



Australian Government
Australian Maritime Safety Authority

AMSA MO 2013/14

Marine Order 64 (Vessel traffic services) 2013

I, Graham Peachey, Chief Executive Officer of the Australian Maritime Safety Authority, make this Order under subsection 342(1) of the *Navigation Act 2012*.

5 August 2013

Graham Peachey
Chief Executive Officer

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Division 1 Preliminary

1 Name of Order

This Order is *Marine Order 64 (Vessel traffic services) 2013*.

2 Commencement

This Order commences on 1 September 2013.

3 Purpose

This Order:

- (a) provides for vessel traffic services for Australia; and
- (b) gives effect to Regulation 12 of Chapter V of SOLAS.

4 Power

- (1) The following provisions of the Navigation Act provide for this Order to be made:
 - (a) subsection 213(1) which provides for regulations to be made about vessel traffic services;
 - (b) paragraph 340(1)(a) which provides for regulations to be made to give effect to SOLAS;
 - (c) subsection 341(1) which provides that the regulations may provide for the imposition of penalties and civil penalties for a contravention of the regulations or a notice, order, direction or instruction given, issued or made under, or in force because of, the regulations;
 - (d) subsection 342(1) which provides for AMSA to make orders about matters that can be provided for by regulations;
 - (e) subsection 342(4) which provides for Orders to provide for any matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other document as in force at a particular time or from time to time.
- (2) Subsection 339(1) of the Navigation Act also provides a general regulation making power for matters required or permitted to be prescribed by the Navigation Act, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

5 Definitions

- (1) In this Order:

approved means approved in writing by AMSA.

Guidelines for vessel traffic services means the IMO's *Guidelines for Vessel Traffic Services* adopted by IMO Resolution A.857(20) as in force from time to time.

Note A copy of each IMO resolution that adopts or amends the Guidelines is available on the IMO website at <http://www.imo.org> and on AMSA's website at <http://www.amsa.gov.au>.

IALA means the International Association of Marine Aids to Navigation and Lighthouse Authorities.

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IALA Guideline No.1014 means *IALA Guideline No.1014 On the Accreditation and Approval Process for VTS Training* as in force from time to time.

Note This Guideline is available from the IALA website at <http://www.iala-aism.org>.

IALA Recommendation V-103 means *IALA Recommendation V-103 On Standards for Training and Certification of VTS Personnel* as in force from time to time.

Note This Recommendation is available from the IALA website at <http://www.iala-aism.org>.

vessel traffic service operator (or **VTSO**) means a person who performs tasks contributing to the operation of vessel traffic services.

VTS area, for a VTS authority, means a geographical area for which AMSA has authorised the VTS authority to provide a vessel traffic service.

Note For a list of VTS areas — see the AMSA website at <http://www.amsa.gov.au>.

VTS authority has the same meaning as **vessel traffic service authority** in section 14 of the Navigation Act.

VTS service means an information service, a navigational assistance service or a traffic organisation service.

VTS training course means a course of training in the tasks carried out by VTS operators that meets the requirements of IALA Recommendation V-103.

VTS training organisation means a person that is accredited under section 23.

Note 1 Some terms used in this Order are defined in *Marine Order 1(Administration) 2011*, including:

- AMSA Act
- IMO
- Navigation Act
- SOLAS.

Note 2 Other terms used in this Order are defined in the Navigation Act, including:

- AMSA
- vessel traffic service
- vessel traffic service authority.

Note 3 There is information on obtaining copies of IMO resolutions and documents mentioned in this Order on AMSA's website at <http://www.amsa.gov.au>.

- (2) For the definition of **competent authority** in section 1.1.2 of the *Guidelines for vessel traffic services* and in section 1.3 of *IALA Recommendation V-103*, the competent authority for Australia is AMSA.
- (3) For the definition of **VTS area**, AMSA may declare a geographical area to be a VTS area.

Note A declaration may be made in an instrument of authority for the provision of a vessel traffic service in a VTS area.

