International Comparative Legal Guides

Shipping Law 2026

A practical cross-border resource to inform legal minds

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Contributing Editor:
Simon Moore
Adams & Moore Solicitors LLP

Global Legal Group

Expert Analysis Chapter

Q&A Chapters

Australia

Nair Legal
Ashwin Nair

1 Marine Casualty

1.1 In the event of a collision, grounding or other major casualty, what are the key provisions that will impact upon the liability and response of interested parties? In particular, the relevant law / conventions in force in relation to:

(i) Collision

Liability for collisions will be determined according to normal tortious principles and will be apportioned according to the degree to which each vessel was at fault: *Navigation Regulations 2023* (Cth), reg 19(1).

The International Regulations for Preventing Collisions at Sea 1972 (**Colregs**) apply by force of law in the territorial sea of Australia. Operating a vessel in contravention of the Colregs can attract penalties, but a vessel is not taken to be at fault in a collision merely because it contravened the Colregs: *Navigation Act 2012* (Cth), ss 175–179.

Generally (it varies between States), the applicable limitation period for collision claims follows that which applies to tortious claims – six years. However, if the claim is brought by way of an *in rem* action, a three-year time limit would apply.

The Colregs also apply in State/Territory waters by virtue of State/Territory marine safety legislation.

(ii) Pollution

The International Convention for the Prevention of Pollution from Ships 1973, along with the 1978 Protocol and several subsequent amendments (**MARPOL**), apply in Australia by virtue of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (Cth) and the *Navigation Act 2012* (Cth).

The adopted provisions impose prohibitions on the discharge from ships in specified areas of oil, noxious liquid substances in bulk, packaged harmful substances, sewage, garbage and air pollution.

Discharges that contravene the applicable legislation can constitute an offence of strict liability (i.e., there can be liability even if there is no fault), and in the case of the discharge of oil or oily mixture, liability may attach to charterers in addition to the owners and Master of the vessel, under, e.g., the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (Cth), s 9(1B).

MARPOL also applies within State/Territory waters pursuant to corresponding State/Territory legislation, but the various statutes do not uniformly give effect to all MARPOL annexes.

In relation to civil liability for oil pollution damage, Australia is a party to:

- the International Convention on Civil Liability for Oil Pollution Damage, the International Convention on the Establishment of an International Fund Compensation for Oil Pollution Damage 1992 and the Supplementary Fund Protocol – which establish a regime for compensation for spills of persistent oil caried in tankers, and provide for direct action against insurers; and
- the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 – which deals with spills of bunker oil and provides for direct action against insurers.

Australian law also gives effect to:

- the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 (dumping);
- the International Convention for the Control and Management of Ships' Ballast Water and Sediments; and
- the International Convention on the Control of Harmful Anti-Fouling Systems on Ships 2001 (anti-fouling systems).

The Australian Maritime Safety Authority (**AMSA**) also has powers of intervention to prevent or mitigate a grave and imminent danger to the Australian coastline from pollution of the sea by oil or other harmful substances: *Protection of the Sea (Powers of Intervention) Act 1981* (Cth).

(iii) Salvage / general average

Salvage

The main provisions of the International Convention on Salvage 1989 (**Salvage Convention**) have force of law in Australia, namely Arts 6–8, 12–19, 21–23, 26 and 30: *Navigation Regulations 2023* (Cth), reg 21.

In the context of assessing the reasonableness of a settlement between a salvor and the owners of salved cargo, the Federal Court of Australia considered the application of Art 13 of the Salvage Convention in *Thor Commander* [2018] FCA 1326 [431]–[456]. This is useful because most Art 13 assessments are conducted confidentially in arbitration, and there are relatively few publicly available court decisions that grapple with the relevant criteria.

Salvage is typically undertaken pursuant to an agreement between the owners of the vessel or cargo in peril and the salvors.

General average

Australian law recognises a general law right to general average contribution: *Offshore Marine Services Alliance Pty Ltd v Leighton Contractors Pty Ltd* [2017] FCA 333.

General average is typically adjusted according to the version of the York-Antwerp Rules as agreed in the relevant contract of carriage.

