

## **Explanatory Statement**

### **Marine Order 47 (Offshore industry units) Amendment Order 2020 (Order 2020/3)**

#### **Authority**

1. Section 98 of the *Navigation Act 2012* (the Navigation Act) provides that the regulations may make provision in relation to safety certificates.
2. Section 125 of the Navigation Act provides that the regulations may make provision in relation to musters, drills, checks of machinery and equipment and other tests.
3. Section 314 of the Navigation Act provides that the regulations may provide for matters relating to certificates.
4. Subsection 339(1) of 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.
5. Subsection 339(2) of the Navigation Act provides that the regulations may provide for the matters mentioned in that provision for the safe operation of vessels.
6. Subsection 342(1) of the Navigation Act provides that AMSA may make a Marine Order for any matter in the Act for which provisions must or may be made by regulations.
7. 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.
8. This Marine Order is a legislative instrument for the *Legislation Act 2003*.

#### **Purpose**

9. This Marine Order (the amending Marine Order) amends *Marine Order 47 (Offshore industry units) 2019* (Marine Order 47).
10. The amending Order makes changes relating to the criteria for revoking a MODU safety certificate; the storage of gas cylinders; and the arrangements for the safe transfer of personnel. It also makes changes in relation to the requirement for compliance with Chapter 14 of the *Code for the construction and equipment of mobile offshore drilling units, 2009* (the 2009 MODU Code) and the requirement for familiarisation, training and certification of personnel aboard offshore industry units under tow.

#### **Overview**

11. Marine Order 47 provides for the survey, certification and safe operation of offshore industry units.
12. Marine Order 47 gives effect to SOLAS and the applicable MODU Code. It also implements the *IMO Survey Guidelines under the Harmonised System of Survey and Certification (HSSC), 2017*.
13. The amending Marine Order also makes provision for the requirements for familiarisation, training and certification of personnel on board offshore industry units under tow as set out in IMO Resolution A.1079(28).

## Consultation

14. A copy of the draft of the amending Marine Order was placed on the AMSA website for public comment on 6 April 2020 for a five 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 two submissions received in relation to industry practices and no changes were made to the text of the Order. Existing guidance material to support Marine Order 47 has been enhanced.

15. The Office of Best Practice Regulation (OBPR) was also consulted and considered that changes made by the Order have regulatory impacts of a minor or machinery nature and no regulation impact statement was required. The OBPR reference number is 25133.

## Documents incorporated by reference

16. The amending Marine Order provides for the incorporation by reference of parts of the following documents:

- *Code for the Construction and Equipment of Mobile Offshore Drilling Units* (MODU Code — 1979, 1989 and 2009 version)
- *Marine Order 21 (Safety and emergency arrangements) 2016*
- *Marine Order 58 (Safe management of vessels) 2020*
- *Recommendations for the training and certification of personnel on mobile offshore units*
- *Guidance on the transfer of personnel to and from offshore vessels*, published by the International Marine Contractors Association (IMCA)
- *Health and Safety in Shipboard Work, including Offshore Support Vessels* (Seacare Authority Code of Practice Approval), as amended from time to time.

17. 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 21 (Safety and emergency arrangements) 2016* and *Marine Order 58 (Safe management of vessels) 2020* are adopted as in force from time to time because each is adopted by reference to its title in the amending Marine Order. These instruments are available on the Federal Register of Legislation.

18. The *Recommendations for the training and certification of personnel on mobile offshore units* is adopted by IMO Resolution A. 1079(28) and incorporated as amended from time to time.

19. The *Guidance on the transfer of personnel to and from offshore vessels* and the *Health and Safety in Shipboard Work, including Offshore Support Vessels* are recognised as industry best practice and are incorporated as amended from time to time.

20. Information on obtaining copies of any IMO Resolution, IMO document (including IMO Circulars) or other document that is mentioned in Marine Order 47 is available from the Marine Order link at <http://www.amsa.gov.au>.

## Commencement

21. The amending Marine Order commenced on 1 July 2020.

## Contents of this instrument

22. Section 1 sets out the name of the amending Marine Order.

23. Section 2 provides for the commencement of the amending Marine Order.
24. Section 3 provides that Schedule 1 amends Marine Order 47.
25. Item 1 of Schedule 1 substitutes section 11 (Conditions of MODU safety certificates). The following new conditions are being added to the provision:
- Chapter 14 of the 2009 MODU Code is required to be carried on board a MODU;
  - gas cylinders containing breathing media for use in diving operations must be stowed separately from cylinders containing media for maintenance, and at least 3 metres from accommodation areas, the navigating bridge and the radio room;
  - arrangements for the safe transfer of personnel must be implemented on board
  - any manning determination made under section 51 of the Navigation Act or any safe manning document determined under subsection 10(2) of *Marine Order 21 (Safety and emergency arrangements) 2016* is available for perusal on the vessel without the need for a seafarer to request access.
26. *Note 1* is amended to include examples of industry best practice on safe transfer of personnel.
27. Item 2 of Schedule 1 inserts a new sub-section describing the criteria for revocation of a MODU safety certificate.
28. Item 3 of Schedule 1 substitutes section 16 (Conditions of SOLAS certificates) to add 2 new conditions:
- the owner of the vessel must demonstrate that arrangements for the safe transfer of personnel have been implemented on board; and
  - gas cylinders containing breathing media for use in diving operations must be stowed separately from cylinders containing media for maintenance, and at least 3 metres from accommodation areas, the navigating bridge and the radio room.
29. *Note 1* is amended to include examples of industry best practice on safe transfer of personnel.
30. Item 4 of Schedule 1 substitutes section 22 (Conditions of non-SOLAS certificates) to add 2 new conditions:
- the owner of the vessel demonstrates that arrangements for the safe transfer of personnel have been implemented on board; and
  - that gas cylinders containing breathing media for use in diving operations are stowed separately from cylinders containing media for maintenance, and at least 3 metres from accommodation areas, the navigating bridge and the radio room.
31. *Note 1* is amended to include examples of industry best practice on safe transfer of personnel.
32. Item 5 of Schedule 1 amends requirements for the implementation of safe towing arrangements, including, for crew aboard a towing vessel, training and certification as set out in IMO Resolution A.1079(28) *Recommendations for the training and certification of personnel on mobile offshore units*; and for weekly fire and abandonments drills to be conducted.

33. Item 6 of Schedule 1 amends requirements for the implementation of safe towage arrangements on board the towed vessel, including, where seafarers are carried on board, training and certification as set out in IMO Resolution A.1079(28) *Recommendations for the training and certification of personnel on mobile offshore units*.

34. Item 7 of Schedule 1 makes a consequential change to a Marine Order reference in Schedule 2 as a result of the reissue of the Order.

### **Statement of compatibility with human rights**

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

#### **Overview of the legislative instrument**

36. The amending Marine Order makes changes to *Marine Order 47 (Offshore industry units) 2019*, which prescribes certification matters for vessels that are offshore industry units. Marine Order 47 gives effect to SOLAS and the applicable MODU Code in relation to the survey and certification of vessels.

#### **Human rights implications**

37. The amending 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**

38. 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**

39. This 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*.