

Ministerial Guidelines for Granting Licences and Permits to Engage in Australia's Domestic Shipping

- **Related Links**
- [Coasting Trade Licences & Permits](#)
- [Bulk Cargo Inspection Report](#)
- [Coasting Trade Statistics](#)
- [Current Vessel Licences](#)
- [Ministerial Guidelines for Granting Licences and Permits to Engage in Australia's Domestic Shipping](#)

These guidelines were approved on the 2nd July 2009 by the Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government.

- [Preamble](#)
- [Purpose](#)
- [The Coasting Trade](#)
- [Exemptions from the Coasting Trade](#)
- [Licensing of Vessels to Engage in the Coasting Trade](#)
- [Single and Continuing Voyage Permits](#)
 - [Availability Considerations](#)
 - [Adequacy of Licensed Services](#)
 - [Public Interest Considerations](#)
 - [Safety and Environmental Considerations](#)
 - [Security Considerations](#)
- [Permits Generally](#)
 - [Statement of Cargo Actually Carried](#)
 - [Fees](#)
 - [Public Release of Permit Data](#)
 - [Production of Permits](#)
- [Single Voyage Permits](#)

- [Amendments](#)
 - [Timing and Application Fees](#)
 - [Continuing Voyage Permits](#)
 - [Availability and Adequacy](#)
 - [Timing and Application Fees](#)
 - [Revision of Guidelines](#)
 - [Contacts](#)
-

Preamble

The Australian Government's policy is to foster a viable coastal shipping industry in a competitive domestic transport sector. The House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government is conducting an inquiry into coastal shipping and regulation. The inquiry will make recommendations on ways to enhance the competitiveness and sustainability of the Australian coastal shipping sector.

Purpose

1. These Guidelines provide guidance for staff of the Department of Infrastructure, Transport, Regional Development and Local Government (the Department) in administering the coasting trade provisions of the Navigation Act 1912 ("the Act") and the Navigation (Coasting Trade) Regulations (the Regulations), and in issuing Australian coasting trade licences and permits.
2. The delegate of the Minister may, in particular cases and after due consideration of issues of public interest and natural justice, depart from the Guidelines where it is judged reasonable to do so, provided that the requirements of the Act and the Regulations are adhered to.
3. The Guidelines are made available as information for the shipping industry and do not constitute legal advice. Persons requiring advice in respect of the Act or the Regulations are advised to consult their own legal advisers.

The Coasting Trade

4. The Act defines the coasting trade (ie carriage of domestic cargoes and passengers) and details the requirements for engaging in that trade.
5. Under the Act a ship is deemed to be engaged in the coasting trade if it takes on board cargo or passengers at any port in a State or a Territory, to be carried to or delivered at

a port in the same or another State or Territory, and delivers that cargo or those passengers in that State or Territory.

6. Part VI of the Act (The Coasting Trade) applies to trading ships only if on inter-State or overseas voyages, defined in s6 of the Act, but does not apply to trading ships on intra-State voyages (unless such ships have been declared under s8AA of the Act). The loading of coastal cargo covered by Part VI of the Act cannot commence unless a licence or permit has been issued.
7. However, a permit is required for an unlicensed ship to carry intra-State cargo if the ship carries that cargo while on an inter-State or international voyage (or has been declared under s8AA).
8. Passengers on through tickets to/from overseas and international cargo on through bills of lading are not considered to be part of the coasting trade.
9. To facilitate tourist traffic, cruise liner passenger trades are exempt from the coasting trade requirements of the Act, other than those between Victoria and Tasmania.
10. Unlicensed cruise liners carrying domestic passengers between Victoria and Tasmania require a permit (note this does not include passengers who are carried across Bass Strait as part of a longer journey involving countries other than Australia or States other than Victoria and Tasmania).
11. Cruise liners are ships in excess of 5000 gross registered tonnes, capable of a speed of at least 15 knots, capable of carrying at least 100 passengers and utilised primarily for the carriage of passengers.
12. The Act provides for substantial penalties for ships engaging in the coasting trade without a licence or a permit.
13. The term "passengers" does not include rescued persons, stowaways, persons engaged in the business of the ship, children under 1 year of age, or persons on board in an official capacity (see section 6 of the Navigation Act).
14. Where a ship carries Australian coastal cargo or passengers without an exemption (see paragraph 16), a coasting trade license or permit, then the master, owner and agent of the ship each commits an indictable offence (currently a fine on conviction, not exceeding \$5,500 for a natural person and \$27,500 for a body corporate).
15. Offshore anchorage points or loading facilities outside State or Territory Coastal Waters (ie beyond the 3nm limit from the territorial sea baseline (TSB)) are not ports "within a State or Territory" for the purposes of Part VI of the Navigation Act. A permit is not required to carry cargo or passengers to or from such points or facilities to a port in a State or Territory.

