

2022 – Variation to Port Loading Protocols

Pursuant to clause 27 of the *Competition and Consumer (Industry Code – Port Terminal Access (Bulk Wheat)) Regulations 2014 (Code)* Viterra provides notice of proposed variations to its Port Loading Protocols (**Protocols**). These variations will take effect 20 business days after the date of this notice, being 3 August 2022.

The proposed amendments to the Protocols are predominantly intended to increase productivity and provide greater flexibility for Clients using the Viterra system. For completeness, we have set out below a high level summary of the key changes to the Protocols.

Viterra has sought to introduce additional flexibility in relation to the negotiation of Long Term Agreements, under which Clients agree to acquire Long Term Capacity. These agreements will no longer be required to be for a fixed period of three years and may be for a period agreed between Viterra and the Client. The agreements will otherwise be required to be negotiated between Viterra and the relevant Client within 60 business days.

The proposed amendments to the Protocols also seek to clarify the process surrounding the surrender (or cancellation) of capacity by Clients. If a Client wishes to surrender capacity allocated to it under the Protocols, the Client may issue a cancellation notice to Viterra. In respect of Long Term Capacity, where that notice is received by Viterra more than 45 days prior to the relevant Slot, the Client will receive a full refund of the relevant booking fee. Where the notice is received less than 45 days prior to the Slot, the Client will receive a proportionate refund of the relevant booking fee, consistent with the proportion of the capacity re-booked by other Clients. Similar principles have also been included in respect of the surrender of Short Term Capacity. These amendments significantly widen the circumstances in which Clients may receive refunds.

In addition, Viterra has streamlined the process relating to the movement of Bookings by Clients. The amended Protocols provide that Clients may apply to Viterra to move a Booking at least 30 days prior to the Slot, where the Booking is to be moved within the same Year or at least 45 days prior to the Slot, where the Booking is to be moved to the following Year. Bookings only be moved forward a maximum of one Year. A Client may also request that a Booking be moved to a different Port Terminal.

The proposed amendments to the Protocols also allow Viterra to maximise the efficiency of its port operations and the loading of vessels. In accordance with the proposed amendments to the Protocols, Viterra will prioritise the loading of vessels based on the 'Fixed Priority Date' allocated to each vessel. A 'Fixed Priority Date' will be allocated by Viterra to each vessel, based on the time at which the relevant Client provides information to Viterra in respect of the booking, as required by the Protocols. The Protocols also provide Viterra with broader discretion to re-prioritise the loading of vessels to maximise efficiency.

In addition to the above, Viterra has amended the Protocols to provide itself with certain rights required to enable it to administer the Protocols and shipping stem in an efficient manner. For example, where a client does not pay the appropriate booking fee, Viterra may remove that Client's future capacity. Where capacity is surrendered, it is not required to be offered for re-booking by Viterra (and therefore the Client's entitlement to a refund of the booking fee on the re-booking of that capacity will not apply).

In determining whether or not to take such actions (and exercise any other rights that may be unfavourable to Clients), the Protocols generally require Viterra to take into account a range of operational considerations including practical constraints at the relevant Port Terminal, current wait time for vessels, the length of the vessel queue and the timing of vessel arrivals within the relevant Slot. Viterra will, of course, continue to deal with Clients in good faith in relation to this and other issues arising under the Protocols.

Viterra invites any submissions on the proposed variations to the Protocols to be provided within 10 business days of the date of this notice, being Tuesday 19 July. All submissions in relation to the proposed variation will be published on Viterra's website, unless a submission consists wholly or partly of material that is claimed to be confidential or commercially sensitive, or the person making the submission requests Viterra not publish the material.