



Australian Government
Australian Maritime Safety Authority

AMSA MO 2016/6

Marine Order 42 (Carriage, stowage and securing of cargoes and containers) 2016

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

7 June 2016

Michael Kinley
Chief Executive Officer

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Division 1 Preliminary

1 Name of Order

This Order is *Marine Order 42 (Carriage, stowage and securing of cargoes and containers) 2016*.

1A Commencement

This Order commences on 1 July 2016.

1B Repeal of *Marine Order 42 (Cargo, stowage and securing) 2014*

Marine Order 42 (Cargo, stowage and securing) 2014 is repealed.

2 Purpose

This Order gives effect to Part A of Chapter VI of SOLAS.

Note For the text of SOLAS — see <http://www.imo.org>.

3 Power

- (1) The following provisions of the Navigation Act provide for this Order to be made:
 - (a) subsection 112(4) which provides that the regulations may provide for the carriage of cargo on a vessel;
 - (b) subsection 112(5) which provides that the regulations may provide for, among other things, the loading, stowing or carriage of cargo in vessels and the giving of notices for the loading, stowage or carriage of cargo in vessels;
 - (c) paragraph 340(1)(a) which provides that the regulations may provide for giving effect to SOLAS;
 - (d) subsection 341(2) which provides that the regulations may provide for a matter by applying, adopting or incorporating, with or without modification, any matter in a document as at a particular time, as in force from time to time or not yet in existence.
- (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 Navigation Act.
- (3) Section 341 of the Navigation Act provides for the imposition of penalties in regulations.
- (4) Subsection 342(1) of the Navigation Act provides that AMSA may make a Marine Order about anything that may or must be made by regulation.

4 Definitions

In this Order:

approved means:

- (a) for a regulated Australian vessel — approved by an issuing body; or
- (b) for a foreign vessel — approved by or for the Administration.

Chapter VI means Chapter VI of SOLAS.

container has the same meaning as in the Container Convention.

Note For the text of the Container Convention — see <http://www.imo.org>.

CSS Code means the *Code of Safe Practice for Cargo Stowage and Securing* adopted by IMO resolution A.714(17), as in force from time to time.

Note For the text of the CSS Code — see <http://www.imo.org>.

IMO Guidelines regarding the verified gross mass of a container carrying cargo means the guidelines set out in the Annex to IMO Circular MSC.1/Circ.1475, as amended from time to time.

on deck includes on top of hatch covers.

IMO Recommendations for material safety data sheets (MSDS) for MARPOL Annex I oil cargo and oil fuel means the recommendations in IMO Resolution MSC.286(86), as amended from time to time.

IMO Recommendations on the safe use of pesticides in ships applicable to the fumigation of cargo holds means the recommendations set out in the Annex to IMO Circular MSC.1/Circ.1264, as amended from time to time.

IMO Revised guidelines for the preparation of the cargo securing manual means the guidelines set out in the Annex to IMO Circular MSC.1/Circ.1353/Rev.1, as amended from time to time.

IMO Revised recommendations on the safe use of pesticides in ships means the recommendations set out in the Annex to IMO Circular MSC.1/Circ.1358, as amended from time to time.

IMO Revised recommendations on the safe use of pesticides in ships applicable to the fumigation of cargo transport units means the recommendations set out in the Annex to IMO Circular MSC.1/Circ.1361, as amended from time to time.

International Maritime Dangerous Goods Code means the *International Maritime Dangerous Goods Code* adopted by IMO resolution MSC.122(75), as in force from time to time.

national measurement legislation means the *National Measurement Act 1960*, the *National Measurement Regulations 1999* and the *National Trade Measurement Regulations 2009*.

Note This legislation is available on the Federal Register of Legislation at <https://www.legislation.gov.au>.

TDC Code means the *Code of Safe Practice for Ships Carrying Timber Deck Cargoes, 2011* adopted by IMO resolution A.1048(27), as in force from time to time.

Note 1 Also see IMO Circulars MSC/Circ. 525 (*Guidance note on precautions to be taken by the masters of ships below 100 metres in length engaged in the carriage of logs*) and MSC/Circ.548 *Guidance note on precautions to be taken by masters of ships engaged in the carriage of timber cargoes*.

Note 2 Some terms used in this Order are defined in *Marine Order 1 (Administration) 2013*, including:

- IMO
- length
- MARPOL
- Navigation Act
- SOLAS.

Note 3 Other terms used in this Order are defined in the Navigation Act, including:

- Container Convention
- inspector
- issuing body
- master.

Note 4 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>. This information includes where SOLAS and the Container Convention are freely available.

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 Interpretation

- (1) A term that is used in this Order but is not defined for this Order, and is defined in SOLAS or in a code mentioned in this Order, has the same meaning as in SOLAS or the code.

Note This includes *cargo transport unit* and *freight container* defined in the International Maritime Dangerous Goods Code and *cargo unit* defined in the CSS Code.