Exemptions from the Coasting Trade

16. The Act provides for certain trades to be exempt from the requirement that a ship must be licensed or have a permit to engage in them. Exemptions are provided either by Ministerial Direction or through an Instrument signed by the Governor General.
17. Ships engaged in trades between the mainland and the following Commonwealth territories, or in trades between those territories, have such exemptions:
 - Christmas Island
 - Norfolk Island
 - Cocos (Keeling) Islands
18. Also exempt are passenger cruise liners operating in coastal passenger trades other than those between Victoria and Tasmania.

Licensing Vessels to engage in the Coasting Trade

19. Under the Act, licensed ships receive preference in the carriage of inter-State cargo, in that a permit may only be issued if no suitable licensed ship is available or the service provided by licensed ships is inadequate.
20. Licences are issued, pursuant to section 288 of the Act, on condition that:
 - seafarers employed on the ship are paid at least Australian wage rates; and
 - if applicable, the crew has access to the passengers' library.
21. Licences are issued for a 12 month period (or part thereof) ending 30 June and are renewable annually.
22. Licensed ships are not restricted to specific trades. A licensed ship may engage in the coasting trade at any time without a permit.
23. Licences are not restricted to Australian flagged, owned or crewed vessels.
24. The master, owner and agent of a licensed ship engaging in the coasting trade commits an offence if the ship is receiving, or has been receiving during the past 12 months, or is to receive, a subsidy or bonus from a foreign government. Due to the operation of the Crimes Act 1914, the maximum penalty for this strict liability offence is a fine of \$5,500 for a natural person and \$27,500 for a body corporate.
25. All foreign nationals engaged as crew on licensed vessels must comply fully with Australia's immigration regime.
26. All foreign vessels must comply fully with Australian Customs regulations.
(See Internet sites at www.immi.gov.au and www.customs.gov.au respectively.)
27. Licence applicants are required to make an undertaking to pay Australian rates of wages in accordance with Part VI of the *Navigation Act 1912*.

28. A Coasting Trade Licence cannot be cancelled by the Minister other than for breach of the conditions of the licence, but may be surrendered by the holder.

Single and Continuing Voyage Permits

29. Permits, either a single voyage permit (SVP) or a continuing voyage permit (CVP), may be issued, pursuant to section 286 of the Act, to unlicensed vessels to engage in a coastal trade between ports where:
 - a) no licensed ship is available for the service; or
 - b) that the service as carried out by the licensed ships is inadequate; and the Minister is satisfied that it is in the public interest to do so.
30. When considering the application, the matters relevant to vessel availability will depend, in large part, on information provided in the permit application itself, for instance, the specified ports, nominated time for the voyage, and the intended cargo. Therefore, the inquiry is whether there is a licensed ship available for the particular voyage or voyages for which the application is made.
31. When considering an application the following should also be taken into account.

Availability Considerations

32. All relevant licensed ship operators are to be contacted by the Department to determine the availability and suitability of licensed ships for the voyage or voyages identified in the application;
33. In considering the availability of licensed ships, the particular shipping requirements specified in the application are given due consideration.
34. Delivery requirements are important factors in determining availability and whether the cargo can be delivered in a timely, sound and uncontaminated condition;
35. Availability is determined on a case by case basis and should include consideration of whether a licensed ship can meet supply, production or service obligations specified in the application for the use of non licensed ship.
36. A licensed ship may be considered unavailable if the operator cannot guarantee that it will be presented to ship cargo according to a schedule that meets the reasonable needs of the shipper. As a general rule, the Department will consider a licensed ship available if it can carry the cargo within a window of 3 clear days either side of the sailing date stipulated in the application. Licensed ships may also be considered unavailable if they have contractual arrangements that give other shippers priority at short notice.