6 Application

This Order applies to:

- (a) each of the following entities:
 - (i) an entity that applies to AMSA for authorisation to provide a vessel traffic service;
 - (ii) a VTS authority;

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- (iii) an entity that applies to AMSA for accreditation as a VTS training organisation;
- (iv) a VTS training organisation; and
- (b) the masters of each of the following vessels:
 - (i) a regulated Australian vessel;
 - (ii) a foreign vessel;
 - (iii) a domestic commercial vessel;
 - (iv) a recreational vessel; and
- (c) vessel traffic service operators.

7 Decision makers

- (1) This section applies to an application for any matter that this Order provides is a matter for which an application must be made in accordance with *Marine Order 1 (Administration) 2011*.
- (2) The decision maker for the application is the person holding or occupying an office in AMSA to which the power to make a decision on the application has been delegated.
- (3) The process set out in *Marine Order 1 (Administration) 2011* is varied as it applies to the application so that the person who reviews a reviewable decision is the person holding or occupying an office in AMSA to which the power to review the reviewable decision has been delegated.

Division 2 Authorisation of VTS authorities**8 Application for authorisation**

- (1) An entity may apply to AMSA for authorisation to provide a vessel traffic service for a VTS area.
- (2) The application must be made in accordance with *Marine Order 1 (Administration) 2011*.

Note: *Marine Order 1 (Administration) 2011* requires a supporting statement setting out the grounds for the application. It also provides that if a fee is charged the application must be accompanied by the prescribed fee and, if a form is approved for the application, the approved form must be used.

- (3) The supporting statement in the application must:
 - (a) propose a geographical area to be the VTS area; and
 - (b) state the VTS services to be provided by the applicant; and
 - (c) state how the provision of a vessel traffic service in the proposed geographical area will meet the objectives of improving the safety and efficiency of vessel traffic and protecting the environment; and
 - (d) propose objectives for the vessel traffic service to be provided that are consistent with the objectives mentioned in paragraph (c); and
 - (e) state how the applicant considers it can meet the responsibilities of a VTS authority that are mentioned in the *Guidelines for vessel traffic services*.

Note for paragraph (b) For further information about the 3 kinds of VTS services that may be provided — see subsection 2.3 of the *Guidelines for vessel traffic services*.

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Note for paragraph (c) See subsection 2.1 (Objectives) of the *Guidelines for vessel traffic services* and the definition of **vessel traffic service** in section 14 of the Navigation Act for the reason for these objectives.

Note For further guidance about the content of the supporting statement — see IALA Recommendation V-103 at the IALA website at <http://www.iala-aism.org> and the AMSA website at <http://www.amsa.gov.au>.

9 Criteria for authorisation

The criteria for authorisation to provide a vessel traffic service for a VTS area are that the decision maker is satisfied that:

- (a) there needs to be a vessel traffic service for the VTS area; and
- (b) the applicant can meet the responsibilities of a VTS authority that are mentioned in the *Guidelines for vessel traffic services* when operating the vessel traffic service.

Note AMSA may conduct an audit of the applicant's operations to determine if the applicant can meet the criteria mentioned in paragraph (b) — see subsection 18(1).

10 Instrument of authority

- (1) If AMSA decides to authorise the applicant to provide a vessel traffic service for a VTS area it must give the applicant an instrument of authority.
- (2) AMSA must mention in the instrument of authority:
 - (a) the objectives for the vessel traffic service; and
 - (b) each condition with which the applicant must comply.
- (3) The issue of an instrument of authority is taken to be a decision to approve an application for subsection 16.1 of *Marine Order 1 (Administration) 2011*.

11 Conditions on authorisation

- (1) A VTS authority must operate in accordance with the *Guidelines for vessel traffic services*.
- (2) AMSA may impose further conditions with which the VTS authority must comply.

12 Term of authorisation

- (1) An authorisation:
 - (a) comes into force on the day the instrument of authority is issued; and
 - (b) expires at the earlier of:
 - (i) 5 years after the day the instrument of authority is issued; or
 - (ii) when it is cancelled.
- (2) If an authorisation is suspended, it is not in force during the period of suspension.

