

## **Explanatory Statement**

### **Marine Order 16 (Load lines) 2025 (Order 2025/4)**

#### **Authority**

1. Subsection 98 of the *Navigation Act 2012* (the Navigation Act) provides that regulations may provide for safety certificates including giving effect to the Load Lines Convention.
2. Subsection 309(2) of the Navigation Act provides that the regulations may provide for the keeping of logbooks.
3. Section 113 of the Navigation Act provides that the regulations may provide for when a vessel is overloaded.
4. Section 314 of the Navigation Act provides that regulations may provide for particular matters relating to certificates.
5. Subsection 339(1) of the Navigation Act provides that regulations may be made prescribing matters required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to the Act.
6. Paragraph 340(1)(d) of the Navigation Act provides that regulations may be made to give effect to the Load Lines Convention.
7. Subsection 341(1) of the Navigation Act provides that regulations may provide for the imposition of penalties and civil penalties for a contravention of certain instruments, including an Order.
8. Subsection 342(1) of the Navigation Act provides that AMSA may make a Marine Order about any matter for which provision must or may be made by regulations.
9. Subsection 342(4) of the Navigation Act allows a Marine Order to provide for a matter by applying, adopting or incorporating any matter contained in any instrument or document in force or existing from time to time.
10. 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.
11. This Marine Order is a legislative instrument for the *Legislative Instruments Act 2003*.

#### **Purpose**

12. This Marine Order gives effect to the Load Lines Convention and deals with overloading and load lines and marking matters and documentation matters including the certification of vessels to provide evidence of compliance with the requirements of this Marine Order.
13. For this reason, the Marine Order is exempt from sunseting under item 1, section 11 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.

#### **Overview**

14. The Navigation Act implements Australia's obligations under the Load Lines Convention which establishes uniform principles and rules with respect to the limits to which vessels engaged on international voyages may be loaded.
15. This Marine Order sets out vessel requirements concerning load lines and marking matters for safeguarding human life, marine life and property at sea.
16. This Marine Order replaces *Marine Order 16 (Load lines) 2014* following a review of the Marine Order as part of AMSA's ongoing review of its instruments.

## Consultation

17. A copy of the draft of this Marine Order was placed on AMSA's website on 18 February 2025 for public consultation for six weeks with comments to be provided by 31 March 2025. Around 130 stakeholders were contacted directly by email and invited to comment. These included vessel operators, Australian and international shipowners, classification societies, shipping industry peak bodies and unions, training organisations, and relevant government departments and agencies. The review was also advised on AMSA Consultation web page and as a news article on AMSA homepage.

18. No submission was received and no action was necessary in the preparation of the final draft.

19. Changes made by the Marine Order are administrative and editorial in nature without introducing any new requirement and AMSA Regulation Impact Statement carve-out under categories 1a(ii) (editorial changes) and 1a(iv) (minor regulatory changes that align with treaty obligations and don't affect stakeholders) were applied. The relevant Office of Impact Analysis (OIA) reference numbers are OIA23-06166 and OIA23-06232.

## Documents incorporated by reference

20. The following documents or parts of them are incorporated by reference in the Marine Order:

- International Convention on Load Lines (Load Lines Convention)
- Chapters I and II-1 of the International Convention for the Safety of Life at Sea (SOLAS)
- *Marine Order 1 (Administration) 2013*
- *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*
- *IMO Resolution A.1186(33) Survey guidelines under the harmonised system of survey and certification (HSSC), 2023*
- *IMO circulars LL.3/Circ.69, LL.3/Circ.77, LL.3/Circ.130, LL.3/Circ.155, LL.3/Circ.162, LL.3/Circ.194 and LL.3/Circ.208.*

21. The Load Lines Convention and SOLAS are of treaty status and incorporated as amended and in force from time to time. The Conventions are in the Australian Treaties Library accessible online at the AustLII website at [www.austlii.edu.au](http://www.austlii.edu.au) or the Australian Treaties Database at [www.info.dfat.gov.au/treaties](http://www.info.dfat.gov.au/treaties). A link to the Australian Treaties Library is available at the Marine Orders link on the AMSA website at [www.amsa.gov.au](http://www.amsa.gov.au). The Marine Orders link on the AMSA website also contains information on the purchase of the Conventions and availability at libraries.

22. Marine Orders 1 and 31 are adopted as in force from time to time because they are adopted by reference to title in this Marine Order 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 Orders can be accessed through the marine orders link on the AMSA website at [www.amsa.gov.au](http://www.amsa.gov.au) and are available for free download from the Federal Register of Legislation.

23. Information on obtaining copies of any International Maritime Organization (IMO) Resolution, IMO circular, IMO document or other document that is mentioned in this Marine Order is available from the Marine Order link at [www.amsa.gov.au](http://www.amsa.gov.au).

