



Australian Government
Australian Maritime Safety Authority

AMSA MO 2014/10

Marine Order 93 (Marine pollution prevention — noxious liquid substances) 2014

I, Mick Kinley, Acting Chief Executive Officer of the Australian Maritime Safety Authority, make this Order under subsection 342(1) of the *Navigation Act 2012* and subsection 34(1) of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*.

28 May 2014

Mick Kinley
Acting Chief Executive Officer

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Division 1 Preliminary

1 Name of Order

This Order is *Marine Order 93 (Marine pollution prevention — noxious liquid substances) 2014*.

1A Commencement

This Order commences on 1 July 2014.

1B Repeal of *Marine Order 93 (Marine pollution prevention — noxious liquid substances) 2006*

Marine Order 93 (Marine pollution prevention — noxious liquid substances) 2006 is repealed.

2 Purpose

This Order:

- (a) gives effect to Annex II of MARPOL; and
- (b) prescribes matters for Chapter 4 of the Navigation Act; and
- (c) prescribes matters for Part III of the Pollution Prevention Act.

Note Regulation 11 of Annex II is given effect by *Marine Order 17 (Liquefied gas carriers and chemical tankers) 2006*.

3 Power

- (1) This Order is made under both the Navigation Act and the Pollution Prevention Act.
- (2) The following provisions of the Navigation Act provide for this Order to be made:
 - (a) section 130 which provides that the regulations may provide for pollution certificates;
 - (b) section 314 which provides that the regulations may prescribe various matters about certificates;
 - (c) subsection 339(1) which provides for regulations to be made prescribing matters required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act;
 - (d) paragraph 340(1)(c) which provides that the regulations may provide for giving effect to MARPOL;
 - (e) subsection 342(1) which provides that AMSA may make orders about matters that can be provided for by regulations.
- (3) The following provisions of the Pollution Prevention Act provide for this Order to be made:
 - (a) paragraphs 33(1)(a) and (b) which provide for regulations to be made prescribing matters required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act;
 - (b) paragraph 33(1)(c) which provides for regulations under paragraphs 33(1)(a) and (b) to be made to give effect to MARPOL;

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- (c) subsection 34(1) which provides that AMSA may make orders for any matter (other than the imposition of penalties) for which provision may be made by regulation.

4 Definitions

In this Order:

Annex II means Annex II to MARPOL.

anniversary date, for a certificate, means the day and the month of each year corresponding to the day and month of expiry of the certificate.

BCH Code means the *Code for the Construction and Equipment of ships Carrying Dangerous Chemicals in Bulk* adopted by IMO resolution MSC.9(53), as in force from time to time.

IBC Code has the same meaning as in *Marine Order 17 (Liquefied gas carriers and chemical tankers) 2006*.

IPP certificate means a certificate that is:

- (a) a pollution certificate relating to carriage of noxious liquid substances issued under section 132 of the Navigation Act; and
- (b) in the form of the International Pollution Prevention Certificate set out in Appendix III of Annex II.

Note 1 Some terms used in this Order are defined in *Marine Order 1 (Administration) 2013*, including:

- IMO
- MARPOL
- Navigation Act
- Pollution Prevention Act.

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

- AMSA
- inspector
- master
- recognised organisation (for organisations that have been prescribed for the definition — see *Marine Order 1 (Administration) 2013*);

and in the Pollution Prevention Act:

- Australian ship
- foreign ship
- Procedures and Arrangements Manual
- the Convention.

Note 3 Most provisions of this Order are expressed using terms used in the Navigation Act (eg, vessel). However, some provisions of this Order that are made solely under the Pollution Prevention Act use terms used in that Act (eg, Australian ship). An example of a provision using terms used in the Pollution Prevention Act is paragraph 27(c).

Note 4 Information on obtaining copies of IMO Resolutions or other documents mentioned in this Order is available on AMSA's website at <http://www.amsa.gov.au>.

