

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Infrastructure and Transport

Subject – *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*

Marine Safety (Domestic Commercial Vessel) National Law Amendment (Cost Recovery) Regulation 2016

Section 9 of Schedule 1 of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (the Act) establishes the Australian Maritime Safety Authority (AMSA) as the National Regulator for domestic commercial vessels.

The Act establishes the cooperative scheme between the Commonwealth, the States and the Northern Territory for the regulation of domestic commercial vessels and provides for a single national framework for ensuring the safe operation, design, construction and equipping of domestic commercial vessels.

Sub-section 159(1) of the Act provides that the Governor General may make regulations prescribing matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 150(1) of the Act provides that AMSA may charge such fees as are prescribed by the relevant Regulations for activities carried out by AMSA under the Act.

The *Marine Safety (Domestic Commercial Vessel) National Law Amendment (Cost Recovery) Regulation 2016* (the Regulation) amends the *Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013* (the Principal Regulation) to prescribe fees for activities carried out by AMSA under the Act.

Fees for accreditation of marine surveyors

Vessel surveys, carried out by suitably qualified marine surveyors, are a key regulatory tool for AMSA. A rigorous surveyor accreditation scheme is required to ensure that accredited marine surveyors have appropriate capabilities, experience and qualifications to assess whether vessels are designed, constructed and maintained in accordance with the Act and associated regulatory instruments. The Regulation would prescribe fees for assessing applications for accreditation as a marine surveyor, scaled depending on the number of surveying categories applied for, and a fee for renewing accreditations every five (5) years.

Fees for other services

AMSA also provides a range of other administrative services including assessing applications for ad hoc exemptions from the National Law, and assessing applications for equivalent means of compliance with standards prescribed for the National Law. The fees for assessing applications for other administrative services will vary depending on the complexity of the application. The Regulation would prescribe an hourly rate for assessing these applications with the fee payable being notified to the applicant after AMSA receives the application.

A draft of the Regulation was not circulated for public comment because the decision to cost recover for these services was announced as a revenue measure in the Government's 2016-17 Budget Paper No. 2 and maritime industry stakeholders were notified following the announcement. In consultation with the Department of Finance and in accordance with the cost recovery implementation statement (CRIS) guidelines, a CRIS will be published prior to the Regulation coming into force. In developing the Regulation, AMSA consulted with the Office of Best Practice Regulation and was advised that the Regulation is likely to have a minor regulatory impact and required a short-form Regulation Impact Statement (ID 2016/20165).

Details of the Regulation are set out in the [Attachment](#).

The Regulation is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulation commences the later of 1 September 2016 and the day after the instrument is signed.

Details of the proposed *Marine Safety (Domestic Commercial Vessel) National Law Amendment (Cost Recovery) Regulation 2016*

Legislative Authority

Section 150(1) of Schedule 1 of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (the Act) provides that the Australian Maritime Safety Authority (AMSA) may charge such fees as prescribed by the relevant Regulations for activities carried out by AMSA. Sub-section 159(1) of the Act provides that the Governor-General may make regulations.

Purpose

The *Marine Safety (Domestic Commercial Vessel) National Law Amendment (Cost Recovery) Regulation 2016* (the Regulation) amends the Principal Regulations to prescribe a schedule of fees for activities carried out by AMSA under the Act, in support of an associated fee for service framework.

Public consultation

A draft of the Regulation was not circulated for public comment because the decision to cost recover to fund the National System for Domestic Commercial Vessel Safety from 1 July 2017 was announced as a revenue measure in the Government's 2016-17 Budget Paper No. 2 and maritime industry stakeholders were notified following the announcement. In consultation with the Department of Finance and in accordance with the cost recovery implementation statement (CRIS) guidelines, a CRIS will be published prior to the Regulation coming into force on 1 September 2016. In developing the Regulation, AMSA consulted with the Office of Best Practice Regulation and was advised that the Regulation is likely to have a minor regulatory impact and required a short-form Regulation Impact Statement (ID 2016/20165).

Regulatory Impact Analysis

The Office of Best Practice Regulation was consulted and advised that the Regulation has a minor regulatory impact on business, individuals and community organisations and requires a short-form Regulation Impact Statement (ID 2016/20165).

Disallowance of Regulation

The Regulation is a disallowable legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Documents incorporated by reference

The Regulation does not incorporate any documents by reference.

Details of the Amendment Regulation

Section 1 – Name of Regulation

Section 1 sets out that the title of the Regulation is the *Marine Safety (Domestic Commercial Vessel) National Law Amendment (Cost Recovery) Regulation 2016* (the Regulation).

Section 2 – Commencement

Section 2 provides that the Regulation commences on the later of 1 September 2016 and the day after the instrument is signed.

Section 3 – Authority

Section 3 states the authority under which the regulation is made; the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (the Act).

Section 4 – Schedules

Section 4 provides for the amendments mentioned in the Schedule.

Schedule 1 – Amendments to the *Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013* (the Principal Regulations)

Item 1

The Regulation adds that an application for accreditation to perform the role of marine surveyor in one or more categories of surveying must be accompanied by the applicable application fee prescribed by subsection 50(1).

Item 2

The Regulation repeals subsection 28(2) of the Principal Regulations and substitute that an application for renewal of accreditation must be accompanied by the application fee prescribed by subsection 50(2).

Item 4

The Regulation prescribes fees for accreditation as a marine surveyor and fees for other services including processing applications for exemption from the Act, equivalent means of compliance with requirements of the Act and for any other eligible service provided by the National Regulator.