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2004B00046

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# Maritime Transport Security Amendment Regulations 2004 (No. 1)<sup>1</sup>

Statutory Rules 2004 No. <sup>1/2</sup>

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I, JOHN SANDERSON, Administrator of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Maritime Transport Security Act 2003*.

Dated 10 MAR 2004 2004

*John Sanderson*  
Administrator

By His Excellency's Command

JOHN ANDERSON  
Minister for Transport and Regional Services

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**1 Name of Regulations**

These Regulations are the *Maritime Transport Security Amendment Regulations 2004* (No. /).

**2 Commencement**

These Regulations commence as follows:

- (a) on the date of their notification in the *Gazette* — regulations 1 to 3 and Schedule 1;
- (b) on the commencement of Part 2 of the *Maritime Transport Security Act 2003* — Schedule 2.

**3 Amendment of *Maritime Transport Security Regulations 2003***

Schedules 1 and 2 amend the *Maritime Transport Security Regulations 2003*.

## Schedule 1 Amendments commencing on gazettal

(regulation 3)

**[1] Subregulation 1.03 (1), after definition of *contact details***

*insert*

***contracting government*** means a contracting government to the SOLAS Convention.

**[2] Subregulation 1.03 (1), after definition of *PFSO***

*insert*

***pleasure craft*** means a ship that is used, or intended to be used, wholly for recreational or sporting activities.

**[3] Subregulation 1.03 (1), after definition of *water-side restricted zone***

*insert*

***working day***, in relation to the operations of a maritime industry participant, means a day other than a Saturday, a Sunday, or a day that is a public holiday in the State or Territory where the operations are conducted.

**[4] Regulation 1.05**

*substitute*

**1.05 Port service providers**

- (1) For paragraph (g) of the definition of ***maritime industry participant*** in section 10 of the Act, an operator of a kind set out in subregulation (2) is prescribed if the operator provides port services to security regulated ships.

2004. /

Maritime Transport Security Amendment Regulations  
2004 (No. /)

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/

- 
- (2) For subregulation (1), the following are the kinds of operators:
- (a) lighter operator;
  - (b) barge operator;
  - (c) line handling boat operator;
  - (d) pilotage service operator;
  - (e) tug operator.

**[5] Regulation 1.55, heading**

*substitute*

**1.55 Ship security records — regulated Australian ships**

**[6] Paragraph 1.55 (1) (h)**

*omit*

maintained.

*insert*

maintained;

**[7] After paragraph 1.55 (1) (h)**

*insert*

- (i) training, drills and exercises;
- (j) security threats and maritime transport security incidents;
- (k) breaches of security;
- (l) changes to security levels;
- (m) communications relating to the direct security of the ship (such as specific threats to the ship or to port facilities used in connection with the loading or unloading of the ship);
- (n) ship security plan audits and reviews by internal auditors;
- (o) periodic review of ship security assessments;
- (p) periodic ship security plan reviews;
- (q) implementation of any amendments to the ship security plan;

- (r) inspection, testing, calibration and maintenance of security equipment (including ship security alert system);
- (s) other practical security-related information in accordance with regulation XI-2/9.2.1 of the SOLAS Convention.

**[8] Subregulation 1.55 (3)**

*substitute*

- (3) Ship security records must be made available for inspection in accordance with the Act and these Regulations.
- (3A) Ship security records in relation to the following matters must be made available for inspection at the request of a person who is authorised by a contracting government to inspect the records:
  - (a) the security level at which the ship is operating;
  - (b) the security level at which the ship operated in any of the last 10 ports of call where it conducted ship/port interface;
  - (c) any special or additional security measures that were implemented by the ship in the last 10 ports of call;
  - (d) any ship security procedures maintained by the ship in the last 10 ports of call where it conducted ship to ship activities;
  - (e) the name of the person responsible for appointing:
    - (i) the ship's crew; and
    - (ii) other persons employed or engaged in any capacity on board the ship and on the business of the ship;
  - (f) the name of the person who decides how the ship is to be employed;
  - (g) if the ship is employed under the terms of a charter party or of charter parties, the names of the parties to the charter arrangements;
  - (h) other practical security-related information (except details of the ship security plan for the ship) in accordance with regulation XI-2/9.2.1 of the SOLAS Convention.

