



Australian Government
Australian Maritime Safety Authority

AMSA MO 2024/3

Marine Order 11 (Living and working conditions on vessels) 2024

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

Dated 12 November 2024

Kaylene Dale
Chief Executive Officer

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Division 1 General

1 Name of Marine Order

This Marine Order is *Marine Order 11 (Living and working conditions on vessels) 2024*.

1A Commencement

This Marine Order commences on 23 December 2024.

1B Repeal of *Marine Order 11 (Living and working conditions on vessels) 2015*

Marine Order 11 (Living and working conditions on vessels) 2015 is repealed.

2 Purpose

- (1) This Marine Order gives effect to:
 - (a) the Maritime Labour Convention which provides standards for:
 - (i) minimum requirements for seafarers working on vessels; and
 - (ii) conditions of employment; and
 - (iii) accommodation and food and catering; and
 - (iv) health protection, medical care, welfare and social security protection; and
 - (b) the *Code on noise levels on board ships* which provides standards for protection against noise on board.
- (2) This Marine Order also prescribes additional requirements for living and working conditions on regulated Australian vessels.

3 Power

- (1) The following provisions of the Navigation Act provide for this Marine Order to be made:
 - (a) section 42 which provides that, for regulated Australian vessels, regulations may be made about maritime labour certificates;
 - (b) subsection 54(5) which provides that, for regulated Australian vessels, regulations may be made about work agreements;
 - (c) subsection 55(1) which provides that regulations may be made about information that an owner of a regulated Australian vessel must make available to the vessel's seafarers;
 - (d) section 57 which provides that, for regulated Australian vessels, regulations may be made about retaining and producing records of service of seafarers;
 - (e) section 58 which provides that, for regulated Australian vessels, regulations may be made about seafarer work and rest hours;
 - (f) section 59 which provides that, for regulated Australian vessels, regulations may be made about payment of seafarer wages;
 - (g) section 61 which provides that, for regulated Australian vessels and foreign vessels, regulations may be made about the provision of food and drinking water on board;

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- (h) section 65 which provides that, for regulated Australian vessels and foreign vessels, regulations may be made about the health of seafarers;
 - (i) section 74 which provides that, for regulated Australian vessels and foreign vessels, regulations may be made about accommodation for seafarers on vessels;
 - (j) section 76 which provides that regulations may be made about repatriation of seafarers;
 - (k) section 77 which provides that regulations may be made about complaints and legal proceedings about seafarer employment;
 - (l) section 91 which provides that regulations may be made about dealing with the property of deceased seafarers;
 - (m) subsection 95(4) which provides that regulations may be made about providing access to regulations or legislative instruments;
 - (n) subsection 309(2) which provides that regulations may be made about the keeping of logbooks;
 - (o) section 314 which provides that regulations may be made about particular matters relating to certificates;
 - (p) paragraph 340(1)(a) which provides that regulations may be made to give effect to the Safety Convention;
 - (q) paragraph 340(1)(i) which provides that regulations may be made to give effect to the Maritime Labour Convention;
 - (r) subsection 341(1) which provides that the regulations may provide for the imposition of penalties and civil penalties for a contravention of the regulations.
- (2) Subsection 339(1) of the Navigation Act provides that regulations may be made prescribing matters that are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to the Act.
 - (3) Subsection 342(1) of the Navigation Act provides that AMSA may make orders about anything that may or must be made by the regulations.
 - (4) Subsection 342(4) of the Navigation Act allows a Marine Order to provide for any matter by applying, adopting or incorporating any matter contained in an instrument or other document in force or existing from time to time.

4 Definitions

In this Marine Order:

act of armed robbery against ships 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*.

adverse action has the same meaning as in section 342 of the *Fair Work Act 2009*.

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approved, other than for a form, means approved by an issuing body.

baseline has the same meaning as in the *Seas and Submerged Lands (Territorial Sea Baseline Proclamation) 2016*.

Code on noise levels on board ships means the *Code on noise levels on board ships* adopted by IMO Resolution MSC 337(91), as in force from time to time.

collective agreement has the same meaning as in section 11A of the *Shipping Registration Act 1981*.

controlled drug means a substance mentioned in Schedule 8 to the current Poisons Standard as defined in section 52A of the *Therapeutic Goods Act 1989*.

declaration of maritime labour compliance has the same meaning as in Regulation 5.1.3 of the Maritime Labour Convention.

GT (or gross tonnage) has the same meaning as in paragraph (4) of Article 2 of the Tonnage Convention.

ILO means the International Labour Organization.

IMDG Code means the International Maritime Dangerous Goods Code that:

- (a) was adopted by IMO Resolution MSC.122(75); and
- (b) is in force on a mandatory basis for Chapter VII of SOLAS in accordance with the amendment procedure mentioned in Article VIII of that Convention.

industrial association has the same meaning as in section 12 of the *Fair Work Act 2009*.

inland waters means waters that are non-tidal.

interim maritime labour certificate (MLC) means an interim maritime labour certificate mentioned in MLC standard A5.1.3.

maritime labour certificate (MLC) means a maritime labour certificate mentioned in MLC regulation 5.1.3.

medical practitioner has the same meaning as in the *Health Insurance Act 1973*.

onboard complaint procedure — see section 92.

repatriation means the conveyance of a seafarer to his or her home port, or other destination mentioned in the seafarer's work agreement, other than in the discharge of duties in accordance with the seafarer's work agreement.

seafarer recruitment and placement service means a person whose primary purpose is providing the service of recruiting seafarers for vessel owners and placing seafarers with owners.

