



**Australian Government**  
**Australian Maritime Safety Authority**

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AMSA MO 2018/4

**Marine Order 96 (Marine pollution prevention — sewage) 2018**

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I, Michael Kinley, Chief Executive Officer of the Australian Maritime Safety Authority, make this Order under subsection 342(1) of the *Navigation Act 2012* and subsection 34(1) of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*.

15 March 2018

Michael Kinley  
Chief Executive Officer

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## Division 1 Preliminary

### 1 Name of Order

This Order is *Marine Order 96 (Marine pollution prevention — sewage) 2018*.

### 1A Commencement

This Order commences on 1 April 2018.

### 1B Repeal of *Marine Order 96 (Marine pollution prevention — sewage) 2013*

*Marine Order 96 (Marine pollution prevention — sewage) 2013* is repealed.

### 2 Purpose

This Order:

- (a) gives effect to Annex IV (which is the Annex to MARPOL that deals with the prevention of marine pollution by sewage from ships); and
- (b) provides for matters for Chapter 4 of the Navigation Act (which deals with prevention of pollution from vessels); and
- (c) prescribes matters for Division 1 of Part IIIB of the Pollution Prevention Act (which gives effect to Australia's obligations regarding the discharge of untreated sewage in the Antarctic Area under Annex IV of the Antarctic Protocol); and
- (d) provides for matters for Division 1A of Part IIIB of the Pollution Prevention Act (which gives effect to Australia's obligations regarding the discharge of sewage in the Antarctic Area or Arctic waters under Annex IV and the Polar Code); and
- (e) prescribes matters for Division 2 of Part IIIB of the Pollution Prevention Act (which deals with the discharge of sewage in areas other than the Antarctic area).

### 3 Power

- (1) This Order is made under both the Navigation Act and the Pollution Prevention Act.
- (2) The following provisions of the Navigation Act provide for this Order to be made:
  - (a) section 130 which provides that the regulations may provide for pollution certificates;
  - (b) section 314 which provides that the regulations may prescribe various matters about certificates;
  - (c) subsection 339(1) which provides for regulations to be made prescribing matters required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act;
  - (d) paragraph 340(1)(c) which provides that the regulations may provide for giving effect to MARPOL;
  - (e) subsection 342(1) which provides that AMSA may make orders about matters that can be provided for by regulations.

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- (3) The following provisions of the Pollution Prevention Act provide for this Order to be made:
- (a) paragraphs 33(1)(a) and (b) which provide 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;
  - (b) paragraph 33(1)(c) which provides for regulations under paragraphs 33(1)(a) and (b) to be made to give effect to MARPOL;
  - (c) subsection 34(1) which provides that AMSA may make orders for any matter (other than the imposition of penalties) for which provision may be made by regulation.

**4 Definitions and interpretation**

- (1) In this Order:

**2012 Guidelines** means the *2012 Guidelines on implementation of effluent standards and performance tests for sewage treatment plants* adopted by IMO Resolution MEPC.227(64), as in force from time to time.

**Annex IV** means, other than in paragraph 2(c), Annex IV of MARPOL.

**ISPP certificate (or International Sewage Pollution Prevention Certificate)** means a certificate that:

- (a) is a pollution certificate relating to sewage issued under section 132 of the Navigation Act; and
  - (b) is in the form of the International Sewage Pollution Prevention Certificate set out in the Appendix to Annex IV.
- (2) In this Order, a term that is used but is not defined for this Order, and is defined in MARPOL has the meaning given by MARPOL.

*Examples*

Definitions of **existing passenger ship** and **new passenger ship** in Annex IV.

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

- IMO
- MARPOL
- Navigation Act
- Pollution Prevention Act.

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

- Australian nationality
- issuing body
- recognised organisation (for organisations that have been prescribed for the definition — see *Marine Order 1 (Administration) 2013*).

*Note 3* Other terms used in this Order are defined in the Pollution Prevention Act, including:

- Antarctic Protocol
- areas of ice concentration exceeding 1/10
- Polar Code.