Adequacy of Licensed Services

37. A licensed ship is considered inadequate when it is not suitable to perform the task. Suitability may be determined on the basis of the reasonable delivery requirements of

the shipper, the carrier's ability to supply necessary equipment (eg containers or bolsters), technical characteristics of the ship in question and capacity of the ship to transport cargo safely.

38. Shippers' reasonable delivery requirements are the primary determinants of whether the service provided by licensed vessels is adequate and, in particular, whether the cargo can be delivered in a timely, sound and uncontaminated condition. For example, cargo may be required to be containerised, or delivered in bulk, or transported in food grade holds, or be available at the unloading port on a particular date.
39. To be considered adequate, carriage must be available to the shipper on reasonable commercial terms.

Public Interest Considerations

40. Permits may only be issued where licensed tonnage is not available or is inadequate, and it is in the public interest. The public interest is assessed for each permit application on the merits of the case.
41. The Minister (or the Minister's delegate) may grant permits either unconditionally or subject to such conditions as he or she thinks fit to impose in the public interest. Permits may be refused to vessels that have breached conditions for any previous permit.
42. Assessment of the public interest includes having regard to a requirement for maintenance of supplies, production or service that could not be met by the use of licensed ships, and whether the unlicensed vessel involved would pose an additional risk to Australia's marine environment.
- 42.(A) In relation to permit applications for passenger cruise ships, in determining whether the grant of the permit for which an application has been made will be in the public interest, a factor which is to be taken into account will be whether the grant of the permit could have a significantly adverse impact on the viability of Australian licensed and crewed cruise ships.

Safety and Environmental Considerations

43. Other matters which the delegate may take into consideration for a permit application include a ship's safety and environmental record.
44. It will not be in the public interest to allow vessels with poor safety or environmental protection standards to carry coastal cargo under permit. Permits will therefore be issued on condition that the ships named in the permit comply with the standards of safety and marine environment protection of international conventions to which Australia is a party. Ships issued with permits will be liable for inspection by the Australian Maritime Safety Authority under its port State control program.

45. Tankers: An independent inspection report based on the Oil Companies International Marine Forum (OCIMF) SIRE 2 inspection standards must accompany an application for an oil, chemical or LPG tanker. The inspection report remains valid for a period of 6 months from inspection. Also required for tankers is a declaration from the charterer stating that the ship is in a satisfactory condition to undertake the intended shipment.
46. Dry Bulk Carriers: A completed Bulk Cargo Inspection Report (a proforma is available on the Department's Internet site: www.infrastructure.gov.au) must accompany permit applications for dry bulk carriers, together with a copy of a current Safety Management Certificate (ISM) and Document of Compliance issued by the vessel's classification society. Also required for dry bulk carriers is a written statement by the applicant declaring that it is satisfied the vessel is suitable for the intended voyage.

Security Considerations

47. Ships applying for a coasting trade permit will be required to have an International Ship Security Certificate or interim certificate.

Permits Generally

48. Applicants should apply for permits well in advance. Permits are processed during office hours (9am to 5pm, Monday to Friday) excepting public holidays and the annual shutdown of the Department between Boxing Day and New Year's Day. Applicants should plan their applications accordingly. Permit applications received after 5pm on any working day will be deemed to have been received on the following working day.
49. Permits will not be issued or amended retrospectively where the loading of coastal cargo or the carriage of that cargo has already commenced. Applicants should apply for amendments well in advance. Carriage by unlicensed vessels of coastal cargo or passengers not covered by a permit may result in a prosecution against the master, owner or agent.
50. Under section 389 of the Navigation Act it is an offence for persons to make false declarations, false statements or false representations or give false evidence on oath, in connexion with an application or proceeding under the Act. These offences are punishable by a fine not exceeding \$5000 or imprisonment for a period not exceeding 2 years, or both.
52. Successive permits may be issued provided that the ship has left the Australian coast on a regular basis (at least once in any 3 month period). For Continuing Voyage Permits (CVPs), this may be either during the period covered by a permit or between successive permits. Applicants should supply the name and date of the last foreign port called, and the first foreign port called after the currency of a permit, and (for CVPs) the name and date of at least one of any foreign ports to be called during the currency of a permit.

