Authority

1. Subsection 425(1) of the *Navigation Act 1912* (the Navigation Act) empowers the Governor-General to make regulations necessary or convenient for carrying out or giving effect to that Act.

2. Subsection 425 (1AA) of the Navigation Act allows the Australian Maritime Safety Authority to make orders with respect to any matters in that Act for, or in relation to, which provision may be made by regulations.

3. Marine Orders, Part 41, Issue 7, was made pursuant to subsection 425(1AA).

Purpose

4. Marine Orders Part 41:
   - makes provision for the carriage of dangerous goods;

5. Marine Orders Part 41, Issue 7:
   - repeals Marine Orders Part 41, Issue 6;
   - gives effect to IMDG Code amendments effective from 1 January 2006.

Consultation

6. The draft text was circulated to relevant AMSA managers and to external bodies including Shipping Australia Ltd, Australian Shipowners Association, approved ship classification societies, Department of Transport and Regional Services, and the Australian Federation of International Forwarders for comment. A copy of draft text was also placed on the AMSA internet website for public comment.

7. The Office of Regulation Review (ORR) was also consulted in relation to their requirement for a mandatory Regulatory Impact Statement (RIS). ORR advised that a mandatory RIS was not required, as the proposed amendments appeared to be minor or machinery in nature and did not substantially alter the existing arrangements.
Overview

8. The Maritime Safety Committee of the International Maritime Organization (IMO) at its 78th session, held in May 2004, adopted amendments to the IMDG Code by IMO Resolution MSC.157(78). The amendments shall enter into force 1 January 2006.

9. In accordance with IMO recommendations, AMSA enforced the amendments with effect from January 2005 by issuing a certificate of approval for modification of the IMDG Code.

10. The certificate of approval will expire on 1 January 2006. Consequently the definition of IMDG Code in Part 41 needs to be amended to incorporate the above IMO amendments.

11. New provisions have been introduced that permit a surveyor to inspect incoming dangerous goods on a ship, to inspect cargo transport units (CTU) packed with dangerous goods and to prohibit the loading of a CTU onto a ship which does not comply with Part 41.

Contents of the Order

12. Provision 1 provides the purpose of this Order, which is to give effect to Parts A and D of Chapter VII of SOLAS and to prescribe matters for the purposes of the Navigation Act, and specifies the sections of the Navigation Act that gives the power to make this Order.

13. Provision 2 provides definitions (including the updated definition of the IMDG Code), and Provision 3 provides interpretations as necessary for proper understanding of the Order.

14. Provision 4 specifies the application of this Part in relation to the carriage of dangerous goods in a ship and also specifies the type of dangerous goods carried on a ship to which this Part does not apply.

15. Provision 5 provides for the requirement of provisions of this Part to be modified or varied and for an exemption to be made in relation to compliance with a requirement of this Part. Such modifications or exemptions can only be made if they would not contravene SOLAS.

16. Provision 6 provides for an internal review by the General Manager of a decision made by the Manager, Ship Inspections, under this Part. This provision also provides for an applicant to apply to the Administrative Appeals Tribunal for a review of specified decisions made under this Part by the General Manager. The provision also provides for a statement of reasons to be provided by the General Manager upon an applicant’s request.

17. Provision 7 specifies that dangerous goods and the associated packing, stowage and carriage of such goods must comply with relevant provisions of SOLAS and the mandatory provisions of the IMDG Code, the Appendix of this
Part, and, if appropriate, the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on board Ships.

18. **Provisions 8.1.1.– 8.1.3** provides the requirement of a shipper to give notice to certain persons of an intention to ship dangerous goods and prescribes the manner of giving such notice.

19. **Provision 8.1.4** provides for the master of a vessel to provide to the surveyor-in-charge a special list or manifest relating to goods that are to be loaded on board the ship. This is a penal provision.

20. In the event that it is not practical to provide all the information required to be recorded in a special list or manifest referred to in Provision 8.1.4, **Provision 8.1.5** specifies certain information that the master must provide to the surveyor-in-charge at least 24 hours before goods are to be loaded.

21. **Provision 8.1.6** requires the master to inform the surveyor-in-charge in writing, and before goods are loaded on board a ship, of any subsequent changes to the special list or manifest. This provision is a penal provision.

22. **Provision 8.1.7** specifies particular documentation that the person organising the transhipment of dangerous goods is to provide to the master of the ship.

23. **Provision 9** prescribes the responsibilities of the master, persons in charge, all persons on board a ship and persons engaged in loading or unloading cargo in ensuring safety in relation to loading, unloading and carriage of dangerous goods on board a ship. **Provisions 9.1 to 9.3** are penal provisions.

24. **Provision 10.1** specifies the circumstances when a surveyor may inspect a cargo transport unit in relation to the carriage of dangerous goods for the purpose of compliance with the IMDG Code. **Provision 10.2** provides for the inspection of a ship arriving at an Australian port carrying dangerous goods; **Provision 10.3** provides that a surveyor may prohibit the loading or unloading of a cargo transport unit containing dangerous goods, which does not comply with the relevant provisions of the IMDG Code.

25. **Provision 10.4** is a penal provision that requires compliance with **Provision 10.3**.

26. **Provision 11.1** requires the operator of a ship, on which it is intended that dangerous goods be carried, to issue detailed instructions on emergency response and medical first aid relevant to incidents involving dangerous goods in packed form, complying with Regulation VII/2.4 of SOLAS. This is a penal provision.

27. **Provision 11.2** requires the master of a ship to ensure that the detailed instructions issued by the ship’s operator on emergency response and first aid are readily available on board the ship. This is a penal provision.
28. **Provision 12.1** requires the master, or, other person having charge of the ship to report, without delay, and to the fullest extent possible, the particulars of any incident involving the loss, or likely loss overboard, of dangerous goods in packaged form into the sea. This is a penal provision.

29. With respect to a ship referred to in Provision 12.1, **Provision 12.2** requires the owner or operator of a ship, or agent thereof, to make a complete report in the event of a ship being abandoned or a report that has not been completed or has become unobtainable. This is a penal provision.

30. The **Appendix** provides interpretations, amplifications and requirements supplementary to the IMDG Code.

**Documents incorporated by reference**


- The International Convention for the Safety of Life at Sea (SOLAS);
- International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on board Ships (contained in the Supplement to the IMDG Code);
- Guidelines for Packing of Cargo Transport Units (contained in the Supplement to the IMDG Code);
- Recommendations on the Safe Use of Pesticides in Ships (contained in the Supplement to the IMDG Code).

32. The following publications may be purchased from CanPrint Information Services, PO Box 7456, Canberra MC,ACT 2610; Phone: 1300 889 873, E-mail: sales@infoservices.com.au; Fax: (02) 6293 8333:

- The Australian Code for the Transport of Dangerous Goods by Road and Rail.

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Australian Maritime Safety Authority
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