

Explanatory Statement

Marine Order 21 (Safety and emergency arrangements) Amendment Order 2019 (MO 2019/9)

Authority

1. This Order was made under subsection 342(1) of the *Navigation Act 2012* (Navigation Act) and is a legislative instrument for the *Legislation Act 2003*.
2. Subsection 339(1) authorises the Governor-General to make regulations necessary or convenient for carrying out or giving effect to the Navigation Act.
3. Subsection 342(1) of the Navigation Act allows the Australian Maritime Safety Authority (AMSA) to make orders for any matter in the Act for which provision must or may be made by regulations.
4. Paragraph 340(1)(a) of the Navigation Act provides that regulations may give effect to the International Convention for the Safety of Life at Sea, 1974 (SOLAS).
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. Subsection 125(1) of the Navigation Act provides that the regulations may make provision in relation to musters, drills, checks of machinery and equipment and other tests.
7. Paragraph 339(2)(c) of the Navigation Act provides that regulations may provide for operating, maintaining, checking and testing machinery and equipment.
8. Paragraph 339(2)(l) of the Navigation Act provides that regulations may provide for logbooks.
9. Paragraph 339(2)(m) of the Navigation Act provides that regulations may provide for records about compliance with the Act.

Purpose

10. This Order amends *Marine Order 21 (Safety and emergency arrangements) 2016* to give effect to Regulation 19-1 of Chapter II-1 of the International Convention for the Safety of Life at Sea (SOLAS).

Overview

11. This Order gives effect to Regulation 19-1 of Chapter II-1 of SOLAS. This Order amends *Marine Order 21 (Safety and emergency arrangements) 2016* as a result of International Maritime Organization resolution MSC.421(98). The change introduces certain requirements for damage control drills for passenger vessels under Regulation 19-1 in Chapter II-1 of SOLAS.
12. The Order is made under the *Navigation Act 2012* and gives effect to regulations in the SOLAS relating to safety measures for passenger vessels. The Order introduces certain requirements for damage control drills for passenger vessels under Regulation 19-1 in Chapter II-1 of SOLAS.
13. The safety measures introduced include the requirement for the master to undertake a damage control drill at least every 3 months, which includes ensuring that seafarers with damage control duties report to the muster stations and undertake damage control duties. The safety measures require the operation of the bilge pump and its alarm and automatic starting system to be checked; that communication links to shore are checked; for certain stability tests to be

conducted; and that responsible seafarers must be able to operate watertight doors and use the flooding detection system and the cross-flooding and equalisation systems.

14. The master of a passenger vessel must ensure that responsible seafarers are familiar with their responsibilities, the damage control system and damage survey.

Consultation

15. A copy of the draft of this Marine Order was placed on the AMSA website for public comment on 17 September 2019 for a 4 week consultation period. Around 160 stakeholders, including offshore petroleum and gas proponents, ship operators, seafarer representative organisations, classification societies, shipping industry peak bodies and various government bodies were invited to comment. There were four submissions received on the draft Marine Order. Generally, the comments requested greater clarity concerning the requirements of passenger vessels in undertaking a damage control drill. As a consequence, minor changes were made to the text of the Marine Order including extra information added to Schedule 1, subclause 6(2) and (3).
16. The Office of Best Practice Regulation (OBPR) considers that the changes made by the Marine 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

17. This Order incorporates by reference parts of the following documents:
 - *Marine Order 1 (Administration) 2013*
 - International Convention for the Safety of Life at Sea (SOLAS)
18. Due to the operation of section 10 of the *Acts Interpretation Act 1901* (as applied by paragraph 13(1)(a) of the *Legislation Act 2003*), *Marine Order 1 (Administration) 2013* is adopted as in force from time to time because it is adopted by reference to its title in this Marine Order.
19. The manner of incorporation of SOLAS is as in force from time to time (see section 6 of *Marine Order 1 (Administration) 2013*. The Convention is a treaty and available for free on the Australian Treaties Database at <http://www.info.dfat.gov.au/treaties>.
20. The International Maritime Organization resolution MSC.421(98) is adopted by IMO Resolution and incorporated as amended from time to time.
21. Information on obtaining copies of any IMO Resolution, IMO document (including IMO Circulars) or other document that is mentioned in this Marine Order is available from the Marine Order link at <http://www.amsa.gov.au>.
22. IMO published material may also be purchased from:

International Maritime Organization
4 Albert Embankment, London SE1 7SR
Telephone +44(0)20 7735 7611
Fax +44(0)20 7587 3210
IMO website: <http://www.imo.org>

Commencement

23. This Marine Order commenced on 1 January 2020.

Contents of this instrument

24. Section 1 sets out the name of the Marine Order.
25. Section 2 provides for the commencement of the Marine Order.
26. Section 3 provides that *Marine Order 21 (Safety and emergency arrangements) 2016* is amended.
27. Schedule 1 contains 5 clauses and details the new damage control drill requirements for passenger vessels.
28. Item 1 of Schedule 1 amends the purpose of the Marine Order to include giving effect to Regulation 19-1 of Chapter II-1 of SOLAS.
29. Item 2 of Schedule 1 provides that the master of a vessel must ensure that the procedures for both emergency drills and damage control drills are carried out in accordance with Regulation 19-1 of Chapter II-I and Regulations 19 and 30 of Chapter III of SOLAS.
30. Item 3 of Schedule 1 provides that the master of a vessel must assign seafarers duties relating to emergencies, including damage control duties.
31. Item 4 of Schedule 1 amends the sentence to clarify that the damage control drill is for a vessel.
32. Item 5 of Schedule 1 inserts a new section to provide the new damage control drill requirements for passenger vessels, which are in addition to the damage control drill requirements already set out in Schedule 1, clause 6. The new damage control drill requirements for a passenger vessel require the master to ensure that a damage control drill takes place, at least every 3 months, in accordance with the requirements of Regulation 19-1 of Chapter II-I of SOLAS.

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. The purpose of this legislative instrument is to amend *Marine Order 21 (Safety and emergency arrangements) 2016* to give effect to Regulation 19-1 of Chapter II-1 of SOLAS.
35. The instrument is made under the *Navigation Act 2012* and gives effect to regulations in the SOLAS relating to safety measures for passenger vessels. The instrument introduces certain requirements for damage control drills for passenger vessels under Regulation 19-1 in Chapter II-1 of SOLAS.
36. The safety measures introduced include the requirement for the master to undertake a damage control drill at least every 3 months, which includes ensuring that seafarers with damage control duties report to the muster stations and undertake damage control duties. The safety measures also require the operation of the bilge pump and its alarm and automatic starting system to be checked; that communication links to shore are checked; certain stability tests must be conducted; and responsible seafarers must be able to operate watertight doors and use the flooding detection system and the cross-flooding and equalisation systems.

37. The master of a passenger vessel must ensure that responsible seafarers are familiar with their responsibilities, the damage control system and damage survey.

Human rights implications

38. This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

39. This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Making the instrument

40. This legislative instrument 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*.