

## **Explanatory Statement**

### **Australian Maritime Safety Authority Fees Determination 2025**

#### **Authority**

1. This instrument is made under subsection 47(1) of the *Australian Maritime Safety Authority Act 1990* and is a legislative instrument for the *Legislation Act 2003*.

#### **Purpose**

2. This instrument replaces the *Australian Maritime Safety Authority Fees Determination 2015*.

#### **Overview**

3. The instrument sets out the fees that the Australian Maritime Safety Authority (AMSA) charges for its services, the way in which the fees are worked out and how they are to be paid.

#### **Consultation**

4. Consultation has been undertaken with the Department of Infrastructure, Transport, Regional Development, Communication, Sports and the Arts and the Department of Finance.

5. There are no substantive changes in remaking the instrument and the fee amounts for services have remained unchanged. Consequently, there has been no industry stakeholder consultation on the instrument.

6. The Determination continued its current fee structure with no alterations to existing charges. Accordingly, no persons have been identified as affected by fee changes due to the absence of any fee adjustments.

7. The Determination is of a minor, machinery nature and does not alter existing arrangements.

8. The Determination has not been controversial and has had no direct or substantial indirect effect on business.

9. AMSA's Chief Executive Officer, as the rule maker responsible for the Determination under subsection 47(1) of the *Australian Maritime Safety Authority Act 1990*, is satisfied that this level of consultation is appropriate for the purpose of subsection 12 of that Act.

10. The Office of Impact Analysis (OIA) has advised that no Regulatory Impact Statement (RIS) is required to remake the Determination without significant change (OIA24-08650 refers).

#### **Documents incorporated by reference**

11. There are no documents incorporated by reference. The instrument refers to Acts under which services are provided for which fees are charged.

12. The mention of the Australian Taxation Office charge per kilometer rate mentioned in this instrument is a reference to the rate that is published at [www.ato.gov.au](http://www.ato.gov.au).

#### **Commencement**

13. This instrument commences on 1 October 2025.

#### **Contents of this instrument**

14. Section 1 sets out the name of the instrument.

15. Section 1A provides the commencement date for the instrument.

16. Section 2 sets out definitions of terms used in the instrument.
17. Section 3 sets out the liability to pay for a charge for services provided by AMSA.
18. Section 4 sets out the components of a charge, which are detailed in later sections and in Schedule 1.
19. Section 5 sets out the hourly rate for services for which there is no specified amount.
20. Section 6 provides for a person to ask for an estimate of the total charge if the hourly rate applies.
21. Section 7 provides a charge for waiting time.
22. Section 8 provides a charge for travelling time.
23. Section 9 sets out when a charge is payable.
24. Section 10 provides for advance payment of a specified charge or, by agreement with the person requesting the service, of progress payments of an hourly rate.
25. Section 11 imposes interest on unpaid balances.
26. Schedule 1 sets out the charge for each kind of service.

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

27. The instrument is compatible with the human rights and freedoms recognised and declared in the international instruments listed in Section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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

28. The instrument sets out the fees that the Australian Maritime Safety Authority charges for its services, the way in which the fees are worked out and how they are to be paid.

### **Human rights implications**

29. The instrument engages the right to the enjoyment of just and favourable conditions of work, in particular, safe and healthy working conditions, under article 7(b) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

30. This instrument also engages the right to work under article 6 of ICESCR.

#### *Article 7: the right to the enjoyment of just and favourable conditions of work*

31. Article 7(b) provides that State Parties recognise the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular, safe and healthy working conditions.

32. The instrument engages and promotes this right because it contributes to safe working conditions on and around vessels. By stipulating fees which fund AMSA to deliver safety services and certification to the international shipping industry, the instrument promotes the right to safe working conditions.

#### *Article 6: the right to work*

33. Article 6 provides that State Parties recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. Article 6 also provides that the steps taken by a State Party to achieve the full realisation of this right shall include technical and vocational guidance and training

programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedom to the individual.

34. Sections 7.1 and items 8.1.1 to 13 of Schedule 1 of the instrument engage this right because they require coastal pilots and seafarers working on regulated Australian vessels and foreign-flagged vessels to pay fees to apply for and manage safety certification, which are required for them to work.

35. On this basis, these fees potentially limit the right to work by requiring payment before coastal pilots and seafarers working on regulated Australian vessels and foreign-flagged vessels can legally work.

36. However, the limitations are permissible as they:

*a) pursue a legitimate objective*

Ensuring vessels, their operators, and the seafarers working aboard these vessels comply with Australian standards and laws is another key role of AMSA. Managing vessel registration and vessel inspection as well as other inspections, granting determinations and exemptions, and managing licenses and certificates for seafarers directly contributes to this role.

*b) have a rational connection to this objective*

These fees directly fund AMSA's delivery of specific safety services to individuals.

*c) are reasonable, necessary, and proportionate*

37. The fee amounts to be paid to AMSA have not been amended in the remake of the instrument. Overall cost recovery through fees is lower than AMSA's expected service delivery costs and should not in practice restrict coastal pilots and seafarers working on regulated Australian vessels and foreign-flagged vessels from accessing work.

## **Conclusion**

38. This instrument is compatible with human rights as, to the extent that it limits human rights, those limitations are reasonable, necessary and proportionate, pursue a legitimate objective, and have a rational connection to this objective.

39. This instrument also promotes human rights as it supports the right to the enjoyment of just and favourable conditions of work, in particular, the right to safe and healthy working conditions.

## **Making the instrument**

40. 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*.