*Note* The ISSC of a regulated Australian ship may be inspected by:

- (a) a person who is authorised by a contracting government (see regulation 4.145); and

- 
- (b) a maritime security inspector (see subparagraph 139 (2) (e) (i) of the Act); and
  - (c) a duly authorised officer (see subparagraph 148 (2) (c) (i) of the Act).

**[9] Subregulation 1.55 (4)**

*omit everything before paragraph (a), insert*

- (4) Ship security records must be kept on board the ship for a period of 7 years beginning on:

**[10] After regulation 1.55**

*insert*

**1.56 Ship security records — regulated foreign ships**

For the definition of *ship security record* in section 10 of the Act, the following are prescribed to be kept on, by and for a regulated foreign ship:

- (a) confirmation that a valid ISSC, or approved ISSC equivalent under subsection 91 (3) of the Act, is on board the ship;
- (b) the name of the authority that issued the ship's ISSC or approved ISSC equivalent;
- (c) the date when the ISSC or approved ISSC equivalent expires;
- (d) any document made for the purpose of keeping records in relation to:
  - (i) the security level at which the ship is operating; and
  - (ii) the security level at which the ship operated in the last 10 ports of call where the ship conducted ship/port interface; and
  - (iii) whether the ship implemented any special or additional security measures in the last 10 ports of call; and
  - (iv) whether appropriate security-related procedures were maintained in the last 10 ports of call where the ship conducted ship to ship activities;

- 
- (e) the name of the person responsible for appointing:
    - (i) the ship's crew; and
    - (ii) other persons employed or engaged in any capacity on board the ship and on the business of the ship;
  - (f) the name of the person who decides how the ship is to be employed;
  - (g) if the ship is employed under the terms of a charter party or of charter parties — the names of the parties to the charter arrangements;
  - (h) other practical security-related information (except details of the ship security plan for the ship) in accordance with regulation XI-2/9.2.1 of the SOLAS Convention.

**[11] After regulation 1.70**

*insert*

**1.75 What are not regulated Australian ships**

For subsection 16 (2) of the Act, a passenger ship (whether or not also a cargo ship) used for overseas or inter-State voyages is not a regulated Australian ship if the ship is a pleasure craft that is not engaged in trade.

**1.80 What are not regulated foreign ships**

For subsection 17 (2) of the Act, a foreign ship that meets the requirements of paragraphs 17 (1) (b) to (d) of the Act is not a regulated foreign ship if:

- (a) the ship is owned or operated by a contracting government and is used, for the time being, only on government non-commercial service; or
- (b) the ship is a pleasure craft that is not engaged in trade.

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**[12] Regulation 3.35**

*omit*

A maritime

*insert*

- (1) A maritime

**[13] Regulation 3.35**

*after the note, insert*

- (2) A port operator must, within 2 working days after the port operator becomes aware of a change in any of the information given under this regulation, notify the Secretary, in writing, of the change.

Penalty: 20 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

**[14] After regulation 3.105**

*insert*

**3.106 Obligation to keep information current**

- (1) A port facility operator must, within 2 working days after the port facility operator becomes aware of a change in any of the information given under regulation 3.100 or 3.105, notify the Secretary, in writing, of the change.

Penalty: 20 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.



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**[15] After regulation 3.190**

*insert*

**3.191 Obligation to keep information current**

- (1) A port service provider must, within 2 working days after the port service provider becomes aware of a change in any of the information given under regulation 3.185 or 3.190, notify the Secretary, in writing, of the change.

