



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



Australian Report

I first pay my respects to the Turrbal and Jagera people of the land where I work and live, Meanjin Brisbane.

With ongoing turmoil in the Middle East and Ukraine as well as geopolitical tensions in the Asia-Pacific region, the maritime world continues to be challenged. As always, our thoughts are with the seafarers who keep world trade turning.

The following is a short snapshot of MLAANZ activities in Australia since the last report.

MLAANZ Branches

The Australian MLAANZ Branches have held a number of local events in their respective jurisdictions this quarter, as follows:

- MLAANZ Western Australia – 22 July, virtual and in-person seminar hosted by Clifford Chance on the future of maritime law and maritime pilotage in Western Australia. The guest speaker was Julian Thomas, managing director of Fremantle Pilots
- MLAANZ New South Wales – 11 September, The Honourable Steven Rares KC tribute dinner and AGM at the Royal Exchange, Sydney

Preparations are, of course, in full swing for the annual federal conference being held in Queenstown between 2 and 4 October. More about that in the president's report.

The CMI, Conventions and Consultation

As mentioned in the last edition, MLAANZ's immediate past president, Michelle Taylor, attended the Comité Maritime International (CMI) conference in Gothenburg (Sweden) to represent MLAANZ and participate in the discussions. Michelle's report on this event is expected to be published soon.

MLAANZ has continued to correspond with the Australian Government urging it to sign the Beijing Convention on the Judicial Sale of Ships. This has included the involvement of two eminent members of the maritime legal community, retired Federal Court judges, The Honourable Steven Rares KC and The Honourable Neil McKerracher KC. We will continue to update on developments on this important issue.

MLAANZ has been invited to attend the upcoming Shipping Consultative Forum in September 2024 and we will report on those discussions in



MLAANZ Australia vice-president Naraya Lamart

the next edition. Given the geopolitical challenges, it seems likely that discussions regarding The Maritime Strategic Fleet will remain high on the agenda.

Recent Australian Maritime Legal Happenings

Marine Order 11 Consultations

Consultation by the Australian Maritime Safety Authority (AMSA) on Marine Order 11 has now closed.

The proposed changes to Marine Order 11, which applies to Australian-regulated vessels and foreign vessels, set out requirements for living and working conditions onboard vessels including health, conditions of employment, food and social security protections.

The changes extend to, among other things, adequacy of insurance coverage to compensate seafarers for losses incurred during the recruitment process and ensuring sufficient financial security for the repatriation of seafarers.

A summary of the key proposed changes can be accessed [here](#).

Recent Federal Court Admiralty Decision: Iveco SPA v The Ship Hoegh London [2024] FCA 901

In this case, His Honour Justice Stewart made orders releasing a vessel from arrest in circumstances where the underlying writ which formed the basis for the arrest named two entities as defendants, and not the vessel itself.

Those two entities were also identified as the “relevant person” which meant that, in commencing the proceedings against those entities, the plaintiffs had apparently sought to make claims both *in personam* and *in rem* in the same proceedings. His Honour noted this was in contravention of r 18 of the Admiralty Rules 1988 (Cth).

Security, in the form of a P&I Club letter of undertaking (LOU) from Gard (UK) Ltd as agent for Gard P&I (Bermuda) Ltd was offered to the plaintiffs in the writ, however, there was a dispute as to whether the LOU constituted sufficient security. This was because the plaintiffs argued the LOU had not been given on behalf of the contractual carrier against which the claims would be brought (ie, the entities named as defendants in the underlying writ).

Justice Stewart agreed with the submissions made on behalf of owners, on their application to release the vessel from arrest, that a vessel can only be arrested and security obtained for claims against owners (and, although not relevant in this case, demise charterers).

Orders were made releasing the vessel from arrest and timetabling for the writ to be amended.

Naraya Lamart
MLAANZ Australian Vice-President
Wotton+Kearney
Level 23, 111 Eagle Street
Brisbane, QLD 4000
+61 7 3236 8761
Naraya.Lamart@wottonkearney.com.au

September 2024

