

Explanatory Statement

Marine Orders Amendment (Marine Order 27 — consequential changes) Order 2023 (Order 2023/10)

Authority

1. Subsection 339(1) of the *Navigation Act 2012* (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 27 (Safety of navigation and radio equipment) 2023* (Marine Order 27 2023) that replaces *Marine Order 27 (Safety of navigation and radio equipment) 2016*.

Overview

6. This amending Marine Order revises a number of outdated references that need correcting as a result of the making of Marine Order 27 2023. Changes are also made to move the definition of EPIRB from Marine Order 25 to Marine Order 1.

Consultation

7. A copy of the draft of Marine Order 27 was placed on AMSA's website on 11 September 2023 for public consultation with comments to be provided by 8 October 2023. Around 170 stakeholders were contacted by email and invited to comment. These included vessel operators, training organisations, port authorities, ship operating companies, classification societies, seafarer representative organisations and relevant government departments and agencies, including the Australian Communications and Media Authority. The review was also advised on social media and via the September 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 nature and no regulation impact statement is required. The OIA reference number is OIA23-05525.

Documents incorporated by reference

9. *Marine Order 27 (Safety of navigation and radio equipment) 2023* becomes a document incorporated by reference following the replacement of the repealed version of Marine Order 27 (made in 2016).
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 27 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 27 (Safety of navigation and radio equipment) 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 1 (Administration) 2013*

15. Division 1 contains 1 amendment. The change adds the definition of EPIRB to Marine Order 1 so that the term is available as a generic definition for each Marine Order that uses that term. The definition of EPIRB is no longer included in Marine Order 27.

Division 2 of Schedule 1 — *Marine Order 25 (Equipment — lifesaving) 2014*

16. Division 2 contains 3 amendments. The changes are related to the amendment of Marine Order 1 described above and remove the definition of EPIRB from Marine Order 25.

Division 3 of Schedule 1 — *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*

17. Division 3 contain 9 substitutions. The changes are necessary to make reference to Marine Order 27 2023.

Division 4 of Schedule 1 — *Marine Order 47 (Offshore industry units) 2019*

18. Division 4 contain 5 substitutions. The changes are necessary to make reference to Marine Order 27 2023.

Statement of compatibility with human rights

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

Overview of the legislative instrument

20. This amending Marine Order makes amendments consequential to the making of *Marine Order 27 (Safety of navigation and radio equipment) 2023* (Marine Order 27 2023). Changes are made as a result of the name change to the instrument following its repeal and replacement, correcting the name of the instrument in two Marine Orders. Changes are also made to move the definition of EPIRB from Marine Order 25 to Marine Order 1 so that it becomes a generic definition that is available to each Marine Order that uses it, including both Marine Orders 25 and 27.

Human rights implications

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

Conclusion

22. 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

23. 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*.