WAFIC Safety Update – July 2020

Joint Industry Concerns Raised on New WA Workplace Safety Legislation

WAFIC has worked closely with a range of other industry groups (eg *WA Farmers, Master Builders Association, Property Council of WA, Pastoralist and Graziers, Australian Hotels Association*) to prepare a consolidated industry response to the Standing Committee Inquiry into the new Work Health and Safety legislation tabled in WA Parliament recently.

The McGowan Government upon winning the election in 2017 instigated a Ministerial Panel to review the workplace safety legislation in Western Australia.

Based the recommendations of the Ministerial Review Panel process a draft Bill was released for public comment in mid 2019.

However, the final draft Bill tabled by the McGowan Government in Parliament in November 2019 included a series of previously unseen provisions around 'industrial manslaughter' that had not been part of the Ministerial Review Panel recommendations. No consultation appears to have been undertaken in WA on these proposed new provisions either before, or after, they were introduced into Parliament in November 2019.

 The Bill proposes two classes of industrial manslaughter offences:

1. 'Criminal offence' (section 30A) carrying a penalty of up to 20 years imprisonment and fines of up to $5 million for individuals and $10 million for body corporates; and
2. 'Simple offence' (section 30B) carrying a penalty of up to 10 years imprisonment and fines of up to $2.5 million for individuals and $10 million for body corporates.

WA is the only jurisdiction to have the two-tier approach (i.e. crime section 30A and simple offence section 30B) – other jurisdictions have a single test. The proposed offence in section 30B goes further than any accepted industrial manslaughter provisions in any other state.

The standard of proof for investigators in section 30B is much lower than other State jurisdictions. Whilst the prosecution still bears the onus of proof, the bar to establish culpability is so low, and does not require any of the standard requirements for a manslaughter provision (ie knowledge, recklessness, negligence, deliberate act) that exist in all other Australian jurisdictions safety legislation.

The draft Bill has progressed to the Legislative Council and an Inquiry into the legislation was held throughout June and into July. Public submissions closed on 26th June 2020. Public hearings were held in the first week of July 2020.

WAFIC sought comments from the fishing, pearling and aquaculture industry sectors on the matters set out above and these were included in our formal submission.

Information on the Inquiry and copies of all submissions (including those of the Joint Industry Group and WAFIC) can be found at:
https://www.parliament.wa.gov.au/Parliament/commit.nsf/(EvidenceOnly)/036D9DDC952FB2D54825856F00818FF5?opendocument#Details

Fishing industry members are also urged to contact their local member of the WA Legislative Council and Legislative Assembly, to add your support to the WAFIC and Joint Industry position.

The Chamber of Commerce and Industry have also provided a link to allow individuals to place their support for the industry position. Go to: https://cciwa.activehosted.com/f/29?s=40e1395cbf2a71e2c73ef40d76918f61&nl=3&c=488&m=1159&utm_source=ActiveCampaign&utm_medium=email&utm_content=Potential+implications+of+Industrial+Manslaughter+legislation+for+you+and+your+business&utm_campaign=Industrial+Issues+-+July+3+2020

AMSA offices reopen

AMSA offices have reopened to the public for face-to-face services.

To ensure the safety of staff and all those visiting shopfronts, COVID-19 social distancing measures will remain in place at all office locations. Visitors to shopfronts will be required to provide contact details to ensure efficient and effective COVID-19 contact tracing.

As AMSA transitions back to face-to-face service delivery, many locations will be providing service on an appointment only basis.

To find out which services are available in your area and to make an appointment, contact AMSA Connect on 1800 627 484 or email amsaconnect@amsa.gov.au

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Fatigue Management Guidelines Released by AMSA

Fatigue can have serious consequences for the safety and health of crew and operational safety.

AMSA has released new guidelines based on the International Maritime Organization Guidelines on Fatigue (MSC.1/Circ. 1598.) aimed at Australian vessels.

The fatigue guidelines provide information on the causes and consequences of fatigue, the risks it poses to the safety and health of seafarers, operational safety, security and protection of the marine environment.

It will assist all vessel operators to better understand their roles and responsibilities in managing the risk of fatigue.

The Fatigue Management guidelines should be considered when:

- operators are developing, implementing and improving your safety management systems
- promoting awareness of the causes and consequences of fatigue when delivering training programs and induction courses
- preparing applications for minimum safe manning documents or when determining minimum safe manning levels for ships.