SPS Code has the same meaning as in *Marine Order 50 (Special purpose vessels) 2012*.

substantial alteration, for a vessel, means a repair, alteration or modification that substantially:

- (a) alters the dimensions of the vessel; or
- (b) alters the dimensions of the accommodation spaces; or
- (c) increases the vessel's service life.

war zone, for a vessel, means a zone agreed by the owner of the vessel and a seafarer, in a work agreement, to be a war zone.

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waters closely adjacent to sheltered waters means:

- (a) waters from the baseline to 30 nautical miles; or
- (b) waters that are tidal and on the landward side of the baseline.

WHO means the World Health Organization.

Note 1 Some terms used in this Marine Order are defined or explained in *Marine Order 1 (Administration) 2013*, including:

- Australian General Shipping Register
- Australian International Shipping Register
- equivalent
- fishing vessel
- IMO
- Navigation Act
- NSCV
- passenger vessel
- STCW Code
- use.

Note 2 Some expressions used in this Marine Order are defined in the Navigation Act, including:

- accommodation
- Australian port
- approved form
- foreign vessel
- Great Barrier Reef Region
- inspector
- issuing body
- Maritime Labour Convention
- official logbook
- overseas voyage
- owner
- proceeding on a voyage
- recognised organisation (for organisations that have been prescribed for the definition — see *Marine Order 1 (Administration) 2013*)
- regulated Australian vessel
- Safety Convention
- seafarer
- special personnel
- STCW Convention
- Tonnage Convention
- work agreement.

Note 3 The text of the Maritime Labour Convention is available at the Australian Treaty Series Library on the AustLII website at www.austlii.edu.au and on the International Labour Organization website at www.ilo.org.

Note 4 For delegation of AMSA's powers under this Marine Order — see the AMSA website Marine Orders link at www.amsa.gov.au.

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5 Interpretation

For this Marine Order:

- (a) the **competent authority** is:
 - (i) for a foreign vessel — the competent authority for the Maritime Labour Convention of the country in which the vessel is registered; and
 - (ii) for a regulated Australian vessel — AMSA; and
- (b) a **MLC standard** is a standard of the Maritime Labour Convention; and
- (c) a **MLC regulation** is a regulation of the Maritime Labour Convention; and
- (d) a **MLC guideline** is a guideline of the Maritime Labour Convention.

6 Application

- (1) This Marine Order applies to:
 - (a) a regulated Australian vessel; or
 - (b) a foreign vessel.
- (2) However, if a regulated Australian vessel is of a kind mentioned in the following table, only the corresponding provisions mentioned for that vessel apply.

Table Application of provisions to certain regulated Australian vessels

Kind of regulated Australian vessel	Provisions applying
A vessel that is: <ul style="list-style-type: none"> (a) as follows: <ul style="list-style-type: none"> (i) operates exclusively within inland waters or waters closely adjacent to sheltered waters; or (ii) has a certificate to operate exclusively in areas where port limits apply or in the Great Barrier Reef Region; or (b) a fishing vessel. 	<ul style="list-style-type: none"> (a) Division 1 (General) (b) sections 28 (Hours of rest) and 29 (Shipboard working arrangements); (c) sections 36 (New vessel construction plans) and 37 (Modification of accommodation spaces); (d) sections 40 (Sleeping rooms) to 44 (Vessel batteries) and sections 46 (Decks and flooring) to 50 (Lighting) unless section 51 (Exception for vessels <200 GT) applies; (e) section 51 (Exception for vessels <200 GT); (f) sections 52 (Noise) and 53 (Inspections); (g) sections 54 (Sanitary facilities) and 56 (Laundry facilities); (h) section 59 (Food and drinking water); (i) sections 60 (Organisation and equipment of catering department) to 64 (Inspection of food, drinking water, storage areas and galleys); (j) Division 12 (Health), other than section 68 (Reporting of medical information); (k) section 98 (Record keeping – official logbook).

Note 1 For a regulated Australian vessel that operates exclusively within inland waters or waters closely adjacent to sheltered waters — its certificate of survey will be described as class 1C, 1D or 2C. See section 4 for definitions of *inland waters* and *waters closely adjacent to sheltered waters*.

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Note 2 A regulated Australian vessel that is <200 GT may be permitted to comply with Section C1 of the NSCV, whether or not it is a kind of vessel mentioned in the table, if not undertaking overseas voyages. See section 51.

7 Older vessels

- (1) A regulated Australian vessel that was constructed before 21 August 2013 is taken to comply with Divisions 6, 7, 8, 9 and 10 and paragraph 62(1)(b) if it complies with:
 - (a) *Marine Orders – Part 14: Accommodation, Issue 1* as in force on 30 June 2013; or
 - (b) Section C1 of the NSCV as existing on November 2013; or
 - (c) ILO Conventions No. 92 and 133.

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 website at www.legislation.gov.au.

- (2) For subsection (1), a vessel is taken to have been constructed when:
 - (a) the keel is laid; or
 - (b) construction identifiable with the vessel starts and the lesser of at least 50 tonnes, or 1% of the estimated mass of all structural material, of the vessel is assembled.

8 Exemptions

- (1) A requirement of this Marine Order does not apply in relation to a regulated Australian vessel if AMSA, under this section, exempts the vessel from the requirement.
- (2) The owner of a regulated Australian vessel may apply, in accordance with the application process mentioned in *Marine Order 1 (Administration) 2013*, to AMSA for an exemption from a provision of this Marine Order that provides for an application for an exemption.

