



Australian Government
Australian Maritime Safety Authority

AMSA MO 2015/8

Marine Order 28 (Operations standards and procedures) 2015

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

4 December 2015

Gary Prosser
Acting Chief Executive Officer

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Division 1 Preliminary

1 Name of Order

This Order is *Marine Order 28 (Operations standards and procedures) 2015*.

1A Commencement

This Order commences on 1 January 2016.

1B Repeal of *Marine Order 28 (Operations standards and procedures) 2012*

Marine Order 28 (Operations standards and procedures) 2012 is repealed.

2 Purpose

- (1) This Order provides for the safe navigation and operation of vessels by giving effect to:
 - (a) the following provisions of the STCW Convention:
 - (i) Regulation I/14;
 - (ii) Regulation VIII/1;
 - (iii) Regulation VIII/2; and
 - (b) the following provisions of the STCW Code:
 - (i) Section A–I/14;
 - (ii) Section A–VIII/1;
 - (iii) Section A–VIII/2;
 - (iv) Section B–I/14;
 - (v) Section B–VIII/2.

Note The 2011 edition of the STCW Convention and the STCW Code (including the amendments to the annex to the Convention known as the 2010 Manila Amendments) can be purchased from the International Maritime Organization. See the IMO website at <http://www.imo.org/publications>.

- (2) This Order also gives effect to SOLAS in relation to the safe navigation and operation of vessels.

3 Power

- (1) The following provisions of the Navigation Act provide for this Order to be made:
 - (a) section 58 which provides that the regulations may provide for hours of work, and hours of rest, of seafarers on regulated Australian vessels;
 - (b) paragraph 339(2)(m) which provides that the regulations may provide for records relating to compliance with this Act;
 - (c) paragraph 340(1)(a) which provides that the regulations may give effect to SOLAS;
 - (d) paragraph 340(1)(h) which provides that the regulations may give effect to the STCW Convention;
 - (e) subsection 341(1) which provides that the regulations may provide for the imposition of penalties for the contravention of provisions of the regulations including the imposition of civil penalties.

Section 4

- (2) Subsection 339(1) of the Navigation Act 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.
- (3) Subsection 342(1) of the Navigation Act provides that AMSA may make a Marine Order about anything that must or may be made by regulation.

4 Definitions

In this Order:

chief engineer has the same meaning as **chief engineer officer** in Regulation I/1 of the STCW Convention.

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

- Navigation Act
- SOLAS
- STCW Code.

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

- AMSA
- inspector
- master
- owner (there is also a note about this term in *Marine Order 1 (Administration) 2013*)
- port
- regulated Australian vessel
- seafarer
- STCW Convention.

Note 3 Information on obtaining copies of any IMO Resolution, IMO document or other document that is mentioned in this Order is available from the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

Note 4 For delegation of AMSA's powers under this Order — see the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

5 Application

- (1) This Order, other than section 16, applies to a regulated Australian vessel.
- (2) This Order, other than section 6, subsection 8(8) and sections 9, 10 and 15, applies to a foreign vessel:
 - (a) in an Australian port; or
 - (b) entering or leaving an Australian port; or
 - (c) in the internal waters of Australia; or
 - (d) in the territorial sea of Australia, other than in the course of innocent passage.

6 Exemptions

- (1) A person may apply to AMSA, in accordance with *Marine Order 1 (Administration) 2013*, for an exemption of a vessel from a requirement of section 12 about minimum hours of rest for a seafarer.

Note An exemption may relate to several seafarers, or classes of seafarers — see paragraph 23(b) and subsection 33(3AB) of the *Acts Interpretation Act 1901*. It may also relate to more than 1 requirement of section 12 — see paragraph 23(b) of the Act.

- (2) AMSA may give an exemption only if satisfied that giving the exemption would be in accordance with Section A –VIII/1 of the STCW Code.

Note Marine Order 1 (Administration) 2013 deals with the following:

- making of an application
- seeking further information about an application
- the time allowed for consideration of an application
- notification of a decision on an application
- review of decisions.

Division 2 Responsibilities of owners and seafarers

7 Owner and seafarer general responsibilities

Owners of vessels and seafarers each have responsibility for ensuring that the obligations mentioned in paragraph 1 of Section A–I/14 of the STCW Code are given full effect.

