

Explanatory Statement

Marine Order 11 (Living and working conditions on vessels) 2015 (Order 2015/3)

Authority

1. The following provisions of the *Navigation Act 2012* (the Navigation Act) provide for this Order to be made.
2. Section 42 provides that, for regulated Australian vessels, regulations may be made about maritime labour certificates.
3. Subsection 54(5) provides that, for regulated Australian vessels, regulations may be made about work agreements.
4. Subsection 55(1) provides that regulations may be made about information that an owner of a regulated Australian vessel must make available to the vessel's seafarers.
5. Section 57 provides that, for regulated Australian vessels, regulations may be made about retaining and producing records of service of seafarers.
6. Section 58 provides that, for regulated Australian vessels, regulations may be made about seafarer work and rest hours.
7. Section 59 provides that, for regulated Australian vessels, regulations may be made about payment of seafarer wages.
8. Section 61 provides that, for regulated Australian vessels and foreign vessels, regulations may be made about the provision of food and drinking water on board.
9. Section 65 provides that, for regulated Australian vessels and foreign vessels, regulations may be made about the health of seafarers.
10. Sections 72 and 73 provide for regulations about medical practitioners and first aid attendants.
11. Section 74 provides that, for regulated Australian vessels and foreign vessels, regulations may be made about accommodation for seafarers on vessels.
12. Section 76 provides that regulations may be made about repatriation of seafarers.
13. Section 77 provides that regulations may be made about complaints and legal proceedings about seafarer employment.
14. Section 91 provides that regulations may be made about dealing with the property of deceased seafarers.
15. Section 95(4) provides that regulations may be made about providing access to regulations or legislative instruments.
16. Section 309(2) provides that regulations may be made about the keeping of logbooks.
17. Section 314 provides that regulations may be made about particular matters relating to certificates.
18. Paragraph 340(1)(a) provides that regulations may be made to give effect to the Safety Convention.
19. Paragraph 340(1)(i) provides that regulations may be made to give effect to the Maritime Labour Convention.
20. Subsection 341(1) provides that the regulations may provide for the imposition of penalties and civil penalties for a contravention of the regulations.

21. Subsection 339(1) provides that regulations may be made prescribing matters that are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act.
22. Subsection 342(1) provides that AMSA may make orders about anything that may or must be made by the regulations.
23. Subsection 33(3) of the *Acts Interpretation Act 1901* provides that a power in an Act to make a legislative instrument includes the power to repeal or amend the instrument, subject to any conditions that apply to the initial power.
24. This Order is a legislative instrument for the *Legislative Instruments Act 2003*.

Purpose

25. This Order gives effect to the International Labour Organization's (ILO) Maritime Labour Convention 2006 and the International Maritime Organization's (IMO) *Code on noise levels on board ships*. It also prescribes additional requirements for living and working conditions on regulated Australian vessels.

Overview

26. The Order gives effect to the Maritime Labour Convention by providing standards for: minimum requirements for seafarers working on vessels, conditions of employment, accommodation and food and catering, health protection, medical care, welfare and social security protection and protection against noise on board. The Order also contains additional requirements for Australian regulated vessels concerning seafarer health and wellbeing that were formerly in other Marine Orders before the issue of *Marine Order 11 (Living and working conditions) on vessels 2013*.
27. This Order replaces *Marine Order 11 (Living and working conditions) on vessels 2013*. A review of the implementation of the Maritime Labour Convention requirements under that Order was undertaken by the Australian Maritime Safety Authority (AMSA) in 2014 to address any operational and practical issues experienced since its commencement. The new Order reflects suggested improvements identified in that process. It removes duplicated convention text, rearranges subject matter consistent with the Convention, clarifies its application to vessels by, for example, including a new Division for foreign vessels, clarifies the arrangements for the repatriation of seafarers and related cost recovery, and gives effect to the IMO's *Code on noise levels on board ships* which entered into force on 1 July 2014.
28. A copy of the draft of this Order was circulated to over 300 stakeholders including industry organisations and interested government agencies. A list of these stakeholders may be obtained on request from AMSA. A copy of the draft was also placed on the AMSA website for public comment from 16 October to 14 November 2014. Comments were received from 9 stakeholders. The issues raised by these bodies were taken into account in the drafting of this Order.
29. The Office of Best Practice Regulation (OBPR) was also consulted. They consider the proposed changes are of a minor or machinery nature and no regulation impact statement was required. The OBPR reference numbers are 16724 and 17353.

