 9422 4702
E: hazel.brewer@hfw.com

For more information about shipping issues in all other jurisdictions, please contact:

Paul Hatzler

Partner, Hong Kong
T: +852 3983 7666
E: paul.hatzler@hfw.com

Simon Cartwright

Partner, Dubai
T: +971 4 423 0520
E: simon.cartwright@hfw.com

Guillaume Brajeux

Partner, Paris
T: +33 1 44 94 40 50
E: guillaume.brajeux@hfw.com

Henry Fung

Partner, Shanghai
T: +86 21 2080 1000
E: henry.fung@hfw.com

Dimitri Vassos

Partner, Piraeus
T: +30 210 429 3978
E: dimitri.vassos@hfw.com

Paul Dean

Partner, London
T: +44 (0)20 7264 8363
E: paul.dean@hfw.com

Paul Apostolis

Partner, Singapore
T: +65 6411 5343
E: paul.apostolis@hfw.com

Jeremy Davies

Partner, Geneva
T: +41 (0)22 322 4810
E: jeremy.davies@hfw.com

Jeremy Shebson

Partner, São Paulo
T: +55 11 3179 2900
E: jeremy.shebson@hfw.com

Lawyers for international commerce

hfw.com

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São Paulo London Paris Brussels Geneva Piraeus Dubai Shanghai Hong Kong Singapore Melbourne Sydney Perth