(iv) Wreck removal

Wreck removal obligations are a creature of statute. AMSA has the power to direct the removal of a wreck if it is necessary for saving human life, securing safe navigation or dealing with an emergency involving a serious threat to the environment. This power may be directed at Australian vessels that operate outside the exclusive economic zone (**EEZ**) (wherever they may be located at the time of the direction), and foreign vessels located within Australian territorial waters.

State/Territory maritime authorities have similar powers under their respective marine safety legislation.

Australia is not a party to the Nairobi International Convention on the Removal of Wrecks 2007.

(v) Limitation of liability

The *Limitation of Liability for Maritime Claims Act 1989* (Cth) gives effect to the Convention on Limitation of Liability for Maritime Claims 1976, as amended by the 1996 Protocol and 2012 amendments.

Australia has exercised its right of reservation in respect of wreck removal claims in Art 2(1)(d) and (e) of the Convention. In *The Goliath* [2026] HCA 15, the High Court recently held that where a claim in respect of loss of or damage to property occurring in connection with the operation of a ship includes a head of claim relating to wreck removal expenses, the latter head of claim is not limitable notwithstanding that it arguably falls within the broader, limitable, claim in respect of loss or damage. In that case, although a claim for wreck removal expenses related to the loss of the wrecked vessels following a collision (and therefore *prima facie* limitable under Art 2(1)(a) of the Convention), the wreck removal expenses were held not to be capable of limitation under the Act.

Limitation of liability may be pleaded as a defence to a claim or claims without the constitution of a fund, in which case the vessel in question (or a surrogate) may remain more vulnerable to arrest until the issue has been determined by a court or by agreement.

(vi) The limitation fund

The fund may be constituted by paying the limitation amount into court, or by way of an adequate guarantee. A P&I Club letter of undertaking is likely to be acceptable provided the issuer is a member of the International Group and the wording is suitable: *The Goliath* [2024] FCA 824.

1.2 Which authority investigates maritime casualties in your jurisdiction?

Several authorities could be involved in a maritime casualty, depending on the nature, consequences and location of the casualty, and the identity of the vessels involved.

Major casualties are investigated by the Australian Transport Safety Bureau (**ATSB**), which typically investigates serious incidents or near-misses.

AMSA exercises port state and flag state control and has the power to investigate a marine casualty involving a foreign vessel and Australian-flagged vessels operating internationally. It is also the regulator of domestic commercial vessels, and can investigate a marine incident involving such vessels.

Other potentially relevant authorities include environmental authorities, port authorities, work health and safety regulators, the police (State/Territory and Federal), and State/Territory marine safety regulators.

1.3 What are the authorities' powers of investigation / casualty response in the event of a collision, grounding or other major casualty?

We focus specifically on the ATSB and AMSA. In the event of a casualty, both agencies have general powers of access, to search vessels, and to operate equipment on board. They also have powers to seize documents, items of equipment and data, usually with a warrant or with the owner's consent.

The ATSB has broad-ranging powers to require a person to answer any questions put to them and to produce evidential material. Failure to comply with such a requirement can result in penalties. A person cannot refuse to answer on the grounds of self-incrimination (i.e., there is no right to silence). In exchange, however, the ATSB does not have prosecutorial powers. It will typically issue a transport safety report (and an interim report if necessary), which can include safety recommendations. Such a report is not admissible in civil or criminal proceedings, nor in disciplinary proceedings against employees.

AMSA has comparably limited powers to require a person to answer questions and produce documents. AMSA is the prosecuting authority for breaches of the *Navigation Act 2012* (Cth) (which covers port and flag state control matters) and of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (Cth) (which covers commercial vessels operating domestically only). AMSA is a proactive regulator and generally takes a strong pro-enforcement stance.

2 Cargo Claims

2.1 What are the international conventions and national laws relevant to marine cargo claims?

An amended version of the Hague/Visby Rules (**Australian Rules**) has force of law in Australia by virtue of the *Carriage of Goods by Sea Act 1991* (Cth) (**COGSA**).

There is uniform legislation among the States – the *Sea Carriage Documents Acts* – which provides for the transfer of rights and obligations in carriage documents, including bills of lading.

