

Explanatory Statement

Marine Order 30 (Prevention of collisions) 2016 (Order 2016/12)

Authority

1. Subsection 176(1) of the *Navigation Act 2012* (Navigation Act) provides that the regulations may provide for requirements for the prevention of collisions, and for the provision and use of lights and signals on vessels.
2. Subsection 176(2) and paragraph 340(1)(b) of the Navigation Act provide that the regulations may give effect to the Convention on the International Regulations for Preventing Collisions at Sea (the Prevention of Collisions Convention).
3. Subsection 339(1) of the Navigation Act authorises the Governor-General to make regulations necessary or convenient for carrying out or giving effect to the Navigation Act.
4. Subsection 342(1) of the Navigation Act allows the Australian Maritime Safety Authority (AMSA) to make orders for any matter in the Act for or in relation to which provision may be made by regulations.
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 was made under subsection 342(1) of the Navigation Act and is a legislative instrument for the *Legislation Act 2003*.

Purpose

7. This Order gives effect to the Prevention of Collisions Convention, which sets out, for the prevention of collisions, internationally agreed measures for the navigation, management and working of a vessel, and the lights and signals to be provided and used on a vessel.

Overview

8. The Order provides for AMSA to approve the lights, shapes and sound signal appliances on a vessel as being in compliance with the International Regulations for Preventing Collisions at Sea, 1972 (the International Regulations). The Order requires that the measures for prevention of collisions that are set out in the International Regulations must be observed in the operation of a vessel. The Order also specifies the traffic separation schemes and inshore traffic zones that the IMO has adopted for the International Regulations. If a vessel cannot comply with the International Regulations because of its special construction or purpose, AMSA may make a determination about the closest possible compliance for the vessel with the International Regulations.

Consultation

9. A draft of this Order was placed on AMSA's website on 23 March 2016 for stakeholders to consider and provide feedback by 30 April 2016. Around 160 stakeholders including shipping and cargo industry bodies, maritime unions and relevant government agencies were contacted by email and invited to comment. No submissions were received.
10. The Office of Best Practice Regulation (OBPR) considers that the changes made by the Order have regulatory impacts of a minor or machinery nature and

no regulation impact statement is required. The OBPR reference number is 16724.

Documents incorporated by reference

11. This Order incorporates the following documents by reference:

- the International Regulations for Preventing Collisions at Sea, 1972 (the International Regulations), attached to the Prevention of Collisions Convention, as in force from time to time
- the International Maritime Organization (IMO) Resolution MSC.253(83) *Adoption of the performance standards for navigation lights, navigation light controllers and associated equipment*, as in force from time to time
- the IMO publication *Ships' Routeing* (latest edition).

12. The International Regulations and the Prevention of Collisions Convention are of treaty status. The Regulations are incorporated as in force from time to time. The original Convention and Regulations and any amendments to them can be found in the Australian Treaties Series accessible from the Australian Treaties Library on the AustLII website at <http://www.austlii.edu.au>. Information on IMO regulations that amend the International Regulations is also available on the Marine Orders link on the AMSA website at <http://www.amsa.gov.au>.

13. Information on obtaining access to IMO resolutions including IMO Resolution MSC.253(83) is available on the Marine Orders link on the AMSA website at <http://www.amsa.gov.au>, where AMSA provides information on how to navigate the IMO website to download documents. IMO documents may also be purchased from the IMO — see the IMO website at <http://www.imo.org/publications>.

14. The latest edition of *Ships' Routeing* is the edition published in 2015. A copy of this IMO publication can be purchased in book or e-reader formats from the IMO — see the IMO website at <http://www.imo.org/publications>. To borrow a copy of this publication from a library in Australia search for its title on the Australian Libraries Gateway at <https://www.nla.gov.au/libraries/>. Persons having difficulties locating a copy can contact AMSA. Copies are available at AMSA head office. Contact details for AMSA are on the AMSA website at <http://www.amsa.gov.au>.

Commencement

15. This Order commenced on 1 August 2016.

Contents of this instrument

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

17. Section 1A provides for the commencement of the Order.

18. Section 1B repeals the previous issue of the Order.

19. Section 2 states the purpose of the Order, which is to give effect to the Prevention of Collisions Convention.

20. Section 3 sets out the powers in the Navigation Act that enable the Order to be made.

21. Section 4 sets out definitions of terms used in the Order.

22. Section 5 describes the application of the Order to various kinds of vessels.

23. Section 6 provides that a person may apply to AMSA for an exemption of a vessel from certain requirements of the Order. AMSA may grant the exemption only if giving the exemption would not contravene the International Regulations.

24. Section 7 provides for the review of certain decisions made under the Order.

25. Section 8 provides that a person may apply to an issuing body (AMSA or a recognised organisation) for approvals under the International Regulations for lights, shapes and sound signal appliances, and their installation on a vessel.

26. Section 9 applies the International Regulations for the navigation, management and working of a vessel for the prevention of collisions. The section sets out requirements for lights and signals, and specifies for compliance purposes the traffic separation schemes and inshore traffic zones that the IMO has adopted for the International Regulations. Section 9 also provides for AMSA to make determinations for the International Regulations including about the closest possible compliance for a vessel with the International Regulations.

Statement of compatibility with human rights

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

Overview of the legislative instrument

28. The Order provides for the Australian Maritime Safety Authority to approve the lights, shapes and sound signal appliances on a vessel as being in compliance with the International Regulations for Preventing Collisions at Sea, 1972 (the International Regulations). The Order requires that the measures for prevention of collisions that are set out in the International Regulations must be observed in the operation of a vessel. The Order also specifies for compliance purposes the IMO traffic separation schemes and inshore traffic zones that the IMO has adopted for the International Regulations. If AMSA determines that a vessel cannot comply with the International Regulations because of its special construction or purpose, AMSA may make a determination about the closest possible compliance for the vessel with the International Regulations.

Human rights implications

29. 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

30. 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

31. 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*.