

Explanatory Statement

Marine Order 12 (Construction — subdivision and stability, machinery and electrical installations) 2023 (Order 2023/7)

Authority

1. Subsection 309(2) of the *Navigation Act 2012* (the Navigation Act) provides that the regulations may provide for the keeping of an official logbook including prescribing the entries to be made and the time of making the entries.
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 Navigation Act.
3. Paragraphs 339(2)(a) and (b) of the Navigation Act states that the regulations may provide for the design and construction of vessels and for the machinery and equipment to be carried on board vessels.
4. Paragraph 339(2)(e) of the Navigation Act states that the regulations may provide for the stability of vessels, including information about, and testing of, the stability of vessels.
5. Paragraph 340(1)(a) of the Navigation Act states that the regulations may give effect to the International Convention for the Safety of Life at Sea (SOLAS).
6. Subsection 341(1) of the Navigation Act states that the regulations may impose penalties for a contravention of a provision of the regulations.
7. 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.
8. 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.
9. This Marine Order is a legislative instrument for the *Legislation Act 2003*.

Purpose

10. This Marine Order:

- gives effect to Chapter II-1 of SOLAS other than regulations 19-1 and 21;
- prescribes standards for the structure, subdivision, stability, machinery and electrical installations for vessels including for vessels to which Chapter II-1 of SOLAS does not apply;
- gives effect to the *Guidelines for the Design and Construction of Offshore Supply Vessels*, 2006 of the International Maritime Organization (IMO) that were adopted by IMO Resolution MSC.235 (82) and to an earlier version of these guidelines adopted by IMO Resolution A.469(XII) (the OSV Guidelines);
- implements requirements to give effect to IMO Resolution MSC.474(102) introducing new requirements for design and operation of mooring arrangements on vessels 3000 gross tonnage and above in accordance with Guidelines on the design of mooring arrangements and the selection of appropriate mooring equipment and fittings for safe mooring (IMO Circular MSC.1/Circ.1619).

11. As the purpose of the Marine Order is to give effect to Australia's international obligations in relation to implementing Chapter II-1 of SOLAS, the

Marine Order is exempt from sunseting under item 1, section 11 of the Legislation (Exemptions and Other Matters) Regulation 2015.

Overview

12. This Marine Order repeals and replaces *Marine Order 12 (Construction — subdivision and stability, machinery and electrical installations) 2016*.

13. The Marine Order applies to regulated Australian vessels and foreign vessels prescribing standards for vessel construction, subdivision, stability, watertight and weathertight integrity and electrical installations. It sets out duties for masters of vessels about when doors and other openings should be closed and requires testing and inspection of watertight openings in vessels. It also sets out safety measures for means of access to vessels in port and the duties for masters, and persons in relation to leaving or boarding a vessel.

14. The Marine Order introduces new requirements for regulated Australian vessels under 24 m length constructed on or after 1 January 2024 for watertight and weathertight integrities to comply with NSCV standards.

15. The Marine Order implements further new requirements for vessels 3000 tonnes gross tonnage and above to have mooring equipment including lines selected in accordance with *Guidelines on the design of mooring arrangements and the selection of appropriate mooring equipment and fittings for safe mooring* (MSC.1/Circ.1619). These Guidelines also require vessels to have ship-specific towing and mooring arrangements plans that should include information regarding the towing and mooring fittings aboard the vessel, the mooring lines, as well as the arrangement of mooring lines and the acceptable environmental conditions for mooring. Plans must be kept on board at all times for the master's reference in accordance with section 5 of the Annex to the revised guidance on shipboard towing and mooring equipment (MSC.1/Circ.1175/Rev.1). Amendments to SOLAS regulation II-1/3-8 come into force on 1 January 2024.

Consultation

16. A copy of the draft of this Marine Order was placed on AMSA's website on 31 July 2023 for public consultation until 10 September 2023. Around 165 stakeholders including offshore petroleum and gas proponents, vessel operators, seafarer representative organisations, classification societies, shipping industry peak bodies and various government bodies were contacted by email and invited to comment. Only one response was received which related to the drafting approach and it was determined that no action was necessary in the preparation of the final draft.

17. The Office of Impact Analysis (OIA) which was renamed from the Office of Best Practice Regulation (OBPR) in November 2022 was also consulted and considered that changes made by the Marine Order have regulatory impacts of a minor or machinery nature and no regulation impact statement was required. The OBPR reference number is OIA23-05272.

