

Maritime industry – workplace rights and entitlements

Employees working in Australia have basic rights and protections provided by the Fair Work Act (FW Act). This fact sheet explains how Australian workplace laws apply to ships and fixed platforms.

Does the Fair Work Act apply?

Ships operating in Australian waters

The FW Act applies to any fixed platform and some ships operating in Australian territorial waters, the Australian Exclusive Economic Zone or waters above the Continental Shelf (collectively referred to as 'Australian waters' for the purposes of this fact sheet).

The FW Act will apply to a ship operating in Australian waters if it is one of the following:

- a ship registered on the Australian General Shipping Register (AGSR). The Register is maintained by the Australian Maritime Safety Authority (AMSA), who can be contacted on +61 2 6279 5000 or at amsa.gov.au
- a ship that supplies, services, or operates in connection with, a fixed platform and operates to and from an Australian port
- a ship operated or chartered by an Australian employer and uses Australia as a base
- **a majority Australian-crewed ship.**

The FW Act does not apply to:

- foreign-flagged ships (other than some licensed ships **or a majority Australian-crewed ship**) exercising a right of innocent passage or transit passage through Australian waters
- ships registered on the Australian International Shipping Register (AISR), which are engaged in international trading.

Australian employer means an employer who:

- is an Australian trading or financial corporation
- is the Commonwealth or a Commonwealth authority
- is a body corporate incorporated in a Territory
- carries on an activity in Australia or Australian waters and whose central management and control is in Australia, or
- employs a crewmember on a majority Australian-crewed ship

Majority Australian-crewed ship means the majority of the crew are residents of Australia and the operator:

- is a resident of Australia
- has its principal place of business in Australia, or
- is incorporated in Australia

Fixed platform means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or, or exploitation of, resource or for other economic purposes.

Ships engaged in coastal trading

Coastal trading involves the movement of passengers or cargo between Australian ports for commercial purposes. Ships engaging in coastal trading are licenced under the Coastal Trading (Revitalising Australian Shipping) Act 2012 (licensed ships).

The FW Act applies to ships engaged in coastal trading (including foreign-flagged ships) if they:

- are operating under a general, transitional or emergency licence, or
- are operating under a temporary licence and have:
 - made at least 2 other voyages under either a temporary licence or single voyage permit in the last 12 months, or
 - held a continuous voyage permit in the previous 15 months.

See regulation 1.15 of the Fair Work Regulations at fairwork.gov.au/legislation

The FW Act applies from the day that loading begins until the day that unloading ends.

The Department of Infrastructure, Transport Regional Development, Communications and the Arts issues licences for ships engaged in coastal trading. For more information about licences please phone +61 2 6274 7474 or email sbu@infrastructure.gov.au

Ships operating outside Australian waters

The FW Act applies outside of Australian waters to:

- a ship registered on the AGSR (wherever located)
- ships operated or chartered by an **Australian employer** who uses Australia as a base
- **Australian employers** in the Australian Antarctic Territory
- **Australian-based employees** in the Australian Antarctic Territory.

The FW Act doesn't apply to ships registered on the AISR that are engaged in international trading.

Parts of the FW Act may also apply outside Australian waters to Australian-based employees and their employers (including an employer that is not an Australian employer). You should seek specific advice about which parts of the FW Act apply in these circumstances.

Parts of the FW Act relating to general protections, apply to Australian employers outside Australian waters for all of their employees (whether or not the employee is Australian-based).

Australian-based employee means an employee:

- whose primary place of work is in Australia, or
- employed by an Australian employer (whether the employee is located in Australia or elsewhere).

Note: An employee engaged outside Australia to perform duties outside Australia is not an Australian-based employee.