2.2 What are the key principles applicable to cargo claims brought against the carrier?

The Australian Rules are contained in Schedule 1A of COGSA and, generally, they apply mandatorily to the carriage of goods by sea out of Australia: COGSA, s 10(1). Those Rules also apply to the carriage of goods by sea into Australia, unless the Hague Rules, the Hague/Visby Rules or the Hamburg Rules apply by agreement or by law, in which case those rules would apply.

They do not apply where the relevant contract of carriage is a charterparty.

It is worth noting that the Australian Rules provide in Art 4A that the carrier may be liable to the shipper for losses arising from delay in certain circumstances.

Pursuant to the Australian Rules:

- The carrier is obliged to exercise due diligence to ensure that the vessel is seaworthy and cargoworthy at the commencement of the carrying voyage.
- The carrier is obliged to properly and carefully load, handle, stow, carry, keep, care for and discharge the goods

carried. There is some uncertainty in Australian law whether this obligation (and consequent legal responsibility) is delegable: *The BBC Nile* [2022] FCAFC 171.
- Neither the carrier nor the ship is liable for loss or damage caused by the events listed in Art 4 r 2.
- The carrier's liability is limited to 2 SDRs/kg or 666.67 SDRs/package of the goods lost or damaged.

2.3 In what circumstances may the carrier establish claims against the shipper relating to misdeclaration of cargo?

Pursuant to Art 3 r 5 of the Australian Rules, the shipper is to indemnify the carrier against all loss, damages and expenses arising from inaccuracies in the particulars of the cargo as provided by the shipper.

Relatedly, pursuant to Art 4 r 6 of the Australian Rules, the carrier is entitled to recover from the shipper damages and expenses arising out of the carriage of cargo that is flammable, explosive or dangerous that the carrier (or the Master or agent) has not consented to carry.

2.4 How do time limits operate in relation to maritime cargo claims in your jurisdiction?

If the Australian Rules (or the Hague Rules or Hague/Visby Rules) apply, there is a one-year time limit, which is extendable by mutual agreement.

Otherwise, the usual limitation period for claims in contract, tort or bailment is six years. However, if the claim is advanced by way of an *in rem* action, such action must be brought within three years.

3 Passenger Claims

3.1 What are the key provisions applicable to the resolution of maritime passenger claims?

Passenger claims are typically brought in contract, tort (negligence), under statute, or a combination thereof.

The Australian Consumer Law (**ACL**), which is contained in the *Competition and Consumer Act 2010* (Cth), provides for a generally non-excludable guarantee that any services provided by the carrier in respect of the carriage of passengers shall be fit for purpose and rendered with due care and skill. Fitness for purpose guarantees have been held to be in the nature of a strict liability obligation: *Karpik v Carnival plc* [2023] FCA 1280.

The ACL also strikes down terms in a consumer contract (which a contract for the carriage of passengers is likely to be) that are unfair – i.e., terms that cause a significant imbalance between the parties' rights and obligations to the detriment of the passenger, and that are not reasonably necessary to protect the legitimate interests of the carrier.

Claims for personal injury are usually brought in the State courts, which also have jurisdiction in relation to claims under the ACL. The Federal Court also has jurisdiction over claims under the ACL.

3.2 What are the international conventions and national laws relevant to passenger claims?

Each State/Territory has legislation relating to civil liability for negligence claims. These statutes generally govern liability for personal injury and the assessment of damages.

Additionally, the ACL applies in relation to the provision of services to a passenger as a consumer (where the price of the services does not exceed AU$100,000).

Australia has not ratified the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea.

The provisions of the Convention on Limitation of Liability for Maritime Claims 1976, as amended by the 1996 Protocol and 2012 amendments, apply under the *Limitation of Liability for Maritime Claims Act 1989* (Cth) in respect of passenger claims.

3.3 How do time limits operate in relation to passenger claims in your jurisdiction?

If the claim is one arising out of personal injury, a three-year time limit would generally apply. Each State or Territory has legislation providing for the applicable time limit for personal injury claims.

Otherwise, a claim for breach of contract or of ACL guarantees is likely to be subject to a six-year time limit.

If a passenger commences an *in rem* proceeding on a claim, that proceeding must be brought within three years.

4 Arrest and Security

4.1 What are the options available to a party seeking to obtain security for a maritime claim against a vessel owner and the applicable procedure?