8 Owner responsibilities for seafarer assignment

- (1) The owner of a vessel is responsible for the assignment of seafarers for service in the vessel.
- (2) The owner of a vessel must ensure that:
- (a) each seafarer assigned to the vessel holds a certificate appropriate to the seafarer's duties, in accordance with:
 - (i) for a regulated Australian vessel — *Marine Order 70 (Seafarer certification) 2014*; or
 - (ii) for a foreign vessel — the law of the country in which the vessel is registered and the STCW Convention; and
 - (b) the vessel complies with the safe manning document issued to the vessel under paragraph 2 of regulation 14 of Chapter V of SOLAS; and
 - (c) documentation and data relevant to all seafarers employed on the vessel are maintained and readily accessible, including documentation and data on their experience, training, medical fitness and competency in assigned duties; and
 - (d) when each seafarer is assigned to the vessel, he or she is familiarised with his or her specific duties and with all vessel arrangements, installations, equipment, procedures and vessel characteristics that are relevant to his or her routine or emergency duties; and
 - (e) the vessel's complement can effectively coordinate their activities:
 - (i) in an emergency; and
 - (ii) in performing functions vital to safety, security or the prevention or mitigation of pollution; and
 - (f) each seafarer assigned to the vessel has received refresher and updating training as required by the STCW Convention; and
 - (g) at all times on board the vessel, there is effective oral communication in accordance with paragraphs 3 and 4 of regulation 14 of Chapter V of SOLAS.
- Penalty: 50 penalty units.
- (3) An offence against subsection (2) is a strict liability offence.

- (4) A person is liable to a civil penalty if the person contravenes subsection (2).
Civil penalty: 50 penalty units.
- (5) The owner of a vessel must give written instructions to the master of the vessel in accordance with paragraph 2 of Section A–I/14 of the STCW Code.
Penalty: 50 penalty units.
- (6) An offence against subsection (5) is a strict liability offence.
- (7) A person is liable to a civil penalty if the person contravenes subsection (5).
Civil penalty: 50 penalty units.
- (8) The owner of a vessel must provide a vessel-specific introductory program and training to assist each newly employed seafarer in accordance with paragraph 1 of Section B–I/14 of the STCW Code.

9 Master responsibilities

The master of a vessel must comply with paragraph 3 of Section B–I/14 of the STCW Code.

10 Newly assigned seafarer responsibilities

- (1) A seafarer who is newly assigned to a vessel must comply with paragraphs 4 and 5 of Section B–I/14 of the STCW Code.
- (2) Subsection (1) applies even if the seafarer was assigned to the vessel on a previous occasion.

Division 3 Standards for watchkeeping

11 Owner responsibilities for watchkeeping

- (1) The owner of a vessel must ensure that sections 12 to 17, if they apply to the vessel under section 5, are complied with for each seafarer assigned to the vessel.
Penalty: 50 penalty units.
- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).
Civil penalty: 50 penalty units.

12 Minimum hours of rest

- (1) The minimum hours of rest for a seafarer must be:
 - (a) 10 hours in any 24 hours; and
 - (b) 77 hours in any 7 days.
- (2) The minimum hours of rest may be divided into 2 periods, of which 1 period must be at least 6 hours.
- (3) The interval between consecutive periods of rest must not exceed 14 hours.

13 Emergency or drill or other overriding operational conditions

- (1) This section applies in any of the following circumstances:
 - (a) an emergency, including:
 - (i) a situation affecting the immediate safety of the vessel, persons on board or cargo; or
 - (ii) giving assistance to other vessels or persons in distress at sea;

- (b) if a drill is being conducted;
- (c) essential shipboard work that:
 - (i) cannot be delayed for safety or environmental reasons; and
 - (ii) could not reasonably have been anticipated when the voyage started.
- (2) The master may:
 - (a) suspend the watch schedule; and
 - (b) personally perform any hours of work necessary while the circumstances exist; and
 - (c) require another seafarer to perform any hours of work necessary while the circumstances exist.
- (3) As soon as practicable after the circumstances end, the master must:
 - (a) if the master performed work in a scheduled rest period while the circumstances existed — take a compensatory rest period; and
 - (b) ensure that any other seafarer who performed work in a scheduled rest period while the circumstances existed is given a compensatory rest period.
- (4) If a seafarer's minimum hours of rest are disturbed by call outs to work while the seafarer is on call (eg when a machinery space is unattended), the seafarer must be given a compensatory rest period.
- (5) Musters, fire-fighting and lifeboat drills, and drills required by legislation or international instruments, must be conducted in a way that minimises the disturbance of rest periods and does not induce fatigue.