Documents incorporated by reference

18. This Marine Order incorporates the following documents by reference:

- Chapter II-1 of SOLAS;
- *Guidelines for the Design and Construction of Offshore Supply Vessels, 2006* as adopted by IMO Resolution MSC.235(82) on 1 December 2006, or as revised or replaced from time to time (OSV Guidelines);

- *Guidelines for the Design and Construction of Offshore Supply Vessels* as adopted by IMO Resolution A.469(XII) on 19 November 1981 (OSV Guidelines);
- *Code on Intact Stability, 2008* adopted by IMO Resolution MSC.267(85), as in force from time to time (IS Code);
- *Marine Order 1 (Administration) 2013*;
- Annex to IMO Resolution MSC.141(76) *Revised Model Test Method*, as adopted on 5 December 2002;
- Appendix to the Annex to resolution 14 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 as adopted on 29 November 1995;
- IMO Resolution MSC.281(85), as adopted on 4 December 2008;
- *Marine Order 47 (Offshore industry units) 2019*;
- *Marine Order 49 (High-speed craft) 2015*;
- Part C of the of the *National Standard for Commercial Vessels* (NSCV), as in force from time to time;
- USL Code means the *Uniform Shipping Laws Code* adopted by the Australian Transport Council established by the Council of Australian Governments and as in force from time to time;
- 1988 Protocol to the Load Lines Convention;
- Training and Experience of Key DP Personnel, IMCA, IMCA M 117 Rev.2, September 2016, noted by IMO MSC.1/Circ.738/Rev.2, as approved 16 June 2017, as a guideline for the training of dynamic positioning system operators (available on the IMCA website in 2023 at| <https://www.imca-int.com>);
- *Marine Orders – Part 12: Construction — Subdivision and stability, machinery and electrical installations, Issue 2* as in force on 31 December 2009;
- Annex to IMO Circular MSC.1/Circ. 1175/Rev.1 *Revised guidance on shipboard towing and mooring equipment*, as approved on 9 December 2020;
- Annex to IMO Circular MSC.1/Circ. 1619 *Guidelines on the design of mooring arrangements and the selection of appropriate mooring equipment and fittings for safer mooring*, as approved on 11 December 2020, or as revised or replaced from time to time;
- Annex to IMO Circular MSC.1/Circ. 1175 *Shipboard Equipment, Fittings and Supporting Hull Structures Associated with Towing and Mooring*, as approved on 24 May 2005;
- Annex to IMO Circular MSC.1/Circ. 1564 *Revised guidance for watertight doors on passenger ships which may be opened during navigation*, as approved on 16 July 2017, or as revised or replaced from time to time;
- Annex to IMO Circular MSC.1/Circ. 1380 *Guidance for Watertight Doors on Passenger Ships Which May be Opened During Navigation*, as approved on 10 December 2010;
- Annex to IMO Circular MSC.1/Circ.1331 *Guidelines for construction, installation maintenance and inspection/survey of means of embarkation and*

disembarkation, as approved on 11 June 2009, or as revised or replaced from time to time;

- the latest edition of ISO 5488 Ships and marine technology—Accommodation ladders;
- the latest edition of ISO 7061 Ships and marine technology—Aluminium shore gangways for seagoing vessels;
- the latest edition of ISO 7364 Ships and marine technology—Deck machinery – Accommodation ladder winches;
- International Association of Classification Societies (IACS) *Unified Interpretation Doors in watertight bulkheads of cargo ships and passenger ships*, IACS UI SC 156, as amended from time to time;
- AS 1735.1.1 *Lifts, escalators and moving walks*, Part 1.1: General requirements, as revised or replaced from time to time.

19. SOLAS is of treaty status and is incorporated “as amended and in force from time to time for Australia” (see definition of SOLAS in *Marine Order 1 (Administration) 2013*, and definition of Safety Convention in section 14 of the Navigation Act.). The original convention and any amendments in force can be found in the Australian Treaties Series accessible from the Australian Treaties Library on the AustLII website at <https://www.austlii.edu.au> or on the Australian Treaties Database at <https://www.info.dfat.gov.au/treaties>.

20. The *Guidelines for the Design and Construction of Offshore Supply Vessels, 2006* adopted by IMO Resolution MSC.235 (82) and the *Guidelines for the Design and Construction of Offshore Supply Vessels* adopted by IMO Resolution A.469(XII), the *Code on Intact Stability 2008* adopted by IMO Resolution MSC.267(85) are available through the Marine Orders link on the AMSA website at <https://www.amsa.gov.au>.