Documents incorporated by reference

30. The following marine orders, Commonwealth Acts and legislative instruments referenced in this Order are available from <http://comlaw.gov.au>:

- *Fair Work Act 2009*
 - *Health Insurance Act 1973*
 - *Poisons Standard 2015*
 - *Marine Order 50 (Special purpose vessels) 2012*
 - *Marine Order 1 (Administration) 2013*
 - *Marine Order 9 (Health — medical fitness) 2010*
 - *Marine Order 15 (Construction — fire protection, fire detection and fire extinction) 2014*
 - *Marine Order 28 (Operations standards and procedures) 2012*
 - *Marine Order 70 (Seafarer certification) 2014*
 - *Marine Orders – Part 14: Accommodation, Issue 1*
 - *Shipping Registration Act 1981*
31. The Maritime Labour Convention is available from the Australian Treaty Series Library on the Austlii website at <http://www.austlii.edu.au> or from <http://www.ilo.org>.
32. The following documents referenced in this Order are available from <http://www.ilo.org>, <http://www.who.int> or <http://www.iso.org>.
- *ILO Conventions No. 92 and 133*
 - *ILO Code of Practice Ambient factors in the workplace, 2001*
 - *Accident prevention on board ship and in port, published by ILO*
 - *Guidelines for drinking-water quality, published by WHO*
 - *International medical guide for ships, published by WHO*
 - *ISO standard 7547/2002 Ships and marine technology — Air-conditioning and ventilation of accommodation spaces — Design conditions and basis of calculations*
 - *Medical first aid guide for use in accidents involving dangerous goods, published jointly by the IMO, WHO and the ILO (also known as the Chemicals Supplement to the International medical guide for ships, published by WHO).*
33. The following documents referenced in this Order are available from <http://www.amsa.gov.au>:
- *Medical carriage requirements*, published by AMSA
 - *National Standard for Commercial Vessels (NSCV).*
34. The following documents issued by the IMO referenced in this Order are accessible on the IMO website or by emailing AMSA at international.relations@amsa.gov.au:
- *Code on noise levels on board ships adopted by IMO Resolution MSC 337(91);*
 - *International Maritime Dangerous Goods Code.*
 - *International Convention for the Safety of Life at Sea (SOLAS)*
 - *Standards of Training, Certification and Watchkeeping (STCW) Convention*

- *Standards of Training, Certification and Watchkeeping (STCW) Code*
- *Tonnage Convention.*

35. A copy of IMO documents may also be purchased from:

International Maritime Organization
 4 Albert Embankment, London SE1 7SR
 Telephone +44(0)20 7735 7611
 Fax +44(0)20 7587 3210
 IMO website: <http://www.imo.org>

Commencement

36. This Order commenced on the day after it was registered.

Contents of this instrument

37. Section 1 sets out the name of the Order.
38. Section 1A sets out the commencement of the Order.
39. Section 1B repeals the previous issue of the Order.
40. Section 2 states the purpose of the Order, which is to give effect to the Maritime Labour Convention and the *Code on noise levels on board ships*, and to prescribe additional requirements for living and working conditions on regulated Australian vessels.
41. Section 3 sets out the powers in the Navigation Act that enable the Order to be made.
42. Section 4 sets out definitions of terms used in the Order.
43. Section 5 sets out some rules of interpretation for the Order.
44. Section 6 describes the vessels to which the Order applies.
45. Section 7 provides the power of approving an exemption that may be exercised by AMSA.
46. Section 8 provides AMSA with the power to approve use of an equivalent if AMSA considers this would not contravene the MLC or the *Code on noise levels on board ships*.
47. Section 9 provides certain decisions under the Order are reviewable.
48. Section 10 provides that a vessel to which the section applies must carry a copy of the Maritime Labour Convention. This is a Convention requirement. Breach of this obligation may result in a criminal or civil penalty under this Order.
49. Section 11 provides that a vessel to which the section applies must carry a copy of the Order. Breach of this obligation may result in a criminal or civil penalty under this Order. The Order includes Australia's requirements about repatriation of seafarers. It is a requirement of the Convention that national provisions about repatriation are carried on a vessel.
50. Section 12 applies Division 2 to foreign vessels. Division 2 contains 4 sections.
51. Section 13 sets out requirements for a foreign vessel that is at least 500 GT and is registered in a country where the Maritime Labour Convention is in force.
52. Section 14 sets out requirements for a vessel that is less than 500 GT and registered in a country where the Maritime Labour Convention is in force.
53. Section 15 sets out requirements for an owner of a foreign vessel that is registered in a country where the Maritime Labour Convention is not in force.