Penalty: 20 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

**[16] Paragraph 3.210 (b)**

*substitute*

- (b) measures to prevent unauthorised access to land in each security regulated port in which the port service provider operates, to any port security zones established within the boundaries of that land and to vessels or helicopters operated or used by the provider;

**[17] Paragraphs 4.20 (j) to (l)**

*substitute*

- (j) gross tonnage;  
(k) length and breadth of ship;  
(l) summer draft;

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**[18] After regulation 4.30**

*insert*

**4.31 Obligation to keep information current**

- (1) A ship operator must, within 2 working days after the ship operator becomes aware of a change in any of the information given under regulation 4.20 or 4.30, notify the Secretary, in writing, of the change.

Penalty: 20 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

**[19] Paragraph 4.45 (e)**

*substitute*

- (e) procedures for:

- (i) acknowledging, and responding to, directions given by the Secretary or a contracting government; and
- (ii) acknowledging notifications of the security level in force from the Secretary or a contracting government;

**[20] Subregulations 4.80 (2) and (3), except the note**

*substitute*

- (2) The master of a regulated Australian ship that is due to arrive, from a place outside Australia, at a port in Australia must give the following information (*pre-entry information*) to a customs officer:
- (a) confirmation that a valid ISSC is on board the ship;
  - (b) the name of the authority that issued the ship's ISSC;
  - (c) the date when the ISSC expires;
  - (d) the maritime security level at which the ship is operating;
  - (e) the last 10 ports of call where the ship conducted ship/port interface;

- (f) whether the ship operated at a security level different from that in paragraph (d), engaged in ship to ship activity, or implemented any special or additional security measures, in the last 10 ports of call.
- (3) Pre-entry information must be given at the time the crew report required under section 64ACB of the *Customs Act 1901* is given in relation to the port.

**[21] Paragraph 4.100 (c)**

*omit*

by a port state in accordance with subregulation 1.55 (3).

*insert*

in accordance with subregulation 1.55 (3A).

**[22] After Division 4.3**

*insert*

**Division 4.4 Approving, revising and cancelling ship security plans**

*Note* This Division heading is reserved for future use.

**Division 4.5 International ship security certificates**

**4.140 Applications for ISSC**

- (1) For subsection 81 (2) of the Act, an application for an ISSC must be in writing and must:
- (a) identify the ship by means of the following:
- (i) the name of the ship;
  - (ii) the ship's official number, being the number by which the ship is identified in the Australian Register of Ships referred to in section 56 of the *Shipping Registration Act 1981*;

- 
- (iii) if the ship is used for overseas voyages — the ship's IMO ship identification number;
  - (iv) any other distinctive numbers or letters that identify the ship; and
- (b) include a statement that a ship security plan is in force for the ship.
- (2) The application must also state when the ship may be inspected for the purpose of determining whether the ship meets the requirements necessary for ISSC verification.

#### **4.145 Inspections by authorised persons**

The ISSC for a regulated Australian ship must be made available for inspection at the request of a person who is authorised by a contracting government to request information about, or in connection with, whether a valid ISSC is in force for the ship.

*Note* For the power of maritime security inspectors and duly authorised officers to inspect ISSCs, see subparagraphs 139 (2) (e) (i) and 148 (2) (e) (i) of the Act, respectively.

#### **[23] Paragraph 13.05 (1) (c)**

*omit*

of 500 or more of gross tonnes,

*insert*

500 gross tonnage or more,

#### **[24] Paragraph 13.05 (1) (d)**

*omit*

of 500 or more gross tonnes

*insert*

500 gross tonnage or more

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**Schedule 2**      **Amendments commencing on  
commencement of Part 2 of  
Maritime Transport Security  
Act 2003**

(regulation 3)

**[1]      Division 2.2**

*substitute*

**Division 2.2      Maritime security levels**

**2.25      Notifying maritime security level 2 and 3 declarations  
and revocations (Act s 32)**

- (1) This regulation applies to notifying declarations, or revocations of declarations, under Division 3 of Part 2 of the Act.
- (2) The Secretary or port operator must notify a declaration or revocation:
  - (a) orally (for example, by telephone or radio communication); or
  - (b) in writing; or
  - (c) by electronic transmission (for example, by facsimile or e-mail).