Note *Marine Order 1 (Administration) 2013* deals with the following matters about exemptions:

- making an application
 - seeking further information about an application
 - the time allowed for consideration of an application
 - imposing conditions on approval of an application
 - notification of a decision on an application
 - review of decisions.
- (3) AMSA may give an exemption only if it:
 - (a) is satisfied that giving the exemption would not contravene the Maritime Labour Convention; and
 - (b) has consulted in accordance with any requirements for consultation, mentioned in the Maritime Labour Convention, that apply to the exemption.

Note The issuing body will note any exemption for a vessel approved by AMSA on the vessel's declaration of maritime labour compliance.

Section 11**9 Equivalents**

- (1) A requirement of this Marine Order, in relation to a regulated Australian vessel, is taken to be complied with if:
 - (a) AMSA, under this section, approves the use of an equivalent for the vessel in relation to the requirement; and
 - (b) the equivalent is used for the vessel in accordance with the approval.
- (2) The owner of a regulated Australian vessel may apply, in accordance with the application process set out in *Marine Order 1 (Administration) 2013*, to AMSA for approval to use an equivalent.

Note *Marine Order 1 (Administration) 2013* deals with the following matters about equivalents:

- making an application
 - seeking further information about an application
 - the time allowed for consideration of an application
 - imposing conditions on approval of an application
 - notification of a decision on an application
 - review of decisions.
- (2) AMSA may approve use of an equivalent if satisfied that:
 - (a) the vessel has adequate arrangements to protect the working and living conditions of its seafarers; and
 - (b) for a vessel to which the Maritime Labour Convention applies — approving the use of the equivalent would not contravene paragraph 4 of Article VI of the Maritime Labour Convention.

Note for paragraph (a) An example of the circumstance when AMSA may consider approval of use of an equivalent is when a vessel is undertaking an overnight or delivery voyage.

Note for paragraph (b) Paragraph 4 of Article VI of the Maritime Labour Convention provides that an arrangement is equivalent if conducive to the full achievement of the general object and purpose of the MLC standard concerned.

10 Review of decisions

A decision under this Marine Order, other than a decision under section 8, 9 or 16, is taken to be a reviewable decision for section 17 of *Marine Order 1 (Administration) 2013*.

Note 1 A decision under section 8, 9 or 16 is a reviewable decision because it is mentioned in section 15 of *Marine Order 1 (Administration) 2013*.

Note 2 Decisions on maritime labour certificates made under the Navigation Act are reviewable by the Administrative Review Tribunal under subsection 313(1) of the Navigation Act.

11 Copy of Maritime Labour Convention

- (1) The owner of a regulated Australian vessel must ensure that a copy of the Maritime Labour Convention is on board the vessel and available to seafarers.
Penalty: 50 penalty units.
- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).
Civil penalty: 50 penalty units.

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12 Copy of this Marine Order

- (1) The owner of a regulated Australian vessel must ensure that a copy of this Marine Order is carried on board the vessel.
Penalty: 50 penalty units.
- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).
Civil penalty: 50 penalty units.

Division 2 Foreign vessels**13 Foreign vessels \geq 500 GT to which Maritime Labour Convention applies**

A foreign vessel \geq 500 GT that is a vessel to which the Maritime Labour Convention applies and registered in a country where the Maritime Labour Convention is in force must:

- (a) have a maritime labour certificate (MLC) and a declaration of maritime labour compliance, or an interim maritime labour certificate (MLC), issued by the competent authority; and
- (b) comply with:
 - (i) the requirements of the Maritime Labour Convention in relation to the working and living conditions on a vessel for its seafarers; and
 - (ii) the requirements of the competent authority that give effect to the Maritime Labour Convention.

14 Foreign vessels $<$ 500 GT to which Maritime Labour Convention applies

A foreign vessel $<$ 500 GT that is a vessel to which the Maritime Labour Convention applies and registered in a country where the Maritime Labour Convention is in force must:

- (a) if the vessel's competent authority has issued a certificate or other document stating that the vessel complies with the requirements of the competent authority that give effect to the Maritime Labour Convention — comply with those requirements; or
- (b) if there is no certificate or other document as mentioned in paragraph (a) — demonstrate to AMSA's satisfaction that every seafarer on board the vessel has been provided working and living conditions in accordance with the requirements of the Maritime Labour Convention.

15 Foreign vessels registered in country where MLC is not in force

The owner of a foreign vessel, that is a vessel that is registered in a country where the Maritime Labour Convention is not in force, must demonstrate to AMSA's satisfaction that every seafarer on board the vessel has:

- (a) a safe and secure workplace that complies with the safety standards that apply to the vessel; and
- (b) fair terms of employment; and
- (c) decent working and living conditions on board the vessel; and

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- (d) health protection, medical care, welfare measures and other forms of social protection.

Note 1 Article IV of the Maritime Labour Convention provides that a country where the Convention is in force must ensure that these seafarers' rights are implemented. Article V provides that the country must ensure that a vessel registered in a country where the Convention is not in force does not receive more favourable treatment than a vessel registered in a country where it is in force.

Note 2 AMSA may detain a vessel under section 248 of the Navigation Act if an AMSA inspector reasonably suspects that the vessel is unseaworthy or substandard. A vessel is seaworthy only if, among other things, the living and working conditions on board the vessel do not pose a threat to the health, safety or welfare of the vessel's seafarers — see Navigation Act, section 23.

