

Explanatory Statement

Marine Order 15 (Construction — fire protection, fire detection and fire extinction) 2014 (Order 2014/7)

Authority

1. This Order is made under the *Navigation Act 2012* (the Navigation Act). Subsection 342(1) of the Navigation Act allows the Australian Maritime Safety Authority (AMSA) to make orders about matters that can be provided for by regulations.
2. Subsection 339(1) of the Navigation Act authorises the Governor-General to make regulations required or permitted by the Act, or necessary or convenient for carrying out or giving effect to the Act.
3. Paragraph 339(2)(h) of the Navigation Act provides that the regulations may provide for the prevention, detection and extinction of fire on vessels.
4. Paragraph 340(1)(a) of the Navigation Act provides that regulations may be made to give effect to the International Convention for the Safety of Life at Sea (SOLAS).
5. Subsection 33(3) of the Acts Interpretation Act 1901 provides that a power in an Act to make a legislative instrument includes the power to repeal or amend the instrument, subject to any conditions that apply to the initial power.
6. This Order is a legislative instrument for the Legislative Instruments Act 2003.

Purpose

7. This Order gives effect to Chapter II-2 of SOLAS (Chapter II-2) and prescribes standards for fire safety. Chapter II-2 deals with fire protection, fire detection and fire extinction for vessels.

Overview

8. This Order implements Australia's obligations under Chapter II-2 which deals with fire protection, fire detection and fire extinction for vessels. The Order replaces *Marine Order 15 (Construction — fire protection, fire detection and fire extinction) 2009*.
9. The Order applies Chapter II-2 to Australian and foreign vessels that come within its terms. Australian vessels must also comply with additional requirements set out in the Schedules. Separate requirements are set out for Australian vessels that are not covered by SOLAS. Foreign vessels not covered by SOLAS are required to comply with any certificates issued by or for the administration of the country in which they are registered.
10. The structure of the Order has been changed and current legislative drafting style applied. When this Order commences, schedule 6 of *Marine Order 4 (Transitional Modifications) 2013* will cease to have effect because that schedule modifies the previous issue of this Order.

Consultation

11. A copy of the draft of this Order was posted on AMSA's website for public comment. Over 300 stakeholders including industry organisations and interested government agencies were invited to comment. Four responses were received and these comments were taken into account when preparing the final draft.

12. The Office of Best Practice Regulation (OBPR) was also consulted and considered that the Order dealt with matters of a minor or machinery nature and no regulatory impact statement was required. The OBPR reference number is 16204.

Documents incorporated by reference

13. This Order incorporates the following documents by reference:

- Chapter II-2
- the *International Code for Fire Safety Systems* adopted by International Maritime Organization (IMO) Resolution MSC.98(73) (the FSS Code)
- the *International Code for Application of Fire Test Procedures* adopted by IMO Resolution MSC.307(88) (the FTP Code)
- the *Code for the Construction and Equipment of Mobile Offshore Drilling Units, 1979* adopted by IMO Resolution A.414(XI) as in force from time to time (the 1979 MODU Code).
- the *Code for the Construction and Equipment of Mobile Offshore Drilling Units, 1989* adopted by IMO Resolution A.649(16) as in force from time to time (the 1989 MODU Code)
- the *Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009* adopted by IMO Resolution A.1023 (26) and its corrigendum (Corr.1), as in force from time to time (the 2009 MODU Code)
- the International Code of Safety for High-Speed Craft adopted by IMO Resolution MSC.36(63), as in force from time to time (the 1994 HSC Code)
- the International Code of Safety for High-Speed Craft adopted by IMO Resolution MSC.97 (73), as in force from time to time (the 2000 HSC Code)
- the Code of Safety for Dynamically Supported Craft adopted by IMO Resolution A.373 (X), as in force from time to time (the DSC Code)
- National Standard for Commercial Vessels, Part C, Section 4
- the *International Association of Classification Societies Recommendation No. 99 (2007) Recommendations for the Safety of Cargo Vessels of less than Convention Size* (IACS Recommendation No. 99)
- Australian Standard AS/NZS 1715:2009, *Selection, use and maintenance of respiratory protective equipment*
- Australian Standard AS/NZS 1716:2012, *Respiratory protective devices*
- IMO resolution A.951(23) *Improved guidelines for marine portable fire extinguishers*
- European Council *Marine Equipment Directive 96/98/EC*
- IMO circular MSC.1/Circ.1275 *Unified interpretation of SOLAS Chapter II-2 on the number and arrangement of portable fire extinguishers on board ships*
- IMO circular MSC.1/Circ.1432 *Revised guidelines on maintenance and inspection of fire protection systems and appliances*
- Australian Standard AS/NZS 1660.5.6:2005 *Test methods for electric cables, cords and conductors — Fire tests — Test for vertical flame propagation for a single insulated wire or cable*
- IEC 60331-1 Ed 1.0 2009-5 *Tests for electric cables under fire conditions - Circuit integrity - Part 1: Test method for fire with shock at a temperature of*

