

Explanatory Statement

Marine Orders Amendment (Marine Order 71 — consequential changes) Order 2023 (Order 2023/6)

Authority

1. Subsection 339(1) of the *Navigation Act 2012* (the *Navigation Act*) authorises the Governor-General to make regulations necessary or convenient for carrying out or giving effect to the *Navigation Act*.
2. 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.
3. 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.
4. This amending Marine Order was made under subsection 342(1) and is a legislative instrument for the *Legislation Act 2003*.

Purpose

5. This amending Marine Order makes amendments consequential to the making of *Marine Order 71 (Masters and deck officers) 2023* (Marine Order 71 2023) that replaces *Marine Order 71 (Masters and deck officers) 2014*.

Overview

6. This amending Marine Order revises a number of outdated references in two Marine Orders that need correcting as a result of the making of Marine Order 71 2023.

Consultation

7. A copy of the draft of Marine Order 71 was placed on AMSA's website on 29 March 2023 for public consultation with comments to be provided by 24 May 2023. Around 150 stakeholders were contacted by email and invited to comment. These included seafarer representative organisations, vessel operators and relevant government agencies. The review was also advised on social media and via the April edition of 'AMSA update' which is a newsletter with a distribution of around 27,000 people.
8. The Office of Impact Analysis (OIA) 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 OIA reference number is 43657.

Documents incorporated by reference

9. *Marine Order 71 (Masters and deck officers) 2023* becomes a document incorporated by reference in the two Marine Orders being amended following the replacement of the repealed version of Marine Order 71 (made in 2014).
10. 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 71 is adopted as in force from time to time because it is adopted by reference to title. Any Marine Order can be accessed through the marine orders link on the AMSA website at <https://www.amsa.gov.au> and are available for free download from the Federal Register of Legislation through that link.

Commencement

11. This amending Marine Order commences immediately after the commencement of *Marine Order 71 (Masters and deck officers) 2023*.

Contents of this instrument

12. Section 1 sets out the name of the Marine Order.
13. Section 2 provides for the commencement of the Marine Order.
14. Section 3 provides that Schedule 1 sets out the consequential amendments.

Division 1 of Schedule 1 — Marine Order 70 (Seafarer certification) 2014

15. Division 1 contains 3 substitutions. The changes are necessary to make reference to Marine Order 71 2023.

Division 2 of Schedule 1 — Marine Order 74 (Masters and deck officers — yachts) 2015

16. Division 1 contains 1 substitution. The change is necessary to make reference to Marine Order 71 2023.

Statement of compatibility with human rights

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

Overview of the legislative instrument

18. This amending Marine Order makes amendments consequential to the making of *Marine Order 71 (Masters and deck officers) 2023* (Marine Order 71 2023). Changes are made as a result of the name change to the instrument following its repeal and replacement. The amending Marine Order corrects the name of the instrument in 2 Marine Orders.

Human rights implications

19. This amending Marine Order does not engage any of the applicable rights or freedoms.

Conclusion

20. 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

21. 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*.