

AMSA MO 2021/1

Marine Order 11 (Living and working conditions on vessels) Amendment Order 2021

I, Michael Kinley, Chief Executive Officer of the Australian Maritime Safety Authority, make this Order under subsection 342(1) of the *Navigation Act 2012*.

5 May 2021

Michael Kinley
Chief Executive Officer

1 Name of Order

 This Order is *Marine Order 11 (Living and working conditions on vessels) Amendment Order 2021*.

2 Commencement

 This Order commences on 1 June 2021.

3 Amendment of *Marine Order*

 Schedule 1 amends *Marine Order 11 (Living and working conditions on vessels) 2015*.

Schedule 1 Amendment

[1] Section 4, before definition of *adverse action*

insert

***act of armed robbery against vessels*** means any unlawful act of violence or detention, or any act of depredation, or threat (other than an act of piracy) that is:

(a) directed against a vessel, or against persons or property on board the vessel; and

(b) done in a place within the jurisdiction of any country.

***act of piracy*** has the same meaning as in section 51 of the *Crimes Act 1914*.

[2] Subsection 6(6), note

substitute

*Note*   Enabling legislation for *Marine Orders — Part 14: Accommodation, Issue 1* was repealed by the *Navigation (Consequential Amendments) Act 2012*. The text of the Marine Order is available on the Federal Register of Legislation website at http://www.legislation.gov.au.

[3] Subsections 27(3A) to (6)

substitute

 (4) For subsection (3), if a proportion of the seafarer’s earnings are sent by bank transfer or similar means:

(a) the rate of any currency exchange must be the exchange rate published by the Reserve Bank of Australia for the day transfer occurs; and

(b) the owner may charge a reasonable amount for providing the service.

 (5) An offence against subsection (1), (2) or (3) is a strict liability offence.

 (6) A person is liable to a civil penalty if the person contravenes subsection (1), (2) or (3).

Civil penalty: 50 penalty units.

 (7) If the seafarer is held captive on or off a vessel as a result of an act of piracy or act of armed robbery against vessels, an owner of a regulated Australian vessel must continue to comply with this section until the death or repatriation of the seafarer.

 (8) Subsection (7) applies whether or not the seafarer’s work agreement has expired or terminated, or been suspended, during captivity.

[4] Paragraph 31(1)(f)

substitute

(f) termination or interruption of employment:

 (i) in accordance with an industrial award; or

 (ii) in accordance with a collective agreement;

(g) the seafarer has been held captive on or off the vessel as a result of an act of piracy or an act of armed robbery against vessels.

[5] Subsection 34(2)

substitute

 (2) If the seafarer does not claim the benefit within the time mentioned in subsection (1), the owner of a vessel may refuse to pay the claim unless repatriation is following an act of piracy or an act of armed robbery against vessels.

[6] Schedule 1, subparagraph (b)(i)

substitute

(i) a medical certificate of fitness in accordance with Marine Order 76 (Health — medical fitness) 2017;

[7] Schedule 3, clauses 15 to 19

substitute

 15 The seafarer’s entitlement to payment of wages and other benefits under the work agreement if the seafarer is held captive on or off the vessel as a result of an act of piracy or an act of armed robbery against vessels.

 16 The seafarer’s entitlement to repatriation including repatriation following an act of piracy or an act of armed robbery against vessels.

 17 The seafarer’s home port.

 18 A mention of the collective agreement or award that applies to the seafarer.

 19 If the collective agreement applies to the seafarer — how the seafarer can obtain a copy of the agreement.

 20 A list of the geographic location of war zones, if any.

[8] Schedule 12, clause 4

substitute

4 Details of each inspection mentioned in sections 54 and 64.

**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.