



Submission to AMSA

Draft Marine Order 11

November 2014



AMMA is Australia's national resource industry employer group, a unified voice driving effective workforce outcomes. Having actively served resource employers for 95 years, AMMA's membership covers employers in every allied sector of this diverse and rapidly evolving industry.

Our members include companies directly and indirectly employing more than half a million working Australians in mining, hydrocarbons, maritime, exploration, energy, transport, construction, smelting and refining, as well as suppliers to those industries.

AMMA works with its strong network of likeminded companies and resource industry experts to achieve significant workforce outcomes for the entire resource industry.

The resource industry currently employs more than 1.1 million people either directly or indirectly and accounts for 18% of economy activity in Australia¹ (double its share of a decade ago). The industry is forecast to contribute a record \$205 billion of export earnings to our national income in 2013-14².

First published in 2014 by

AMMA, Australian Mines and Metals Association

GPO Box 2933

Brisbane, QLD, 4001

Email: policy@amma.org.au

Phone: (07) 3210 0313

Website: www.amma.org.au

ABN: 32 004 078 237

© AMMA 2014

This publication is copyright. Apart from any use permitted under the Copyright Act 1968 (Cth), no part may be reproduced by any process, nor may any other exclusive right be exercised, without the permission of the Chief Executive, AMMA, GPO Box 2933, BRISBANE QLD 4001

¹ Reserve Bank of Australia research discussion paper, *Industry dimensions of the resources boom*, February 2013

² Bureau of Resources and Energy Economics, *Resources and Energy Quarterly—March quarter 2013*

Table of contents

1	Overview	2
2	Key concerns about draft MO11	3
2.1	Industrial activities	3
2.2	Hours of rest	3
2.3	Shore leave	3
2.4	Timeframe for claim	3
2.5	Noise level	4
2.6	Right to visit a medical practitioner or dentist	4
3	Conclusion	4

1 Overview

In this submission about draft Marine Order 11 (draft MO11), AMMA urges AMSA to review and revise the draft marine order.

AMMA makes this submission on behalf of affected members in the offshore resources industry.

Section 2 of the draft order stipulates that its purpose is to give effect to the Maritime Labour Convention and other international standards. However, AMMA believes that the wording in the below sections in particular goes beyond simply giving effect to international standards:

- a. **Section 24** – Industrial activities.
- b. **Section 28** – Hours of rest.
- c. **Section 30** – Shore leave.
- d. **Section 34** – Timeframe for claim.
- e. **Section 53** – Noise levels.
- f. **Section 66** – Right to visit a medical practitioner or dentist.

The following pages include details of specific issues and key concerns with the proposals put forward in the current draft.

2 Key concerns about draft MO11

2.1 Industrial activities

Under s24 of the draft order – Industrial activities – the proposal is to place on obligation on a vessel's master to ensure that seafarers are not subject to “adverse action” on the grounds that the seafarer is a member of an industrial organisation (ie a union) or engaging in an “industrial activity”.

It is AMMA's view on behalf of industry that those protections should be left to the Fair Work Act 2009 to administer instead of being inserted in a haphazard way into MO11.

2.2 Hours of rest

Under s28 of the draft order – Hours of rest – the proposal is to require the operator of a vessel to maintain records of a seafarer's daily hours of rest. In the current MO28, the obligation to record hours of work and rest is placed on the individual seafarer (s17.3). In that marine order, the obligation on the operator of the vessel is only to keep and maintain the records prepared by the seafarer (s17.5).

It is AMMA's view on behalf of industry that MO11 should reflect that same arrangement.

2.3 Shore leave

Section 30 of the draft order – Shore leave – reads as follows:

Subject to the operational requirements of a seafarer's work on board a vessel, the master of a vessel must ensure that when the vessel is in port, each seafarer on board the vessel is, if requested by the seafarer, granted leave to go to shore.

It is AMMA's view on behalf of industry that this section goes further than what is required by the Maritime Labour Convention, which states at Regulation 2.4:

*Seafarers shall be granted shore leave to benefit their health and well-being and **with the operational requirements of their positions.** [emphasis added].*

AMMA proposes that the proposed Shore leave section in MO11 be brought into line with Regulation 2.4 of the Maritime Labour Convention rather than going further as is proposed by the draft order in its current form.

2.4 Timeframe for claim

Under s34 of the draft order – Timeframe for claim – the proposal is to allow repatriation expense claims to be made by a seafarer up to two years after the expense is incurred.

The Maritime Labour Convention requirement is that a claim must be made “within a reasonable period of time” after the expense is incurred (B2.5.1(8)).

AMMA maintains that a three-month time limit would be far more workable and reasonable for industry than the proposed two years.

2.5 Noise level

Under s53 of the draft order – Noise level – the proposal is to extend the application of the *Code of noise levels on board ships* to new vessels that are at least 500GT. The code itself applies to “new ships of 1,600GT and over”.

It is AMMA's view on behalf of industry that MO11 should give effect to the code, not seek to extend the code's reach beyond the intentions of the International Labour Organization.

This is an important point because the code stipulates a maximum noise level of 60dB(A) in cabins and 65dB(A) in the mess areas, which are much lower than the levels prescribed in Australian Standard 2254-1988.

2.6 Right to visit a medical practitioner or dentist

Under s66 of the draft order – Right to visit a medical practitioner or dentist – the proposal is for vessel owners to ensure seafarers in need of immediate medical care are given access to facilities for dental treatment, amongst other things.

In AMMA's view on behalf of industry, this should be clarified to confirm that only cases of “essential dental care” are captured under this obligation.

The Maritime Labour Convention requirement is to provide “essential dental care” (MLC A4.1(1)). The Navigation Act 2012 requirement is to provide “essential dental care”.

In order to avoid disputes, AMMA maintains MO11 should use the same terminology.

3 Conclusion

AMMA would welcome the opportunity to discuss further the issues identified in this submission.

Should draft MO11 continue to be revised by AMSA, AMMA members would be happy to provide further information and feedback regarding matters of application of the proposed legislation to offshore resource industry operations.