MARINE ORDERS

Part 18

Measures to enhance 
maritime safety

Issue 3

Order No. 4 of 2007

Pursuant to subsection 425(1AA) of the Navigation Act 1912, I hereby make this Order repealing Marine Orders Part 18, Issue 2, and issuing the attached Marine Orders, Part 18, Issue 3, to come into operation on 1 October 2007.

Barbara Pearson
Acting
Chief Executive Officer
6 September 2007
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Previous issues
Issue 1, Order No. 13 of 1999
Issue 2, Order No. 1 of 2004
1 Purpose & power

1.1 Purpose

This Part of Marine Orders:

(a) gives effect to Chapter XI-1 of SOLAS, which deals with matters including enhanced survey requirements for certain bulk carriers and tankers, ship identification numbers, Company and registered owner identification numbers and Continuous Synopsis Records; and

(b) applies regulations 2 (enhanced surveys), 3 (ship identification numbers) and 5 (Continuous Synopsis Records) of Chapter XI-1 of SOLAS to ships on voyages other than international voyages.

1.2 Power

1.2.1 Section 191(1) of the Navigation Act provides for regulations to make provision for or in relation to giving effect to SOLAS.

1.2.2 Subsection 191(2) enables SOLAS provisions to be applied to ships on voyages not normally covered by SOLAS itself.

1.2.3 Subsection 425(1) of the Navigation Act provides for regulations to be made prescribing matters required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

1.2.4 Subsection 425(1AA) of the Navigation Act provides that AMSA may make orders with respect to any matter (other than the imposition of penalties) for or in relation to which provision may be made by regulation.

2 Definitions of words and phrases used in this Part

AMSA means the Australian Maritime Safety Authority established by the Australian Maritime Safety Authority Act 1990;

Company, in relation to a ship, means the owner of the ship or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Safety Management Code;
General Manager means the person occupying the position of General Manager, Maritime Operations, in AMSA;

home port, in relation to a ship, has the same meaning as in the Shipping Registration Act 1981;

IMO means the International Maritime Organization;

Manager, Ship Inspections, means the person occupying the position of Manager, Ship Inspections, in AMSA or, in respect of any particular purpose under this Part, a suitably qualified person authorised by the Manager, Ship Inspections, for that purpose;

Navigation Act means the Navigation Act 1912;

official number has the same meaning as in the Shipping Registration Act 1981;

penal provision means a penal provision for the purposes of Regulation 4 of the Navigation (Orders) Regulations;

Registrar of Ships means the Registrar of Ships or a Deputy Registrar of Ships appointed under the Shipping Registration Act 1981, and includes a person appointed to act as Registrar or Deputy Registrar of Ships while so acting;

SOLAS means the Safety Convention as defined in the Navigation Act;

surveyor means a person appointed as a surveyor under section 190 of the Navigation Act.

3 Interpretation

3.1 Unless otherwise provided, a word or phrase defined for the purposes of Chapter XI-1 of SOLAS has the same meaning for the purposes of this Part.

3.2 In this Part, a reference to the date on which a ship was constructed means the date on which not less than 50 tonnes or one per cent of the proposed total mass of the structural material of the ship, whichever is the less, has been assembled.

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1 Subregulation 4(1) of the Navigation (Orders) Regulations provides that a person commits an offence if the person does not comply with a provision of an order that is made under subsection 425(1AA) of the Navigation Act and that is expressed to be a penal provision. The penalty for an individual is a fine not exceeding 50 penalty units. By virtue of subsection 4B(2A) of the Crimes Act 1914, the penalty for a body corporate is a fine not exceeding 250 penalty units.

By virtue of section 4AA of the Crimes Act 1914, a penalty unit is currently $110.

2 The current text of Chapter XI-I of SOLAS is set out in SOLAS Consolidated Edition 2004 and will be amended, with effect from 1 January 2009, by IMO Resolution MSC.194(80).
3.3 A reference to the *Administration* in Chapter XI-1 of SOLAS (other than Regulation 5), an IMO resolution or document referred to in this Part is to be read as a reference to the Manager, Ship Inspections.\(^3\)

3.4 In this Part:

(a) headings and subheadings are part of the Part;

(b) a footnote is not part of the Part, but may provide additional information or guidance in applying the Part.

4  Application

4.1 Subject to 4.2 and 4.3, this Part applies to and in relation to a ship, other than a fishing vessel, that is:

(a) registered in Australia; or

(b) registered in a country other than Australia that is in the territorial sea of Australia or waters on the landward side of the territorial sea, but does not apply to a Safety Convention ship except to the extent that the ship fails to comply with Chapter XI-1 of SOLAS.