A vessel, including a surrogate (sister) vessel, may be arrested in an *in rem* action against that vessel under the *Admiralty Act 1988* (Cth) (**Admiralty Act**). The claim must either be a proprietary maritime claim or a general maritime claim. Those claims are listed in s 4(3) and 4(2) of the Admiralty Act and are similar to those in Art 1 of the International Convention relating to the arrest of seagoing ships 1952.

The Federal Court has a very efficient process for procuring an arrest. The action is commenced by filing an *in rem* writ. The application for arrest comprises an application for an arrest warrant and a supporting affidavit setting out the particulars of the claim and any necessary facts that would entitle an action *in rem* to be brought under the Admiralty Act.

The application is usually determined on the papers immediately on filing by the court's Admiralty Registrar.

If the application meets the necessary procedural and jurisdictional requirements, the arrest is available as of right. Unlike some other jurisdiction, there is no over-arching duty of full and frank disclosure: *Xin Tai Hai (no 2)* [2012] FCA 1497.

Once the Admiralty Registrar issues the arrest warrant, it is executed by, or at the direction of, the cwourt's Admiralty Marshal, usually along with service of the writ.

Service of the writ, and arrest of the ship, can only take place while the ship is in Australian waters, other than in the course of innocent passage.

4.2 Is it possible for a bunker supplier (whether physical and/or contractual) to arrest a vessel for a claim relating to bunkers supplied by them to that vessel?

Yes, provided that the party that is liable to the supplier (i) owned, chartered, possessed or controlled the receiving vessel at the time of payment default, and (ii)(a) if the vessel to be arrested is the receiving vessel, owns or demise charters the vessel at the time the proceedings are commenced, or (ii)(b) if the vessel to be arrested is not the receiving vessel, owns the vessel to be arrested at the time the proceedings are commenced.

Australian law does not provide a maritime lien for the provision of bunkers (or other necessaries), nor does it recognise such a lien if it arises under a foreign law: *The Sam Hawk* [2016] FCAFC 26. Therefore, absent a direct contractual relationship with the vessel owner or charterer, it would be difficult for a physical supplier at the end of a bunker supply chain to enforce a claim directly against the receiving ship.

4.3 Is it possible to arrest a vessel for claims arising from contracts for the sale and purchase of a ship?

Yes, provided the claim relates to the possession, ownership or mortgage of the vessel.

4.4 Where security is sought from a party other than the vessel owner (or demise charterer) for a maritime claim, including exercise of liens over cargo, what options are available?

A claimant may elect to accept adequate security proffered by a party, other than the owner or demise charterer, in exchange for consenting to release the vessel from arrest.

Additionally, the claimant may look to enforce a contractual or other security interest in any cargo or other personal property held by the liable party in Australia. The creation, perfection and enforcement of security interests in personal property is governed by the *Personal Property Securities Act 2009* (Cth) and accompanying regulations.

4.5 In relation to maritime claims, what form of security is acceptable; for example, bank guarantee, P&I letter of undertaking?

P&I Club letters of undertaking or bank guarantees issued to the claimant are routinely accepted. They should cover the principal sum (on a reasonably arguable best-case basis), interest and costs (on a party/party basis). The courts typically would not intervene with respect to wording.

It is also possible to pay the relevant sum into court. Bail bonds are also acceptable, but rarely used.

4.6 Is it standard procedure for the court to order the provision of counter security where an arrest is granted?

No. However, it is possible (although rare) for the defendant ship's interests to obtain security for its costs of challenging the court's jurisdiction in the *in rem* proceedings in which the arrest has been procured: *Tisand Pty Ltd v Owners of the Cape Moreton* (2004) 141 FCR 29.

4.7 How are maritime assets preserved during a period of arrest?

When under arrest, the vessel is in the custody of the Admiralty Marshal, who is responsible for taking all appropriate steps to retain safe custody of, and to preserve, the vessel. This can include (usually with a court order) removing and storing cargo ashore or arranging for the vessel to be shifted to a place of safety.

4.8 What is the test for wrongful arrest of a vessel? What remedies are available to a vessel owner who suffers financial or other loss as a result of a wrongful arrest of his vessel?

Damages for wrongful or unjustified arrest may be ordered if the arresting party '*unreasonably and without good cause*' obtains the arrest of a vessel: the Admiralty Act, s 34(1)(a)(ii).