*Note 4* Most provisions of this Order are expressed using terms used in the Navigation Act (eg **vessel**). However, some provisions of this Order that are made solely under the Pollution Prevention Act use terms used in that Act (eg **ship**). An example of a provision using terms used in the Pollution Prevention Act is section 22.

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*Note 5* A copy of IMO documents mentioned in this Order is available on the IMO website at <http://www.imo.org>. Information on obtaining copies of IMO documents is also on AMSA's website at <http://www.amsa.gov.au>.

*Note 6* For delegation of AMSA's powers under this Order — see the AMSA website at <http://www.amsa.gov.au>.

**5 Application**

- (1) This Order applies to a vessel that is:
  - (a) a regulated Australian vessel; or
  - (b) a foreign vessel; or
  - (c) a recreational vessel; or
  - (d) a domestic commercial vessel.
- (2) However, this Order does not apply to a vessel that is owned or operated by a country other than Australia and used, for the time being, on government non-commercial service.
- (3) Also, Divisions 2 and 3 do not apply to a vessel that is:
  - (a) a foreign vessel; or
  - (b) a recreational vessel that does not have Australian nationality.
- (4) For this Order, Annex IV is taken to apply to a vessel that is owned and operated by the Commonwealth and is used, for the time being, on government non-commercial service.

*Note* The application of this Order is subject to subsection 33(2) of the Pollution Prevention Act and section 12 of the Navigation Act. Those provisions have the effect that parts of this Order that give effect to parts of MARPOL do not apply to certain vessels in an area if a law of a State or the Northern Territory or the Marine Safety (Domestic Commercial Vessel) National Law gives effect to the same parts of MARPOL for vessels in the area.

**6 Review of decisions**

A decision under section 7, 8, 9 or 21 of this Order is taken to be a reviewable decision for *Marine Order 1 (Administration) 2013*.

*Note 1* Section 17 of *Marine Order 1 (Administration) 2013* provides for internal review of decisions. A person affected by the review of a decision under section 17 may apply to the Administrative Appeals Tribunal for review (section 18 of *Marine Order 1 (Administration) 2013*).

*Note 2* Subsection 313(1) of the Navigation Act provides for review by the Administrative Appeals Tribunal of decisions under sections 132, 133 and 134 of the Act relating to pollution certificates.

**Division 2 Systems, equipment etc required by Annex IV****7 Sewage systems****[MARPOL IV-9]**

A vessel to which Annex IV applies and section 4.2 of the 2012 Guidelines does not apply must be equipped with:

- (a) a sewage treatment plant approved by an issuing body, that complies with:
  - (i) regulation 9 of Annex IV; and
  - (ii) for a system installed on a vessel after 31 December 2015 — the 2012 Guidelines other than section 4.2; and

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- (iii) for a system installed on a vessel after 31 December 2009 and before 1 January 2016 — the *Revised guidelines on implementation of effluent standards and performance tests for sewage treatment plants*, as adopted by IMO Resolution MEPC.159(55) on 13 October 2006; and
- (iv) for a system installed on a vessel before 1 January 2010 — the *International effluent standards for sewage treatment plants* and the *Guidelines for performance tests for sewage treatment plants with respect to effluent standards*, each as adopted by IMO Resolution MEPC.2(VI) on 3 December 1976; or
- (b) a sewage comminuting and disinfecting system approved by an issuing body, that complies with Regulation 9 of Annex IV; or
- (c) a holding tank approved by an issuing body, that complies with Regulation 9 of Annex IV.

**8 Sewage systems for vessels discharging in special areas****[MARPOL IV-9]**

A vessel to which both Annex IV and section 4.2 of the 2012 Guidelines apply must be equipped with:

- (a) a sewage treatment plant approved by an issuing body, that complies with section 4.2 of the 2012 Guidelines; or
- (b) a holding tank approved by an issuing body, that complies with Regulation 9 of Annex IV.