4.2 This Part, other than Provision 8, does not apply to a cargo ship of less than 500 gross tonnage.

4.3 Provision 8 does not apply to a passenger ship of less than 100 gross tonnage or to a cargo ship of less than 300 gross tonnage.

4.4 Provision 9 applies from 1 January 2009.

5  Exemptions and equivalents\(^4\)

5.1 Exemptions

The Manager, Ship Inspections, if satisfied that compliance by a ship or class of ships with a provision of this Part would be unnecessary or unreasonable having regard to the ship or class of ships, equipment and intended voyage or voyages, may exempt that ship or class of ships from compliance with such provision to the extent specified and subject to such conditions as that officer thinks fit.

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\(^3\) Information on obtaining copies of IMO Resolutions or other documents referred to in this Part is available from AMSA.

\(^4\) Applications for modifications or exemptions should be made to the Manager, Ship Inspections, and should be accompanied by relevant information. The Manager, Ship Inspections, may seek additional information to assist in reaching a decision.
5.2 Equivalents

Where a provision of this Part requires a particular fitting, material, appliance or apparatus, or type thereof to be fitted or carried in a ship or a particular provision to be made in a ship, the Manager, Ship Inspections, may allow any other fitting, material, appliance or apparatus, or type thereof, to be fitted or carried, or any other provision to be made, if that officer is satisfied that the other fitting, material, appliance or apparatus, or type thereof, or provision, is at least as effective as that required by that provision of this Part.

5.3 Exemptions and equivalents not to contravene SOLAS

The Manager, Ship Inspections, must not give an exemption under 5.1 or allow an equivalent under 5.2 if it would contravene SOLAS.

6 Review of decisions

6.1 Internal review

6.1.1 If the Manager, Ship Inspections, makes a decision under this Part, a person affected by the decision may, within 3 months of the date of notification of the decision or such longer period as determined by the General Manager, apply to the General Manager for review of that decision.

6.1.2 An application for internal review under 6.1.1 must be made in writing to the General Manager and must be accompanied by such information as the General Manager requires to enable the decision to be properly reviewed.

6.1.3 The General Manager may:

(a) affirm the original decision by the Manager, Ship Inspections; or

(b) make any decision that could be made by the Manager, Ship Inspections, in accordance with this Part.

6.1.4 The General Manager must notify his or her decision in writing to the applicant within 28 days of receiving the application for internal review.

6.2 Review by the AAT

6.2.1 Application may be made to the Administrative Appeals Tribunal for review of a decision by the General Manager under 6.1.3.
6.2.2 The notice under 6.1.4 must include:

(a) a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Administrative Appeals Tribunal for review of the decision; and

(b) a statement to the effect that the person may request a statement under section 28 of that Act.

6.2.3 Failure to comply with 6.2.2 in relation to a decision does not affect the validity of that decision.

7 Enhanced surveys

Regulation 2 of Chapter XI-1 of SOLAS must be complied with in relation to:

(a) any bulk carrier; and

(b) any oil tanker.

8 Ship identification number

Regulation 3 of Chapter XI-1 of SOLAS must be complied with in relation to a passenger ship of 100 gross tonnage or more and a cargo ship of 300 gross tonnage or more.

9 Company and registered owner identification number

Regulation 3-1 of Chapter XI-1 of SOLAS has effect in relation to the Company and registered owner of every ship engaged on international voyages.

10 Port state control on operational requirements

10.1 Inspection of ships

If a surveyor has clear grounds for believing that the master or crew of a ship in a port in Australia are not familiar with essential shipboard procedures relating to the safety of ships, the surveyor may inspect the ship.

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5 This requires relevant ships to be subject to the Enhanced Survey Program specified in IMO Resolution A.744(18), as amended by Resolutions MSC.49(66), MSC.105(73), MSC.125(75), Resolution 2 of SOLAS/CONF.4/25 and Resolutions MSC.144(77) and MSC.197(80).
10.2 Detention of ships

10.2.1 A surveyor intending to inspect a ship under 10.1 may, by order in writing addressed to the master, detain it.

10.2.2 When the surveyor is satisfied that the ship is able to proceed to sea without presenting an unreasonable threat to the safety of the ship or to the marine environment, he or she is to revoke the detention order.