To date, no party has successfully invoked s 34 in a decided case to obtain damages for wrongful arrest in Australia.

It is not certain whether the requirements of s 34 reflect, or alternatively lower, the bar to such damages under the common law, which requires the plaintiff to act with bad faith, malice or gross negligence: *The Evangelismos* [1858] 14 ER 945.

4.9 When is it possible to apply for judicial sale of a ship and what is the procedure for judicial sale?

It is possible to apply for the judicial sale of a vessel under arrest either before or after judgment: *Admiralty Rules 1988* (Cth), r 69(1).

Where the vessel under arrest is deteriorating in value, the court has the power to order its sale on its own motion prior to judgment for the purpose of preserving the vessel's value for the benefit of the creditors. The considerations that are relevant to the exercise of such a power were outlined by the Federal Court in *Yangtze Fortune* [2022] FCA 1556 [27].

Otherwise, an application is to be made by a party to the proceeding for the vessel to be appraised and/or sold. On such application, the court may order the valuation and sale of the vessel, including as to whether the vessel should be sold by auction, public tender or any other suitable method: Admiralty Rules, r 70.

If the proceedings are still on foot, the proceeds of sale stand as the *res* against which the *in rem* actions against the ship continue: the Admiralty Act, s 24.

Australia has not yet ratified the Beijing Convention on the Judicial Sale of Ships.

5 Evidence

5.1 What steps can be taken (and when) to preserve or obtain access to evidence in relation to maritime claims including any available procedures for the preservation of physical evidence, examination of witnesses or pre-action disclosure?

The applicable mechanisms and procedures are primarily governed by the rules of the relevant court.

In the Federal Court, a party may apply for the detention, custody, preservation or inspection of property prior to the commencement of proceedings if the circumstances are urgent: *Federal Court Rules 2011* (Cth) (**FCR**), r 7.01. This process may also be used in aid of an arbitration, even a foreign seated one.

There is also the possibility of obtaining pre-action disclosure in appropriate circumstances to ascertain the proper description of a respondent in an anticipated proceeding, or to ascertain whether it would be appropriate to commence the proceeding: FCR, Div 7.3.

Where there is a risk of dissipation of assets against which a successful judgment may be enforced, a party may apply for a freezing order (Mareva injunction) to restrain the respondent from disposing of, dealing with, or diminishing the value of, those assets. There is a related mechanism for orders that a respondent provide information relating to the relevant assets. The freezing order may be obtained prior to commencing a proceeding: FCR, Div 7.4.

Where there is a risk that important evidentiary material may be destroyed or made unavailable, the court may make a search order (Anton Piller order) for the entry into premises for the purpose of securing and preservation of such material. The search order may be obtained prior to commencing a proceeding: FCR, Div 7.5.

5.2 What are the general disclosure obligations in court proceedings? What are the disclosure obligations of parties to maritime disputes in court proceedings?

In the Federal Court, there is no right to discovery unless the court so orders. The court only makes such orders if it would facilitate the just resolution of the proceedings as quickly, inexpensively and efficiently as possible: FCR, rr 20.11 and 20.12.

Generally, discovery will only be ordered of documents that are directly relevant to the issues raised by the pleadings, and that are or have been in a party's control: FCR, r 20.14.

5.3 How is the electronic discovery and preservation of evidence dealt with?

Electronic discovery is permissible. Generally, the parties to proceedings in the Federal Court will need to confer as early as possible as to the scope of such discovery (see the answer to question 5.2 above) and consider such matters as the likely time and cost of giving discovery, appropriate quality control of the discoverable documents, and the appropriate process for identification, collection and processing, analysis, review and exchange of the discoverable documents.

The court's Practice Note on using electronic discovery sets out these requirements in more detail: https://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/gpn-tech/electronic-discovery

6 Procedure

6.1 Describe the typical procedure and timescale applicable to maritime claims conducted through: i) national courts (including any specialised maritime or commercial courts); ii) arbitration (including specialist arbitral bodies); and iii) mediation / alternative dispute resolution (ADR).

6.1.1 Which national courts deal with maritime claims?

All superior courts, and most lower courts, in Australia have the jurisdiction (authority) to deal with maritime claims. However, the Federal Court has a dedicated Admiralty and Maritime National Practice Area comprising judges with specialist Admiralty and maritime knowledge.