## Commencement

24. This Marine Order commenced on 1 September 2025.

## **Contents of this instrument**

25. Section 1 sets out the name of the Marine Order.
26. Section 1A sets out the commencement of the Marine Order.
27. Section 1B repeals the instrument known as *Marine Order 16 (Load lines) 2014*.
28. Section 2 states the purpose of the Marine Order which is to give effect to the Load Lines Convention, overloading, marking and documentation matters including certification of vessels as evidence of compliance with load line and marking requirements of this Marine Order.
29. Section 3 sets out the powers in the Navigation Act that enable the Marine Order to be made.
30. Section 4 sets out definitions of terms used in the Marine Order.
31. Section 5 sets out matters relating to interpretation of requirements in the Marine Order.
32. Section 6 describes the vessels to which the Marine Order applies.
33. Section 7 provides that an owner of a regulated Australian vessel may apply for an exemption of a vessel from a requirement of this Marine Order in accordance with the application process mentioned in *Marine Order 1 (Administration) 2013*.
34. Section 8 provides that an owner of a regulated Australian vessel may apply to use an equivalent to a requirement of this Marine Order in accordance with the application process set out in *Marine Order 1 (Administration) 2013*.
35. Section 9 sets out the certificate requirement for a regulated Australian vessel to which the Load Lines Convention applies, or would apply, if engaged on international voyages.
36. Section 10 provides matters concerning an application for certificates.
37. Section 11 sets out matters concerning the commencement and duration of certificates.
38. Section 12 sets out certificate variation matters.
39. Section 13 sets out certificate revocation matters.
40. Section 14 describes the criteria for the issue of an International Load Line Certificate.
41. Section 15 sets out the conditions attaching to an International Load Line Certificate.
42. Section 16 sets out the requirement for an International Load Line Certificate to be endorsed by an issuing body.
43. Section 17 describes the criteria for the issue of an International Load Line Exemption Certificate.
44. Section 18 sets out the condition attaching to an International Load Line Exemption Certificate.
45. Section 19 sets out the requirement for an International Load Line Exemption Certificate to be endorsed by an issuing body.
46. Section 20 deals with certificate requirements for foreign vessels to which the Load Lines Convention applies.

47. Section 21 sets out obligations for foreign vessels to which the Load Lines Convention applies and to which the Load Lines Convention does not apply.
48. Section 22 sets out a requirement concerning loading stress information. It is a strict liability offence if loading stress information of a specified kind is not on board a vessel. Failure to comply with the requirement also makes a person liable to a civil penalty. The offence is aimed at avoiding catastrophic structural failure. At the time of making this instrument a penalty unit was \$330.
49. Section 23 sets out a requirement concerning stability information for a vessel. It is a strict liability offence if stability information of a specified kind is not on board the vessel. Failure to comply with the requirement also makes a person liable to a civil penalty. The offence is aimed at making sure that the master has information about the stability of the vessel in its different operational circumstances for the purpose of safe navigation. At the time of making this instrument a penalty unit was \$330.
50. Section 24 sets out the circumstances when a vessel is overloaded.
51. Section 25 sets out matters for determining the appropriate load line of a vessel.
52. Section 26 sets out the requirement for entry into the official logbook of load line matters.
53. Section 27 prescribes when notification must occur to AMSA and an issuing body of alterations to a vessel.
54. Section 28 deals with marking requirements for regulated Australian vessels. It is a strict liability offence for the master and owner if a vessel is not marked in accordance with the specified manner. Failure to comply with the requirement also makes a person liable to a civil penalty. The offence is aimed at ensuring markings are placed on a vessel's hull to indicate the maximum depth to which a vessel can be safely loaded. At the time of making this instrument a penalty unit was \$330.

### **Statement of compatibility with human rights**

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

### **Overview of the legislative instrument**

56. This Marine Order is made under the Navigation Act and gives effect to Australia's international obligations under the International Load Lines Convention.
57. This Marine Order safeguards life and property at sea by giving effect to internationally accepted principles and rules concerning limits to which vessels may be loaded.

### **Human rights implications**

58. Sections 22 and 23 of the Marine Order deal with loading stress and stability information requirements and create criminal offences to which strict liability applies. They also create civil penalty provisions. The penalties are low (50 penalty units) and the penalty provisions are directed at masters and owners of vessels, rather than the community at large being regulatory in nature to achieve compliance with internationally accepted standards. The objective of the penalty provisions is to safeguard stability and prevent failure in vessel structure.
59. Section 28 of the Marine Order creates criminal and civil penalties for the master and owner to which strict liability also applies. The penalties are to ensure a vessel is marked with appropriate deck line, load line, subdivision load line and draught marks. These markings help ensure that a vessel is not overloaded. Vessel markings are generally determined at initial survey with the owner responsible for

their correct application before the vessel commences service. However, both the master and owner are responsible for ensuring that when a vessel goes to sea accurate and up to date markings have been correctly applied for the safe operation of the vessel. The objective of the penalties is to ensure that all persons (including crew and shore based personnel) involved in the loading and unloading of the vessel can be aware of stability parameters. Awareness of a vessel's particular stability parameters could prevent the vessel becoming unseaworthy and possible catastrophic loss of the vessel including loss of life and threat to property and the marine environment. The penalties (50 penalty units) are considered low and directed at masters and owners of vessels, rather than the community at large.

60. The criminal penalty provisions in this Marine Order are authorised by paragraph 341(1)(a) of the Navigation Act. The civil penalty provision in this Order is authorised by paragraph 341(1)(b) of the Navigation Act.

61. 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.

## **Conclusion**

62. AMSA considers that this instrument is compatible with human rights. To the extent that it limits rights or freedoms to which the *Human Rights (Parliamentary Scrutiny) Act 2011* applies, the limitation is reasonable, necessary and proportionate for achieving the objective of safety at sea.

## **Making the instrument**

63. 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*.