

Explanatory Statement

Marine Orders Amendment (Marine Order 31 — consequential changes) Order 2019 (Order 2019/3)

Authority

1. 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 Navigation Act.
2. Subsection 339(2) of the Navigation Act provides that the regulations may provide for the matters mentioned in that provision for the safe operation of vessels.
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 which provision must or 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 Marine Order is a legislative instrument for the *Legislation Act 2003*.

Purpose

6. This Marine Order makes consequential amendments to Marine Orders 16, 43, 52, 57 and 58 arising from the making of *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*.

Overview

7. This Marine Order corrects a number of references to Marine Order 31 that have become out dated as a result of the making of *Marine Order 31 (SOLAS and non-SOLAS certification) 2019* that repealed *Marine Order 31 (Vessel surveys and certification) 2015* and *Marine Order 62 (Government vessels) 2003*.

Consultation

8. A copy of the draft Marine Order was not publicly consulted, but a copy was provided to the 9 recognised organisations who are issuing bodies for the purpose of dealing with safety certificates. There were no comments received.
9. The changes made by the Order have regulatory impacts of a minor or machinery nature and no regulation impact statement was required. The OBPR reference number is 16724.

Documents incorporated by reference

10. This Marine Order incorporates by reference parts of the following documents:
 - *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*
 - International Convention for the Safety of Life at Sea (SOLAS).
11. Due to the operation of section 10 of the *Acts Interpretation Act 1901* (as applied by paragraph 13(1)(a) of the *Legislation Act 2003*), *Marine Order 31 (SOLAS and non-SOLAS certification) 2019* is adopted as in force from time to time because it is adopted by reference to its title.
12. The manner of incorporation of SOLAS is as in force from time to time (see section 6 of *Marine Order 1 (Administration) 2013* and definition for **Safety Convention** in section 14 of the Navigation Act). The Convention is a treaty and

available for free on the Australian Treaties Database
at <http://www.info.dfat.gov.au/treaties>.

Commencement

13. This Marine Order commences immediately after the commencement of *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*.

Contents of this instrument

14. Section 1 sets out the name of this Marine Order.
15. Section 2 provides for the commencement of the Marine Order.
16. Section 3 provides that Schedule 1 sets out the consequential amendments to Marine Orders.
17. Item 1 of Schedule 1 provides that paragraph 25(5)(a) of *Marine Order 16 (Load Lines) 2014* is amended. An out dated instrument reference is replaced by mention of *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*.
18. Item 2 of Schedule 1 provides that section 4 of *Marine Order 43 (Cargo and cargo handling — livestock) 2018* is amended. It substitutes the definition of *classification society* with the purpose to replace the outdated instrument reference.
19. Item 3 of Schedule 1 sets out an amendment to section 4 of *Marine Order 52 (Yachts and training vessels) 2016*. The definition of *non-SOLAS certificate* is substituted with the purpose to replace the outdated instrument reference.
20. Item 4 of Schedule 1 substitutes the outdated instrument reference in note 3 for section 10 of *Marine Order 52 (Yachts and training vessels) 2016*.
21. Item 5 of Schedule 1 substitutes the outdated instrument reference in subparagraph 20(b)(i) of *Marine Order 52 (Yachts and training vessels) 2016*.
22. Item 6 of Schedule 1 substitutes the note for subsection 27(1) of *Marine Order 52 (Yachts and training vessels) 2016*. The outdated instrument reference is replaced and text of the note adjusted to reflect the rearrangement of requirements in *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*.
23. Item 7 of Schedule 1 substitutes the outdated instrument reference in paragraph 29(a) of *Marine Order 52 (Yachts and training vessels) 2016*.
24. Item 8 of Schedule 1 substitutes the outdated instrument reference in note 2 for section 7 of *Marine Orders 57 (Helicopter operations) 2016*.
25. Item 9 of Schedule 1 substitutes the outdated instrument reference in the note for section 6 of *Marine Order 58 (Safe management of vessels) 2015*.

Statement of compatibility with human rights

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

Overview of the legislative instrument

27. The purpose of this Marine Order is to make consequential amendments to Marine Orders as a result of the making of *Marine Order 31 (SOLAS and non-SOLAS certification) 2019* that repealed *Marine Order 31 (Vessel surveys and certification) 2015* and *Marine Order 62 (Government vessels) 2003*.

Human rights implications

28. This Marine Order does not engage any of the applicable rights or freedoms.

Conclusion

29. AMSA considers that this Marine Order is compatible with human rights as it does not raise any human rights issues. It does not affect any rights or freedoms to which the *Human Rights (Parliamentary Scrutiny) Act 2011* applies.

Making the instrument

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