6.1.2 Which specialist arbitral bodies deal with maritime disputes in your jurisdiction?

The Australian Maritime and Transport Arbitration Commission (**AMTAC**). The Maritime Law Association of Australia and New Zealand (**MLAANZ**) also provides an *ad hoc* arbitration service if referred.

6.1.3 Which specialist ADR bodies deal with maritime mediation in your jurisdiction?

As above.

6.2 What are the principal advantages of using the national courts, arbitral institutions and other ADR bodies in your jurisdiction?

The Federal Court has an Admiralty and Maritime National Practice Area comprising judges with specialist Admiralty and maritime knowledge. When such matters are commenced in the Federal Court, they are assigned to the docket of a judge within the practice area. That judge supervises and controls the proceeding from commencement until final disposition with a view to resolving it as swiftly, fairly and cost-effectively as possible.

Among the advantages of this individual docket system is that it yields time and costs savings arising from the judge's familiarity with the matter from the outset, promotes consistency of approach throughout the matter, and facilitates an earlier settlement of disputes or the more effective narrowing of issues for final determination.

Unlike some other neighbouring jurisdictions like Singapore or Hong Kong, Australia does not have a highly active maritime arbitration scene. *Ad hoc* maritime arbitrations before single arbitrators are common, but not institutional arbitrations.

Nevertheless, Australia is a pro-arbitration jurisdiction, and the courts are likely to give practical effect to agreements to arbitrate (including by staying court proceedings) and to otherwise use the courts' processes to support the conduct of arbitrations and recognition and enforcement of awards.

6.3 Highlight any notable pros and cons related to your jurisdiction that any potential party should bear in mind.

The procedures for arrest, release and judicial sale are efficient and generally user-friendly. The Federal Court, in particular, takes a practical approach to the conduct of proceedings.

The courts in general seek to promote a harmonious approach to the interpretation and operation of international conventions.

It is important to appreciate that the interaction between State/Territory and Federal laws is potentially complex, with sometimes overlapping spheres of operation.

7 Foreign Judgments and Awards

7.1 Summarise the key provisions and applicable procedures affecting the recognition and enforcement of foreign judgments.

Under the *Foreign Judgments Act 1991* (Cth), final and conclusive money judgments of courts of more than 30 foreign jurisdictions listed in Schedule 1 to the *Foreign Judgments Regulations 1992* (Cth) may be registered in Australia and enforced as a judgment in Australia. Those jurisdictions have substantial reciprocity of enforcement with Australia.

An application for enforcement may be made to a State/Territory Supreme Court or to the Federal Court.

Judgments of New Zealand courts are recognised under the *Trans-Tasman Proceedings Act 2010* (Cth).

Where there is no reciprocal or statutory agreement (for example, the USA, China, and India), the foreign judgment must be enforced as an action in debt under common law principles, pursuant to which, such a judgment is *prima facie* capable of being recognised and enforced if:

- the foreign court had jurisdiction '*in the international sense*' – e.g., where the defendant was personally served the originating process within the foreign jurisdiction;
- the foreign judgment is final and conclusive;
- there is identity of parties between the judgment debtor and the defendant in the enforcement action; and
- the judgment is for a fixed, liquidated sum.

See, e.g., *Zhengzhou Lvdu Real Estate Group Co Ltd v Shu* [2024] NSWSC 58 – which concerned the recognition of a judgment of a Chinese court.

Australia is not a party to the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters 1971.

7.2 Summarise the key provisions and applicable procedures affecting the recognition and enforcement of arbitration awards.

Australia, as a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958, which is reflected in the *International Arbitration Act 1974* (Cth), is a pro-enforcement jurisdiction.

Recognition and enforcement of international arbitral awards in Australia follow the well-established framework in Arts III to V of the New York Convention, including as to the circumstances in which recognition and enforcement may be refused.

For domestic arbitrations, the relevant State/Territory's *Commercial Arbitration Act* would apply to similar effect.

