

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 115

Issued by Authority of the Minister for Transport and Regional Services

Subject: *Maritime Transport Security Act 2003*

Maritime Transport Security Amendment Regulations 2005 (No. 1)

Subsection 209(1) of the *Maritime Transport Security Act 2003* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Subsection 109(3) of the Act provides that regulations may be made under the Act prescribing penalties for offences against the prescribed requirements for ship security zones.

The purpose of the Act is to safeguard against unlawful interference with maritime transport by establishing a regulatory framework centred around the development of security plans for ships and other maritime transport operations. The Australian maritime security regime came into force on 1 July 2004.

The amendments to the *Maritime Transport Security Regulations 2003* (the Principal Regulations) clarify areas of uncertainty or operational inconsistencies which have been apparent since the implementation of the Australian maritime security regime.

In summary, the amendments to the Principal Regulations:

- ensure that persons appointed by a court as an Admiralty Marshal, or authorised to exercise the powers or perform the duties of a Marshal under the *Admiralty Rules 1988(Cth)*, may pass through the screening point when boarding a security-regulated passenger ship, for which a maritime security level 1 is in force;
- prescribe criteria for persons to be appointed as maritime security inspectors by the Secretary of the Department of Transport and Regional Services;
- provide for the addition of officers of organisations associated with the promotion of the welfare of animals and licensed security guards as persons authorised to carry or possess a weapon or prohibited item in a maritime security zone and on board a regulated Australian ship;
- clarify that it is the port operator's obligation to give notice of the establishment of ship security zones, identify the boundaries of ship security zones, and to inform persons within the port or in its vicinity of the ship security zone.

Details of the issues addressed in the proposed Regulations are set out in the Attachment.

The Office of Regulation Review has advised that a Regulation Impact Statement (RIS) is not required.

The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purpose of the *Legislative Instruments Act 2003*.

The Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.

Authority: *Subsections 109(3) and
209(1) of the Maritime
Transport Security Act 2003*

ATTACHMENT

Details of the proposed *Maritime Transport Security Amendment Regulations 2005 (No. 1)*

1 Name of Regulations

This regulation provides that these regulations are to be cited as the *Maritime Transport Security Amendment Regulations 2005 (No. 1)*.

2 Commencement

This regulation provides that these regulations commence on the day after they are registered.

3 Amendment of *Maritime Transport Security Regulations 2003*

This regulation provides that Schedule 1 amends the *Maritime Transport Security Regulations 2003* (the Principal Regulations).

Schedule 1 Amendments commencing on day after they are registered.

Item 1 Regulation 6.70, duties of port operator

This item inserts a new regulation 6.70 to clarify that it is the port operator's obligation to give notice of the establishment and boundaries of the water-side restricted zones and to inform persons in the zone, or its vicinity, of certain specified matters.

A new subregulation 6.70(5) provides that it is the port operator's duty to ensure that appropriate security measures and processes are installed to detect unauthorised access to a water-side restricted zone.

Item 2 Subregulation 6.90 (2), Identification of ship security zones.

This item inserts a new subregulation 6.90(2) to prescribe the manner in which a port operator for a security regulated port within a ship security zone must give notice of the establishment and boundaries of the zone, specifying certain matters that would be required to be identified.

Item 3 Regulation 6.95, duties of port operator.

This item inserts a new regulation 6.95 to clarify that, where a ship security zone has been established, it is the duty of the port operator for the security regulated port in that zone to ensure that persons within the security regulated port, or its vicinity, are informed that access to the zone is prohibited and an offence under the Regulations. It is also the port operator's responsibility to monitor access to any ship security zone within the port and ensure that appropriate procedures are installed to control access to ship security zones and deter unauthorised access to those zones.

Item 4 Paragraph 7.25(3)(l)

This item provides that a semi-colon and an “and” replace the full stop at the end of the paragraph to provide for the addition of new paragraphs, (m) and (n), to subregulation 7.25(3).

Item 5 Paragraph 7.25(3)(m)(n)

This item inserts two new paragraphs 7.25(3)(m) and (n) after paragraph 7.25(3)(l) to provide that persons appointed by a court to be a Marshal, or otherwise authorised to act as a Marshal, when exercising the powers or functions of a Marshal under the *Admiralty Rules 1988*, may pass through a screening point or board a security regulated passenger ship or enter a cleared zone or board a cleared vessel when a maritime security level 1 is in force for the relevant port.

Item 6 Division 7.3

This item substitutes a new Division 7.3 to provide for the addition of officers of organisations associated with animal welfare, quarantine officers and veterinarians, as well as on duty licensed security guards, as persons authorised to carry or possess a weapon or prohibited item in a maritime security zone, when passing through a screening point or on board a regulated Australian ship.

Regulation 7.39, definition

This item inserts a new regulation 7.39 in Division 7.3 to provide for a definition of the term “licensed security guard”. This would clarify, for instance, that a person licensed as a security guard in a specific State or Territory, and currently on duty, is authorised to possess a weapon or prohibited item when in a maritime security zone, passing through a screening point or on board a regulated Australian ship.

Regulation 7.40

This item amends regulation 7.40 to provide for the addition of officers of organisations associated with the promotion of the welfare of animals, quarantine officers, departmental officers employed for the purpose of eradication of pests and licensed security guards as persons authorised to carry or possess a weapon or prohibited item in a maritime security zone.

Regulation 7.45

This item amends regulation 7.45 to provide for the addition of officers of organisations associated with the promotion of the welfare of animals, quarantine officers, departmental officers employed for the purpose of eradication of pests and licensed security guards as persons authorised to carry or possess a weapon or prohibited item when passing through a screening point.

Regulation 7.50

This item amends regulation 7.50 to provide for the addition of officers of organisations associated with the promotion of the welfare of animals, quarantine officers, departmental officers employed for the purpose of eradication of pests and licensed security guards as persons authorised to carry or possess a weapon or prohibited item on board a regulated Australian ship.

Regulation 7.55, exemption

This item inserts a new regulation 7.55 to provide that a person would not be authorised to carry a weapon or prohibited item, under regulations 7.40 and 7.45 and 7.50, where the carriage or possession would be prohibited by State / Territory legislation or other relevant Commonwealth legislation, and the person does not have the required licence, permit or authorisation.

Item 7 Regulation 8.20A

This item inserts a new regulation 8.20A to prescribe the criteria for persons (other than Departmental officers or law enforcement officers) to be appointed by the Secretary of the Department as a maritime security inspector.