- (2) For this Order, the **Administration** is:
- (a) for a regulated Australian vessel — AMSA; or
 - (b) for a foreign vessel — the government of the country whose flag the vessel is entitled to fly.
- (3) For this Order, the reference in paragraph 4.2 of regulation 2 of Chapter VI to the **competent authority** is to be taken to mean:
- (a) for Australia — AMSA; or
 - (b) for a country other than Australia — the competent authority under the country's law that implements SOLAS.

6 Application

This Order applies to:

- (a) the stowing and securing of cargoes to which Part A of Chapter VI applies on:
- (i) a regulated Australian vessel; or
 - (ii) a foreign vessel that is:
 - (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; and
- (b) a cargo unit or cargo transport unit packed or being packed for transport on a vessel mentioned in paragraph (a); and
- (c) blending of bulk liquid cargoes on a vessel mentioned in paragraph (a); and
- (d) any deliberate operation in which a chemical reaction between the cargo and any other substance or cargo takes place on a vessel mentioned in paragraph (a).

7 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 from a requirement of this Order, the CSS Code or the TDC Code.
- (2) AMSA may give an exemption only if satisfied that:
 - (a) requiring compliance with the requirement would be unreasonable or impracticable; and
 - (b) giving the exemption would not contravene SOLAS.

8 Equivalentents

- (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.
- (2) AMSA may approve use of an equivalent only if:
 - (a) it is satisfied that use of the equivalent would be at least as effective as compliance with the requirement to which the equivalent is an alternative; and
 - (b) use of the equivalent would not contravene SOLAS.

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

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

Division 2 Cargo information and weighing

9 Information for master

[SOLAS VI/2]

Paragraphs 1 and 2.1 of regulation 2 of Chapter VI have effect for the loading of cargo on a vessel in an Australian port.

Note These provisions require a shipper to give information about cargo, including the information mentioned in chapter 1.9 of the CSS Code, to the master before loading. A suitable form for giving cargo information to the master or the master's representative (as required by regulation 2 of Chapter VI) is the 'Shippers Declaration' form, available from the AMSA website at <http://www.amsa.gov.au>.

10 Verification of gross mass of cargo units and cargo carried in certain containers

[SOLAS VI/2]

- (1) Paragraph 3 of regulation 2 of Chapter VI has effect for the loading of cargo units on a vessel in an Australian port.

Note Paragraph 3 of regulation 2 of Chapter VI requires that, before loading cargo units on board a vessel, the shipper must ensure that the gross mass of the units is in accordance with the gross mass declared in the cargo information given in accordance with section 9.

- (2) Paragraphs 4 and 5 of regulation 2 of Chapter VI have effect for the loading of cargo on a vessel in an Australian port.

Note Paragraph 4 of regulation 2 of Chapter VI requires the gross mass of cargo carried in a container to be verified and sets out two acceptable verification methods. Paragraph 5 requires the shipper to ensure the verified gross mass is stated in the shipping document. For guidance regarding the verification of the gross mass of packed containers by the shipper under paragraphs 4 and 5 of regulation 2 of Chapter VI see the *IMO Guidelines regarding the verified gross mass of a container carrying cargo*.

- (3) For subsection (2), equipment is to be taken to be calibrated and certified equipment for paragraph 4.1 of regulation 2 of Chapter VI if the equipment complies with:
- (a) the requirements of the national measurement legislation for the kind of equipment; or
 - (b) a standard of accuracy for weighing equipment that:
 - (i) applies to the kind of weighing equipment; and
 - (ii) is in the list of standards approved in writing by AMSA.

Note 1 Paragraph 4.1 of regulation 2 of Chapter VI sets out the method for verification of gross mass commonly known as Method 1. Paragraph 4.2 of regulation 2 of Chapter VI sets out the method for verification of gross mass commonly known as Method 2 or the summation method.

Note 2 For the list of AMSA approved standards of accuracy for weighing equipment and the website where each standard is freely available — see the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

- (4) The methods approved for Australia for verification of gross mass of cargo carried in a container are:
- (a) the method mentioned in paragraph 4.1 of regulation 2 of Chapter VI (*Method 1*) using equipment that complies with subsection (3); and
 - (b) the method mentioned in para 4.2 of regulation 2 of Chapter VI (*Method 2*) using equipment that complies with subsection (3).
- (5) The approved certified method for paragraph 4.2 of regulation 2 of Chapter VI is to use equipment that complies with subsection (3) for weighing a container's contents.

11 Shipper to ensure shipping document includes verified gross mass [SOLAS VI/2]

- (1) The shipper for a packed container must ensure that the verified gross mass:
- (a) is stated in the shipping document for the container; and
 - (b) is obtained in accordance with this Order.

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.

Note 1 For the shipper and the shipping document see subsections 2.1.12 and 2.1.13 of the *IMO Guidelines regarding the verified gross mass of a container carrying cargo*.

Note 2 For the monitoring powers of inspectors see section 259 of the Navigation Act.

12 Loading of containers — required information

[SOLAS VI/2]

- (1) A person may load a packed container on a vessel only if the shipping document for the container states the container's verified gross mass.

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.

