

Explanatory Statement

Marine Order 32, issue 3 (Order 2011/10)

Cargo handling equipment

Authority

1. Subsection 425(1) of the *Navigation Act 1912* (Navigation Act) authorises the Governor-General to make regulations necessary or convenient for carrying out or giving effect to the Navigation Act.
2. Subsection 425(1AA) of the Navigation Act allows the Australian Maritime Safety Authority (AMSA) to make orders for any matter in the Act for or in relation to which provision may be made by regulations.
3. This instrument was made under subsection 425(1AA) and is a legislative instrument for the *Legislative Instruments Act 2003*.

Overview

4. The previous issue of this instrument was reviewed and revised as part of the ongoing process of updating AMSA legislation.
5. This instrument gives effect to the International Labour Organization (ILO) conventions No 152 *Occupational Safety and Health (Dock Work)* 1979 and No 27 *Marking of Weight (Packages Transported by Vessels)* 1929. It also gives effect to the ILO Code of Practice, *Safety and Health in Dock Work*, and ILO Recommendation 160 *Occupational Safety and Health (Dock Work)* 1979.
6. It prescribes matters for the loading and unloading of cargo and the safe transfer of persons, from ships, off-shore industry vessels and off-shore industry mobile units, for subsection 425(1), paragraphs 283D(1)(b) and 283E(1)(b) and subparagraph 283E(1)(c)(xiii) of the Navigation Act.

Consultation

7. Consultation has been extensive, including stakeholder working groups to develop and review the drafts and engagement with individuals representing a wide spectrum of the industry. Over 70 organisations were invited to an information session held in Melbourne.
8. A copy of the draft Order was circulated, for the usual full public consultation exercise, to relevant AMSA managers, Australian Shipowners Association, Ports Australia, BHP Billiton, Rio Tinto, Department of Infrastructure and Transport, AMSA recognised organisations, Shipping Australia Limited, unions, education establishments and many other businesses involved in the maritime industry, and also placed on the AMSA website for public comment.

Commencement

9. This instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

Documents incorporated by reference

10. Other than information in other legislative instruments, the following documents (or parts of them) are incorporated by reference:
 - Australian Standards AS 3668-1989, AS 1915, AS 2430.1, AS 2359.1, AS 1841.1, AS 1841.4, AS 1841.5, AS 1841.7, AS 3569, AS 4143.1, AS 4142.1, AS 2321, AS 2759, AS 1939 — available from Standards Australia

- ILO Code of Practice: *Safety and Health in Ports, 2005*, published by the International Labour Organization
- IMDG Code, available from the International Maritime Organization
- Chapter 6.5 of the Recommendations on the Transport of Dangerous Goods — Model Regulations Rev. 14, published by the United Nations, 2005
- ISM Code, available from the International Maritime Organization
- "Guidance Note on the Interpretation of Exposure Standards for Atmospheric Contaminants in the Occupational Environment" (NOHSC 3008(1995) 3rd Edition), available from Safe Work Australia.

Contents of the Order

Division 1 General

11. Section 1 states the name of the Order.
12. Section 2 states that the Order commences on the day after it is registered.
13. Section 3 repeals the previous issue of the Order.
14. Section 4 provides the purpose of the Order.
15. Section 5 sets out the legislative basis for the Order.
16. Section 6 provides definitions of words and phrases used in the Order.
17. Section 7 provides an interpretation of when a ship is built, and clarifies that a loading or unloading operation can include both activities.
18. Section 8 specifies the ships and the off shore industry mobile units to which this instrument applies.
19. Section 9 provides for the exemption of a ship or class of ships from compliance with this instrument and provides for the use of an equivalent fitting, material, appliance or apparatus on board ship. The application procedure and associated appeal rights are set out in *Marine Order 1(Administration)*.

Division 2 Powers and functions of surveyors

20. Section 10 provides for a surveyor to inspect material handling equipment and the relevant register
21. A surveyor can issue a defect notice under section 11, and can prohibit the use of defective equipment for loading or unloading a ship.
22. Section 12 allows a surveyor to require a shipper to weigh cargo or appliances.
23. Section 13 allows a surveyor to prohibit an unsafe loading or unloading operation.

