

Explanatory Statement

Marine Order 25 (Equipment — lifesaving) Amendment 2016 (No. 1) (Order 2016/8)

Authority

1. The *Navigation Act 2012* (the Navigation Act) provides for this Order to be made.
2. Subsection 339(1) of the Navigation Act authorises the Governor-General to make regulations necessary or convenient for carrying out or giving effect to the Act.
3. Subsection 342(1) of the Navigation Act allows the Australian Maritime Safety Authority (AMSA) to make orders for any matter in the Act for or in relation to which provision may be made by regulations.
4. 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.
5. This Order was made under subsection 342(1) of the Navigation Act and is a legislative instrument for the *Legislation Act 2003*.

Purpose

6. This Order amends *Marine Order 25 (Equipment — lifesaving) 2014* (Marine Order 25) so that it no longer gives effect to Regulations 8, 19, 27, 29, 30 and 37 of Chapter III of the International Convention for the Safety of Lives at Sea (SOLAS). Instead, *Marine Order 21 (Safety and emergency arrangements) 2016* will, on its commencement, give effect to these Regulations for regulated Australian vessels and foreign vessels to which Chapter III of SOLAS applies.
7. This Order also removes requirements in Marine Order 25 to carry copies of the AMSA publication *Survival at Sea, Instruction Manual*. Carriage of this manual is in excess of SOLAS requirements and it contains information that is available elsewhere.

Consultation

8. A draft of this Order was placed on AMSA's website on 23 March 2016 for public consultation with comments to be provided by 30 April 2016. Around 150 stakeholders including shipping and cargo industry bodies, maritime unions and relevant government agencies were contacted by email and invited to comment. No responses were received.
9. The Office of Best Practice Regulation (OBPR) considers that the changes made by the Order have regulatory impacts of a minor or machinery nature and no regulation impact statement is required. The OBPR reference number is 16724.

Documents incorporated by reference

10. Parts of the latest edition of the *International Code of Signals* published by the IMO are incorporated by reference by this amendment. At 1 July 2016 the latest edition was the 2005 edition.
11. The International Code of Signals can be purchased from the IMO (see <http://www.imo.org/en/Publications/Pages/Home.aspx>) or from specialist maritime book outlets in Australia. To borrow a copy of the Code from a library in Australia, search for the title on the Australian Libraries Gateway at <https://www.nla.gov.au/libraries/>.

Commencement

12. This Order commences on 1 July 2016.

Contents of this instrument

13. Section 1 sets out the name of the Order.
14. Section 2 provides for the commencement of the Order.
15. Section 3 provides that Schedule 1 amends Marine Order 25.
16. Item 1 of Schedule 1 amends the purpose of Marine Order 25 to provide that Marine Order 25 gives effect to parts of Chapter III of SOLAS rather than the whole of Chapter III.
17. Item 2 of Schedule 1 amends Marine Order 25 to provide that foreign vessels to which Chapter III of SOLAS applies must comply with Chapter III other than Regulations 8, 19, 27, 29, 30 and 37.
18. Item 3 of Schedule 1 amends the note to section 12 of Marine Order 25 to explain that *Marine Order 21 (Safety and emergency arrangements) 2016* will now give effect to Regulations 8, 19, 27, 29, 30 and 37 of Chapter III for foreign vessels.
19. Item 4 of Schedule 1 amends Marine Order 25 to provide that the owner or master of a regulated Australian vessel that is a cargo vessel of at least 500 GT must ensure that the vessel complies with Chapter III other than Regulations 8, 19, 27, 29, 30 and 37. Before the amendment the whole of Chapter III had to be complied with.
20. Item 5 of Schedule 1 inserts a note to section 24 of Marine Order 25 to explain that *Marine Order 21 (Safety and emergency arrangements) 2016* now gives effect to Regulations 8, 19, 27, 29, 30 and 37 for regulated Australian vessels.
21. Item 6 of Schedule 1 amends Marine Order 25 to remove the requirement for a regulated Australian vessel that is a cargo vessel less than 500GT, certified as Class 2A or 2B, to have one copy of the AMSA publication *Survival at Sea, Instruction Manual* for each seafarer on board. It clarifies that the lifesaving signals to be carried on a waterproof card or in a waterproof container on the vessel are those mentioned in Appendix 3 of the latest edition of the International Code of Signals.
22. Item 7 of Schedule 1 amends Marine Order 25 to remove the requirement for a regulated Australian vessel that is a passenger vessel, or a cargo vessel of at least 500GT, to have a copy of the *Survival at Sea, Instruction Manual* for each seafarer on board. It also removes the provision that, for Regulation 19.5 of Chapter III, the log book in which details of function and operation of drills are to be recorded is the official log-book of the vessel. The requirement to record drills in the vessel's official logbook has been moved to *Marine Order 21 (Safety and emergency arrangements) 2016*.

Statement of compatibility with human rights

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

Overview of the legislative instrument

24. This Order amends *Marine Order 25 (Equipment — lifesaving) 2014* (Marine Order 25) so that Marine Order 25 no longer gives effect to Regulations 8, 19, 27, 29, 30 and 37 of Chapter 3 of SOLAS. *Marine Order 21 (Safety and emergency arrangements) 2016* will, on its commencement, give effect to these regulations for regulated Australian vessels and foreign vessels to which Chapter III of SOLAS applies.
25. This Order also removes a requirement in Marine Order 25 for regulated Australian vessels to carry a copy for each seafarer on board of the AMSA publication *Survival at Sea, Instruction Manual*.

Human rights implications

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

Conclusion

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

Making the instrument

28. 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*.