*Note* Section 4.2 of the 2012 Guidelines applies to new passenger ships after 31 December 2015 and to existing passenger ships after 31 December 2017. Section 4.2 deals with passenger ships discharging sewage in special areas designated in Annex IV.

**9 Standard discharge connections****[MARPOL IV-10]**

- (1) The vessel must have a standard discharge connection mentioned in Regulation 10 of Annex IV.
- (2) However, for a passenger vessel, the vessel's discharge pipeline may be fitted with a discharge connection approved by an issuing body (eg a quick-connection coupling).

**Division 3 Certificates****[MARPOL IV-5]****10 Certificates required**

For subsection 130(3) of the Navigation Act (which enables the regulations to provide that specified kinds of vessels are required to have specified pollution certificates), a vessel to which Annex IV applies must have an ISPP certificate.

**11 Applying for certificates**

- (1) For subsection 131(1) of the Navigation Act (which enables a person to apply to an issuing body for a pollution certificate specified in the regulations), an ISPP certificate is specified.

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- (2) Division 3 of *Marine Order 1 (Administration) 2013* (other than section 17) applies to an application to AMSA for a certificate mentioned in subsection (1).  
*Note* Division 3 of *Marine Order 1 (Administration) 2013* prescribes some general rules about the making and determination of various kinds of applications. Section 17 of that Order provides for internal review of decisions about applications. That section does not apply to decisions about pollution certificates because those decisions are reviewable under subsection 313(1) of the Navigation Act.

**12 Criteria for issue of ISPP certificates**

For paragraph 132(1)(b) of the Navigation Act, the criteria for the issue of an ISPP certificate for a vessel are that the vessel:

- (a) has been surveyed in accordance with regulation 4 of Annex IV; and
- (b) complies with the requirements that apply to it under regulation 4 of Annex IV.

**13 Conditions of ISPP certificates**

For paragraph 132(2)(a) of the Navigation Act, an ISPP certificate is subject to the following conditions:

- (a) the condition of the vessel and its equipment must be maintained to comply with Annex IV;
- (b) any survey mentioned in regulation 4 of Annex IV must be completed in accordance with the requirements of that regulation;
- (c) after a survey mentioned in regulation 4 of Annex IV has been completed, any change to the structure, equipment, systems, fittings, arrangements or materials covered by the survey (apart from direct replacement of equipment and fittings) must be approved by an issuing body.

**14 Commencement and duration of certificates**

An ISPP certificate comes into force and ceases to be in force in accordance with Regulation 8 of Annex IV.

*Note* A certificate may be revoked in accordance with the criteria mentioned in this Division.

**15 Criteria for variation of ISPP certificates**

For subsection 133(1) of the Navigation Act, the criteria for variation of an ISPP certificate for a vessel are that:

- (a) the vessel complies with the requirements that apply to it under Annex IV; and
- (b) the variation is in accordance with regulation 8 of Annex IV.

*Note* A variation may be in the form of an endorsement to a certificate. Endorsements are provided for in paragraphs 3 to 6 of regulation 8 of Annex IV.

**16 Criteria for revocation of ISPP certificates**

For section 134 of the Navigation Act, the criteria for revocation of an ISPP certificate for a vessel are that:

- (a) a condition of the certificate has been breached; or
- (b) the vessel ceases to be registered in Australia.

**Section 18****17 Notifying alterations**

For paragraph 137(1)(c) of the Navigation Act, the period within which AMSA and each issuing body that issued the ISPP certificate for the vessel must be informed of an alteration to a vessel is 7 days after the alteration is made.

*Note 1* An approved form for the reporting of alterations to vessels is available from AMSA's website — see <http://www.amsa.gov.au>.

*Note 2* For other reporting requirements — see *Transport Safety Investigation Act 2003*, sections 18 and 19.