Note 1 Under section 185 of the Navigation Act, the owner of a vessel must report marine incidents and dangers to navigation to AMSA. Under section 186 of the Navigation Act, the master of a vessel must report marine incidents and dangers to navigation to AMSA. Section 48 of *Marine Order 31 (Vessel surveys and certification) 2015* prescribes matters in relation to reports under sections 185 and 186.

Note 2 Section 221 of the Navigation Act enables requirements to be prescribed for reporting about movements of vessels. *Marine Order 63 (vessel reporting systems) 2015* prescribes the requirements.

14 Watch schedules

- (1) The owner of a vessel must ensure that current watch schedules are displayed in areas of the vessel easily accessible by all seafarers on board.
- (2) The schedules must be in a standardised format in:
 - (a) the working language of the vessel; and
 - (b) if the working language of the vessel is not English — in English.

15 Records of hours of rest — regulated Australian vessels

- (1) A seafarer must record his or her hours of rest for the duration of the seafarer's assignment to a vessel.

Note For offences relating to false or misleading information or documents — see Division 137 of the *Criminal Code*.

- (2) For subsection (1), a seafarer must:
 - (a) make a personal record of his or her hours of rest every day; and
 - (b) transfer the personal record to the records of the vessel within 7 days after the period of rest to which the record relates.

- (3) The owner of a vessel must keep records transferred under paragraph (2)(b) for at least the retention period.
- (4) The records of the vessel must be in a standardised format:
 - (a) in the working language of the vessel; and
 - (b) if the working language of the vessel is not English — in English; and
 - (c) that provides for the endorsement by each seafarer and the master, or a person authorised by the master, of the record relating to the seafarer's hours of rest.

Note The standardised format may be the format mentioned in note 1 at the foot of this section.

- (5) The owner of a vessel must, on request by a seafarer during the retention period, give the seafarer a copy of the records relating to the seafarer endorsed by the master, or a person authorised by the master, and by the seafarer.
- (6) The records must be available for inspection by an inspector during the retention period.
- (7) In this section:

retention period means the 12 months after the events have been recorded and transferred by the seafarer in accordance with subsection (2).

Note 1 The IMO/ILO guidelines for the development of tables of seafarers' shipboard working arrangements and formats of records of seafarers' hours of work or hours of rest may be used for the watch schedules and keeping of records. The guidelines are available at <http://www.imo.org>. A sample form of notice of shipboard working arrangements is available on the AMSA website at <http://www.amsa.gov.au>.

Note 2 It is an offence for the owner of a regulated Australian vessel not to ensure that records of hours of rest of a seafarer are maintained in accordance with this Division and a copy is provided to the seafarer — see section 28 of *Marine Order 11 (Living and working conditions on vessels) 2015*.

16 Records of hours of rest — foreign vessels

- (1) The owner of a foreign vessel must keep records of daily hours of rest of each seafarer of the vessel that are maintained in accordance with Regulation 7 of Section A–VIII/1 of the STCW Code for the retention period.
- (2) The records must be available for inspection by an inspector during the retention period.
- (3) In this section:

retention period means:

- (a) if the Administration for the vessel has specified a period of time for retention of the records — that period of time; or
- (b) in any other case — the 12 months after the daily hours of rest of the seafarer are recorded.

the Administration means the government of the country whose flag the vessel is entitled to fly.

Note Regulation 7 of Section A-VIII/1 of the STCW Code requires records of daily hours of rest of seafarers to be maintained in a standardised format in the working language or languages of the vessel and in English. It also requires seafarers to receive a copy of the records relating to them, which must be endorsed by the master or by a person authorised by the master and by the seafarer.

17 Observance of STCW watchkeeping standards

- (1) The master, the chief engineer and any other person involved in watchkeeping duties on a vessel must comply with each requirement of Section A–VIII/2 of the STCW Code that applies to the person, taking into account the guidance given in Section B–VIII/2 of the STCW Code.
- (2) The master of a vessel must ensure that watchkeeping arrangements for the vessel are in accordance with paragraph 2 of Regulation VIII/2 of the STCW Convention.

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>.