Fatigue can affect all areas of fishing vessel operations. Just meeting the basic requirements of the hours of work and rest is not enough to manage the risk of fatigue - these guidelines will help determine the other factors that can contribute to fatigue.

The full AMSA guidelines can be found at: https://www.amsa.gov.au/sites/default/files/amsa-fatigue-guidelines-web.pdf

Worksafe WA has also developed a Code of Practice for Working Hours that can be found at: https://www.commerce.wa.gov.au/sites/default/files/atoms/files/copworkinghours.pdf

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Have Your Say On AMSA Performance

The Australian Maritime Safety Authority (AMSA) has had 'sole' responsibility for national marine safety management since July 2018.

AMSA is inviting members of the fishing industry to complete a short survey and set out any areas where you think AMSA can improve.

Each year AMSA reviews their regulatory performance against six areas set out in the Australian Government's Regulator Performance Framework:

1. Impact on operations
2. Communications
3. Actions are proportionate to risk
4. Compliance and monitoring
5. Transparency and decision-making
6. Continuous improvement

The report will be published after consideration by AMSA's Executive team, the AMSA Advisory Committee (a peak Australian maritime industry body) and the AMSA Board.

The survey will take a few minutes of your time and provides important feedback to AMSA. Feedback can be anonymous. Go to: https://www.amsa.gov.au/news-community/consultations/have-your-say-our-performance-regulator

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AMSA Confirms 'Workplace' Safety Laws Apply To Commercial Fishing Vessels at the same time as 'Marine' Safety Laws.

The Australian Marine Safety Authority (AMSA) has released a brochure to assist owners and operators to better understand that a commercial vessel is defined as a 'workplace' under the occupational work health and safety legislation applied in each state or territory.

This means that fishing vessels come under two sets of safety regulation:

- *Marine safety* - Marine Safety (Domestic Commercial Vessel) National Law Act 2012;

  AND

- *Workplace safety* – the specific occupational health and safety laws that apply in each state or territory that you operate your fishing vessel.

Anyone working in the fishing or charter industry, should make sure they are familiar with their responsibilities under the occupational health and safety laws that apply in their state or territory **_as well as_** meeting the national marine safety laws under AMSA.

AMSA has recently updated their website with information, including the contact details of state and territory WHS and OHS regulators, and an explanatory downloadable brochure to share with skippers, crew and other stakeholders such as directors of businesses operating commercial vessels.

For more information go to: https://www.amsa.gov.au/vessels-operators/domestic-commercial-vessels/work-health-and-safety-domestic-commercial-vessels

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Changes to EPIRB Laws – Mandatory Float Free EPIRBS by January 2021

If you operate more than two nautical miles seaward from land, changes to EPIRB carriage on DCVs will affect you from 1 January 2021.

AMSA has prepared guidance materials to help you understand the new arrangements.

A float-free EPIRB is a water-activated EPIRB fitted in a float-free bracket. It can activate itself and float free to the water's surface. It activates when a vessel is submerged to a depth of one to four metres underwater. A float-free EPIRB can also be manually removed from its bracket and manually activated without it being submerged in water.

Float-free EPIRBs are buoyant and float to the surface of the water with the aerial pointing vertically and transmitting a distress signal. They are detected in the same way all distress beacons are detected, using the Cospas-Sarsat satellite system.

Vessels less than 7.5 metres long have the option to carry a GPS-equipped, manual or water-activated EPIRB in a manual bracket, instead of carrying a float-free EPIRB. If you choose this option, all persons on board MUST wear a lifejacket or personal flotation device (PFD).

Vessels without level flotation that are less than 12 metres in length and operating in D and E waters will not be affected by the changes. Similarly, all vessels that are less than 12 metres with level flotation can continue to carry the kind of EPIRB currently required regardless of where they operate.

It is important that you check what your requirements are and be prepared for the upcoming changes at https://www.amsa.gov.au/safety-navigation/distress-beacons/epirb-requirements-find-out-what-changes-mean-your-dcv-operation

AMSA has produced a brochure and flowchart at https://www.amsa.gov.au/safety-navigation/distress-beacons/float-free-epirbs-resources

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New Rules for Passenger Vessels Now in Place – 31st May 2020

Many commercial fishing vessels can operate as charter boats carrying passengers.

