



**Marine Notice 8/2009
Supersedes 6/2007**

National Maritime Emergency Response Arrangement

Purpose

The purpose of this Marine Notice is to advise owners, masters and agents of ships operating in Australian waters of Australia's National Maritime Emergency Response Arrangement (NMEMA), and their responsibilities in regard to reporting and resolving shipping incidents.

National Maritime Emergency Response Arrangement

The NMEMA has been established by the Australian State and Northern Territory governments to deliver a coordinated and integrated approach to the management of shipping incidents to protect Australia's marine environment from ship-sourced pollution.

As part of the NMEMA, the Australian Maritime Safety Authority (AMSA) has powers set out in the *Protection of the Sea (Powers of Intervention) Act 1981* (the Powers of Intervention Act). These powers are based on the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969 and 1973 Protocol relating to substances other than oil, as well as Article 221 of the United Nations Convention on the Law of the Sea.

The NMEMA includes the establishment of the position of the Maritime Emergency Response Commander (MERCOC) to manage responses to maritime incidents, legislation for enhanced Powers of Intervention and the contracting of a minimum level of emergency towage around the Australian coastline.

AMSA manages the NMEMA on behalf of the Australian governments. The MERCOC acts on behalf of AMSA.

Maritime Emergency Response Commander

The MERCOC is the Australian Government official responsible for coordinating and managing serious maritime incidents and is authorised to use Powers of Intervention to take those measures deemed necessary to prevent, mitigate or eliminate potential or actual instances of marine pollution from ships. The MERCOC will endeavour to consider all relevant legal, practical, environmental, socio-economic and operational issues in deciding whether and how to respond to a maritime casualty, as dictated by the circumstances of each particular casualty.

Directions issued by the MERCOC will prevail over the directions of any other person where those directions conflict with the MERCOC's directions.

Powers of Intervention

The Powers of Intervention Act authorises the MERCOC to intervene in a maritime incident in order to protect Australia's maritime interests on the 'High Seas', (when there is grave and imminent danger of pollution), and within the 'Exclusive Economic Zone', (when pollution is occurring, or is likely to occur). In each situation the MERCOC can issue Directions or take those measures necessary to prevent or reduce the extent of pollution or likely pollution. Intervention Directions can be applied to all ships in all Australian waters, including recreational, fishing and trading vessels.

Intervention Directions can be issued to (amongst others) the:

- (i) owner or master of the casualty;
- (ii) owner or master of any other ship deemed necessary to render assistance;
- (iii) salvor in charge of a ship;

- (iv) towage operators; and
- (v) owners or suppliers of assets, goods or services deemed necessary to render assistance.

The Powers of Intervention Act also enables the MERCOM to designate a place or facility as a place of refuge.

Emergency Towage

The NMEMA maintains a minimum level of emergency towage aimed at protecting the marine environment. Tugs capable of conducting offshore emergency towage operations are located in strategic locations around the Australian coastline. Emergency towage within the NMEMA focuses on the initial response to assist a ship that is incapacitated and in danger of grounding, sinking or some other hazard at sea.

The Australian Government has implemented a three-tiered approach to the provision of emergency towage:

Level 1 – a dedicated 80 tonne bollard pull emergency towage and response vessel, *Pacific Responder*, provides emergency towage and first response capability in the northern Great Barrier Reef (north of Mourilyan) and Torres Strait. The *Pacific Responder* spends the majority of its time at sea ready to respond to maritime emergencies.

Level 2 – suitable harbour towage vessels have been contracted to be available in the event of a shipping incident. These vessels are available in all regions outside that covered by the *Pacific Responder*.

Level 3 – suitable 'vessels of opportunity' in the vicinity of a casualty (in port or at sea) can be directed by the MERCOM to provide assistance. There are a range of suitable vessels, such as offshore supply vessels, which could be potentially used for emergency towage on an 'as required' basis.

The Level 2 emergency towage capability is available for use by the shipping industry and other parties under ordinary commercial arrangements, consistent with current practice for commercial provision of emergency towage services based on port or other industry availability.

Owner and Master Responsibilities

Owners and masters of ships are encouraged to resolve shipping incidents on a commercial basis with a salvage or towage provider. Powers of intervention will be employed by the MERCOM where owners and masters of ships are not taking timely actions consistent with Australia's national interest.

Owners and masters of ships experiencing difficulties are reminded of their obligation to report incidents and accidents to AMSA at the earliest opportunity to ensure action can be considered and taken to prevent a potential casualty. (See "Incident Reporting" on AMSA's website at www.amsa.gov.au for details).

Shipowners should note that nothing in the emergency towage arrangement is intended to alter the existing primary responsibility of the shipowner to arrange for the safety of vessels using commercially available assets wherever possible.

The NMEMA is also not intended to alter the responsibilities of the shipowner under current liability regimes in the event of an Australian Government (AMSA) response to an incident. The costs of undertaking emergency towage operations commissioned by the MERCOM, including the cost of mobilising an emergency towage vessel, either to provide actual assistance or on a 'stand-by' basis when there is a sufficiently high risk of a pollution incident, will be recovered from the shipowner.

Further information on the NMEMA is available through RCC Australia or on the AMSA website at: www.amsa.gov.au/Marine_Environment_Protection/National_Maritime_Emergency_Response_Arrangements/

Graham Peachey
Chief Executive Officer
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Australian Maritime Safety Authority
GPO Box 2181
CANBERRA ACT 2601

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