at least 830 °C for cables of rated voltage up to and including 0,6/1,0 kV and with an overall diameter exceeding 20 mm

- IEC 60331-21 Ed 1.0 1999-04 *Tests for electric cables under fire conditions - Circuit integrity - Part 21: Procedures and requirements - Cables of rated voltage up to and including 0,6/1,0 kV*

14. Copies of IMO resolutions and circulars mentioned in the Order are available on AMSA's website at <http://www.amsa.gov.au>. IMO documents may also be purchased from the IMO — see the IMO website at <http://www.imo.org/publications>.

Commencement

15. This Order commences on 1 July 2014.

Contents of this instrument

16. Section 1 sets out the name of the Order.

17. Section 2 provides for the commencement of the Order.

18. Section 3 repeals the previous issue of the Order which was continued in effect and modified by *Marine Order 4 (Transitional Modifications) 2013*.

19. Section 4 states the purpose of the Order, which is to give effect to Chapter II-2 and prescribe standards for fire safety.

20. Section 5 sets out the powers in the Navigation Act that enable the Order to be made.

21. Section 6 sets out definitions of terms used in the Order.

22. Section 7 provides for the interpretation of Chapter II-2, the FSS Code and the FTP Code.

23. Section 8 applies the Order to regulated Australian vessels and foreign vessels.

24. Section 9 provides a process for an exemption from a requirement of the Order.

25. Section 10 enables an application for approval to use an equivalent of a requirement of the Order.

26. Section 11 requires vessels that are covered by Chapter II-2 to comply with its requirements. In addition, regulated Australian vessels must also comply with the requirements of Schedules 1 to 3. However, vessels surveyed and certified under codes relating to mobile offshore drilling units or high-speed craft must comply with the standards of the code under which they are certified.

27. Section 12 sets out the fire safety requirements that apply to regulated Australian vessels to which Chapter II-2 does not apply. Section 12 also provides that foreign vessels to which Chapter II-2 does not apply are required to comply with any certificates issued for the administration of the country in which they are registered.

28. Schedules 1 to 3 set out further requirements for regulated Australian vessels. Schedule 1 deals with breathing apparatus. Schedule 2 covers fire extinguishers. Schedule 3 contains requirements for equipment testing, electrical cables and a range of other matters mentioned in Chapter II-2.

Compatibility with human rights

29. This statement is made for subsection 9(1) of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the legislative instrument

30. The Order deals with fire safety on vessels and implements Australia's obligations under Chapter II-2 of the International Convention for the Safety of Life at Sea (SOLAS) which deals with fire protection, fire detection and fire extinction for vessels.

31. Australian and foreign vessels to which Chapter II-2 of SOLAS applies, are required to comply with the specifications of that Chapter. Australian vessels must also comply with additional requirements set out in the Schedules. Separate requirements are set out for Australian vessels that are not covered by SOLAS. Foreign vessels not covered by SOLAS are required to comply with any certificates issued by or for the administration of the country in which they are registered.

Human Rights implications

32. This instrument does not engage any of the applicable rights or freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Conclusion

33. This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Making the instrument

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