Rights and responsibilities under the Fair Work Act

The FW Act provides a safety net of minimum terms and conditions of employment, including but not limited to:

- the National Employment Standards (NES), which apply to all national system

employees. You can find out more in our Introduction to the NES fact sheet at fairwork.gov.au/factsheets

- the National Minimum Wage
- rules for making enterprise agreements
- rules for using individual flexibility arrangements
- termination of employment protections
- record-keeping and pay slip obligations
- protections for workplace rights (including protections from discrimination and sexual harassment)
- transfer of business rules
- right of entry requirements (including privacy laws to protect personal information).

Outside Australian waters, some of these terms and conditions don't apply.

The Seagoing Industry Award may also apply to employers and employees in the maritime industry. This award sets out additional minimum conditions of employment, including wage rates, hours of work, and allowances. View the award at fairwork.gov.au/listofawards

Note: Agreements and minimum wage determinations under maritime laws may also apply to workers on ships, regardless of whether the FW Act applies to them. These may include agreements and determinations under the Navigation Act 2012 and the Shipping Registration Act 1981. The AMSA can provide more information on these requirements.

For more information about your rights and responsibilities go to fairwork.gov.au

Where can I get more information?

The Fair Work Ombudsman

The Fair Work Ombudsman (FWO) provides a range of resources to assist employers and employees understand their rights and obligations under the national workplace laws. The FWO can also investigate allegations of non-compliance with these laws.

If you have an enquiry regarding rights and obligations in the maritime industry, you can email maritime@fwo.gov.au

You can also make an online enquiry at fairwork.gov.au/register or call the Fair Work Infoline on 13 13 94.

Maritime Industry Australia Ltd

Maritime Industry Australia Ltd (MIAL) represents companies involved in the Australian maritime sector, including employers of Australian and International labour. MIAL provides a range of services to members including advice and representation in workplace relations and government regulation matters.

Phone: +61 474 477 411

mial.org.au

The Maritime Union of Australia

The Maritime Union of Australia (MUA) is an Australian trade union representing members in the maritime industry. The MUA provides a range of services including advice on workplace relations matters.

Phone: +61 2 9267 9134

mua.org.au

Australian Maritime Officers Union

The Australian Maritime Officers Union represents all professional, administrative, supervisory and technical employees in the maritime and stevedoring industries and in Port and Marine Authorities. It provides a range of employment services to members.

Phone: +61 2 9264 2388

amou.com.au

The Australian Institute of Marine and Power Engineers

The Australian Institute of Marine and Power Engineers is a trade union that represents the industrial interests of Marine Engineers and Electricians on ships, and other vessels operating in Australian waters.

Phone: +61 2 9319 5569

aimpe.asn.au

The International Transport Worker's Federation

The International Transport Workers' Federation represents and promotes the interests of transport workers around the world.

Phone: +61 2 9265 8453

itfseafarers.org

The Australian Maritime Safety Authority

The AMSA is a government agency providing safety and environment protection services to the Australian maritime industry. One of the roles of the AMSA is to maintain the AGSR and the AISR.

Phone: +61 2 6279 5000

amsa.gov.au

The Department of Infrastructure, Transport Regional Development, Communications and the Arts

The Maritime and Shipping branch of the Department of Infrastructure, Transport Regional Development, Communications and the Arts regulates maritime transport, including shipping, in Australia. One of the responsibilities of the department is to issue licences under the Coastal Trading (Revitalising Australian Shipping) Act 2012.

Phone: +61 2 6274 7474

infrastructure.gov.au/maritime/business/coastal_trading/index.aspx

CONTACT US

Fair Work online: fairwork.gov.au

Fair Work Infoline: **13 13 94**

Need language help?

Contact the Translating and Interpreting Service (TIS) on **13 14 50**

Help for people who are deaf or have hearing or speech difficulties

You can contact us through the National Relay Service (NRS).

Select your [preferred access option](#) and give our phone number: **13 13 94**

The Fair Work Ombudsman is committed to providing you with advice that you can rely on. The information contained in this fact sheet is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or a workplace relations professional.

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