



FEDERAL COURT OF AUSTRALIA

CONTINUING OBLIGATIONS OF SHIP OPERATORS AND MASTERS OF ARRESTED SHIPS UNDER THE *MARITIME TRANSPORT AND OFFSHORE FACILITIES SECURITY ACT 2003*

This information sheet has been developed by the Federal Court of Australia to provide ship operators and Masters of ships that have been arrested with general information about their continuing obligations under the Maritime Transport and Offshore Facilities Security Act 2003 ('the Act'). This information is not legal advice and should not be relied upon as legal advice.

The Act imposes a number of obligations upon ship operators and Masters of security regulated ships. Some of these obligations are set out below.

Regulated Australian ships

All maritime industry participants, including a regulated Australian ship, must have a ship security plan which identifies the measures to be taken at each of the three levels of security. Compliance with the ship security plan is the responsibility of the ship operator and ship security officer. It is an offence for an operator of a regulated Australian ship not to have a security plan in force, unless the operator has a reasonable excuse.

The ship operator or Master of the ship must comply with any security direction given under section 33 of the Act. The ship operator and Master of the ship must report any maritime transport security incident in accordance with sections 178 and 179 of the Act as soon as possible after they become aware of it.

Continuing obligations where ship under arrest – regulated Australian ships

Where the Master and crew remain on a ship that is in the custody of the Marshal, the ship operator and ship security officer will continue to be responsible for the ship security plan.

Where the Master and crew of an arrested ship have been repatriated, the ship operator continues to be responsible for the ship security plan and must provide any caretaker Master and crew with a copy of the plan and any other information and resources needed to implement it.

Responsibility for complying with other obligations arising under the Act remains with the ship operator and Master.

Regulated foreign ships

A regulated foreign ship must have a valid International Ship Security Certificate ('ISSC'), or an approved equivalent, for the ship; and must carry the required ship security records. The ship operator or Master of the ship must comply with any security direction given under section 33 or any control direction given under section 99. The ship operator and Master of the ship must report any maritime transport security incident in accordance with sections 178 and 179 of the Act as soon as possible.

Continuing obligations where ship under arrest – regulated foreign ships

Responsibility for complying with all obligations arising under the Act remains with the ship operator and Master.

Penalties

Failure by a ship operator or Master to comply with the Act may be a criminal offence and fines may be imposed.