Division 3 Recruitment and placement

16 Registration as seafarer recruitment and placement service

- (1) A seafarer recruitment and placement service may apply, in accordance with the application process set out in *Marine Order 1 (Administration) 2013*, to AMSA for registration.

Note An applicant must be based in Australia.

- (2) AMSA may register the seafarer recruitment and placement service.
- (3) In deciding whether to register a seafarer recruitment and placement service, AMSA may consider the following matters:
- (a) whether the person has been convicted of an offence against, or ordered to pay a civil penalty under, the Navigation Act;
 - (b) the requirements for seafarer recruitment and placement services mentioned in MLC regulation 1.4;
 - (c) any other matters that AMSA considers relevant.

Note for paragraph (b) MLC regulation 1.4 permits the regulation of services operating or based in Australia.

Note for paragraph (c) An example of a matter that AMSA may consider relevant is when the applicant has been investigated by a seafarers' representative organisation or determined by any competent authority to have underpaid seafarers.

- (4) A seafarer recruitment and placement service must not provide the service of recruiting seafarers for vessel owners or placing seafarers with vessels if it is not registered under subsection (2).

Penalty: 50 penalty units.

- (5) An offence against subsection (4) is a strict liability offence.
- (6) A person is liable to a civil penalty if the person contravenes subsection (4).

Civil penalty: 50 penalty units.

17 Conditions of registration

Registration as a seafarer recruitment and placement service is subject to the conditions mentioned in Schedule 1.

18 Criteria for suspension or revocation of registration

AMSA may suspend or revoke the registration of a seafarer recruitment and placement service if it is satisfied that:

- (a) the service does not comply with a condition of registration; or

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- (b) the service no longer provides seafarer recruitment and placement services.

19 Requirements for owners of vessels who use seafarer recruitment and placement services

- (1) For subsection 54(5) of the Navigation Act, a work agreement may be made by the owner of a regulated Australian vessel with a seafarer engaged through a seafarer recruitment and placement service in a country that has not ratified the Maritime Labour Convention only if the service complies with the requirements mentioned in paragraphs (b) to (f) of Schedule 1, other than subparagraph (f)(v) of Schedule 1, as if the service were registered under subsection 16(2).

Penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
(3) A person is liable to a civil penalty if the person contravenes subsections (1).

Civil penalty: 50 penalty units.

Division 4 Engagement and working conditions of seafarers**20 Minimum age**

- (1) A person must not employ or engage to work on a regulated Australian vessel a person under 16 years.

Penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
(3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

- (4) A person must not employ or engage to work on a regulated Australian vessel a person under 18 years if:

- (a) the person's health or safety is likely to be jeopardised; or
(b) the person is required to work between 9pm and 6am and the work is not reasonably required for the training of the person as a seafarer in accordance with an approved program.

- (5) Subject to the *Fair Work Act 2009* or any collective agreement that applies on the vessel, the owner of a regulated Australian vessel must ensure that the working conditions mentioned in Schedule 2 for a person under 18 years are met.

21 Work agreements

- (1) For subsections 54(1) and (2) of the Navigation Act, a seafarer's work agreement must:

- (a) contain the information mentioned in Schedule 3; and
(b) be written in English; and
(c) state:

- (i) the duration of duties undertaken on board does not exceed 11 months; and
(ii) if the agreement is for an indefinite period — the conditions under which either party may terminate it and the required notice period; and
(iii) if the agreement is for a specified period — the date it expires; and

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- (iv) if the agreement is for a voyage — the port of destination and when the agreement expires.
- (2) The work agreement, including any variation, must be signed by:
 - (a) the seafarer; and
 - (b) the owner of the vessel or a representative of the owner.
- (3) The owner of a regulated Australian vessel and must:
 - (a) if requested by a seafarer — provide a copy of any collective agreement that applies to the seafarer; and
 - (b) provide the seafarer with a copy of the signed original of the seafarer's work agreement; and
 - (c) if requested by AMSA or a competent authority — make a copy of the work agreement available for inspection.

22 Notice period for termination

- (1) Subject to the *Fair Work Act 2009* or any collective agreement applying to a regulated Australian vessel, the employer or the seafarer must give at least 7 days notice to terminate a work agreement.
- (2) However, the seafarer may give less than 7 days notice of the termination for:
 - (a) compassionate reasons; or
 - (b) other urgent circumstances recognised in the work agreement.

23 Opportunity to seek advice

The owner of a regulated Australian vessel must ensure that:

- (a) a seafarer is given:
 - (i) an opportunity to examine and seek advice on the seafarer's work agreement before he or she signs it; and
 - (ii) access to any other facilities to ensure that he or she has entered into the agreement with a sufficient understanding of his or her rights and responsibilities; and
- (b) no adverse action is taken against the seafarer for obtaining information or advice about the contents of the work agreement.

24 Industrial activities

- (1) This section only applies to a vessel that:
 - (a) is a vessel to which the *Fair Work Act 2009* does not apply; and
 - (b) is either registered on the Australian International Shipping Register or a foreign vessel.
- (2) The master of a vessel must ensure that a person on board the vessel does not take adverse action against a seafarer because the seafarer:
 - (a) is or is not, or was or was not, an officer or member of an industrial association; or
 - (b) engages, or has at any time engaged or proposed to engage, in industrial activity within the meaning of paragraph 347(a) or (b) of the *Fair Work Act 2009*; or

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- (c) does not engage, or has at any time not engaged or proposed to not engage, in industrial activity within the meaning of paragraphs 347(c) to (g) of the *Fair Work Act 2009*.
Civil penalty: 50 penalty units.
- (3) The owner must not enter into a work agreement with a seafarer if the work agreement prohibits the seafarer from engaging in industrial activity within the meaning of paragraphs 347(c) to (g) of the *Fair Work Act 2009*.
Civil penalty: 50 penalty units.

