



# ORDER

*Fair Work Act 2009*

s.418 - Application for an order that industrial action by employees or employers stop etc.

**Teekay Shipping (Australia) Pty Ltd**

v

**The Maritime Union of Australia**

(C2014/7638)

Maritime industry

COMMISSIONER CAMBRIDGE

SYDNEY, 14 NOVEMBER 2014

*Application for an Order to prevent industrial action.*

## 1. TITLE

This Order will be known as the Teekay Shipping (Australia) Pty Ltd Tandara Spirit Industrial Action Order (the Order).

## 2. PERSONS BOUND AND APPLICATION OF ORDER

This Order is binding upon:

- (a) The Maritime Union of Australia (**MUA**), and;
  - (i) its officers; and
  - (ii) its delegates, employees and agents who come into contact with, or have responsibility for, the Employees (as described in clause 2(c)),  
**(MUA Representatives)**;
- (b) Teekay Shipping (Australia) Pty Ltd (**Company**); and
- (c) employees of the Company who are:
  - (i) members, or eligible to be members, of the MUA; and
  - (ii) employed on the Tandara Spirit; and

- (iii) engaged in work which is regulated by the *Teekay Shipping Australia Pty Ltd MUA (Shell Tankers) Enterprise Agreement 2011 (Agreement)*,  
**(Employees)**.

### 3. DEFINITION OF INDUSTRIAL ACTION

For the purposes of this Order, **industrial action** means any action of the following kinds:

- (a) the performance of work by an Employee in a manner different from that in which it is customarily performed, or the adoption of a practice in relation to work by an Employee, the result of which is a restriction or limitation on, or a delay in, the performance of the work;
- (b) a ban, limitation or restriction on the performance of work by an Employee, or on the acceptance of or offering for work by an Employee; and
- (c) a failure or refusal by Employees to attend for work or a failure or refusal to perform any work at all by Employees who attend for work,

but does not include the following:

- (d) protected industrial action within the meaning of s.408 of the *Fair Work Act 2009 (Cth)*;
- (e) action by an Employee that is authorised or agreed to by the Company; and
- (f) action by an Employee if:
  - (i) the action was based on that Employee's reasonable concern about an imminent risk to the Employee's health or safety; and
  - (ii) the Employee did not unreasonably fail to comply with a direction of the Company to perform other available work, whether at the same or another workplace, that was safe and appropriate for the Employee to perform.

### 4. INDUSTRIAL ACTION TO STOP OR NOT OCCUR

- (a) Each Employee must immediately stop all industrial action that is happening at the time that this Order comes into effect, and must not, recommence, engage in or threaten to engage in, industrial action while this Order is in force.
- (b) The MUA and the MUA Representatives, must stop organising, and not organise, any industrial action by any of the Employees.
- (c) The MUA must immediately, upon the service of this Order on the MUA, advise Employees who are members of the MUA, that any direction, advice or

authorisation by the MUA to engage in industrial action is withdrawn and that such industrial action must cease immediately upon this Order coming into effect.

## 5. SERVICE OF ORDER

Without limitation as to other means of service, it will be sufficient service of this Order:

- (a) upon the MUA and the MUA Representatives if:
  - (i) a copy of this Order is sent by facsimile or email (or otherwise provided) to the National Office of the MUA, or to an officer of the MUA who has dealings with the Company in relation to any of the Employees; or
  - (ii) a copy of this Order is handed to or read in the presence of an officer or employee of the MUA;
- (b) upon an Employee who is a member of the MUA if:
  - (i) a copy of this Order is served on the MUA as provided for in clause 5(a); or
  - (ii) a copy of this Order is placed on the notice board(s) usually used for the purpose of communicating with Employees on the Tandara Spirit by 10pm on 14 November 2014; or
- (c) upon an Employee who is not a member of the MUA if:
  - (i) a copy of this Order is personally served on the Employee on or about the Tandara Spirit at any time; or
  - (ii) a copy of this Order is placed on the notice board(s) usually used for the purpose of communicating with Employees on the Tandara Spirit by 10pm on 14 November 2014.

## 6. TERM AND DATE OF EFFECT

This Order will come into effect from 4:30pm on 14 November 2014 and will remain in force until 11:59pm on 31 January 2015, unless varied or revoked by further Order of the Fair Work Commission.



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