

## Explanatory Statement

### Marine Order 12 (Construction — subdivision and stability, machinery and electrical installations) Amendment Order 2019 (MO 2019/8)

#### Authority

1. This Order was made under subsection 342(1) of the *Navigation Act 2012* (Navigation Act) and is a legislative instrument for the Legislation Act 2003.
2. Subsection 339(1) authorises the Governor-General to make regulations necessary or convenient for carrying out or giving effect to the Navigation 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 which provision must or may be made by regulations.
4. Paragraph 340(1)(a) of the Navigation Act provides that regulations may give effect to the International Convention for the Safety of Life at Sea, 1974 (SOLAS).
5. 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.

#### Purpose

6. This Order amends *Marine Order 12 (Construction — subdivision and stability, machinery and electrical installations) 2016* make it clear that the Marine Order gives effect to Chapter II-1 of International Convention for the Safety of Life at Sea, 1974 (SOLAS) other than Regulations 19-1 and 21.

#### Overview

7. *Marine Order 12 (Construction — subdivision and stability, machinery and electrical installations) 2016* gives effect to Chapter II-1 of SOLAS other than Regulation 21 and prescribes standards for the structure, subdivision, stability, machinery and electrical installations for vessels to which Chapter II-1 of SOLAS applies and vessels to which Chapter II-1 of SOLAS does not apply.
8. This Order amends *Marine Order 12 (Construction — subdivision and stability, machinery and electrical installations) 2016* to clarify that the Order does not give effect to Regulation 19-1 of Chapter II-1 of SOLAS. Rather, *Marine Order 21 (Safety and emergency arrangements) 2016* gives effect to Regulation 19-1.
9. Regulation 19-1 of Chapter II-1 of SOLAS comes into effect on 1 January 2020 as a result of International Maritime Organization resolution MSC.421(98). The change introduces certain requirements for damage control drills for passenger ships under Regulation 19-1 in Chapter II-1 of SOLAS.

#### Consultation

10. A copy of the draft of this Order was placed on the AMSA website for public comment on 17 September 2019 for a 4 week consultation period. Around 160 stakeholders, including offshore petroleum and gas proponents, ship operators, seafarer representative organisations, classification societies, shipping industry peak bodies and various government bodies were invited to comment. No comments were received.

11. The Office of Best Practice Regulation (OBPR) considers that the changes made by the Marine 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**

12. This Marine Order incorporates by reference parts of the following documents:
- *Marine Order 1 (Administration) 2013*
  - International Convention for the Safety of Life at Sea (SOLAS)
  - International Maritime Organization resolution MSC.421(98)
13. 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 1 (Administration) 2013* is adopted as in force from time to time because it is adopted by reference to its title in this Marine Order.
14. The manner of incorporation of SOLAS is as in force from time to time (see section 6 of *Marine Order 1 (Administration) 2013*. The Convention is a treaty and available for free on the Australian Treaties Database at <http://www.info.dfat.gov.au/treaties>.
15. The International Maritime Organization resolution MSC.421(98) is adopted by IMO Resolution and incorporated as amended from time to time.
16. Information on obtaining copies of any IMO Resolution, IMO document (including IMO Circulars) or other document that is mentioned in this Marine Order is available from the Marine Order link at <http://www.amsa.gov.au>.
17. IMO published material 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**

18. This Order commenced on 1 January 2020.

### **Contents of this instrument**

19. Section 1 sets out the name of the Order.
20. Section 2 provides for the commencement of the Order.
21. Section 3 provides that *Marine Order 12 (Construction — subdivision and stability, machinery and electrical installations) 2016* is amended.
22. Item 1 of Schedule 1 substitutes paragraph 2(1)(a) to make it clear that the Marine Order gives effect to Chapter II-1 of SOLAS other than Regulations 19-1 and 21.

## **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. The purpose of this legislative instrument is to amend *Marine Order 12 (Construction — subdivision and stability, machinery and electrical installations) 2016* to make it clear that the Marine Order gives effect to Chapter II-1 of SOLAS other than Regulations 19-1 and 21.

### **Human rights implications**

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

### **Conclusion**

26. This legislative instrument is compatible with human rights as it does not raise any human rights issues.

## **Making the instrument**

27. This legislative 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*.