

Chapter 4

Conclusions and Recommendation

4.1 The committee, in undertaking its inquiry into the regulatory framework to be implemented and enforced by the Department of Transport and Regional Services (DOTARS), reviewed the *Maritime Transport Security Amendment Act 2005* and the draft regulations made under that Act. These draft regulations were the Maritime Transport and Offshore Security Amendment Regulations 2005 (dated 7 July 2005) and the Maritime Transport Security Amendment Regulations 2005 (dated 4 July 2005). The focus of the committee's work was on the set of regulations which provided the details of the maritime security identification card (MSIC) – the Maritime Transport and Offshore Security Amendment Regulations 2005 (the regulations).

4.2 Although the committee was able to satisfy a number of concerns it had with aspects of the regulations there are a number of other matters that the committee has requested DOTARS review in the draft regulations prior to gazettal. These matters include:

- the types of crime included in the exclusionary offences category for maritime security relevant offences;
- draft regulation 6.08E and the potential difference in the security checks between ASICs and MSICs;
- access provided to visitors and infrequent users of cards being monitored subject to the committee's proposed 'logging in procedure';
- the wording of draft regulation 6.07K relating to access for individuals who have a MSIC disqualifying notice;
- the security checking requirements for skilled foreign workers.

Recommendation

4.3 The committee recommends that, prior to the gazettal of the Maritime Transport and Offshore Security Amendment Regulations 2005, DOTARS review the regulations to address the committee's concerns as outlined in this report.

4.4 In addition to matters directly stemming from the draft regulations the committee has identified a number of other concerns within its terms of reference. These concerns primarily relate to privacy issues and the adequacy of the consultation mechanisms.

4.5 The committee concludes that DOTARS needs to commence work now on the post roll out phase so that the privacy concerns of both employers and employee representative bodies are addressed as soon as possible. Such work needs to address

the perception that there is not a secure and apparent firewall between the checking and assessing body and the employer.

4.6 Further, the committee concludes that guidelines to assist assessments of security checks are required for the post roll out period.

4.7 Finally, the committee draws conclusions as to the adequacy of the consultation mechanisms. In Chapter 2 the committee notes the confusion arising out of changes to the regulations relating to maritime security relevant offences is regrettable and may have been avoided if the consultation process had not been truncated. The committee notes that since its hearing the department has invited further feedback from the Working Group:

The Department of Transport and Regional Services recirculated the draft MSIC regulations on 26 July 2005 to the Working Group. At this time an invitation to either meet or hold a teleconference on 4 or 9 August 2005 to discuss the draft MSIC regulations was offered to the Working Group. Most Working Group members have responded indicating a preference for attendance at the proposed 9 August meeting.¹

4.8 The committee welcomes this initiative. It also asks DOTARS to extend the term of the working group into the roll out period so that some assessment can be made of employment ramifications of the MSIC regime.

4.9 In conclusion, the committee accepts that DOTARS had a difficult task in meeting its responsibilities in providing the roll out of enhanced security measures for Australia's maritime industries. It commends the department for the work they have done. Nonetheless it reminds the department and its officers that they are, through their minister, answerable to the Parliament. When the Senate charges this committee with task of examining their work, they should assist the committee in that task and not proceed as if the inquiry was not being conducted. To do so indicates a disregard of the Senate and of this committee's work.

Senator the Hon. Bill Heffernan
Chair

1 Submission No. 13, DOTARS, 'Answer to Question 14', p. 38