From 31 May 2020 passenger vessel operators must do the following:

- Have a procedure in their safety management system (SMS) that provides an effective and verifiable means of passenger monitoring to ensure the master of the vessel is able to find out the number of passengers on board the vessel at any time;
- Have an emergency procedure in their SMS for responding to a situation where a passenger is unaccounted for;
- For certain types of operations, have a procedure for counting passengers at specified points to ensure an accurate number of passengers embarking and disembarking the vessel. This will include a count:

- at or around the time passengers embark and disembark the vessel at the start and end of voyage, or at an intermediate stop, and
- before departing any point where passengers have disembarked for a water activity such as diving, snorkelling or swimming
- Record passenger counts in the vessels logbook.

There is a community expectation that the safety of passengers has been considered before they get on board your vessel. These changes will help ensure the wellbeing of passengers during their voyage.

Full details of requirements can be found at: https://www.amsa.gov.au/vessels-operators/domestic-commercial-vessels/regulatory-changes-aimed-improve-passenger-safety

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New free training to get WA Skills Ready!

The McGowan Labor Government has unveiled a comprehensive $57 million package for the training sector that will deliver 15 free short courses and slash course fees or thousands of Western Australians, as part of the WA Recovery Plan.

In an expansion of the *Lower fees, local skills* initiative that rolled out before COVID-19, course fees for a further 39 high priority courses will be slashed by as much as 72 per cent.

The expanded program now includes 73 courses in total and will ensure Western Australians can access affordable training to help them get back into jobs. The heavily reduced fees have been targeted to align with the State's immediate economic needs following COVID-19

For more information go to: https://www.jobsandskills.wa.gov.au/skillsready

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SeSAFE Online Training Program

With the view to improve safety at sea, SeSAFE has developed an online safety training program, consisting of 42 brief training modules, covering emergency response, personal safety, operational safety, and risk assessment.

These modules are designed to train new crew before they set foot onboard and to provide refresher training for experienced crew. They also complement onboard safety inductions.

There is currently no cost for this training. For more information refer to: http://www.sesafe.com.au/

FishSafe Australia Initiative Podcasts

A series of podcasts have been developed, featuring industry leaders discussing workplace safety topics of relevance to the Australian seafood industry.

Future podcasts series are planned for the remainder of 2020, exploring the role of industry leadership in optimising safety.

This activity is funded by the FRDC as part of project *2017-231 'Seafood Industry health and safety toolkit'*. This project intends to deliver a web based one-stop-shop to assist industry in maximising workplace health and safety outcomes through collating relevant information and resources.

The planned outcome is to raise awareness and promote cultural change to improve the workplace health and safety outcomes for fishing and aquaculture.

The mission statement of the FishSafe Initiative is: *To achieve a positive change in workplace safety culture to ensure that the Australian Seafood Industry, 'KEEPS ITS PEOPLE SAFE'.*

The primary roles of the FishSafe Initiative is to:
- Develop and implement a strategic safety direction for the seafood industry through partnerships and leadership;
- Identify RD&E priorities, through review and consultation with key fisheries stakeholders and develop projects to address those priorities;
- Ensure future projects are aligned with the strategic safety direction;
- Facilitate effective extension and adoption of RD&E outputs relevant to industry safety; and • Promote collaboration and co-investment opportunities in RD&E both nationally and internationally.

Podcasts are available via the web on: https://fishsafeaustralia.podbean.com/e/series-1-all-podcasts/ and search for 'dFishSafe Australia' or by downloading the *Podbean app.* from the App Store or Google Play.

For more information contact project Manager, Tanya Adams at tayloredhealth@iinet.net.au

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Extended Transition Period For Revised Qualifications

In light of the COVID-19 pandemic, the Australian Skills Quality Authority (ASQA) has extended transition periods for 18 seafood and aquaculture industry qualifications due to expire between 17 March and 15 July 2020.

The qualifications were updated and revised in 2019.

All registered training organisations (RTOs) delivering the qualifications to current learners now have until 31 December 2020 transition to the updated qualification.

The full list of qualification affected can be found at: https://www.asqa.gov.au/rto/change-scope/transition-items/training-products-current-transition-extensions

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