Under the Maritime Labour Convention, a country where the Convention is in force must ensure that a vessel registered in a country where the Convention is not in force does not receive more favourable treatment than a vessel registered in a country where it is in force.

54. Section 16 prohibits a seafarer recruitment and placement service from recruiting or placing seafarers unless it is registered by AMSA. It sets out the matters which AMSA may consider when deciding whether to register the service. Breach of this obligation may result in a criminal or civil penalty under this Order.
55. Section 17 provides that registration as a seafarer recruitment and placement service is subject to the conditions mentioned in Schedule 1.
56. Section 18 sets out the criteria for AMSA to suspend or revoke the registration of a seafarer recruitment and placement service.
57. Section 19 prohibits an owner of a vessel from making a work agreement with a seafarer engaged through a seafarer recruitment and placement service in a country that has not ratified the Maritime Labour Convention unless specified requirements are met. Breach of this obligation may result in a criminal or civil penalty under this Order.
58. Section 20 prohibits the employment of a person under the age of 16 years. Breach of this obligation may result in a criminal or civil penalty under this Order. Section 20 only permits the employment of a person under 18 years under certain conditions. It also provides that, subject to the *Fair Work Act 2009* or any collective agreement that applies on the vessel, the owner of a vessel must ensure that the working conditions mentioned in Schedule 2 for a person under 18 years are met.
59. Section 21 sets out matters concerning seafarers' work agreements, including for subsection 54(1) and (2) of the Navigation Act.
60. Section 22 sets out the notice requirements for termination of a work agreement.
61. Section 23 imposes a requirement on the owner of a vessel to give a seafarer the opportunity to seek advice and other assistance before signing a work agreement.
62. Section 24 is a new provision that requires the master and the owner of certain vessels to ensure that no adverse action is taken against a seafarer who, for example, is a member of an industrial association or engages in seafarer industrial activity. Breach of this obligation may result in a criminal or civil penalty under this Order. Article III(a) of the MLC requires countries where the Convention is in force to provide for the right to freedom of association.
63. Section 25 requires the owner of a vessel to ensure the persons mentioned in the section has access to a copy of any work agreement, including incorporated documents.
64. Section 26 provides that the owner of a vessel must ensure that each seafarer is given a record of service that includes a record of the seafarer's employ on board the vessel.
65. Section 27 requires the owner of the vessel to comply with specified arrangements relating to the maximum timeframe for payment of wages, the provision of records of payment to seafarers and payment method. Breach of these obligations may result in a criminal or civil penalty under this Order.
66. Section 28 requires the owner of a vessel to ensure that a seafarer has minimum hours of rest and to maintain records of seafarers hours of rest in accordance

with arrangements set out in *Marine Order 28 (Operations standards and procedures) 2012*. Breach of these obligations may result in a criminal or civil penalty under this Order.

67. Section 29 provides for the posting of shipboard working arrangements.
68. Section 30 provides for seafarer shore leave.
69. Section 31 sets out the circumstances when an owner of a vessel must provide repatriation at no cost to the seafarer.
70. Section 32 sets out the nature of the costs that the owner of a vessel must meet when repatriating a seafarer.
71. Section 33 requires the owner of a vessel to be responsible for appropriate transport arrangements for repatriation.
72. Section 34 sets out the timeframe within which a seafarer may claim repatriation benefits.
73. Section 35 sets out the circumstances in which AMSA will arrange for repatriation and when AMSA may recover its costs of repatriating a seafarer.
74. Section 36 requires specified vessel plans to be approved prior to a vessel being registered under the *Shipping Registration Act 1981*.
75. Section 37 requires vessel plans to be approved prior to substantial alteration or reconstruction of seafarer accommodation.
76. Section 38 states the vessels to which Division 6 applies. Division 6 contains 14 sections.
77. Section 39 sets out headroom requirements in seafarer accommodation.
78. Section 40 sets out requirements concerning the location of sleeping rooms of a vessel.
79. Section 41 requires the owner of a vessel to comply with specified requirements sleeping rooms.
80. Section 42 requires the owner of a vessel to comply with the requirements in Schedule 5 (Sleeping berths) and provide clean, good quality bedding.
81. Section 43 sets out requirements concerning insulation and heat protection in specified areas.
82. Section 44 sets out requirements concerning piping, including the location and insulation of piping.
83. Section 45 sets out requirements concerning the storage and management of batteries.
84. Section 46 sets out matters concerning material for the surface of bulkheads and deckheads.
85. Section 47 sets out requirements concerning decks and flooring.
86. Section 48 sets out requirements concerning air conditioning and ventilation and requires air conditioning systems to meet specified performance standards.
87. Section 49 sets out requirements concerning heating and requires heating systems to meet the requirements in Schedule 6 (Heating).
88. Section 50 sets out requirements concerning lighting and requires accommodation spaces to have lighting in accordance with *Accident prevention on board ship and in port*, published by the ILO.