21. Marine Orders mentioned in this Marine Order are available on the Federal Register of Legislation at <https://www.legislation.gov.au>. They are also available from the Marine Orders link on the AMSA website at <https://www.amsa.gov.au>. Paragraph 10(a) of the *Acts Interpretation Act 1901* (as applied by paragraph 13(1)(a) of the *Legislation Act 2003*) has the effect that the references in the Order to Marine Orders are references to those Marine Orders as amended from time to time. Mention of Marine Orders – Part 12 is as it existed immediately before its repeal.

22. The Annex to resolution 14 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 as adopted on 29 November 1995 is available through the Marine Orders link on the AMSA website at <https://www.amsa.gov.au>.

23. Information on obtaining access to IMO documents including IMO Resolution MSC.141(76), IMO Resolution MSC.267(85), IMO Resolution MSC.281(85), IMO Circular MSC.1/Circ.738/Rev.2, IMO Circular MSC.1/Circ. 1175/Rev.1, IMO Circular MSC.1/Circ.1331, IMO Circular MSC.1/Circ. 1380, IMO Circular MSC.1/Circ. 1564, and IMO Circular MSC.1/Circ. 1619 is available on the Marine Orders link on the AMSA website at <https://www.amsa.gov.au>, where AMSA provides information on how to navigate the IMO website to download documents. IMO documents may also be purchased from the IMO — see the IMO website at <https://www.imo.org/publications>.

24. The NSCV and the USL Code are available through the AMSA website at <https://www.amsa.gov.au>.

25. ISO standards and Australian standards are available for purchase. In 2023, ISO standards could be found and purchased from the International Organization for Standardization's website (<https://www.iso.org>). Australian Standard could be found and purchased from the Standards Australia website (<https://store.standards.org.au>). Persons having difficulty obtaining a copy of an ISO or Australian standard mentioned in this Marine Order can contact AMSA. Contact details for AMSA are on the AMSA website at <https://www.amsa.gov.au>.

26. Information on obtaining copies of the IACS Unified Interpretation Doors in Watertight bulkheads of cargo ships and Passenger Ships set out in IACS UI SC 156 (June 2002) is available on the Marine Orders link on the AMSA website at <https://www.amsa.gov.au>. The website gives information on how to navigate the IACS website to download the document for free. This document is also available direct from the International Association of Classification Societies Ltd website at <https://www.iacs.org.uk>.

Commencement

27. This Marine Order commenced on 1 January 2024.

Contents of this instrument

28. Section 1 sets out the name of the Marine Order.

29. Section 1A provides for the commencement of the Marine Order.

30. Section 1B provides for the repeal of *Marine Order 12 (Construction — subdivision and stability, machinery and electrical installations) 2016*.

31. Section 2 states the purpose of the Marine Order, which is to give effect to Chapter II-1 of SOLAS (other than regulations 19-1 and 21) and prescribe standards for the structure, subdivision, stability, machinery and electrical installations for regulated Australian vessels and foreign vessels; and to give effect to the IMO's OSV Guidelines.

32. Section 3 sets out the powers in the Navigation Act that enable the Marine Order to be made.

33. Section 4 sets out definitions of terms used in the Marine Order.

34. Section 6 describes the application of the Marine Order to regulated Australian vessels and foreign vessels.

35. Section 7 provides that a person may apply to AMSA for an exemption from a requirement of this Marine Order, and that AMSA may only give the exemption if satisfied that compliance with the requirement would be unnecessary or unreasonable, having regard to the vessel, its equipment and its intended voyage, and giving the exemption would not contravene SOLAS.

36. Section 8 provides for applications for approval to use an equivalent to a requirement of the Marine Order. Approval may only be given if AMSA is satisfied that use of the equivalent would be at least as effective as compliance with the requirement to which the equivalent is an alternative and approving use of the equivalent would not contravene SOLAS.

