

Australian Maritime Safety Authority
REGULATION IMPACT STATEMENT

Marine Orders Part 6 – Marine Radio Qualifications – Issue 5

PROBLEM

Section 231B of the *Navigation Act 1912* states that:

The master or owner of a ship equipped with a radio installation shall not take the ship to sea, or permit the ship to be taken to sea, unless the ship carries, as part of the crew, such person or persons qualified to operate the radio installation as is or are prescribed.

Marine Order Part 6 Issue 4, administered by the Australian Maritime Safety Authority (AMSA), prescribes the qualifications for a radio operator on a radiotelegraph ship, a radiotelephone ship and a Global Maritime Distress and Safety System (GMDSS) ship. Subsequent to the making of Issue 4 of the Order, the categories of radiotelegraph and radiotelephone ship were abolished in accordance with the requirements of the *International Convention on the Safety of Life at Sea (SOLAS)*. Ships that are not GMDSS ships are now 'non-GMDSS ships'.

Part 6 also prescribes matters relating to the issue and renewal of certificates, review of decisions and penal provisions. The provisions relating to revalidation of certificates need to be updated to reflect changes in the STCW Convention.

Prior to 1 January 1994, 'GMDSS' Certificates were issued by the Department of Transport and Communications and then the Spectrum Management Authority (the predecessor body to the Australian Communications Authority). AMSA does not have jurisdiction over these certificates, and cannot replace or renew them. Certificates issued in 1995 and later are now becoming due for revalidation and it is necessary also to clearly distinguish between AMSA GMDSS certificates and the equivalent certificates issued by the Australian Communications Authority (ACA) and its predecessors.

Other changes are required as a result of AMSA internal changes.

OBJECTIVES

The objectives are to give effect to international requirements contained in the *International Convention on the Safety of Life at Sea 1974 (SOLAS)* and STCW Conventions, and the Radio Regulations as revised by the World Radiocommunication Conference, 1997.

OPTIONS

Option 1: Do nothing

This approach would involve making no change to Australian legislative requirements.

Option 2: Self-regulation

This approach would involve abolition of the Part, and adoption by industry of the STCW requirements as a industry code.

Option 3: Regulation

This option involves the making of a new Marine Order pursuant to subsection 425(1AA) of the *Navigation Act 1912*.

IMPACT ANALYSIS

Option 1: Do nothing

This would not comply with the requirements of SOLAS Convention and STCW Convention that Contracting Governments undertake to promulgate all laws, decrees, orders and regulations and to take all other steps which may be necessary to give the Convention full and complete effect. It would have the negative connotation that AMSA and the Government are not interested in safety.

Option 2: Self-regulation

An industry based code of practice would be inapplicable due to the obligations on Contracting Governments under the SOLAS Convention as detailed above. An industry based code of practice is not suitable for certification in accordance with international requirements.

Option 3: Regulation

The proposed new issue of Part 6 will remove requirements related to radiotelegraph and radiotelephone ships; amend the provisions relating to revalidation of certificates; amend titles consequent on changes to AMSA internal structure, and make other minor changes to bring the Part up to date and clarify requirements. GMDSS certificates issued by AMSA and equivalent certificates issued by ACA and its predecessor authorities are to be clearly distinguished.

It should have no effect on shipping companies or ships, but will clarify the requirements for revalidation of GMDSS certificates. On balance, costs to industry should be negligible.

Experience in the past suggests that shipping companies, ship owners, shipmasters and seafarers respond to regulation in a positive manner. The adoption of agreed standards in legislation leads to a certainty in the industry that supports and promotes efficient and safe operations.

CONSULTATION

In accordance with AMSA's statutory obligations, the draft text of the new issue has been circulated for comment to industry associations, educational institutions, industry unions and other involved regulatory authorities with no adverse responses. All relevant comments have been incorporated into the text.

CONCLUSION AND RECOMMENDED OPTION

Option 1 is incompatible with Australia's international obligations.

Option 2 is also incompatible with Australia's international obligations.

Option 3 will provide appropriate clarification of regulatory requirements, and be compatible with Australia's international obligations.

IMPLEMENTATION AND REVIEW

It is proposed that the draft Marine Order Part 6 enter into force on 1 October 2000.

A review period is proposed of five years, in line with the review period adopted for other Marine Orders.