25 Availability of information

The owner of a regulated Australian vessel must ensure that each of the following persons has access to a copy of any work agreement, including incorporated documents, kept on board:

- (a) the seafarer to whom it applies;
- (b) a representative of the seafarer;
- (c) the master of the vessel;
- (d) AMSA;
- (e) a port state control officer of a country being visited by the vessel.

26 Record of sea service

- (1) The owner of a regulated Australian vessel must ensure that each seafarer is given a record of sea service, in the approved format, that includes a record of the seafarer's employment on board the vessel.
Note Approved format is available on the AMSA website: www.amsa.gov.au.
- (2) A seafarer's record of sea service must not contain any statement of:
- (a) the quality of the seafarer's work; or
 - (b) the seafarer's wages.

27 Wages

- (1) The owner of a regulated Australian vessel must pay each seafarer:
- (a) at intervals of no more than 1 month; and
 - (b) in accordance with the work agreement.
- Penalty: 50 penalty units.
- (2) The owner must give the seafarer an account, at least monthly, of:
- (a) the payments due; and
 - (b) the period to which each payment relates; and
 - (c) the amounts paid, including wages and additional payments; and
 - (d) details of all deductions from the gross amount of wages and additional payments.
- Penalty: 50 penalty units.

Note The owner of a regulated Australian vessel must not keep any employee records, including pay slips, that contains information that is false or misleading. See sections 535 and 536 of the *Fair Work Act 2009*.

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- (3) The owner of a regulated Australian vessel must:
- (a) establish a system for enabling a seafarer to send a proportion of the seafarer's earnings to the seafarer's family by bank transfer or similar means; and
 - (b) ensure the payments are made directly to the person named by the seafarer and on time.
- Penalty: 50 penalty units.
- (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 ships, 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.

28 Hours of rest

- (1) The owner of a regulated Australian vessel must ensure that a seafarer has at least the minimum hours of rest in accordance with Division 3 of *Marine Order 28 (Operations standards and procedures) 2015*.
- Penalty: 50 penalty units.
- (2) The owner of a regulated Australian vessel must ensure that records of seafarers' daily hours of rest are maintained in accordance with Division 3 of *Marine Order 28 (Operations standards and procedures) 2015*.
- Penalty: 50 penalty units.
- (3) The master of the vessel must:
- (a) give each seafarer a copy of the record relating to him or her; and
 - (b) ensure that the record is endorsed by the master or a person authorised by the master and the seafarer.
- Penalty: 50 penalty units.
- (4) An offence against subsection (1), (2) or (3) is a strict liability offence.
- (5) A person is liable to a civil penalty if the person contravenes subsection (1), (2) or (3).
- Civil penalty: 50 penalty units.

Section 29**29 Shipboard working arrangements**

- (1) The owner of a regulated Australian vessel must ensure that a notice of shipboard working arrangements is posted in a place on board the vessel that is easily accessible to seafarers.
- (2) The notice must:
 - (a) include, for each seafarer on board the vessel, the seafarer's schedule of service at sea and service in port; and
 - (b) include the minimum hours of rest mentioned in *Marine Order 28 (Operations standards and procedures) 2015*; and
 - (c) be in the working language of the vessel and in English.

Note A sample form of notice is available on the AMSA website at www.amsa.gov.au.

30 Shore leave

Subject to the operational requirements of a seafarer's work on board a regulated Australian vessel, the master must ensure that when the vessel is in port each seafarer on board the vessel is, if requested by the seafarer, granted leave to go to shore.

Note Paragraph 2 of MLC regulation 2.4 provides that a country in which the Maritime Labour Convention is in force must grant shore leave in accordance with that paragraph to seafarers employed on vessels registered in the country. For requirements for foreign vessels — see Division 2.

31 Repatriation

- (1) The owner of a regulated Australian vessel must ensure that a seafarer is entitled to repatriation, at no cost to the seafarer, in any of the following circumstances:
 - (a) the seafarer has worked continuously on the vessel for at least 11 months;
 - (b) the seafarer's work agreement expires;
 - (c) the seafarer's work agreement is terminated:
 - (i) by the owner of a vessel; or
 - (ii) by the seafarer for justified reasons; or
 - (iii) because the seafarer is no longer able to carry out their duties under the work agreement; or
 - (iv) because the seafarer cannot be expected to carry out their duties in the specific circumstances; or
 - (v) because of illness, injury or other medical condition for which the seafarer must be repatriated and is medically fit to travel; or
 - (vi) because of wreck or foundering;
 - (d) the owner of a vessel is unable to fulfil his or her legal or contractual obligations to the seafarer as an employer because of:
 - (i) insolvency; or
 - (ii) sale of the vessel; or
 - (iii) change of the vessel's registration; or
 - (iv) unforeseen circumstances beyond the owner's control;
 - (e) the vessel is on its way to a war zone to which the seafarer does not consent to go;

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- (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 ships.

Note for paragraphs (c)(iii) and (iv) The expiry of a seafarer's visa, where the ongoing validity is the responsibility of the owner of the vessel, is an example of a circumstance where the seafarer is either no longer able, or cannot be expected, to carry out their duties.