13 Amendment of instrument of authority

- (1) AMSA may amend an instrument of authority on application by the VTS authority that holds the instrument or on AMSA's own initiative:
 - (a) to change conditions imposed on the authority; or
 - (b) to impose further conditions on the authority; or
 - (c) to change the boundaries of the VTS area; or

- (d) to change the description of the VTS services to be provided; or
- (e) to change details in the instrument of authority that are no longer accurate;
or
- (f) to include any other details it considers necessary.

Note An amendment may be required if, for example, a major non-conformance is identified in an audit.

- (2) An application must be made in accordance with *Marine Order 1 (Administration) 2011*.

Note *Marine Order 1 (Administration) 2011* requires a supporting statement setting out the grounds for the application. It also provides that if a fee is charged the application must be accompanied by the prescribed fee and, if a form is approved for the application, the approved form must be used.

- (3) The supporting statement in an application must, in addition to setting out the grounds for the application, mention the way the instrument of authority is proposed to be amended.
- (4) A decision to amend an instrument of authority on AMSA's own initiative may be made by the decision-maker and is a reviewable decision for section 18 of *Marine Order 1 (Administration) 2011*.

14 Criteria for amendment

The criteria for amendment of an instrument of authority are that the decision maker is satisfied that:

- (a) the amendment is consistent with the objectives of improving the safety and efficiency of vessel traffic and protecting the environment; and
- (b) the applicant can continue to meet the responsibilities of a VTS authority that are mentioned in the *Guidelines for vessel traffic services* when operating the vessel traffic service.

15 Notification of proposed amendment

AMSA may amend an instrument of authority on application or on its own initiative only if:

- (a) AMSA has given written notice of the proposed amendment seeking comments on the proposed amendment within a stated period of less than 90 days to:
 - (i) the VTS authority to which the instrument of authority was issued (unless the VTS authority applied for the amendment); and
 - (ii) each State or Territory agency responsible for maritime safety in the State or Territory where the VTS area mentioned in the instrument of authority is located; and
 - (iii) any other body AMSA considers may have an interest in the proposed amendment; and
- (b) AMSA has considered any written comments received in response to the proposed amendment.

16 Renewal

- (1) AMSA may renew an authorisation on application by the VTS authority to which an instrument of authority is given.

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- (2) The application must be made at least 90 days before the expiry of the instrument.
- (3) The application must be made in accordance with *Marine Order 1 (Administration) 2011*.
Note: *Marine Order 1 (Administration) 2011* requires a supporting statement setting out the grounds for the application. It also provides that if a fee is charged the application must be accompanied by the prescribed fee and, if a form is approved for the application, the approved form must be used.
- (4) AMSA may renew the authorisation only if satisfied that the VTS authority holding the instrument of authority has continued to comply with the conditions to which it is subject.

Note Conditions imposed on the authorisation must be included in the instrument of authority — see subsection 10(2).

17 Suspension or cancellation

- (1) AMSA may suspend or cancel an authorisation if it considers that the VTS authority holding the instrument of authority has not complied with:
 - (a) a condition to which it is subject; or
 - (b) a reasonable request made by an auditor under section 19.
- (2) AMSA may cancel an authorisation if the VTS authority to which the instrument of authority is issued has surrendered it to AMSA for cancellation.
- (3) A decision to suspend or cancel an authorisation is a reviewable decision for section 18 of *Marine Order 1 (Administration) 2011*.

Division 3 Auditing VTS authorities**18 Conduct of audits**

- (1) Before deciding to authorise a VTS authority, AMSA, or an organisation approved for auditing of VTS authorities, may conduct an audit of the operations of the applicant for authorisation to determine if it meets the criterion mentioned in paragraph 9(b).
- (2) AMSA, or an organisation approved for auditing of VTS authorities, may conduct an audit of a VTS authority at any time.
- (3) The purpose of an audit of a VTS authority, other than an audit mentioned in subsection (1), is to determine if the authority complies with the conditions to which its authorisation is subject.
- (4) An audit may review all aspects of the operation of a VTS authority that are relevant to its provision of a VTS service.

Note AMSA may charge a fee for the conduct of an audit mentioned in this section — see s 47 of the AMSA Act.

19 Compliance with auditor's requirements

A VTS authority that is the subject of an audit must comply with all reasonable requests made by an auditor for the conduct of the audit.

