

## Explanatory Statement

### Marine Order 27 (Safety of navigation and radio equipment) Amendment Order 2019 (Order 2019/7)

#### Authority

1. Subsection 339(1) of the *Navigation Act 2012* (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.
2. Paragraph 339(2)(b) of the Navigation Act provides that the regulations may provide for machinery and equipment to be carried on board vessels including for sending or receiving distress, urgency and other signals, radio installations, radio navigational aids and communication equipment, and compasses.
3. Subsection 340(1)(a) of the Navigation Act provides that the regulations may give effect to SOLAS.
4. Subsection 342(1) of the Navigation Act provides that AMSA may make a Marine Order about anything that must or may be made by the 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 Marine Order is a legislative instrument for the *Legislation Act 2003*.

#### Purpose

7. This Marine Order (the amending Order) amends *Marine Order 27 (Safety of navigation and radio equipment) 2016* (Marine Order 27).
8. The amending Order gives effect to IMO Resolution MSC.436(99) which provides mobile satellite services within the Global Maritime Distress and Safety System (GMDSS) by providers additional to Inmarsat plc, a British-registered satellite telecommunications company. The resolution, which amends Chapter IV of SOLAS, enters into force on 1 January 2020.

#### Overview

9. Marine Order 27 gives effect to Chapter IV of SOLAS, which deals with radiocommunications. It also gives effect to Regulation 18 of Chapter V of SOLAS, which outlines performance standards for radiocommunications equipment carried on board vessels.
10. The amending Order gives effect to IMO Resolution MSC.436(99), which recognises providers additional to Inmarsat plc as having met all of the eligibility requirements to provide mobile satellite services within the GMDSS. Inmarsat plc held a monopoly on this service provision prior to adoption of MSC.436(99). At the time of making of the amending Marine Order, the IMO had acknowledged Iridium Communications Inc. as having met all of the criteria necessary to provide services also.
11. It is expected that Iridium GMDSS and Maritime Safety Information (MSI) services will become available in NAVAREA X, the geographical sea area for which Australia co-ordinates the broadcast of navigational warnings, with full operating capability within the next three years.
12. The amending Order also updates IMO performance standards for radiocommunications equipment carried on board vessels at Schedule 2 to the Order.

## Consultation

13. A copy of the draft of this Marine Order was placed on the AMSA website for public comment on 4 September 2019 for a 4 week consultation period. Additionally, around 160 stakeholders were emailed a copy of the draft Marine Order with comment invited. Stakeholders included vessel traffic management service providers, pilotage providers, ship operators, recognised organisations, industry peak bodies and various government departments and agencies. There were two submissions received on the draft Marine Order. One submission raised no issue with the amendment. Minor changes were made to the draft Order as a result of the second submission.
14. The Office of Best Practice Regulation (OBPR) was also consulted and considered that changes made by IMO Resolution MSC.436(99) would be minor in nature (OBPR ID 25067). The OBPR approval number for this Marine Order is 16724.

## Documents incorporated by reference

15. This Marine Order incorporates the following documents by reference:
- *Amendments to the International Convention for the Safety of Life at Sea, 1974*, adopted as Resolution MSC.436(99), as amended from time to time
  - *General requirements for shipborne radio equipment forming part of the global maritime distress and safety system (GMDSS) and for electronic navigation aids*, adopted as Resolution A.694(17), as amended from time to time
  - *Performance standards for a ship earth station for use in the GMDSS*, adopted as Resolution MSC.434(98), as amended from time to time
  - *Performance standards for shipborne global positioning system (GPS) receiver equipment*, adopted as Resolution A.819(19), as amended from time to time
  - *Adoption of the revised performance standards for shipborne global positioning system (GPS) receiver equipment*, adopted as Resolution MSC.112 (73), as amended from time to time
  - *Performance standards for shipborne GLONASS receiver equipment*, adopted as Resolution MSC.53(66), as amended from time to time
  - *Adoption of the revised performance standards for shipborne GLONASS receiver equipment*, adopted as Resolution MSC.113(73), as amended from time to time
  - *Adoption of the revised performance standard for integrated navigation systems (INS)*, adopted as Resolution MCS.252(83), as amended from time to time
  - *Revised performance standards for integrated navigation systems (INS)*, adopted as Resolution MSC.452(99), as amended from time to time.
16. Information on obtaining copies of any IMO Resolution, IMO document or other document that is mentioned in this Marine Order is available from the Marine Order link at <http://www.amsa.gov.au>.

## Commencement

17. This Marine Order commenced on 1 January 2020.

## Contents of this instrument

18. Section 1 sets out the name of the Marine Order.
19. Section 2 provides for the commencement of the Marine Order.
20. Section 3 provides that Schedule 1 amends Marine Order 27.
21. Item 1 of Schedule 1 contains a spelling correction within the definition of *Radio Regulations*.
22. Item 2 of Schedule 1 inserts a definition of *recognised mobile satellite* service.
23. Item 3 of Schedule 1 amends the notes at the end of section 4, removing obsolete references.
24. Item 4 of Schedule 1 omits the note at subsection 24(1).
25. Item 5 of Schedule 1 omits the reference to Inmarsat at subsection 40(1).
26. Item 6 of Schedule 1 amends the list of performance standards for radio equipment forming part of the GMDSS referenced in Schedule 2 to Marine Order 27.
27. Item 7 of Schedule 1 amends the list of performance standards for shipborne positioning systems referenced in Schedule 2 to Marine Order 27.
28. Item 8 of Schedule 1 amends the list of performance standards for integrated navigation systems referenced in Schedule 2 to Marine Order 27.
29. Item 9 of Schedule 1 inserts a note advising of the limited monitoring of the 2182 kHz frequency for distress and safety communications in Schedule 4 of Marine Order 27.
30. Item 10 of Schedule 1 amends the ship earth station frequencies utilised for distress and safety communications by Inmarsat terminals, listed at Schedule 4 to the Marine Order.
31. Item 11 of Schedule 1 amends the frequencies utilised for maritime safety information via Inmarsat terminals, listed at Schedule 4 to the Marine Order.
32. Item 12 of Schedule 1 describes other minor editorial corrections to the body of Marine Order 27 at paragraph 26(8)(i), subsections 26(3), 26(4), 28(1), 33(1), 28(2), 43(2), section 36, Schedule 3 at clauses 1 and 3, and the table headings at Schedule 4.

## Statement of compatibility with human rights

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

### Overview of the legislative instrument

34. This Marine Order amends *Marine Order 27 (Safety of navigation and radio equipment) 2016* to give effect to IMO resolution (MSC.436(99)), providing for additional mobile satellite service providers in the Global Maritime Distress and Safety System (GMDSS).
35. The Order also updates performance standards for radiocommunications equipment required to be carried on board vessels, in accordance with Chapter IV of SOLAS.

### Human rights implications

36. This Marine Order does not engage any of the human rights or freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary) Scrutiny Act 2011*.

## Conclusion

37. AMSA considers that this Marine Order 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

38. This Marine Order has been made by the Chief Executive Officer of the Australian Maritime Safety Authority, in accordance with subsection 49(4) of the *Australian Maritime Safety Authority Act 1990*.