53. Ships proposing to carry dry bulk coastal cargo under a coasting trade permit must notify the Australian Quarantine and Inspection Service (AQIS) and provide details of the cargo and ports involved.
54. Permit holders are expected to be aware of and comply with any requirement under legislation to report to AMSA and/or the Australian Transport Safety Bureau (ATSB) any accident or incident involving the ship or its crew while operating under the terms of a permit.
55. An applicant for a permit for a vessel must indicate at the time of application whether the ship holds a valid International Ship Security Certificate or interim certificate.

Statement of Cargo Actually Carried

56. Applicants to whom a permit is issued must complete a Statement of Cargo Actually Carried for each voyage made under the permit. The return of these Statements to the Department, within 14 days of the sailing date under either a continuing or single voyage permit, is a condition attached to the issue of each permit. Persons to whom a permit has been issued are required to adhere to this condition. Failure to do so may delay the issue of any further permits sought until the deficiency is rectified.

Fees

57. Permit and licence fees are to accompany applications in the form of a credit card transaction. Contact shipping@infrastructure.gov.au or 1300 307 761 to obtain a Direct Debit Request (DDR) Form to authorise the Department to debit funds from the nominated credit card. The signed original Form must be returned to the Department prior to any permit or licence being processed.

Release of Permit Application Data

58. Details of applications (including the name of the vessel for which the permit is being applied) will be provided to relevant licensed ship operators, the Maritime Union of Australia (MUA), the Australian Shipowners Association (ASA), the Australian Institute of Marine and Power Engineers (AIMPE) and Australian Maritime Officers Union (AMOU) at the time of application seeking factual information, to enable the Department to assess the availability and suitability of licensed tonnage.

Public Release of Data for Permits Used

58. (A). Details of each permit issued, including the name of the ship, cargo, port(s) of loading/discharge and dates of loading, will be made available on the Department's website at www.infrastructure.gov.au. Details contained in individual Statements of Cargo Actually Carried, including the amounts of cargoes that were actually carried and the dates on which they were shipped, will also be made available on the Department's website. CVPs are also notified in the Government Gazette after issue and details will also be made available on the Department's website.

Production of Permits

59. It is a condition of issue of permits that permit holders must produce the permit to the Australian Customs Services at each port of loading and discharge prior to commencing loading or discharge of cargo carried under permit.

Single Voyage Permits (SVPs)

60. Permits may only be issued where licensed vessels are not available or are inadequate and the issue of the permit is in the public interest. SVPs exist for circumstances where there is a one-off unavailability of suitable licensed ships. An SVP is issued for a particular vessel to carry a nominated cargo or number of passengers between particular ports, loading and sailing on or about specified days.

Amendments

61. SVPs are issued for a stated type and volume of cargo or passengers, with a stated volume tolerance of plus or minus 10% and a sailing date tolerance of, generally, 3 clear days either side of the nominated sailing date. The holder of an SVP must seek an amendment, before loading, if the amount or type of cargo or passengers to be carried, or the actual sailing date, change so as to fall outside these tolerances. In situations where cargo (or passengers) is loaded outside the stipulated tolerances, further permits will not be issued without a satisfactory explanation in writing to the Department.