37. Division 2 provides for construction and stability requirements.

38. Section 9 provides that a vessel to which Chapter II-1 of SOLAS applies must meet the standards for structure, subdivision, stability, machinery and electrical installations that apply to it under Chapter II-1. Regulated Australian vessels must additionally comply with Schedule 1 of the Marine Order. Regulated Australian vessels that are ro-ro passenger vessels must also comply with the Annex to IMO

Resolution MSC.141(76) *Revised Model Test Method*, as adopted on 5 December 2002 and relevant provisions of the Appendix to the Annex to resolution 14 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 as adopted on 29 November 1995. However, a vessel that is surveyed and certified under a code mentioned in *Marine Order 47 (Offshore industry units) 2019* or *Marine Order 49 (High-speed craft) 2015* must instead meet the standards mentioned in the code under which it is certified. A regulated Australian vessel that is an offshore supply vessel must, in addition to complying with Chapter II-1 of SOLAS, comply with Parts 2 and 3 of the OSV Guidelines.

39. Section 10 provides for structure, subdivision, stability, machinery and electrical installations for vessels to which Chapter II-1 of SOLAS does not apply.

40. Subsection 10(1) applies this section to vessels to which Chapter II-1 of SOLAS does not apply.

41. Subsection 10(2) provides that a regulated Australian vessel that is greater than or equal to 24 metres in length must meet the standards for structure, subdivision, stability, machinery and electrical installations that apply to the vessel under Part C of the NSCV or under the USL Code or that are applied by the vessel's classification society.

42. Subsection 10(3) provides that a regulated Australian vessel that is less than 24 metres in length must also meet those standards mentioned in subsection 10(2) and if the vessel was constructed on or after 1 January 2024, it must also comply with the standard for watertight and weathertight integrity mentioned in section 2 of Part C of the NSCV.

43. Subsection 10(4) prescribes requirements for a regulated Australian vessel to have an indicator system for watertight doors that complies with either Part C of the NSCV or the USL Code or that are applied by the vessels classification society.

44. Subsection 10(5) requires a regulated Australian vessel to have anchors, chain cables, hawsers and warps that comply with subsection 7D of Part C of the NSCV, or the USL Code, or the applicable standards applied by the vessel's classification society.

45. Subsection 10(6) requires that a foreign vessel must carry and comply with the requirements demonstrated by any certificate or other document issued by or on behalf of flag State.

46. Subsection 10(7) clarifies how 'length', of a vessel is to be determined for the purposes of the section.

47. Section 11 prescribes additional requirements for regulated Australian vessels that are offshore supply vessels requiring a vessel to comply with either the documentation requirements mentioned in Part 8 of the OSV Guidelines or have a document confirming that the vessel complies with the OSV Guidelines depending on whether the vessel was constructed before, or on or after 31 May 2007.

48. Subsection 12(1) provides a strict liability offence for the owner of a vessel for failure to ensure that there is carried on a vessel at all times, information relating to the vessel's intact stability characteristics under different conditions of service and provides an offence for failure to do so.

49. Subsection 12(2) prescribes that the information must be either substantially in accordance with Appendix 2 of Marine Orders – Part 12: Construction — Subdivision and stability, machinery and electrical installations, Issue 2 as in force on 31 December 2009 or Part B of the IS Code depending on the vessel's date of construction, and in the case of a regulated Australian vessel show that any inclining

experiment or lightship measurement was carried out in accordance with Annex 1 of the IS Code and be approved by an issuing body, and in the case of a foreign vessel be approved by the by the government of the country whose flag the vessel is entitled to fly.

50. Subsection 12(3) specifies that if a stability instrument is used for stability calculations, the instrument must be used in accordance with Chapter 4 of Part B of the IS Code.

51. Subsection 12(4) defines a stability instrument for the purpose of subsection 12(3).

52. Subsection 13(1) provides a strict liability offence for the failure of an owner of a regulated Australian vessel to ensure that a towing and mooring arrangement plan is carried on the vessel at all times that relates to that particular vessel.

53. Subsections 13(2) and (3) specify the requirements for the towing and mooring arrangement plan. For a vessel constructed on or after 1 January 2024, the plan must comply with section 5 of the Annex to MSC.1/Circ. 1175/Rev.1 *Revised guidance on shipboard towing and mooring equipment*, as approved on 9 December 2020 and must include a supplement that complies with section 6 of the Annex to MSC.1/Circ. 1619 *Guidelines on the design of mooring arrangements and the selection of appropriate mooring equipment and fittings for safer mooring*, as approved on 11 December 2020. For a vessel constructed on or after 1 January 2007 and before 1 January 2024, the plan must comply with section 5 of the Annex to MSC.1/Circ. 1175 *Shipboard Equipment, Fittings and Supporting Hull Structures Associated with Towing and Mooring*, as approved on 24 May 2005.

