

**EXPLANATORY NOTES**  
**Marine Orders, Part 58**  
**(International Safety Management Code)**  
**Issue 2**  
**Order No 10 of 2002**

**Authority**

1. Section 425(1) of the *Navigation Act 1912* (Navigation Act) empowers the Governor-General to make regulations necessary or convenient for carrying out or giving effect to the Act.
2. Section 425 (1AA) of the Navigation Act allows the Australian Maritime Safety Authority to make orders with respect to matters in Part IV of the Act in relation to which provision may be made by regulations.
3. Marine Orders, Part 58, Issue 2 was made pursuant to section 425(1AA).

**Gazette**

4. Arrangements have been made for this Issue to be gazetted in the Commonwealth of Australia Gazette, Government Notices, Wednesday 26 June 2002.

**Purpose**

5. Marine Orders Part 58 gives effect to Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS) 1974, as amended, for the purposes of the Navigation Act, and to the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code).
6. Marine Orders Part 58, Issue 2:
  - repeals Marine Orders Part 58, Issue 1;
  - gives effect to SOLAS Chapter IX amendments, December 2000;
  - gives effect to the ISM Code amendments.

**Consultation**

7. The draft text was circulated to the relevant industries and was placed on the AMSA external website for public comments.

**Overview**

8. The Maritime Safety Committee (MSC), of the International Maritime Organization (IMO) at its 73<sup>rd</sup> session, adopted resolution MSC.104.(73) on 5 December 2000. This resolution amended the International Safety Management (ISM) Code. The amendments are mainly related to period of

validity of certificates, interim certificates and forms of certificates. These amendments will come into effect on 1 July 2002.

9. The IMO Assembly at its 22<sup>nd</sup> session adopted Resolution A.913(22), *Revised Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations*, 29 November 2001. This resolution revoked resolution A.788(19) with effect as of 1 July 2002.
10. IMO resolution MSC.99(73) adopted on 5 December 2000 amended Chapter IX, Management for the Safe Operation of Ships, of SOLAS. These amendments shall enter into force on 1 July 2002.
11. The opportunity has been taken to amend and update a number of definitions and the provision related to the review of decisions procedure using current drafting standards.

### **Contents of the Order**

12. **Provision 1** indicates the purpose for which this Order has been made.
13. **Provision 2** provides definitions of words and phrases and **Provision 3** provides interpretations both of which are necessary for proper understanding of the Order.
14. **Provision 4** specifies the ships to which this Part applies.
15. **Provision 5** provides for the exemption of a ship from compliance with a requirement of the ISM Code or a provision of this Part and provides for the application of provisions of this Part to be modified or varied in respect of a ship that is, at least, effective as the requirements of the ISM Code or this Part. This provision does not provide for an exemption or equivalent that would contravene SOLAS or the ISM Code.
16. **Provision 6** provides for an internal review by the General Manager of a decision made by the Manager under this Part. This provision also provides for a review by the Administrative Appeals Tribunal of specified decisions made under this Part and for a statement of reasons to be provided by the decision-maker upon request of an applicant.
17. **Provision 7** is a penal provision that prohibits the master of a ship from taking the ship to sea unless there is a valid Safety Management Certificate in respect of the ship, and a copy on board, of a valid Document of Compliance in respect of the company operating the ship.
18. **Provision 8** provides for the inspection and detention of a ship. This provision also requires the master of a ship to comply with a detention order. This requirement is a penal provision.
19. **Provision 9** provides for the application, issue, auditing, endorsement & renewal of a Document of Compliance. The issue, endorsement and renewal of the document is subject to a company's safety management

system meeting the requirements of the ISM Code in accordance with the Guidelines.\*

*\*Revised guidelines on implementation of the International Safety Management (ISM) Code by Administrations, (the Guidelines), IMO Resolution A.913(22) and reproduced in Appendix 2 of this Part).*

20. **Provision 10** provides for the application, issue, auditing, endorsement & renewal of a Safety Management Certificate. The issue, endorsement and renewal of the certificate are subject to a company's safety management system meeting the requirements of the ISM Code in accordance with the Guidelines.
21. **Provision 11** provides for the issue of an interim Document of Compliance and interim Safety Management Certificate in accordance with the Guidelines.
22. **Provision 12** provides for a cancellation or variation of a Document of Compliance and the cancellation of a Safety Management Certificate. This provision also compels a company to surrender a cancelled Document of Compliance or a cancelled Safety Management Certificate, or to surrender a Document of Compliance requiring a variation. This requirement is a penal provision.
23. **Appendix 1** provides the International Safety Management Code, set out in IMO Resolution A.741(18) as amended by IMO Resolution MSC.104(73).
24. **Appendix 2** provides the *Revised guidelines on implementation of the International Safety Management (ISM) Code by Administrations* adopted by IMO Resolution A.913(22).
25. **Appendix 3** provides the *Document of Compliance* form; the *Safety Management Certificate* form; the *Interim Document of Compliance* form and the *Interim Safety Management Certificate*.