Note 5 For delegation of AMSA's powers under this Order — see the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

5 Application of this Order

- (1) Subject to subsection 33(2) of the Pollution Prevention Act and section 12 of the Navigation Act, this Order applies to a vessel:
 - (a) that is:
 - (i) a regulated Australian vessel; or
 - (ii) a domestic commercial vessel; or
 - (iii) a recreational vessel that has Australian nationality; and
 - (b) that is a vessel:
 - (i) to which Annex II applies; or
 - (ii) that is owned or operated by the Commonwealth and used, for the time being, on government non-commercial service.
- (2) Subject to subsection 33(2) of the Pollution Prevention Act and section 12 of the Navigation Act, this Order, other than Division 3, applies to a foreign vessel to which Annex II applies.

Note Division 6 applies to a foreign vessel for subsections 32(1) and 32(1A) of the Pollution Prevention Act (which allows sections 22A to 26AA of that Act to be applied without modification or exception to a foreign ship).

6 Meaning of *the Administration*

- (1) For paragraph 2 and 4 of regulation 4 of Annex II, *the Administration* is taken to be AMSA.
- (2) For paragraph 5 of regulation 12 of Annex II, *the Administration* is taken to be a recognised organisation.

7 Date of construction of vessel

For this Order, a vessel is taken to have been constructed when:

- (a) the keel is laid; or
- (b) both:
 - (i) construction identifiable with a specific vessel starts; and
 - (ii) the lesser of at least 50 tonnes, or 1% of the estimated total mass of all structural material, of the vessel is assembled.

8 Exemptions

- (1) A person may apply, in accordance with the application process set out in *Marine Order 1 (Administration) 2013*, for an exemption of a vessel to which regulation 4 of Annex II applies from a requirement of this Order.
- (2) AMSA may give an exemption if:
 - (a) the construction and equipment of the vessel provides equivalent protection against pollution by noxious liquid substances, having regard to the service for which the vessel is intended; and
 - (b) the exemption would not contravene Annex II.

Note *Marine Order 1 (Administration) 2013* deals with the following matters about exemptions and equivalents:

- making an application
- seeking further information about an application
- the time allowed for consideration of an application

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- imposing conditions on approval of an application
- notifying a decision on an application
- review of decisions.

9 Equivalents

- (1) A person may apply, in accordance with the application process set out in *Marine Order 1 (Administration) 2013*, for approval to use an equivalent.
Note For definitions of *equivalent* and *use*, see *Marine Order 1 (Administration) 2013*.
- (2) AMSA may approve the use of an equivalent if:
 - (a) it would be at least as effective as compliance with the requirement to which the equivalent is an alternative; and
 - (b) approving the use of the equivalent would not contravene regulation 5.1 of Annex II.

Division 2 Requirements of Annex II

10 Convention requirements

A vessel must comply with the requirements of Annex II that apply to the vessel.

Note For paragraph 5 of regulation 12, AMSA has approved the procedure for testing the efficiency of cargo pumping system mentioned in Appendix V of Annex II. For paragraph 3 of regulation 13, AMSA has approved the ventilation procedures mentioned in Appendix VII of Annex II. For regulation 16, AMSA has approved prewash procedures mentioned in Appendix VI of Annex II.

Division 3 IPP certificates

11 Certificates required

- (1) For subsection 130(3) of the Navigation Act (which enables the regulations to provide that specified vessels are required to have specified pollution certificates), a vessel mentioned in regulation 9.1 of Annex II must have an IPP certificate.
- (2) However, for sections 135 and 136 of the Navigation Act, subsection (1) does not apply to a vessel for which a certificate of fitness mentioned in the BCH Code or the IBC Code is in force.

12 Applying for certificates

For subsection 131(1) of the Navigation Act (which enables a person to apply to an issuing body for a pollution certificate of a kind specified in the regulations), an IPP certificate is specified.

Note Division 3 of *Marine Order 1 (Administration) 2013* prescribes some general rules about the making and determination of various kinds of applications. Section 17 of that Order provides for internal review of decisions about applications. That section does not apply to decisions about pollution certificates because those decisions are reviewable under subsection 313(1) of the Navigation Act.