**Division 4 Requirements for foreign vessels****18 Requirements for foreign vessels**

- (1) A foreign vessel to which Annex IV applies must comply with the requirements of Annex IV that apply to the vessel.
- (2) A foreign vessel registered in a country that is not a party to Annex IV but is a vessel to which Annex IV would apply if the country were a party to Annex IV must carry and comply with any certificate or other document that:
  - (a) is issued for the vessel by or for the administration of the country in which it is registered; and
  - (b) deals with the prevention of marine pollution by sewage by the vessel.

**Division 5 Marine incidents****19 Marine incidents**

For paragraph (l) of the definition of *marine incident* in subsection 14(1) of the Navigation Act, the following incidents are prescribed:

- (a) equipment failure that may affect compliance by the vessel with Annex IV;
- (b) an incident involving the vessel that may affect compliance by the vessel with Annex IV;
- (c) anything that substantially affects the integrity of the vessel or the efficiency or completeness of the vessel's equipment covered by Annex IV.

*Note 1* The owner and master of a vessel must report marine incidents to AMSA — see sections 185 and 186 of the Navigation Act.

*Note 2* For the prescribed periods for the reporting of marine incidents — see section 23A of *Marine Order 1 (Administration) 2013*. Forms for reporting of marine incidents are available from AMSA's website at <http://www.amsa.gov.au>.

**Division 6 Matters prescribed for the Pollution Prevention Act****20 Rate of discharge of untreated sewage**

- (1) For paragraphs 26BC(4)(b), 26BCC(6)(d) and 26D(6)(c) of the Pollution Prevention Act, the discharge rate is:
  - (a) over any period up to 24 hours — not more than  $DR_{\max}$  m<sup>3</sup> per hour; and
  - (b) in any 1 hour during that period — not more than  $1.2 \times DR_{\max}$  m<sup>3</sup>.
- (2) For subsection (1):

$$DR_{\max} = 0.00926 \times B \times D \times V$$

where:

$B$  = breadth in metres.



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$D$  = draft in metres.

$V$  = the ship's average speed in knots over the period.

*Note* The calculations in this section give effect to IMO Resolution MEPC.157(55).

**21 Approval to discharge sewage**

- (1) A person may apply to AMSA, in accordance with the application process set out in *Marine Order 1 (Administration) 2013*, for an approval mentioned in paragraph 26BCC(8)(d) of the Pollution Prevention Act.
- (2) An application must be accompanied by:
  - (a) an ISPP certificate that certifies that the ship is equipped with a sewage treatment plant that complies with the requirements in regulation 9 of Annex IV; and
  - (b) any other document requested by AMSA.

*Note* For requirements giving effect to paragraph 1.1 and 2.1 of Regulation 9 of Annex IV — see paragraphs 7(a) and 8(a) of this Order.

- (3) For paragraph 26BCC(8)(d) of the Pollution Prevention Act, in deciding whether to approve an application, AMSA must consider the following matters:
  - (a) the ship type;
  - (b) the type of sewage treatment plant on board the ship;
  - (c) whether the ship will operate in an area of ice concentration exceeding 1/10 for more than 30 days;
  - (d) any other matter it considers relevant.
- (4) An approval is subject to any condition imposed by AMSA.

*Note* For guidance about ice concentration — see item 4.2 in *WMO Sea Ice Nomenclature (WMO-No. 259 Suppl. No. 5)* published by the Joint Technical Commission for Oceanography and Marine Meteorology on 7 October 2009.

**22 Discharge of sewage by prescribed passenger ships in special areas**

For paragraphs 26D(6)(d), 26D(7)(c), 26D(8)(b) and 26D(9)(a) of the Pollution Prevention Act:

- (a) a passenger ship is prescribed if it is:
  - (i) a new passenger ship after 31 December 2015; or
  - (ii) an existing passenger ship after 31 December 2017; and
- (b) a prescribed day is the day fixed under paragraph 2 of regulation 13 of Annex IV.

*Note* Section 26DAA of the Pollution Prevention Act provides that a prescribed officer may require the owner or master of a vessel to discharge sewage at a reception facility. See subsection 3(2) of the Act for the definition of *prescribed officer*.

**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>.