Note 1 For guidance on empty containers see section 12 of the *IMO Guidelines regarding the verified gross mass of a container carrying cargo*.

Note 2 For guidance about obtaining the verified gross mass of a packed container received at a port or terminal without a verified gross mass, including the apportionment of costs, see section 13 of the *IMO Guidelines regarding the verified gross mass of a container carrying cargo*.

Division 3 Loading, stowage and securing of cargo

13 Use of pesticides in vessels

[SOLAS VI/4]

- (1) The master of a vessel must ensure that any use of pesticides in the vessel complies with the *IMO Revised recommendations on the safe use of pesticides in ships*.
- (2) The master of the vessel must ensure that any fumigation of a cargo space of the vessel is carried out in accordance with the *IMO Recommendations on the safe use of pesticides in ships applicable to the fumigation of cargo holds*
- (3) A fumigated cargo transport unit may be loaded on a vessel only if it has been fumigated in accordance with the *IMO Revised recommendations on the safe use of pesticides in ships applicable to the fumigation of cargo transport units*.

14 Stowage and securing — requirements

[SOLAS VI/5]

- (1) Cargo, cargo units and cargo transport units must be packed, loaded, stowed and secured throughout each voyage in accordance with regulation 5 of Chapter VI.
- (2) For subsection (1), a vessel moving within a port (eg shifting berth or proceeding to a safe anchorage) is taken not to be on a voyage.

15 Cargo Securing Manual

[SOLAS VI/5]

- (1) The master of a vessel, other than a vessel carrying only passengers or only a bulk solid, liquid or gaseous cargo, must ensure that the vessel carries an approved Cargo Securing Manual prepared in accordance with the *IMO Revised guidelines for the preparation of the cargo securing manual*.

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.

16 Gross mass limit for packed freight containers**[SOLAS VI/5]**

- (1) A person must not pack a freight container so that it is more than the maximum gross mass indicated on the Safety Approval Plate under *Marine Order 44 (Safe containers) 2002*.
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.

17 Unsafe or inadequate arrangements

- (1) For paragraph 112(5)(c) of the Act, AMSA may give written notice to a person if AMSA considers that:
 - (a) the person is responsible for the loading, stowage or carriage of cargo on the vessel; and
 - (b) any of the following apply:
 - (i) the Cargo Securing Manual, the CSS Code or the TDC Code are not being complied with; or
 - (ii) this Order is not being complied with; or
 - (iii) the loading, stowage or carriage of cargo on the vessel is unsafe.
- (2) The notice may:
 - (a) prohibit loading, stowage or carriage of the cargo on the vessel; or
 - (b) require additional conditions to be met, either generally or for a particular vessel or a particular cargo; or
 - (c) require a cargo unit to be weighed so that its declared gross mass may be checked.
- (3) A person must comply with a notice given to the person under subsection (1).
Penalty: 50 penalty units.
- (4) An offence against subsection (3) is a strict liability offence.
- (5) A person is liable to a civil penalty if the person contravenes subsection (3).
Civil penalty: 50 penalty units.

Note It is an offence not to take proper precautions in loading a vessel — see section 114 of the Navigation Act.

18 Additional information

If AMSA considers that the information available about a particular cargo does not show that the cargo can be loaded and carried on a vessel without danger to the vessel or any person on the vessel, AMSA may require additional information to be given to show that the cargo can be loaded and carried without danger.

19 Stowage of cargo on deck

Cargo may be stowed on the deck of a vessel only if:

- (a) there is clear access, during and after stowage, between every exit from accommodation and every lifesaving appliance; and

- (b) there is clear access between every exit from seafarer accommodation and every space or area required for the normal and emergency working of the vessel; and
- (c) accessways are at least 600 mm wide, of adequate height and kept free of obstruction at all times; and
- (d) provision is made for adequate stability at all times during each voyage; and
- (e) there is adequate access for pilots; and
- (f) there is adequate visibility from the bridge and all lookout positions; and
- (g) provision is made to prevent navigation lights from being obscured; and
- (h) it is secured in accordance with the approved Cargo Securing Manual.

Note For requirements about navigation bridge visibility — see section 11 of *Marine Order 21 (Safety and emergency arrangements) 2016*.

20 Material safety data sheets

[SOLAS VI/5-1]

- (1) The owner of a vessel that carries oil or oil fuel, as defined in regulation 1 of Annex I to MARPOL, must ensure that material safety data sheets, based on the *IMO Recommendations for material safety data sheets (MSDS) for MARPOL Annex I oil cargo and oil fuel*, are on board the vessel before the oil or fuel oil is loaded.

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.

21 Blending liquid bulk cargoes or production processes on voyages

[SOLAS VI/5-2]

The master of a vessel must comply with regulation 5-2 of Chapter VI.

Note Regulation 5-2 of Chapter VI does not apply to the use of cargoes in the search and exploitation of seabed mineral resources.

Note

- 1. All legislative instruments and compilations of legislative instruments are registered on the Federal Register of Legislation under the *Legislation Act 2003*. See <https://www.legislation.gov.au>.