54. Subsection 13(6) provides a strict liability offence for the owner of a foreign vessel who fails to ensure that there is carried on the vessel, at all times, a towing and mooring arrangement plan that complies with the law of the flag State.

55. Subsection 14(1) provides a strict liability offence for failure of the master of a vessel to ensure that all watertight doors are closed while the vessel is at sea. However, subsection 14(2) states that a watertight door, other than a category D watertight door, may be opened at sea if it is necessary for the door to be open for the working of the vessel or the door is opened and closed for testing in accordance with section 19.

56. Subsection 14(3) provides a strict liability offence for failure of a master to ensure that the area around the doorway of a watertight door is unobstructed.

57. Subsection 15(1) provides strict liability offence for a master of a vessel who fails to ensure that any portable plate over an opening in the internal watertight structure of a vessel is fitted before each voyage starts.

58. Subsection 15(2) provides that the master may order the removal of a portable plate when a vessel is at sea if he or she considers that the removal of the plate is an urgent necessity.

59. Subsection 15(3) provides a strict liability offence for a person who removes a portable plate whilst at sea other than on the direct order of the master.

60. Subsection 16(1) specifies types of vessel openings that the master must ensure are closed watertight and secured before the vessel leaves each berth or anchorage and provides a strict liability offence for failure to do so.

61. Subsection 16(2) provides a strict liability offence for any person who opens a specified opening whilst the vessel is at sea.

62. Subsection 17(1) provides strict liability offences in circumstances where a master of a vessel fails to ensure that items specified as applicable items are closed and secured before a vessel starts a voyage.
63. Subsection 17(2) provides a strict liability offence where a person unlocks or opens an applicable item other than when the vessel is at berth or if the master of the vessel allows the door to be unlocked or opened in specified circumstances set out in subsection 17(3).
64. Subsection 17(4) provides a strict liability offence where a master fails to ensure that the unlocking, or opening and closing, of an applicable item is supervised by an officer.
65. Subsection 18(1) provides a strict liability offence for a master of a vessel who fails to ensure that any sidescuttle or deadlight on an area of the vessel used for the carriage of cargo is closed, watertight and locked before the cargo is loaded.
66. Subsection 18(2) provides strict liability offence for a person who unlocks or opens any such sidescuttle or deadlight prior to the cargo being unloaded.
67. Section 19 provides a strict liability offence for the master of a vessel who fails to ensure that each cover and valve of any ash chute, rubbish chute or similar fitting that has an inboard opening below the margin line of the vessel is kept closed and secured when not in use.
68. Subsection 20(1) provides a strict liability offence for failure of the master of a vessel to ensure that items specified as applicable items are tested in accordance with subsection 20(2).
69. Subsection 20(2) requires that each applicable item that is not required to be closed under this Marine Order when a vessel is at sea, must be tested in accordance with the specified schedule to ensure it operates correctly.
70. Subsection 20(3) provides a strict liability offence for the master of a vessel who fails to ensure that all watertight doors in watertight bulkheads, both hinged and power operated, are operated daily when in use at sea.
71. Subsection 20(4) provides that the master may carry out the test at subsection 20(3) in port before the departure of the vessel.
72. Subsection 21(1) specifies appliances and fittings that must be marked with instructions on how to operate them safely and effectively and provides a strict liability offence for the owner of a vessel for failure to do so.
73. Subsection 21(2) provides a strict liability offence for the master of a vessel who fails to ensure that each appliance and fitting mentioned in subsection (1) is inspected at least once a week, whether the vessel is at sea or in port.
74. Section 22(1) provides a strict liability offence for the master of a vessel to ensure that before the start of each voyage, specified information is recorded in the official logbook.
75. Subsection 22(2) provides a strict liability offence for the master of a vessel for failure to ensure that the required information is recorded at the specified times.
76. Subsection 23(1) specifies the requirements for means of embarkation and disembarkation for a vessel constructed on or after 1 January 2010.
77. Subsection 23(2) specifies the requirements for means of embarkation and disembarkation for a vessel constructed before 1 January 2010.
78. Subsection 23(3) provides that if an accommodation ladder, gangway or associated davit or fitting is replaced on a vessel constructed before 1 January 2010,

the replacement part must comply with the requirements for that part as if the vessel were constructed on or after 1 January 2010.