Division 4 Accreditation of VTS training organisations**20 Application for accreditation**

- (1) A person may apply to AMSA for accreditation as a VTS training organisation.

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- (2) The application must be made in accordance with *Marine Order 1 (Administration) 2011*.

Note *Marine Order 1 (Administration) 2011* requires a supporting statement setting out the grounds for the application. It also provides that if a fee is charged the application must be accompanied by the prescribed fee and, if a form is approved for the application, the approved form must be used.

- (3) The supporting statement in the application must:
- show that the applicant is a registered training organisation with the Australian Skills Quality Authority or the Tertiary Education Quality and Standards Agency; and
 - describe each VTS training course the applicant proposes to provide and state the related IALA model course on which it is to be based; and
 - state how the applicant considers it can meet the responsibilities of a VTS training organisation that are mentioned in *IALA Guideline No.1014*.

Note for paragraph (a) See the website at <http://www.asqa.gov.au> for more information about the Australian Skills Quality Authority.

Note for paragraph (b) Before accrediting an entity as a VTS training organisation AMSA will assess each VTS training course it proposes to provide in accordance with *IALA Guideline No.1014*.

21 Criteria for accreditation

The criteria for accreditation as a VTS training organisation are that the decision maker is satisfied that:

- the applicant is a registered training organisation with the Australian Skills Quality Authority or the Tertiary Education Quality and Standards Agency; and
- the applicant can meet the responsibilities of a VTS training organisation that are mentioned in *IALA Guideline No. 1014*.

Note 1 AMSA may conduct an audit of the applicant's operations to determine if the applicant can meet the criteria mentioned in paragraph (b) — see subsection 30(1).

Note 2 The responsibilities mentioned in paragraph (b) include the delivery of approved VTS training courses based on IALA model courses.

22 Certificate of accreditation

- If AMSA decides to accredit the applicant as a VTS training organisation, it must give the applicant a certificate of accreditation.
- AMSA must state in the certificate:
 - the approved VTS training courses that the VTS training organisation may provide; and
 - each condition with which the VTS training organisation must comply.
- The issue of a certificate of accreditation is taken to be a decision to approve an application for subsection 16.1 of *Marine Order 1 (Administration) 2011*.

23 Conditions on accreditation

- A VTS training organisation must operate in accordance with *IALA Guideline No. 1014*.
- AMSA may impose further conditions with which the VTS training organisation must comply.

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24 Term of accreditation

An accreditation:

- (a) comes into force on the day the certificate of accreditation is issued; and
- (b) expires at the earlier of:
 - (i) 5 years after the day the certificate of accreditation is issued; or
 - (ii) when it is cancelled.

25 Amendment of certificate of accreditation

- (1) AMSA may amend a certificate of accreditation on application by the VTS training organisation that holds the certificate or on AMSA's own initiative:
 - (a) to change conditions imposed on the accreditation; or
 - (b) to impose further conditions on the accreditation; or
 - (c) to change details in the certificate that are no longer accurate; or
 - (d) to include any other details it considers necessary.

Note An amendment may be required if, for example, an audit has identified a major non-conformance or the VTS training organisation proposes to provide an approved VTS training course that is not mentioned in the certificate.

- (2) An application must be made in accordance with *Marine Order 1 (Administration) 2011*.

Note *Marine Order 1 (Administration) 2011* requires a supporting statement setting out the grounds for the application. It also provides that if a fee is charged the application must be accompanied by the prescribed fee and, if a form is approved for the application, the approved form must be used.

- (3) The supporting statement in an application must, in addition to setting out the grounds for the application, state the way the certificate of accreditation is proposed to be amended.
- (4) A decision to amend a certificate of accreditation on AMSA's own initiative may be made by the decision-maker and is a reviewable decision for section 18 of *Marine Order 1 (Administration) 2011*.

26 Criteria for amendment

The criteria for amendment of a certificate of accreditation are that the decision maker is satisfied that:

- (a) the applicant is a registered training organisation with the Australian Skills Quality Authority or the Tertiary Education Quality and Standards Agency; and
- (b) the applicant can meet the responsibilities of a VTS training organisation set out in *IALA Guideline No. 1014* including the delivery of VTS training courses.

