

## Explanatory Statement

### Marine Order 503 (Certificates of survey — national law) Amendment 2014 (No. 1) (Order 2014/6)

#### Authority

1. Division 2 of Part 4 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 matters that can be prescribed in the regulations about certificates of survey for domestic commercial vessels.
2. Section 75 of the national law provides for regulations to be made about certificates.
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. Subsection 159(2) of the national law provides for regulations to be made prescribing standards for the national law.
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. Section 164 of the national law allows a Marine Order to provide for any matter by applying, adopting or incorporating any matter contained in any written instrument in force or existing from time to time including the National Standard for Commercial Vessels (*NSCV*) and the Uniform Shipping Laws Code (*USL Code*).
7. This Order was made under subsection 163(1) of the national law and is a legislative instrument for the *Legislative Instruments Act 2003*.

#### Purpose

8. This Order makes minor amendments to *Marine Order 503 (Certificates of survey — national law) 2013* to account for the issue of Section 1 (Arrangement, accommodation and personal safety) of Part C (Design and construction) of the NSCV in November 2013 as a replacement from requirements of the USL Code that applied previously.

#### Background

9. The rules that apply to the construction of domestic commercial vessels are generally contained in the NSCV. Parts of the NSCV come into effect when approved by the Standing Council on Transport and Infrastructure. There are still some parts of the rules that are contained in the USL Code, which was an earlier system of achieving consistency in vessel construction among the States and the Northern Territory.
10. Marine Order 503 sets standards for construction of new domestic commercial vessels by reference to the NSCV, as well as to those parts of the USL Code that have not yet been overtaken by NSCV provisions.

#### Consultation

11. Public consultation was not undertaken specifically for the amendments made by this Order as the changes simply implement Section 1 of Part C of the NSCV. This Section was subject to the Council of Australian Governments consultation

process including preparation of a regulatory impact statement. There was extensive consultation on the Section over more than 2 years and its introduction has been widely anticipated by industry and regulators.

12. A copy of the draft of this Order was sent to each member of the Maritime Agencies Forum, which represents the maritime safety authorities of each State and the Northern Territory. No issues were raised with the proposed amendments.

13. The Office of Best Practice Regulation (OBPR) was also consulted. OBPR considered that the regulatory impact of the Order is of a minor or machinery nature and that no further analysis in the form of a Regulatory Impact Statement was required. The OBPR reference number is 16233.

## **Commencement**

14. This Order commences on 1 April 2014.

## **Contents of this instrument**

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

16. Section 2 provides for the commencement of the Order.

17. Schedule 1 contains the amendments.

18. Item 1 adds Section 1 of Part C of the NSCV to the construction standards with which a new vessel must comply.

19. Item 2 removes the requirement for a new vessel to comply with Subsection E (Passengers, passenger accommodation, guard rails and bulwarks) of Section 5 (Construction) of the USL. These matters are now dealt with in Section 1 of Part C of the NSCV.

20. Item 3 removes the requirement for a new vessel to comply with Section 6 (Crew accommodation) of the USL Code. This is now dealt with in Section 1 of Part C of the NSCV.

21. Item 4 removes the requirement for a new vessel to comply with various provisions of Section 13 (Miscellaneous equipment) of the USL. These matters are now dealt with in Section 1 of Part C of the NSCV.

## **Compatibility with human rights**

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

## **Overview of the legislative instrument**

23. This Order is made under 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*. It makes minor amendments to *Marine Order 503 (Certificates of survey — national law) 2013* to account for the issue of Section 1 (Arrangement, accommodation and personal safety) of Part C (Design and construction) of the National Standard for Commercial Vessels in November 2013 as a replacement from requirements of the Uniform Shipping Laws Code that applied previously.

24. The Order makes 4 changes to replace references to the Uniform Shipping Laws Code with references to the National Standard for Commercial Vessels as they apply to an application for a certificate of survey for a new vessel.

### Human Rights implications

25. This instrument does not engage any of the applicable rights or freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### Conclusion

26. 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

27. 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*.