79. Subsection 24(1) specifies criteria for which the master of a vessel must ensure that the vessels means of access is compliant with.
80. Subsection 24(2) specifies the circumstances in which a gangway may be placed on a bulwark or side rail of a vessel (being only if the master of the vessel is satisfied that the bulwark or side rail is of sufficient strength to bear the weight of the gangway and persons using it).
81. subsection 24(3) specifies the circumstances in which a telescopic accommodation ladder may be used as a means of access to a vessel, being only if the master is satisfied that its sections are locked together to prevent variation in length.
82. Subsection 24(4) provides that the master of a vessel must take reasonable and practical measures, including using safety netting, to protect persons from injury caused by falling from an accommodation ladder or a gangway on the vessel
83. Subsection 24(5) provides that the master of a vessel must ensure that safety netting is provided along the length of the accommodation ladder or gangway to protect users from falling between the vessel and the quayside.
84. subsection 24(6) provides that if a means of access to a vessel is provided by a port authority or other person, the master of the vessel must ensure that any operational action necessary to ensure the safety of users is brought to the attention of the person providing access; and any person requiring access to or from the vessel.
85. Subsection 24(7) provides that if access is provided between 2 adjacent vessels, the master of the vessel with the higher weather deck must ensure that the means of access between the vessels is safe.
86. Subsection 24(8) provides that the master of a vessel must ensure that the means of passage between the vessel's deck and the upper end of a gangway resting on a bulwark or side rail of the vessel is a ladder consisting of a set of substantial steps, with handrails, allowing a person to safely ascend to or from the top of the bulwark or side-rail, known as a bulwark ladder.
87. Subsection 24(9) provides that the master of a vessel at anchor or at a mooring considers that the use of an accommodation ladder is impracticable, the master may provide a pilot ladder as a means of access to or from the vessel if the master ensures that only pilots and other persons required on the business of the vessel use the ladder.
88. Subsection 24(10) provides that for the purposes of subsection (9), the master may allow another person to use the ladder in an emergency.
89. Subsection 24(11) specifies the circumstances in which the master of a vessel may allow a cargo access ramp to be used as a means of access to and from the vessel.
90. Subsection 24(12) specifies requirements which the master of a vessel must ensure compliance for any safety net on the vessel.
91. Subsection 25(1) provides a strict liability offence for a person that fails to board or leave a vessel using the means of access provided or identified by the master.

92. Schedule 1 specifies additional criteria for which a regulated Australian vessel that is a vessel to which Chapter II-1 of SOLAS applies must comply for the purposes of paragraph 9(1)(b).

93. Schedule 2 specifies requirements for accommodation ladders, gangways and safety nets for the purposes of paragraph 23(1)(d) and subsection 23(2).

Statement of compatibility with human rights

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

Overview of the legislative instrument

95. This Marine Order is made under the Navigation Act 2012 (the Navigation Act). It gives effect to Chapter II-1 of the International Convention for the Safety of Life at Sea (SOLAS) and prescribes standards for the structure, subdivision, stability, machinery and electrical installations for vessels including for vessels to which Chapter II-1 of SOLAS does not apply.

96. The Marine Order also does the following:

- gives effect to guidelines of the International Maritime Organization for the design and construction of offshore supply vessels;
- sets out requirements on other safety measures for the access to vessels in port and for the testing and closing of doors and other openings;
- implements new requirements for vessels to have specific towing and mooring arrangements plans and keep them on board for masters' reference.

Human rights implications

97. Sections 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 25 of the Marine Order create offences 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.

98. Strict liability is imposed to protect life while the vessel is both at sea and in port. The offences ensure compliance with SOLAS and other standards for vessel structure, subdivision, stability, machinery and electrical installations, requirements for watertight openings and means of access to vessels, and requirements for towing and mooring that are necessary to ensure maritime safety. SOLAS is an internationally accepted standard made under the auspices of the International Maritime Organization and ship owners ensure compliance to enable their vessels to trade internationally without sanction for non-compliance.

99. The penalties are relatively low (50 penalty units) and are within the limitation imposed by paragraph 341(1)(a) of the Navigation Act. At the time of making of this Marine Order, one penalty unit was \$313.

100. The civil penalty provisions are directed at owners, masters and people who are onboard a vessel or in the process of embarking or disembarking rather than the community at large and are regulatory in nature. The civil penalty provisions are authorised by paragraph 341(1)(b) of the Navigation Act. 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.

101. 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

102. AMSA considers that this instrument is compatible with human rights. It does not affect any rights or freedoms to which the *Human Rights (Parliamentary Scrutiny) Act 2011* applies.

Making the instrument

103. 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*.