Note AMSA may conduct an audit of the applicant's operations to determine if the applicant can meet the criteria mentioned in paragraph (b) — see subsection 30(1).

27 Notification of proposed amendment

AMSA may amend a certificate of accreditation on application or on its own initiative only if:

- (a) AMSA has given written notice of the proposed amendment seeking comments on the proposed amendment within a stated period of less than 90 days to:
 - (i) the VTS training organisation to which the certificate of accreditation was issued (unless the VTS training organisation applied for the amendment); and
 - (ii) any other body AMSA considers may have an interest in the proposed amendment; and
- (b) AMSA has considered any written comments received in response to the proposed amendment.

28 Renewal

- (1) AMSA may renew an accreditation on application by the VTS training organisation to which the certificate of accreditation is given.
- (2) The application must be made at least 90 days before the expiry of the certificate.
- (3) The application must be made in accordance with *Marine Order 1 (Administration) 2011*.

Note *Marine Order 1 (Administration) 2011* requires a supporting statement setting out the grounds for the application. It also provides that if a fee is charged the application must be accompanied by the prescribed fee and, if a form is approved for the application, the approved form must be used.

- (4) AMSA may renew the accreditation only if satisfied that the VTS training organisation holding the certificate has continued to comply with the conditions to which it is subject.

Note Conditions imposed on the accreditation must be included in the certificate — see subsection 22(2).

29 Suspension or cancellation

- (1) AMSA may suspend or cancel an accreditation if it considers that the VTS training organisation holding the certificate of accreditation has not complied with:
 - (a) a condition to which it is subject; or
 - (b) a reasonable request made by an auditor for the conduct of an audit.
- (2) AMSA may cancel an accreditation if the VTS training organisation to which the certificate of accreditation is issued has surrendered it to AMSA for cancellation.
- (3) A decision to suspend or cancel an accreditation is a reviewable decision for section 18 of *Marine Order 1 (Administration) 2011*.

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Division 5 Auditing of VTS training organisations**30 Conduct of audits**

- (1) Before deciding to accredit a VTS training organisation, AMSA may conduct an audit of the operations of the applicant for accreditation to determine if it meets the criterion mentioned in paragraph 21(b).
- (2) AMSA, or an organisation approved for auditing of VTS training organisations, may conduct an audit of a VTS training organisation at any time.
- (3) The purpose of an audit of a VTS training organisation, other than an audit mentioned in subsection (1), is to determine if the organisation complies with the conditions to which its accreditation is subject.
- (4) An audit may review all aspects of the operation of a VTS training organisation.

Note AMSA may charge a fee for the conduct of an audit mentioned in this section — see s 47 of the AMSA Act.

31 Compliance with auditor's requirements

A VTS training organisation that is the subject of an audit must comply with all reasonable requests made by an auditor for the conduct of the audit.

Division 6 Transitional arrangements**32 Recognition of previously accredited training organisations**

- (1) A person to whom a certificate of accreditation to provide training to VTSOs was issued by AMSA before 1 July 2013 is taken to be a VTS training organisation for this Order.
- (2) This Order applies as if:
 - (a) an application was made under subsection 20(1) by the person that is the VTS training organisation; and
 - (b) the certificate of accreditation held by the person meets the requirements for approval of the application; and
 - (c) the application was approved by AMSA subject to the condition mentioned in subsection 23(1).

Division 7 Other matters**33 Masters to provide reports required by VTS authority**

The master of a vessel must give to a VTS authority each report or any information the VTS authority requires the master to provide.

Note 1 Information may be required, for example, about the identity, intended passage or geographical location of the vessel.

Note 2 It is an offence not to provide a report or information required by this Order — see section 215 of the Navigation Act.

34 Masters to comply with instructions of VTS authority

- (1) The master of a vessel must comply with each instruction for the movement of the vessel given to the vessel by a VTS Authority.

Penalty: 50 penalty units.
- (2) An offence against subsection (1) is a strict liability offence.

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- (3) A person is liable to a civil penalty if the person contravenes subsection (1).
Civil penalty: 50 penalty units.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>