- (2) A seafarer under 18 years is also entitled to repatriation at no cost to the seafarer if the seafarer:
 - (a) has worked on a regulated Australian vessel for at least 4 months on the seafarer's first foreign voyage; and
 - (b) is unsuited to life at sea.
- (3) For subsection (2), the repatriation of the seafarer is to be:
 - (a) from the first port of call where there are Australian consular services; and
 - (b) to the home port mentioned in the seafarer's work agreement.

32 Paying for repatriation

- (1) If a seafarer is repatriated under section 31, the owner of the vessel must arrange and pay for at least the following:
 - (a) the seafarer's passage to the repatriation destination;
 - (b) lodgings and food when the seafarer leaves the vessel, until the seafarer is at the repatriation destination;
 - (c) transportation of up to 23 kg of the seafarer's luggage to the repatriation destination;
 - (d) the seafarer's medical treatment until the seafarer is medically fit to travel to the repatriation destination.
- (2) The owner of the vessel must not:
 - (a) require a seafarer to make an advance payment towards the cost of repatriation; or
 - (b) recover the cost of repatriation from the seafarer's wages or other entitlements, unless the seafarer is found to be in serious breach of the seafarer's work agreement.
- (3) Paragraph (2)(b) does not limit the seafarer's right to take legal action for an employment dispute.
- (4) This Marine Order does not affect any right of the owner or seafarer to recover the cost of repatriation under law or third-party contractual arrangements.

33 Repatriation transport

The owner of a regulated Australian vessel must make transportation arrangements for repatriation by appropriate and expeditious means.

Note The usual mode of transportation for repatriation is by air.

34 Timeframe for claim

- (1) A seafarer may claim repatriation benefits under this Division within:
 - (a) 2 years; or

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- (b) another reasonable time mentioned in the work agreement, award or collective agreement that applies to the seafarer.
- (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 ships.

35 Repatriation by AMSA

- (1) AMSA must repatriate a seafarer of a regulated Australian vessel as soon as practical if:
 - (a) the seafarer has been abandoned or is entitled to repatriation; and
 - (b) the owner of the vessel has not made arrangements for, or paid the costs of, repatriation of the seafarer.
- (2) AMSA may repatriate a seafarer of a foreign vessel if:
 - (a) arrangements to repatriate the seafarer have not been made by the owner of the vessel or the country in which the vessel is registered; and
 - (b) either:
 - (i) the seafarer is an Australian national; or
 - (ii) the seafarer is in Australia.
- (3) AMSA may repatriate the body or ashes of a seafarer taking into account the wishes of the next of kin.
- (4) AMSA may recover its costs of repatriating a seafarer under subsection (1) or (3) from the owner of the vessel.
- (5) AMSA may recover its costs of repatriating a seafarer under paragraph (2)(b)(ii) from the vessel's competent authority.

Division 5 Accommodation — vessel plans

Note It is an offence for an owner of a vessel to take the vessel to sea, or cause or permit the vessel to be taken to sea, if the vessel does not comply with the accommodation prescribed by this Marine Order — see Navigation Act, section 75.

36 New vessel construction plans

- (1) Before construction of a vessel that is to be registered on the Australian General Shipping Register or Australian International Shipping Register commences, the following plans must be approved by an issuing body:
 - (a) a plan of the vessel on a scale of at least 1 in 200, showing the location and arrangement of the accommodation;
 - (b) a plan of the accommodation on a scale of at least 1 in 50 showing:
 - (i) the use of each space; and
 - (ii) furniture arrangements; and
 - (iii) lighting arrangements; and
 - (iv) heating arrangements; and
 - (v) sanitary arrangements.

Note A list of recognised organisations that are issuing bodies is included in *Marine Order 1 (Administration) 2013*.

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- (2) Subsection (1) applies to a vessel that becomes a regulated Australian vessel and is not a new construction to the extent that AMSA considers it is reasonable and practicable.

37 Modification of accommodation spaces

- (1) Before the substantial alteration or reconstruction of accommodation spaces on a regulated Australian vessel, the owner of the vessel must have approved, by an issuing body, a plan of the seafarer accommodation on a scale of at least 1 in 50 showing the matters mentioned in paragraph 36(1)(b).
- (2) The owner of the vessel may apply to an issuing body to have plans for the substantial alteration or reconstruction of the vessel approved in accordance with the process set out in *Marine Order 1 (Administration) 2013*.
- (3) The owner of the vessel must give the issuing body the plans as soon as practicable if the alteration or reconstruction is:
 - (a) to be carried out outside Australia; and
 - (b) temporary or required because of a marine incident.
- (4) The plans and information must be of a scale, and have sufficient technical detail, to enable compliance of the plans to be assessed.

Division 6 Accommodation — design and construction

Note It is an offence for an owner of a vessel to take the vessel to sea, or cause or permit the vessel to be taken to sea, if the vessel does not comply with the accommodation prescribed by this Marine Order — see Navigation Act, section 75.

38 Headroom

- (1) The owner of a regulated Australian vessel must comply with the minimum headroom mentioned in paragraph 6(a) of MLC standard A3.1 unless a reduction of headroom has been approved.
- (2) AMSA may approve a reduction of headroom if:
 - (a) an application has been made in accordance with *Marine Order 1 (Administration) 2013*; and
 - (b) it considers it reasonable and will not cause discomfort to seafarers.