The relevant procedure is that which is provided by the competent court's rules, which are harmonised between the State/Territory Supreme Courts and the Federal Court. Generally, an application for enforcement may be made by filing:

- an originating application;
- an authenticated original award or certified copy;
- the original arbitration agreement; and
- an affidavit stating the extent to which the award has not been complied with and the address of the registered office of the award debtor.

8 Offshore Wind and Renewable Energy

8.1 What is the attitude of your jurisdiction concerning the maritime aspects of offshore wind or other renewable energy initiatives? For example, does your jurisdiction have any public funding programme for vessels used in offshore wind? Summarise any notable legislative developments.

Broadly, offshore wind and other renewable energy initiatives are governed by the *Offshore Electricity Infrastructure Act 2021* (Cth). Within that statutory framework, the Australian Government has declared six offshore wind priority areas for development of offshore wind infrastructure, and has granted 13 active feasibility licences to assess the feasibility of offshore infrastructure projects in those areas.

While the framework contemplates the application of work health and safety and navigational safety requirements to vessels engaged in wind farm construction and further development, there are no specific regulations or initiatives at present to support or promote the operation of vessels in such projects.

8.2 Do the cabotage laws of your jurisdiction impact offshore wind farm construction?

To some extent.

If the operations involve the carriage by sea of personnel or goods (including, for example, wind turbines, towers and other components) between the ports of different States or Territories, then it is possible that appropriate licences may be required for such carriage under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (Cth). Current exemptions under that Act for vessels involved in offshore oil and gas operations do not apply to offshore wind operations.

Foreign-flagged vessels that are majority Australian-crewed (as may be required by applicable enterprise agreements struck by the unions) will likely have to ensure minimum employment conditions for crew that exceed the requirements of the Maritime Labour Convention (**MLC**) and that meet domestic law requirements.

9 Updates and Developments

9.1 Describe any other issues not considered above that may be worthy of note, together with any current trends or likely future developments that may be of interest.

Australia is well-known for taking a strong enforcement stance on matters of safety and environmental protection. This is particularly evident in the approach taken to port state control (**PSC**) enforcement by AMSA. The main areas of focus in PSC inspections this year are shipboard maintenance, risk assessments in shipboard processes in the safety management system (**SMS**), pilot ladder safety, cargo handling and securing, waste management and garbage disposal arrangements, and MLC compliance (particularly wages).

A particular trend emerging from maritime disputes is the increasing impact of consumer law legislation in the choice of causes of action, especially with respect to consumer guarantees and unfair contract terms.

Australia is considering:

- becoming a party to the Nairobi International Convention on the Removal of Wrecks 2007; and
- acceding to the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships 2009 (Australia has already ratified the Basel Convention).

Reports following reviews of the coastal trading regime (Australia's cabotage scheme) and the *Shipping Registration Act 1981* are expected this year. Legislative change following the release of those reports, however, is not expected to be imminent.

Work is underway on a pilot programme of three vessels as part of an anticipated 12-vessel '*Strategic Fleet*' of Australian owned, flagged and crewed ships available for requisition during times of national need. The first of those vessels was secured in May 2026. The 1,740 TEU container ship, ANL KOKODA, was engaged on a reported five-year time charter, and will be operated under the Australian flag with an Australian crew.

The outcome of a review into certain provisions of COGSA is also forthcoming, with amendments likely to be made to make the mandatory jurisdiction provisions in s 11 apply equally to outbound and inbound carriage.

Ashwin Nair's practice spans both contentious and non-contentious work, with a reputation for strategic thinking, technical precision and high-quality service. He is recognised in leading legal directories, including most recently in the 2026 editions of *Chambers Asia-Pacific* and *Doyle's Guide*.

He advises Australian and international organisations operating in the shipping, maritime and trade sectors, and his practice covers marine casualty management, commercial dispute resolution, commercial transactions and regulatory advice.

Prior to founding Nair Legal, Ashwin was a partner at a leading global law firm and held senior roles in both private practice and industry.

He is a member of the Admiralty Rules Committee, which advises the Australian Attorney-General on rules concerning the practice and procedure of courts exercising Admiralty jurisdiction.

Nair Legal
Level 1, 9 The Esplanade
Perth WA 6000
Australia

Tel: +61 8 6383 8037
Email: ashwin.nair@nairlegal.com
LinkedIn: www.linkedin.com/in/ashwin-nair-36296044

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