13 Criteria for issue of IPP certificates

For paragraph 132(1)(b) of the Navigation Act, the criteria for issue of an IPP certificate for a vessel are that the vessel:

- (a) has been surveyed in accordance with regulation 8 of Annex II; and

(b) complies with the requirements that apply to it under Annex II.

14 Conditions of IPP certificates

For paragraph 132(2)(a) of the Navigation Act, an IPP certificate is subject to the following conditions:

- (a) the vessel and its equipment must be maintained to comply with Annex II;
- (b) any survey mentioned in regulation 8 of Annex II must be completed in accordance with the requirements of that regulation;
- (c) any endorsement required to be made to the certificate under regulation 8 of Annex II is made;
- (d) after any survey mentioned in regulation 8 of Annex II has been completed, any change to the structure, equipment, systems, fittings, arrangements or material covered by the survey, except the direct replacement of the equipment and fittings, must be approved by AMSA;
- (e) the vessel must comply with the requirements of the Procedures and Arrangements Manual.

15 Endorsements of IPP certificates

For paragraph 14(c), an endorsement on an IPP certificate must be made by an issuing body.

Note It is practice for an issuing body endorsing a certificate to be the same as the issuing body that originally issued the certificate.

16 Commencement and duration of certificates

An IPP Certificate comes into force, and ceases to be in force, in accordance with regulation 10 of Annex II.

17 Criteria for variation of certificates

For subsection 133(1) of the Navigation Act, the criteria for variation of an IPP certificate for a vessel are that:

- (a) the vessel complies with the requirements that apply to it under Annex II; and
- (b) to the extent that the variation relates to matters mentioned in regulation 10 of Annex II — the variation is in accordance with that regulation.

Note for paragraph (b) A variation may be in the form of an endorsement on a certificate. Endorsements are provided for in paragraphs 3, 4, 5, 6 and 8 of Regulation 10 of Annex II.

18 Criteria for revocation of certificates

For section 134 of the Navigation Act, the criteria for revocation of an IPP certificate for a vessel are that:

- (a) a condition of the certificate has been, or is likely to be, breached; or
- (b) an endorsement mentioned in paragraph 14(c) has not been made; or
- (c) the vessel to which the certificates applies ceases to be registered in Australia; or
- (d) the owner of the vessel asks in writing that the vessel's certificate be revoked.

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19 Notifying alterations

For paragraph 137(1)(c) of the Navigation Act, the period within which AMSA and the issuing body must be informed of an alteration to a vessel is 7 days after the alteration is made.

Note An approved form for reporting of alterations to vessels is available from AMSA's website <http://www.amsa.gov.au>.

Division 4 Certificate requirements for foreign vessels

20 Requirements for foreign vessels

A foreign vessel to which regulation 9.1 of Annex II applies must have a certificate issued in accordance with that regulation.

Division 5 Reporting requirements

21 Marine incidents

For paragraph (l) of the definition of *marine incident* in subsection 14(1) of the Navigation Act, the following incidents are prescribed:

- (a) equipment failure that may affect compliance by the vessel with Annex II;
- (b) an incident involving the vessel that may affect compliance by the vessel with Annex II;
- (c) anything that substantially affects the integrity of the vessel or the efficiency or completeness of the vessel's equipment covered by Annex II.

Note 1 The owner and master of a vessel must report marine incidents to AMSA — see sections 185 and 186 of the Navigation Act.

Note 2 For the prescribed periods and the forms for reporting marine incidents — see *Marine Order 31 (Ship surveys and certification) 2014*. The forms are set out in that Order and are also available from AMSA's website <http://www.amsa.gov.au>.

Note 3 For other reporting requirements — see *Transport Safety Investigation Act 2003*, sections 18 and 19.