10.2.3 The master of a ship must comply with an order under 10.2.1.

This is a penal provision

11 Continuous Synopsis Record

11.1 Requirement for Continuous Synopsis Record

The Company operating an Australian registered ship must ensure that a Continuous Synopsis Record in respect of the ship is kept on board the ship and is available for inspection at all times. For ships constructed before 1 July 2004, the Continuous Synopsis Record must, at least, provide the history of the ship as from 1 July 2004.

This is a penal provision

11.2 Application for the issue of a Continuous Synopsis Record

11.2.1 If:

(a) the Company operating an Australian registered ship makes application for a Continuous Synopsis Record in accordance with 11.2.2; and

(b) the Registrar of Ships is satisfied with the accuracy of the information provided; and

(c) the appropriate fee has been paid,

the Registrar of Ships will issue in respect of the ship a Continuous Synopsis Record meeting the requirements of regulation 5.3 of Chapter XI-1 of SOLAS.

11.2.2 An application for a Continuous Synopsis Record must be made in writing to the Registrar of Ships and must provide the following information:

(a) the name, official number and IMO number of the ship;

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6 Continuous Synopsis Records on ships registered overseas are subject to inspection in Australia as part of AMSA’s Port State Control procedures.

7 Information about fees, which are determined under s.47 of the Australian Maritime Safety Authority Act 1990, can be obtained from the Registrar of Ships.

8 A suitable form for making an application can be download from the AMSA website at http://www.amsa.gov.au. Where a postal address differs from a street address, both should be provided.
(b) the date on which the ship was registered in Australia;
(c) the home port of the ship;
(d) the name of the owner(s) and their address(es);
(e) the name of the bareboat charterer(s) and their address(es), if applicable;
(f) the name and address of the Company operating the ship, and any other address(es) from where it carries out its safety management activities under the ISM Code;
(g) the name of all classification societies with which the ship is classed;
(h) the name of the Administration or organization which has issued the Document of Compliance (or the Interim Document of Compliance) to the Company operating the ship, and the name of the body which has carried out the audit on the basis of which the document was issued, if other than that issuing the document;
(i) the name of the Administration or organization that has issued the Safety Management Certificate (or the Interim Safety Management Certificate) to the ship, and the name of the body which has carried out the audit on the basis of which the certificate was issued, if other than that issuing the certificate;
(j) the name of the Administration or recognised security organisation that has issued the International Ship Security Certificate (or an Interim International Ship Security Certificate) to the ship, and the name of the body which has carried out the verification on the basis of which the certificate was issued, if other than that issuing the certificate;
(k) if the ship has been previously registered in a country other than Australia, the name of the last such country and the date on which the ship ceased to be registered in that country;
(l) the name and contact details of the person responsible for making the application;
(m) with effect from 1 January 2009, the Company and registered owner identification numbers required by Regulation 3-1 of Chapter XI-1 of SOLAS.

11.2.3 If a Continuous Synopsis Record has previously been issued in respect of the ship, it must be retained on board the ship and a copy forwarded with an application under 11.2.2.

11.2.4 The Registrar of Ships may require the provision of additional information to assist in determining the accuracy of the information to be included in the Continuous Synopsis Record.
11.3 Maintenance of Continuous Synopsis Record

11.3.1 If:
(a) any of the information contained in a Continuous Synopsis Record changes; or
(b) additional information needs to be included,
the Company operating the ship must within 14 days notify the Registrar of Ships in writing of the change or addition.\(^9\)

This is a penal provision

11.3.2 If:
(a) the Registrar of ships is satisfied with the accuracy of the information provided under 11.3.1; and
(b) the appropriate fee has been paid,
the Registrar of Ships will issue in respect of the ship a revised and updated Continuous Synopsis Record meeting the requirements of regulation 5.3 of Chapter XI-1 of SOLAS.

11.3.3 On receipt of a revised and updated Continuous Synopsis Record, the Company operating the ship must arrange for it to be attached to the superseded document.

This is a penal provision

11.3.4 The Registrar of Ships may require the provision of additional information to assist in determining the accuracy of the information to be included in a revised and updated Continuous Synopsis Record.

11.4 Ship ceasing to be registered in Australia

If a ship is to be transferred from the Australian Register of Ships to the register of a country other than Australia, the Company referred to in 11.2.2(f) must within 14 days notify the Registrar of Ships in writing of:
(a) the name of the new country of registration; and
(b) if known, the name and registered address of the Company to be operating the ship under the proposed flag.

This is a penal provision

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\(^9\) Suitable forms for providing this information, together with appropriate procedures to be followed, can be downloaded from the AMSA website at [http://www.amsa.gov.au](http://www.amsa.gov.au).