Pursuant to Section 425(1AA) of the Navigation Act 1912, I hereby make this Order amending Marine Orders, Part 47, Issue 2 by omitting pages (i) and 3 to 6 and issuing the attached pages (i) and 3 to 6, to come into operation on 1 February 2001.

Clive Davidson
Chief Executive Officer
17 January 2004
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*Previous issues*
Issue 1, Order No. 6 of 1986  
Issue 2, Order No. 1 of 2000
1.8 In this Part:

(a) headings and sub-headings are part of the Part;
(b) each Appendix is part of the Part;
(c) a note included in the text and printed in italics is not part of the Part.

Note: Copies of IMO Resolutions or other documents referred to in this Part or in the MODU Codes are available from AMSA.

2 Purpose & application

2.1 Purpose

This Part:

(a) for the purpose of section 190B of the Navigation Act, specifies the requirements with which the construction, hull, equipment and machinery of MODUs must comply;
(b) for the purposes of section 283E of the Navigation Act, makes provision for and in relation to giving effect to IMO resolutions with respect to MODUs; and
(c) for the purposes of paragraph 425(1)(db) of the Navigation Act, generally makes provision for the safe navigation and operation of MODUs.

2.2 Application

This Part applies to:

(a) a MODU registered in Australia; and
(b) a MODU registered in a country other than Australia that is operating as an offshore industry mobile unit under section 8 of the Navigation Act.

Note: Pre 1 July 1986 MODUs are expected to comply substantially with this Part. However, a MODU constructed prior to 1 July 1986 that is unable to comply with a provision or provisions of this Part, will be exempted from compliance with such provision or provisions to the extent that the Chief Marine Surveyor considers compliance unreasonable and impractical, having regard to the MODU, its equipment and its intended operations, subject to such conditions as that officer thinks fit.
3 Equivalents & exemptions

3.1 Equivalents

If a provision of a code or other provision of this Part requires a particular fitting, material, appliance or apparatus or type thereof to be fitted or carried in a MODU, or particular provision to be made in relation to a MODU or its equipment, the Chief Marine Surveyor may, upon written request, allow a modification or variation of that requirement if satisfied that the fitting, material, appliance or apparatus or type thereof or other provision so allowed is at least as effective as that required by the code or this Part.

3.2 Exemptions

The Chief Marine Surveyor will, upon written request, if satisfied that compliance with a requirement of a code or other provision of this Part would in a particular case be unreasonable or impracticable, allow exemption in relation to a MODU from compliance with such requirement or provision to such extent and subject to such conditions as that officer determines.

4 Review of decisions

4.1 Application to the Administrative Appeals Tribunal

Application may be made to the Administrative Appeals Tribunal for a review of a decision by the Chief Marine Surveyor:

(a) not to allow a modification or variation under 3.1;
(b) not to allow exemption in relation to a MODU under 3.2;
(c) under 8.7.2, to require an inspection of a MODU prior to a tow, to prohibit a tow or to permit a tow subject to conditions;
(d) to specify a lesser period of validity for a certificate under 9.2.1;
(e) to cancel a certificate under 9.2.3(a);
(f) not to endorse a certificate under 9.3;
(g) relating to the exercise of a discretion under the 1979 MODU Code or the 1989 MODU Code.

4.2 Statements to accompany written notice of decisions

A person making a decision referred to in this Part may give to a person whose interests are affected by the decision a notice in writing of the decision. The notice must:
(a) include 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;

(b) except where subsection 28(4) of that Act applies, also include a statement to the effect that the person may request a statement under Section 28 of that Act.

4.3 Validity of decisions

Failure to comply with 4.2 in relation to a decision does not affect the validity of that decision.

5 Offences

5.1 Provisions 6.1, 6.2.1, 6.2.2, 6.2.3, 7, 8.1, 8.2.1, 8.2.2, 8.3, 8.4.1, 8.5.1, 8.5.2, 8.5.3, 8.6, 8.7.1, 8.7.3, 8.8.1, 8.8.2, 8.8.3, 8.8.4 and 8.9 are penal provisions.

5.2 Failure to comply with 6.1, 6.2.1, 8.2.1, 8.2.2 or 8.7.3 constitutes an offence by the owner and person-in-charge.

5.3 Failure to comply with 7, 8.3, 8.4.1, 8.5.1 or 8.6 constitutes an offence by the owner.

5.4 Failure to comply with 6.2.2, 6.2.3, 8.1, 8.8.1, 8.8.2, 8.8.3, 8.8.4 or 8.9 constitutes an offence by the person-in-charge.

5.5 Failure to comply with 8.7.1 constitutes an offence by the owner and agent.

5.6 Failure to comply with 8.5.2 or 8.5.3 constitutes an offence by the person concerned.

Note: Regulation 4 of the Navigation (Orders) Regulations provides:

'4. A person who contravenes a provision of an order made under subsection 425(1AA) of the Act that is expressed to be a penal provision is guilty of an offence and is punishable on conviction:

(a) if the offender is a natural person—by a fine not exceeding $2,000; or
(b) if the offender is a body corporate—by a fine not exceeding $5,000.

By virtue of sections 4AB and 4AA of the Crimes Act 1914, these penalties are now $2,200 and $5,500 respectively.
6 Requirements—survey & certification

6.1 MODU Code certificate

A MODU must not move or be moved from a location unless there is in force:

(a) for a MODU constructed before 1 May 1991—a MODU Certificate (1979); or
(b) for a MODU constructed on or after 1 May 1991—a MODU Certificate (1989).

Note: In circumstances where a MODU may need to move from a location at short notice, the owner should ensure that the appropriate certificate is held at all times.

6.2 Maintenance of condition after survey

6.2.1 Where a surveyor determines that, in any respect, a MODU does not comply with this Part or that the MODU is not fit to be engaged in operations, other than drilling operations, without danger to itself or to persons on board, the owner or the person in charge of the MODU must take the corrective action required by the surveyor.

6.2.2 If the safety of the MODU or persons on board is endangered by the occurrence of an incident referred to in section 268 of the Navigation Act or by any defect, other than in the drilling operations of the MODU, the person in charge must report the accident or defect in accordance with 12 of Marine Orders, Part 31.

6.2.3 Where a MODU, in respect of which there is held a valid MODU certificate, becomes less efficient or seaworthy by reason of any alteration or damage or by reason of any alteration or damage to any fitting, material, appliance or apparatus of the MODU, the person in charge must give notice in accordance with 5 of Marine Orders, Part 31.

7 Requirements—personnel

A MODU must be provided with personnel in accordance with Appendix 1.