89. Section 51 sets out requirements concerning mess rooms and requires mess rooms to meet the requirements in Schedule 7 (Mess room), with an exemption process available from some requirements in Schedule 7 for vessels less than 3 000 GT.
90. Section 52 sets out requirements concerning noise for vessels constructed after 20 August 2013 that are at least 500 GT. Compliance with the *Code of noise levels on board ships* or assessment and adoption of measures in the ILO Code of Practice *Ambient factors in the workplace* is required.
91. Section 53 sets out requirements concerning inspections of seafarer accommodation and inspection reports.
92. Section 54 states that sanitary facilities must meet the requirements of Schedule 8 (Minimum standards for sanitary facilities), with an exemption process available from the requirement in clause 6 of Schedule 7 for vessels less than 3 000 GT.
93. Section 55 sets out requirements concerning laundry facilities.
94. Section 56 sets out requirements concerning hospital accommodation for vessels carrying at least 15 seafarers engaged in a voyage of at least 72 hours.
95. Section 57 sets out requirements concerning recreational facilities, amenities and services.
96. Section 58 sets out requirements concerning offices for use by deck and engine seafarers, with an exemption process available for vessels less than 3 000 GT.
97. Section 59 sets out requirements concerning the organisation and equipment of the catering department on board.
98. Section 60 sets out requirements concerning the training of persons processing food, with an exemption process available in specified circumstances.
99. Section 61 sets out requirements concerning galleys and requires a vessel to have a galley that is constructed in accordance with Schedule 10 (Galleys) and equipped as specified.
100. Section 62 sets out requirements concerning the storage of food, including potentially hazardous food, and dry provision stores which must meet the requirements of Schedule 11 (Dry provision stores). Breach of some obligations may result in a criminal or civil penalty under this Order.
101. Section 63 requires weekly inspections of food, drinking water, storage areas and galleys and other equipment used for the preparation and service of meals.
102. Section 64 requires the owner of a vessel to put in place specified measures concerning health protection, medical and essential dental care for seafarers.
103. Section 65 sets out the requirement for a seafarer's access to medical facilities onshore.
104. Section 66 provides that medical care and health protection services must be provided at no charge.
105. Section 67 sets out the requirements for exchange of medical information between a vessel and shore concerning an ill or injured seafarer.
106. Section 68 specifies matters for subsections 66(1) and 67(1) of the Navigation Act concerning medical supplies and information required to be carried on board the vessel. AMSA may, on application, approve the use of an equivalent for

some requirements. Breach of some obligations may result in a criminal or civil penalty under this Order.

