

## Explanatory Statement

### Marine Order 502 (Vessel identifiers — national law) 2013 (Order 2013/7)

#### Authority

1. Paragraphs 34(1)(b) and 35(1)(b) of the *Marine Safety (Domestic Commercial Vessel) National Law* (the ***national law***) set out in Schedule 1 of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* provides for the regulations to prescribe the way in which a unique identifier must be displayed.
2. Paragraph 31(1)(b) of the national law provides for the regulations to prescribe criteria for the issue of a unique identifier.
3. Subsection 159(1) of the national law authorises the Governor-General to make regulations necessary or convenient for carrying out or giving effect to the national law.
4. Paragraph 159(3)(c) of the national law provides for the regulations to prescribe requirements for the marking of domestic commercial vessels.
5. Subsection 163(1) of the national law allows the National Regulator to make Marine Orders for any matter in the Act for which provision may be made by regulations, with some specified exceptions.
6. This Order was made under subsection 163(1) of the national law and is a legislative instrument for the *Legislative Instruments Act 2003*.

#### Purpose

7. This Order provides for unique identifiers for domestic commercial vessels.

#### Overview

8. The national law is a key part of the national system for commercial vessel safety. When applied in all Australian jurisdictions (see section 2 of the national law) it will replace existing State and Territory laws, and parts of Commonwealth law, with a single law for the safety of all domestic commercial vessels and their crew in Australian waters. The national law is supported by Marine Orders made under the national law by the National Regulator.
9. The Australian Maritime Safety Authority is the National Marine Safety Regulator (referred to as the ***National Regulator*** — see section 9 of the national law).
10. This Marine Order provides requirements for the application, issue and display of unique identifiers for domestic commercial vessels. A unique identifier is a unique identification number issued to each vessel that stays with the vessel for its lifetime even if it changes ownership or use. Uniquely identifying each vessel allows the National Regulator to identify vessel ownership, monitor vessels, review their ownership and operation history, or to find the owner of a vessel if it is eg found adrift.
11. The effect of the Order is only ancillary to the national law and does not affect the policy background of the national law. For these reasons, and based on the information available, no further analysis in the form of a Regulation Impact Statement is required (OBPR reference number 14031).

#### Consultation

12. The instrument was developed in consultation with the Maritime Agencies Forum, representing the marine safety authorities of each State and the Northern Territory, and the Department of Transport and Infrastructure. It was advertised for public

comment and posted for comment on the national law website. Comments from the public and from marine safety authorities were considered and the draft instrument was developed taking these into account.

### **Documents incorporated by reference**

13. No documents are incorporated by reference.

### **Commencement**

14. This Order commenced on 1 July 2013.

### **Contents of this instrument**

15. Section 1 sets out the name of the Order.

16. Section 2 provides for commencement of the Order.

17. Section 3 states the purpose of the order, which is to provide for unique identifiers for domestic commercial vessels.

18. Section 4 sets out the provisions of the national law that provide the powers for the Order to be made.

19. Section 5 is only a placeholder, as not terms are defined only for the Order. It contains notes referring to terms defined elsewhere.

20. Section 6 provides for applications for a unique identifier. The owner of a domestic commercial vessel that does not have a unique identifier can apply for one according to the arrangements outlined in *Marine Order 501 (Administration) 2013*.

21. Section 7 provides criteria for when the National Regulator may issue a unique identifier for a vessel. Subsection 31(1) of the national law provides for when the National Regulator must issue a unique identifier. A decision to refuse to issue a unique identifier under subsection 38(1) of the national law is a reviewable decision under the national law — see section 139 of the national law.

22. Section 8 provides for the display of a unique identifier. The owner of a vessel must ensure that it is displayed on a vessel in accordance with the requirements in section 8 within 21 days after the National Regulator issues the unique identifier. However, the National Regulator may approve another way of displaying a unique identifier if the structure of the vessel prevents its display as required. A transitional arrangement applies for the commencement of the display requirement for existing vessels.

23. Section 9 provides for notification of the National Regulator. If the owner of a vessel for which a unique identifier is issued transfers ownership to another person, or if such a vessel is withdrawn from commercial operation, sunk or scrapped. It is an offence of strict liability not to notify the National Regulator of these events.

### **Statement of compatibility with human rights**

24. This statement is made for subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Purpose and effect**

25. This instrument provides for unique identifiers for domestic commercial vessels.

26. The instrument is made under the *Marine Safety (Domestic Commercial Vessel) National Law* and sets out requirements for the application for, issue by the National Regulator, and display of unique identifiers for domestic commercial vessels.

### Possible effect on human rights

27. This instrument does not engage any of the applicable rights or freedoms.

### Assessment

28. This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### Making the instrument

29. This instrument has been made by the Chief Executive Officer of the Australian Maritime Safety Authority, in accordance with subsection 49(4) of the *Australian Maritime Safety Authority Act 1990*.