39 Location of sleeping rooms

- (1) The sleeping rooms of a regulated Australian vessel:
 - (a) for a vessel that is not a passenger vessel — must comply with paragraph 6(c) of MLC standard A3.1; and
 - (b) for a passenger vessel — must comply with paragraph 6(d) of MLC standard A3.1.
- (2) For a passenger vessel, or for a special purpose vessel that complies with the SPS Code, AMSA may authorise the locating of sleeping rooms in accordance with paragraph 6(d) of MLC standard A3.1.

40 Sleeping rooms

- (1) The owner of a regulated Australian vessel must ensure that sleeping rooms of the vessel comply with:
 - (a) paragraph 9 of MLC standard A3.1; and

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- (b) Schedule 4.
- (2) The owner of the vessel may apply for an exemption from compliance with paragraph 9(a) or (f) of MLC standard A3.1 if the vessel is any of the following:
 - (a) a vessel <3000 GT;
 - (b) a special purpose vessel;
 - (c) a passenger vessel.
- (3) The owner of a vessel <3000 GT may apply for an exemption from compliance with paragraph 9(m) of MLC standard A3.1.

41 Sleeping berths

- (1) The owner of a regulated Australian vessel must ensure that sleeping berths on the vessel meet the requirements mentioned in Schedule 5.
- (2) The owner of a regulated Australian vessel must provide each seafarer on board with clean, good quality bedding.

42 Insulation

- (1) The owner of a regulated Australian vessel must ensure that each of the following areas of the vessel is insulated to prevent condensation or overheating:
 - (a) sleeping rooms;
 - (b) mess rooms;
 - (c) sanitary facilities;
 - (d) laundries;
 - (e) recreation rooms;
 - (f) alleyways in accommodation areas;
 - (g) the external bulkheads of sleeping rooms or mess rooms.
- (2) The owner of a regulated Australian vessel must ensure that each of the following spaces are insulated to prevent the heat from the space affecting adjoining accommodation or passageways:
 - (a) machinery casings;
 - (b) boundary bulkheads of galleys;
 - (c) boundary bulkheads of other spaces in which heat is produced.
- (3) The owner of a regulated Australian vessel must also take measures to protect accommodation spaces from the heat effects of steam or hot-water service pipes.

43 Pipes

- (1) The owner of a regulated Australian vessel must ensure that steam pipes and exhaust pipes to or from machinery do not pass through an accommodation space that is not an open deck alleyway.
- (2) The owner of a regulated Australian vessel must ensure that steam pipes and hot water pipes passing through an open deck alleyway and forming part of an accommodation space are:
 - (a) constructed of solid drawn steel; and
 - (b) of scantling sufficient to withstand the maximum pressure from the vessel's boiler system; and
 - (c) connected by properly joined faced flanges; and

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- (d) insulated and encased; and
- (e) fitted with adequate drainage.
- (3) The owner of a regulated Australian vessel must ensure that:
 - (a) hot water pipes for radiators in accommodation spaces are encased or insulated; and
 - (b) there are no hawse pipes in accommodation spaces; and
 - (c) chain pipes and ventilators for cargo spaces passing through a seafarer accommodation area are watertight and gastight.
- (4) The owner of a regulated Australian vessel must ensure that hot water pipes are insulated:
 - (a) for heat conservation; and
 - (b) to ensure the safety of the seafarers.

44 Vessel batteries

The owner of a regulated Australian vessel must ensure that:

- (a) vessel batteries are not stored in accommodation spaces; and
- (b) fumes from vessel batteries do not discharge into the seafarer accommodation.

45 Bulkhead and deckhead surfaces

The owner of a regulated Australian vessel must ensure that the surface of a bulkhead or deckhead is made of material that:

- (a) can easily be kept clean; and
- (b) is unlikely to harbour vermin; and
- (c) in the sleeping areas:
 - (i) is light in colour; and
 - (ii) has a durable, non-toxic finish.

46 Decks and flooring

- (1) The owner of a regulated Australian vessel must ensure that each deck in an accommodation space on the vessel:
 - (a) is constructed of material that is in accordance with *Marine Order 15 (Construction — fire protection, fire detection and fire extinction) 2014*; and
 - (b) has a non-slip surface; and
 - (c) is impervious to damp; and
 - (d) has drainage that prevents liquids from pooling on the deck; and
 - (e) is easily kept clean; and
 - (f) is covered with a material that:
 - (i) is impervious to water; and
 - (ii) is capable of reducing the level of noise in the seafarer accommodation; and
 - (iii) can easily be kept clean; and
 - (iv) provides a good foothold.

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- (2) The owner of a regulated Australian vessel must ensure that flooring made of composite materials in an accommodation space on the vessel has flooring joints with sides profiled to avoid crevices.

47 Air conditioning

- (1) The owner of a regulated Australian vessel must ensure that each of the following areas are air-conditioned to create an environment mentioned in ISO standard 7547/2002 *Ships and marine technology — Air-conditioning and ventilation of accommodation spaces — Design conditions and basis of calculations*, as amended from time to time:
 - (a) accommodation spaces;
 - (b) a radio room;
 - (c) a centralised machinery control room.
- (2) The owner of a regulated Australian vessel must ensure that air conditioning systems on a vessel are designed:
 - (a) to maintain the air at a satisfactory temperature and relative humidity compared to outside air conditions in accordance with ISO standard 7547/2002 *Ships and marine technology — Air-conditioning and ventilation of accommodation spaces — Design conditions and basis of calculations*, as amended from time to time; and
 - (b) to ensure a sufficiency of air changes in all air-conditioned spaces; and
 - (c) to take account of the particular characteristics of operations at sea and not produce excessive noise or vibration; and
 - (d) to facilitate easy cleaning and disinfection of the system, to prevent or control the spread of disease.
- (3) The owner of a regulated Australian vessel must ensure that all sanitary spaces on the vessel comply with paragraph 7(c) of MLC standard A3.1.
- (4) The owner of a regulated Australian vessel must ensure that power for the operation of the air conditioning and other aids to ventilation is available at all times that seafarers are living or working on board the vessel.