107. Section 69 prescribes the distance for paragraphs 72(1)(b) and (2)(b) and 73(1)(b) and (2)(b) of the Navigation Act concerning the carriage of a medically qualified practitioner. It also prescribes the medical training for first aid attendants.
108. Section 70 requires the owner of the vessel to keep on board a register of drugs and other related information, and the reporting by the master or owner of any loss or theft of a controlled drug. Breach of some obligations may result in a criminal or civil penalty under this Order.
109. Section 71 sets out requirements concerning mail service.
110. Section 72 sets out requirements concerning visitors of seafarers.
111. Section 73 sets out requirements for ensuring seafarer access to shore based welfare facilities and visits from shore based welfare providers, where available, when a vessel is in a port.
112. Section 74 sets out requirements for the owner of a vessel to have financial security to cover compensation should it be required because of seafarer death or long-term disability because of occupational injury, illness or hazard.
113. Section 75 sets out the liability of the owner of a vessel for a seafarer's wages if a seafarer is incapacitated for work because of sickness or injury. Breach of this obligation may result in a criminal or civil penalty under this Order.
114. Section 76 sets out the circumstances when liability of the owner of a vessel for seafarer injury, sickness, death or infirmity is avoided.
115. Section 77 sets out the measures an owner of a vessel must take concerning a seafarer's property. Breach of this obligation may result in a criminal or civil penalty under this Order.
116. Section 78 specifies maritime labour certificates for subsection 43(1) of the Navigation Act, and requires vessels that are at least 500 GT and proceeding on an overseas voyage or for use on an overseas voyage to have a maritime labour certificate for paragraphs 47(1)(a) and 48(1)(a) of the Act. Section 78 provides that an owner of a vessel that is not a vessel required to have a maritime labour certificate may nevertheless apply to have a maritime labour certificate.
117. Section 79 provides that a maritime labour certificate (MLC) must have attached to it a declaration of maritime labour compliance that meets specified requirements.
118. Section 80 sets out documents that must be carried on board. Breach of this obligation may result in a criminal or civil penalty under this Order.
119. Section 81 provides that a person may apply in writing to an issuing body for a maritime labour certificate (MLC).
120. Section 82 sets out the issuing criteria for the issue of a maritime labour certificate (MLC).
121. Section 83 provides that a maritime labour certificate (MLC) is in force for a period, of no more than 5 years, determined by the issuing body.
122. Section 84 sets out requirements concerning the intermediate inspection for a maritime labour certificate (MLC). Breach of requirements may result in a criminal or civil penalty under this Order.

123. Section 85 provides that a person may apply for the renewal of a maritime labour certificate (MLC) in accordance with *Marine Order 1 (Administration) 2013*.
124. Section 86 sets out the criteria for revocation of a maritime labour certificate (MLC).
125. Section 87 provides that a person may apply in writing to an issuing body for an interim maritime labour certificate.
126. Section 88 sets out the issuing criteria for the issue of an interim maritime labour certificate (MLC).
127. Section 89 provides that an interim maritime labour certificate expires 6 months, or a shorter period determined by the issuing body, after it is issued.
128. Section 90 requires the owner of a vessel to ensure the vessel has an onboard complaint procedure, for a seafarer to make a complaint alleging a breach of the Maritime Labour Convention. Breach of this obligation may result in a criminal or civil penalty under this Order.
129. Section 91 requires the owner of a vessel to ensure that a copy of the onboard complaint procedure is available to seafarers on board. Breach of this obligation may result in a criminal or civil penalty under this Order.
130. Section 92 sets out requirements for a master to follow if a complaint is not resolved on board the vessel. Breach of this obligation may result in a criminal or civil penalty under this Order.
131. Section 93 sets out requirements concerning the recording of complaints made on board a seafarer. Breach of these obligations may result in a criminal or civil penalty under this Order.
132. Section 94 provides that a person must not take adverse action against a seafarer in response to the seafarer making or proposing to make a complaint. Breach of this obligation may result in a civil penalty under this Order.
133. Section 95 applies Division 19 to regulated Australian vessels and foreign vessels. Division 19 contains 2 sections.
134. Section 96 sets out circumstances when a seafarer or other person with an interest in a vessel's living and working condition may report a complaint alleging a breach of the Maritime Labour Convention to AMSA. It sets out requirements for AMSA to follow on receipt of such a complaint.
135. Section 97 sets out requirements concerning record keeping and requires the recording in the official log book of matters mentioned in Schedule 12 (Official log book — matters that must be entered).
136. Section 98 provides a definition of **war zone** for a work agreement entered into before the commencement of the Order.
137. Schedule 1 deals with conditions of registration for a seafarer recruitment and placement service and is mentioned in subsection 17.
138. Schedule 2 deals with working conditions for seafarers under 18 years and is mentioned in subsection 20(5).
139. Schedule 3 deals with the information that must be contained in seafarer work agreements and is mentioned in subsection 21(1).
140. Schedule 4 deals with requirements for sleeping rooms and is mentioned in paragraph 41(1)(b).