Division 3 Person in charge

24. Section 14 provides for the appointment of a person in charge of the loading or unloading of a ship and specifies the responsibilities of the person in charge for safe handling of cargo and safety of personnel.
25. The functions and duties of the person in charge are set out in section 15.

Division 4 Loading and unloading

26. Section 16 creates an offence of loading or unloading that is not under the direction of the person in charge.
27. Section 17 creates a general offence for the person in charge, master of a ship or terminal operator for not complying with the Order.

28. Section 18 requires person to be qualified or authorised for activities related to loading or unloading, and only to use equipment related to loading or unloading for the purpose it is intended and in compliance with Schedule 6.
29. Section 19 specifies the conditions for loading or unloading from a manned barge or lighter.
30. Section 20 deals with removal or interference with equipment during loading or unloading.
31. Section 21 requires dangerous situations to be reported.
32. Section 22 provides a general requirement for compliance with Schedule 1.
33. Section 23 provides for safe means for personnel to board or leave a ship during loading or unloading and provides requirements to prevent entry to a working atmosphere that is not safe and the marking of obstructions to the free passage of vehicular traffic.
34. Section 24 provides for cargo to be marked with its gross mass before loading.

Division 5 Safe working load

35. Section 25 requires a ship on which lifting appliances are installed to carry a rigging plan, drawings and instructions for their use.
36. Section 26 requires safe working loads to be determined and marked.
37. Section 27 sets criteria for determining safe working loads.
38. Section 28 prohibits the use of materials handling equipment to handle loads that exceed the safe working load.
39. Section 29 provides for testing, inspection and certification of materials handling equipment.

Division 6 Certificates of test and register of material handling equipment

40. Section 30 provides for the keeping of a register of materials handling equipment
41. Section 31 prescribes the form to be used for certificates of test of material handling equipment and provides for the acceptance of non-Australian certificates and copies of certificates.
42. Section 32 requires test and other relevant certificates to be kept in or with the register of materials handling equipment and to be available for inspection.

Division 7 Maintenance and repair of ships' material handling equipment

43. Section 33 provides for the correct maintenance of materials handling and other equipment.
44. Section 34 requires sufficient qualified persons to be available for the use of equipment used for loading or unloading.
45. Section 35 provides for the protection of persons and assessment of danger in maintenance or repair work.
46. Section 36 requires a person to be competent and equipped before carrying out repair work on material handling equipment.
47. Section 37 required heat treatment of equipment if appropriate.

48. Section 38 requires certification of repaired materials and appropriate recording of repairs.

49. Section 39 is a transitional provision that enables the recognition of a test or examination conducted in accordance with a previous issue of the Order as conducted in accordance with this instrument, and allows the continuance of a certificate granted under a previous issue of the Order. It also allows a transitional period before various requirements of Schedule 2 will become mandatory.

Schedules

50. Schedule 1 prescribes general requirements for dock work safety in unloading and loading.

51. Schedule 2 specifies the requirements for access by dock workers.

52. Schedule 3 prescribes the construction requirements and operational procedures for a personnel cradle and associated crane.

53. Schedule 4 provides for testing and examination of materials handling equipment.

54. Schedule 5 specifies conditions for using material handling equipment. It also requires that the safe working load be marked on each article of cargo gear and provides for additional markings on intermediate bulk containers and returnable cargo units.

55. Schedule 6 specifies the maximum permissible loads allowed when operating material handling equipment.

56. Schedule 7 specifies general requirements for cranes, including track-mounted cranes, detailed drawings, the fitting of effective motion-limiting devices and marking of cranes.

57. Schedule 8 provides for safety precautions for the use of specialised handling equipment.

58. Schedule 9 provides for the marking of cargo and mechanical stowing appliances with their gross mass. It also provides for the deeming of the gross mass of unmarked transport equipment and unitised or pre-slung cargo.

59. Schedule 10 specifies the requirements for splices in wire ropes.

60. Schedule 11 contains AMSA Forms MO32/1, MO32/2, MO32/3 and MO32/4.

Making the Order

61. This instrument has been made by the Acting Chief Executive Officer of the Australian Maritime Safety Authority, in accordance with subsection 49(4) of the *Australian Maritime Authority Act 1990*.