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**[2] Regulation 2.35***substitute***2.35 Giving and communicating security directions (Act  
s 33 (5))**

- (1) Subject to subsections 35 (2) and 38 (3) of the Act, the Secretary must give a security direction, or notify a person of the revocation of a security direction under subsection 38 (2) of the Act:
  - (a) orally (for example, by telephone or radio communication); or
  - (b) in writing; or
  - (c) by electronic transmission (for example, by facsimile or e-mail).

*Note* Under subsection 33 (4) of the Act, a security direction has no effect until the Secretary commits the direction to writing.

- (2) A port or ship operator required to communicate a security direction under subsection 35 (3) or 36 (2) of the Act, respectively, must do so using any of the means set out in subregulation (1).

**[3] Division 5.1***substitute***Division 5.1 Obligations****5.10 Pre-arrival information**

- (1) For subsection 92 (2) of the Act, pre-arrival information must be given to a customs officer by the master of a ship that is due to arrive, from a place outside Australia, at a port in Australia (whether the first port or any subsequent port on the same voyage) at the time the crew report required under section 64ACB of the *Customs Act 1901* is given in relation to the port.

- 
- (2) For the definition of *pre-arrival information* in subsection 92 (3) of the Act, the following are prescribed:
- (a) confirmation that a valid ISSC, or approved ISSC equivalent under subsection 91 (3) of the Act, is on board the ship;
  - (b) the name of the authority that issued the ship's ISSC or approved ISSC equivalent;
  - (c) the date when the ISSC or approved ISSC equivalent expires;
  - (d) the security level at which the ship is operating;
  - (e) the last 10 ports of call where the ship conducted ship/port interface;
  - (f) whether the ship operated at a security level different from that in paragraph (d), engaged in ship to ship activity, or implemented any special or additional security measures, in the last 10 ports of call.

**[4] Regulation 5.25**

*substitute*

**5.25 Giving control directions (Act s 99 (7))**

The Secretary must give a control direction to the ship operator for, or the master of, a regulated foreign ship:

- (a) orally (for example, by telephone or radio communication); or
- (b) in writing; or
- (c) by electronic transmission (for example, by facsimile or e-mail).

*Note* Under subsection 99 (5) of the Act, a control direction has no effect until the Secretary commits the direction to writing.

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**[5] Regulation 6.65**

*substitute*

**6.65 Identification of zones**

- (1) The boundaries of a water-side restricted zone must be clearly identifiable.
- (2) The port operator for the security regulated port in which the water-side restricted zone is established must give notice of the establishment and the boundaries of the water-side restricted zone by:
  - (a) water-based identification measures (such as buoys, picket boats and booms); or
  - (b) land-based signs that include a map of the port that shows the boundaries of the water-side restricted zone; or
  - (c) posting, publishing or broadcasting notices; or
  - (d) using any other means that have the effect of informing persons in or in the vicinity of the security regulated port about the establishment of the zone and its boundaries.

**[6] After regulation 7.30**

*insert*

**7.33 Notice to be displayed at screening points**

- (1) For paragraph 119 (2) (l) of the Act, notices that it is an offence under the Act to carry weapons or prohibited items through a screening point must be displayed with reasonable prominence at screening points.
- (2) A notice must include a list of weapons and prohibited items for the purposes of the Act.

*Note 1* See section 10 of the Act and regulations 1.60 and 1.65 as to what are prohibited items and weapons.

*Note 2* Sections 121 and 128 of the Act create the offences of carrying weapons and prohibited items through screening points. Certain persons are authorised, under those sections and regulation 7.45, to carry weapons or prohibited items through screening points.



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**[7] Paragraphs 7.40 (2) (b) and (c)**

*substitute*

(b) an SSO.

**[8] Paragraph 7.50 (d)**

*omit*

duty.

*insert*

duty;

**[9] After paragraph 7.50 (d)**

*insert*

(e) carriage or possession by a veterinarian or quarantine officer if the weapon or prohibited item is for controlling or euthanasing live-stock on board the ship.