Division 6 Matters prescribed for Pollution Prevention Act

22 Notification of discharges

- (1) For subsections 22(1) and (3) of the Pollution Prevention Act, a prescribed incident (which is an incident involving a discharge from the vessel of a mixture containing a liquid substance, carried as cargo or as part of cargo in bulk) must be notified by any of the following means:
 - (a) telephone to +61 (0)2 6230 6811 or freecall within Australia 1800 641 792;
 - (b) fax to +61 (0)2 6230 6868;
 - (c) email to rccaus@amsa.gov.au;
 - (d) Immarsat C and HF DSC MMSI 005030001;
 - (e) Aeronautical Fixed Telecommunications Network to YSARYCYX.

Note Subsection 26B(3) of the Pollution Prevention Act requires notification of a prescribed incident to a prescribed officer. For the definition of *prescribed officer* — see subsection 3(2) of the Act.

- (2) A report mentioned in subsections 22(6) and (7) of the Pollution Prevention Act must be made using AMSA Form 196 (Harmful Substances Report form).

Note This form is available on AMSA's website <http://www.amsa.gov.au>.

- (3) For subsections 22(6) and (7) of the Pollution Prevention Act, the report must be given within 24 hours after receiving the request for the report.

23 Shipboard marine pollution emergency plan

For subsection 22A(3) of the Pollution Prevention Act, the prescribed form is the form set out as an example in Appendix II to *Guidelines for the Development of Shipboard Marine Pollution Emergency Plans for Oil and/or Noxious Liquid Substances*, adopted by IMO Resolution MEPC.85(44), as in force from time to time.

24 Record books

- (1) For subsection 23(3) of the Pollution Prevention Act, the prescribed form for a cargo record book is the form set out in Appendix 2 to Annex II.
- (2) If a time is required to be specified in a cargo record book, it must, unless expressed in ship's time and the conversion to Coordinated Universal Time cannot be readily made, be expressed in Coordinated Universal Time.

25 Prescribed operations or occurrences

For subsection 23(5) of the Pollution Prevention Act, each of the following is a prescribed operation or occurrence:

- (a) a discharge mentioned in regulation 3 of Annex II;
- (b) an operation mentioned in the list of items to be recorded in the form set out in Appendix II to Annex II.

Note For the application of this section to foreign vessels — see subsection 5(2).

26 Tank cleaning

For section 26 of the Pollution Prevention Act, a tank mentioned in paragraph 21(4)(a) or (5)(a) of that Act must be washed in accordance with Appendix VI of Annex II.

Division 7 Specifications and interpretations

27 Measures to minimise discharges

For paragraph 2 of regulation 11 of Annex II, the following measures must be followed:

- (a) for a vessel, other than an offshore support vessel:
- (i) the provisions of the IBC Code that apply to a vessel constructed after 30 June 1986;
- (ii) the provisions of the BCH Code that apply to a vessel that was constructed before 1 July 1986, to the extent that the provisions can practicably be applied to the vessel;
- (b) for an offshore support vessel — the requirements of *Guidelines for the Transport and Handling of Limited Amounts of Hazardous and Noxious Liquid Substances in Bulk in Offshore Support Vessels*, adopted by IMO Resolution A.673(16), as in force from time to time;
- (c) for the carriage of vegetable oils in a general dry cargo vessel — the requirements of *Revised Guidelines for the Transport of Vegetable Oils in Deep Tanks or in Independent Tanks Specially Designed for the Carriage*

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of Such Vegetable Oils in General Dry Cargo Ships, adopted by IMO Resolution MEPC.148(54), as in force from time to time.

28 Exemption for prewash

- (1) An exemption mentioned in paragraph 4 of regulation 13 of Annex II may be given for a vessel only if the vessel is engaged on a voyage to a port or terminal under the jurisdiction of a State party to the Convention.
- (2) When an exemption is given for a vessel, the master must make available the vessel's cargo record book for endorsement by AMSA.

29 Expressions used in regulation 16 of Annex II (Measures of control)

- (1) For regulation 16 of Annex II:
 - (a) the *receiving Party* is taken to be Australia;
 - (b) a function or power expressed to be exercisable by the *Government of the receiving party* is exercisable by AMSA; and
 - (c) the *Administrations* is taken to be an issuing body; and
 - (d) *the surveyor* is taken to be a person employed by AMSA as a surveyor.

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>.