Timing and Application Fees

62. The Department will endeavour to issue normal SVPs by 5pm on the 4th working day following the day on which the application is received. Applicants should note that applications in respect of single-hulled tankers over 15 years old may involve extra processing time for the Department to obtain an assessment of the independent inspection report.
63. Permit fees are prescribed by Regulation. The application fee for a normal (non-urgent) cargo SVP, non-urgent amendment of an SVP application, or non-urgent amendment of an issued SVP, currently is \$200. The prescribed fee for a passenger SVP application is \$22. Separate applications are required for passengers (use form CT-1) and for cargo (use form CT-2). The application fee is \$400 for an urgent cargo SVP or an urgent amendment to an application or permit (one for issue by 5pm on the second working day following the day on which the application is received).
64. Where an applicant seeks an Urgent SVP, it must also provide a statement that clearly demonstrates to the Department why the permit is required on an urgent basis. The statement must address the particular circumstances of the shipment(s) involved, for example, when the need for an urgent permit became obvious. To avoid delays, applicants should provide as much detail as possible about the reasons for urgency of the application when applying for an urgent permit.

65. The applicant for an urgent SVP must also sign a declaration to the effect that the information in the statement above is true to the best of the applicant's belief.

Continuing Voyage Permits (CVPs)

66. A CVP may be issued where there is insufficient or inadequate shipping capacity available from suitable licensed vessels over an extended period.
67. Prerequisites for a CVP are the same as for a SVP, namely that licensed vessels are unavailable or inadequate to meet the needs of a shipper and the Minister is satisfied it is in the public interest to allow an unlicensed ship to engage in that trade. The public interest is assessed for each application and the criteria are the same as for SVPs, including satisfactory permit-related inspection reports and shipper declarations for tanker and bulk carrier permits.
68. CVPs may be issued for periods of up to 3 months.
69. To carry cargo between ports other than as specified in a CVP, the holder of a CVP should apply for an SVP.
70. All CVP holders are advised to comply fully with the requirements of Australia's customs, quarantine and immigration regimes (for more information see Internet sites at www.immi.gov.au, www.daff.gov.au/aqis and www.customs.gov.au respectively). Failure to do so will be considered in assessing whether the issue of any further permit would be in the public interest.

Availability and Adequacy

71. The question of whether licensed ships are available and adequate is addressed on a case by case basis. Applicants must specify in their application the voyages proposed under the permit, including the intended volume and type of cargo, the port rotation, and the intended loading and sailing dates for each voyage.
72. Operators of licensed ships, the MUA, ASA, AIMPE and AMOU are consulted on whether any suitable licensed ships are available to carry the specified cargoes on any or all of the voyages listed in the application.
73. Applicants should submit their application using the Department's online system. Where circumstances dictate this is not possible, applicants must supply a schedule listing all proposed voyages under the permit, showing cargo types and expected volumes, and dates of loading, sailing and discharge at the nominated ports to be covered by the permit. In addition, applicants must specify: the name and date called of the last foreign port to be visited prior to the commencement of the permit period; the first foreign port to be visited after the end of the permit period; and one of any foreign ports to be visited during the currency of the permit.
74. Where a licensed ship is available to carry the specified cargoes for some of the voyages specified in a CVP application, the permit is issued on condition that it will

only be used when a licensed ship is not available. A condition of issue of the permit is that the permit holder then is responsible for ascertaining the availability of licensed ships prior to each voyage and providing documentary proof of this, such as a signed declaration to that effect, to the Department within 7 days of that voyage commencing.

75. Alternatively, the Department may offer the applicant the opportunity to amend its application to exclude voyages/ports/cargoes for which licensed vessels are available. In this case, as a condition of issue of the permit, the permit holder must then notify the Department in writing as soon as possible and certainly prior to the vessel commencing to load, when there is a material change proposed in any of the details of the voyages specified in the CVP application. The Department then will re-check the availability of licensed ships.

Timing and Application Fees

76. The Department will endeavour to issue CVP by 5pm on the 10th working day after the day on which the application is received. There is no provision for urgent issue of CVPs.
77. The application fee prescribed by Regulation for a CVP is currently \$400.
78. The application fee for amending a CVP whereby the face of the permit is changed is currently \$400. No fee is chargeable for amending a CVP whereby the face of the permit remains unchanged or amending an application for a CVP.

Revision of Guidelines

79. These Guidelines may be revised from time to time at the Minister's discretion. Persons using the Guidelines should ensure they are using the latest version available on the Department's website www.infrastructure.gov.au.

Contacts

80. For further information on the Coasting Trade permits and licences please contact the Coordination Centre on 1300 307 761 or shipping@infrastructure.gov.au.