**[10] Division 8.2**

*substitute*

**Division 8.2 Maritime security inspectors**

**8.20 Identity cards (Act s 137 (2))**

- (1) The minimum requirements in relation to the form of an identity card for a maritime security inspector are as follows:
- (a) the card must bear a recent photograph of the holder;
  - (b) the card must set out the holder's name;
  - (c) the card must bear a statement of its date of expiry;
  - (d) the card must bear a statement to the effect that the holder is a maritime security inspector appointed under section 136 of the Act;
  - (e) the card must bear the signatures of the holder and the Secretary.

- 
- (2) If a person representing or apparently representing a maritime industry participant so requests, a maritime security inspector must show his or her identity card to the person.

Penalty: 5 penalty units.

**[11] After Division 8.4**

*insert*

**Division 8.5 Maritime security guards**

**8.50 Training and qualifications**

For paragraph 162 (2) (a) of the Act, the following are prescribed as training and qualification requirements for maritime security guards:

- (a) the person:
- (i) must hold at least a Certificate II in Security Operations that is in force; or
  - (ii) must hold a certificate or qualification that is in force and that is equivalent to at least a Certificate II in Security Operations (for example, a Certificate II in Security (Guarding)); or
  - (iii) must have undergone training and acquired experience while working as a security guard that is sufficient to satisfy the requirements for obtaining a security guard licence in the state or territory where the person intends to work as a maritime security guard (the *relevant state or territory*);
- (b) the person must hold a licence to work as a security guard, being a licence that was issued or recognised by the relevant state or territory and that is in force;
- (c) the person must have a working knowledge of the Act and these Regulations, including knowledge about how to restrain and detain persons in accordance with section 163 of the Act.

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### 8.55 Identity cards (Act s 162 (2) (b))

- (1) The requirements in relation to the issue and use of an identity card for a maritime security guard are as follows:
  - (a) the card must be issued by the employer of the maritime security guard;
  - (b) the card must be displayed by the maritime security guard while he or she is on duty.
- (2) The minimum requirements in relation to the form of the identity card are as follows:
  - (a) the card must bear a recent photograph of the maritime security guard;
  - (b) the card must set out the guard's name;
  - (c) the card must bear a statement of its date of expiry;
  - (d) the card must bear the name of the employer that issued the card.

## Division 8.6 Screening officers

### 8.60 Training and qualifications

For paragraph 165 (2) (a) of the Act, the following are prescribed as training and qualification requirements for screening officers:

- (a) the person:
  - (i) must hold at least a Certificate II in Security Operations that is in force; or
  - (ii) must hold a certificate or qualification that is in force and that is equivalent to at least a Certificate II in Security Operations (for example, a Certificate II in Security (Guarding)); or
  - (iii) must have undergone training and acquired experience while working as a security guard that is sufficient to satisfy the requirements for obtaining a security guard license in the state or territory where the person intends to work as a screening officer (the *relevant state or territory*);

- 
- (b) the person must hold a licence to work as a security guard, being a licence that was issued or recognised by the relevant state or territory and that is in force;
  - (c) the person must be competent in:
    - (i) maintaining the integrity of a cleared zone; and
    - (ii) using screening equipment; and
    - (iii) the methods and techniques to be used for screening persons, baggage and other goods; and
    - (iv) dealing with weapons and prohibited items that are detected or surrendered;
  - (d) the person must have a working knowledge of the Act and these Regulations, including knowledge about how to restrain and detain persons in accordance with section 167 of the Act.

### 8.65 Identity cards (Act s 165 (2) (b))

- (1) The requirements in relation to the issue and use of an identity card for a screening officer are as follows:
  - (a) the card must be issued by the person who authorised or required the officer to conduct screening;
  - (b) the card must be displayed by the screening officer while he or she is on duty.
- (2) The minimum requirements in relation to the form of the identity card are as follows:
  - (a) the card must bear a recent photograph of the screening officer;
  - (b) the card must set out the officer's name;
  - (c) the card must bear a statement of its date of expiry;
  - (d) the card must bear the name of the person who issued the card.

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### Notes

- 1. These Regulations amend Statutory Rules 2003 No. 366.
- 2. Notified in the *Commonwealth of Australia Gazette* on / 2004.

18 March