141. Schedule 5 deals with the requirements for sleeping berths and is mentioned in subsection 42(1).
142. Schedule 6 deals with heating requirements for seafarer accommodation and is mentioned in subsection 49(1).
143. Schedule 7 deals with mess room requirements and is mentioned in subsection 51(1).
144. Schedule 8 deals with minimum standards for sanitary facilities and is mentioned in section 54.
145. Schedule 9 deals with requirements for hospital accommodation and is mentioned in paragraph 56(c).
146. Schedule 10 deals with requirements for galleys and is mentioned in subsection 61(1).
147. Schedule 11 deals with the requirements for dry provision stores and is mentioned in subsection 57(2).
148. Schedule 12 deals with matters that must be entered in the official log book and is mentioned in section 62(2).

Statement of compatibility with human rights

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

Overview of the legislative instrument

150. This Order is made under the *Navigation Act 2012* (the Navigation Act). It gives effect to the International Labour Organization's (ILO) Maritime Labour Convention 2006, and the *Code on noise levels on board ships* adopted by the International Maritime Organization (IMO) Resolution MSC 337(91). As such, the Order provides standards for: minimum requirements for seafarers working on vessels, conditions of employment, accommodation and good and catering, health protection, medical care, welfare and social security protection and protection against noise on board. The Order also contains additional requirements for Australian regulated vessels concerning seafarer health and wellbeing that were formerly in other Marine Orders before the issue of *Marine Order 11 (Living and working conditions) on vessels 2013*.

Human rights implications

151. The Maritime Labour Convention recognises that seafarers need protection due to their unique working and living conditions in an isolated environment. The subject matter of this Order, necessary to give effect to the Convention, is consistent with the objectives of the applicable human rights and freedoms, in particular:
 - the right to work, the right to an adequate standard of living, and the right to health (see Articles 6,7, 11 and 12 of the International Covenant on Economic, Social and Cultural Rights);
 - freedom of movement and freedom of expression (see Articles 12 and 19 of the International Covenant on Civil and Political Rights); and
 - the right to freedom of association with others (see Article 22 of the International Covenant on Civil and Political Rights); and
 - minimum age for employment (see Article 32 of the Convention on the Rights of the Child).

152. The subject matter of this Order, promoting the health and wellbeing of seafarers, includes:
- recruitment and placement;
 - content of work agreements and payment of wages;
 - hours of work and rest;
 - appropriate provisioning of vessels;
 - minimum working age of 16 years and requirements for working conditions for seafarers under the age of 18 years;
 - medical care and treatment including hospital facilities on vessels;
 - minimum accommodation standards including sanitary and laundry facilities;
 - repatriation obligations for vessel owners;
 - seafarer complaints and their investigation; and
 - access to welfare agencies.
153. The Order includes a number of offence provisions to which strict liability applies. They also create civil penalties. Strict liability offences may engage and limit the presumption of innocence mentioned in Article 14 of the International Covenant on Civil and Political Rights (ICCPR). Civil penalty provisions may engage the criminal process provisions under Articles 14 and 15 of the ICCPR.
154. Strict liability is imposed to protect life at sea. The penalties are low (50 penalty units) and are within the limitation imposed by paragraph 341(1)(a) of the Navigation Act. The strict liability offences in sections other than sections 16, 19 and 20 are directed at the owners and masters of vessels rather than the community at large, and so are regulatory in nature.
155. Section 16 requires registration before a seafarer recruitment and placement service provides the service of recruiting seafarers for vessel owners or placing seafarers with vessels. This measure, directed at seafarer recruitment and placement services rather than the community at large, is necessary to achieve the purpose of the Order because it seeks to protect and promote seafarer employment rights as provided for in the Maritime Labour Convention. Section 20 prohibits the employment or engagement to work on a vessel of a person under 16 years. This measure is necessary to achieve the purpose of the Order because it seeks to protect and promote seafarer employment rights as provided for in the Maritime Labour Convention.
156. The criminal penalty provisions in this Order are authorised by paragraph 341(1)(a) of the Navigation Act while the civil penalty provisions in the Order are authorised by paragraph 341(1)(b). Having regard to the objectives of the civil penalty provisions (which are protective, preventative, disciplinary or regulatory in nature), and the relatively low level of penalty, the civil penalties should not be considered to be criminal matters for human rights law.
157. It is considered any limitation on human rights as a result of the imposition of strict liability and the creation of civil penalties is reasonable, necessary and proportionate.

Conclusion

158. AMSA considers that this instrument is compatible with the rights or freedoms to which the *Human Rights (Parliamentary Scrutiny) Act 2011* applies because

to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

Making the instrument

159. 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 Authority Act 1990*.