

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Marine Safety (Domestic Commercial Vessel) National Law Amendment (Cost Recovery) Regulation 2016

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in Section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Australian Maritime Safety Authority (AMSA) is the National Regulator, responsible for the National System for Domestic Commercial Vessel Safety under the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (the Act).

The *Marine Safety (Domestic Commercial Vessel) National Law Amendment (Cost Recovery) Regulation 2016* (the Regulation) would amend the *Marine Safety (Domestic Commercial Vessel) National Law Regulations 2013* (the Principal Regulation) to prescribe fees for certain activities currently being conducted by AMSA under the Act. Section 150 of the Act provides that AMSA may charge such fees as are prescribed by the regulations for things carried out by AMSA.

Specifically, the Regulation would implement a fee for service to recover the costs to AMSA associated with the following activities:

- a) accrediting marine surveyors and renewals;
- b) assessing applications for exemptions and equivalent means of compliance; and
- c) delivering other miscellaneous services of a minor nature as notified by AMSA and not otherwise delegated to the States and the Northern Territory.

Human rights implications

This Disallowable Legislative Instrument engages the right to work under article 6 of the International Covenant on Economic, Social and Cultural Rights because it requires marine surveyors, accredited under section 24 of the Principal Regulation, to pay a fee to AMSA for services associated with AMSA assessing their application for accreditation. In principle, this limits access to work to those who have paid the fee and have subsequently been accredited.

Vessel surveys (detailed inspections) carried out by suitably qualified marine surveyors are a key regulatory tool for AMSA. Comprehensive oversight of a surveyor accreditation scheme is essential to ensure that marine surveyors have the appropriate capabilities, experience and qualifications to assess whether vessels are designed, constructed and maintained in accordance with the Act and associated regulatory instruments.

The amount paid to AMSA by an applicant to become accredited as a marine surveyor is prescribed according to the cost of assessing applications for accreditation. Marine surveyors will be charged application fees (plus a \$254 renewal fee, payable every five years) which will permit them to provide survey services for vessels across all States and Territories and engage in work across jurisdictional boundaries. Accredited marine surveyors are permitted to charge vessel owners for their services and are not prevented from gaining a living by the fee implemented through this instrument.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as, to the extent that it limits human rights, those limitations are reasonable, necessary and proportionate, and pursue a legitimate objective.

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Minister for Infrastructure and Transport