

Explanatory Statement

Marine Order 19 (Tonnage measurement) 2014 (Order 2014/14)

Authority

1. Subsection 153(1) of the Navigation Act 2012 (the Navigation Act) provides that regulations may give effect to the Tonnage Convention and otherwise provide for the tonnage of vessels.
2. Subsection 153(2) of the Navigation Act provides that regulations may provide for the issuing of certificates, assigning tonnages to vessels and measuring of the tonnage of vessels.
3. Subsection 314 of the Navigation Act provides that regulations may provide for particular matters relating to certificates.
4. Subsection 340(1)(e) of the Navigation Act provides that regulations may be made to give effect to the Tonnage Convention.
5. Subsection 339(1) of the Navigation Act provides that regulations may 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.
6. Subsection 342(1) of the Navigation Act provides that AMSA may make a Marine Order about any matter for which provision must or may be made by regulations.
7. 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.
8. This Order is a legislative instrument for the *Legislative Instruments Act 2003*.

Purpose

9. This Order gives effect to the Tonnage Convention and deals with certification of vessels providing evidence of compliance with the Tonnage Convention.

Overview

10. The Navigation Act implements Australia's obligations under the Tonnage Convention which established uniform principles and rules with respect to the determination of tonnage of ships engaged on international voyages.
11. This Order replaces *Marine Order 19 (Tonnage measurement) 2003* following a review of the Order as part of AMSA's ongoing review of instruments. The structure of the Order has been changed and current legislative drafting style applied. When the Order commences, schedule 10 of *Marine Order 4 (Transitional Modifications) 2013* will cease to have effect because that schedule modifies the previous issue of this Order.

Consultation

12. A copy of the draft of this Order was placed on the AMSA website for public comment. Over 300 stakeholders, including industry organisations and interested government agencies, were invited to participate in the consultation process. One 'no comment' response was received during the period for public comment.
13. 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 2013/16556.

Documents incorporated by reference

14. This Order incorporates the following documents by reference:
 - Tonnage Convention
 - SOLAS
 - MARPOL
15. IMO documents may be purchased from the IMO — see the IMO website at <http://www.imo.org/publications>.

Commencement

16. This Order commenced on 1 September 2014.

Contents of this instrument

17. Section 1 sets out the name of the Order.
18. Section 1A sets out the commencement of the Order.
19. Section 1B repeals instrument known as *Marine Order 19 (Tonnage measurement) 2003*.
20. Section 2 states the purpose of the Order, which is to give effect to the Tonnage Convention and deal with the certification of vessels as evidence of compliance with the Tonnage Convention.
21. Section 3 sets out the powers in the Navigation Act that enable the Order to be made.
22. Section 4 sets out the definitions of terms used in the Order.
23. Section 5 sets out the interpretation of terms used in the Order.
24. Section 6 describes the vessels to which the Order applies.
25. Section 7 provides a person may apply for an exemption of a vessel from a requirement of this Order in accordance with the application process mentioned in *Marine Order 1 (Administration) 2013*.
26. Division 2 contains 6 sections and deals with International Tonnage Certificates issued under the Navigation Act.
27. Section 8 sets out the certificate requirement for a regulated Australian vessel to which the Tonnage Convention applies, or would apply if engaged on international voyages.
28. Section 9 provides matters concerning an application for an International Tonnage Certificate (1969).
29. Section 10 sets out the criteria for the issue of an International Tonnage Certificate (1969).
30. Section 11 sets out the condition attaching to an International Tonnage Certificate (1969).
31. Section 12 sets out matters concerning the duration of an International Tonnage Certificate (1969).
32. Section 13 sets out certificate revocation matters.
33. Division 3 contains 1 section only. Section 14 deals with certificate requirements for foreign vessels.

34. Division 4 contains 1 section only. Section 15 sets out matters concerning tonnage measurement under repealed regulations and the recognition of that measurement for the purpose of SOLAS and MARPOL.

Compatibility with human rights

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

36. This Order is made under the Navigation Act and gives effect to Australia's international obligations under the Tonnage Convention.

37. This Order implements a tonnage measurement system for vessels. 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*.

38. AMSA considers that this instrument is compatible with human rights. It does not affect any rights or freedoms to which the *Human Rights (Parliamentary Scrutiny) Act 2011* applies.

Making the instrument

39. 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 Safety Authority Act 1990* and paragraph 33A(e) of the *Acts Interpretation Act 1901*.