48 Heating

- (1) The owner of a regulated Australian vessel must ensure that seafarer accommodation areas on the vessel, other than refrigerating chambers, have a heating system that meets the requirements mentioned in Schedule 6.
- (2) The owner of a regulated Australian vessel must ensure that power for the operation of the heating system is available at all times that seafarers are living or working on board the vessel.
- (3) This section does not apply to a vessel that operates in tropical waters only.

49 Lighting

- (1) The owner of a regulated Australian vessel must take all reasonable steps to ensure that sleeping rooms and mess rooms on the vessel have natural light.

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- (2) The owner of a regulated Australian vessel must ensure that the accommodation spaces for seafarers on the vessel have:
 - (a) lighting in accordance with *Accident prevention on board ship and in port*, published by the ILO, as amended from time to time; and
 - (b) either
 - (i) at least 2 sources of electricity for lighting independent of each other; or
 - (ii) a properly constructed lamp or lighting apparatus for emergency use.
- (3) The owner of a regulated Australian vessel must ensure that an electric reading lamp is installed at the head of each seafarer's sleeping berth.

50 Mess rooms

- (1) The owner of a regulated Australian vessel must ensure that a mess room that meets the requirements mentioned in Schedule 7 is available to all seafarers on board the vessel.
- (2) The owner of a vessel <3000 GT may apply for an exemption from the requirements mentioned in paragraphs 1(a) and 1(b) of Schedule 7.

51 Exception for vessels <200 GT

The requirements mentioned in this Division do not apply to a regulated Australian vessel that is <200 GT if the vessel:

- (a) complies with Section C1 of the NSCV; and
- (b) is proceeding on a voyage other than an overseas voyage.

Note The effect of this section is that a regulated Australian vessel <200 GT complying with NSCV Section C1 is not subject to the requirements in this Division if the vessel only undertakes voyages to the outer limits of the EEZ. Section 16 of the Navigation Act sets out the circumstances when a vessel is on an overseas voyage.

Division 7 Accommodation — general requirements**52 Noise**

- (1) This section applies to a regulated Australian vessel that is:
 - (a) constructed after 20 August 2013; and
 - (b) ≥ 500 GT.
- (2) The owner of the vessel must ensure that the vessel:
 - (a) complies with the *Code on noise levels on board ships*; or
 - (b) if the *Code on noise levels on board ships* does not apply to the vessel:
 - (i) is assessed in accordance with the standards mentioned in the code as if the code applied to the vessel; and
 - (ii) adopts measures in accordance with the guidance provided in the ILO Code of Practice *Ambient factors in the workplace*, as amended from time to time, to ensure that the standards are complied with.

53 Inspections

The master of a regulated Australian vessel must ensure that:

- (a) seafarer accommodation is inspected weekly to ensure that it is clean, fit for human habitation without posing risks to seafarer health and safety and maintained in a good state of repair; and

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- (b) a report of each inspection is recorded and kept on board.

Division 8 Accommodation — sanitary and laundry facilities

Note It is an offence for an owner of a vessel to take the vessel to sea, or cause or permit the vessel to be taken to sea, if the vessel does not comply with the accommodation prescribed by this Marine Order — see Navigation Act, section 75.

54 Sanitary facilities

- (1) The owner of a regulated Australian vessel must ensure that seafarers have convenient access on the vessel to sanitary facilities that meet the requirements mentioned in Schedule 8.
- (2) The owner of a vessel <3000 GT may apply for an exemption from the requirement mentioned in clause 6 of Schedule 8.

55 Laundry facilities

- (1) The owner of a regulated Australian vessel must ensure that laundry facilities are available to seafarers.
- (2) The laundry facilities must:
 - (a) be close to seafarer sleeping rooms; and
 - (b) include at least:
 - (i) an adequate number of washing machines for the number of seafarers; and
 - (ii) separate facilities for laundering workwear; and
 - (iii) a drying machine or heated and ventilated drying room; and
 - (iv) an iron and ironing board or equivalent.

Division 9 Hospital facilities

Note It is an offence for an owner of a vessel to take the vessel to sea, or cause or permit the vessel to be taken to sea, if the vessel does not comply with the accommodation prescribed by this Marine Order — see Navigation Act, section 75.

56 Hospital accommodation

The owner of a regulated Australian vessel carrying at least 15 seafarers engaged in a voyage of at least 72 hours must ensure that the vessel has hospital accommodation:

- (a) separate from other accommodation spaces; and
- (b) used exclusively for medical purposes; and
- (c) meeting the requirements mentioned in Schedule 9.

Division 10 Recreational facilities**57 Recreational facilities, amenities and services**

- (1) The owner of a regulated Australian vessel must ensure that the vessel has facilities that:
 - (a) comply with paragraph 14 of MLC standard A3.1; and
 - (b) include social connectivity; and
 - (c) have furnishing appropriate to the needs of the seafarers; and

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- (d) are adapted to meet the special needs of seafarers living and working on the vessel.

Note for paragraph (b) An example of social connectivity is internet access.

- (2) The owner must ensure that the recreational facilities are kept up to date and take into account subparagraphs 4(a) to (j) of MLC guideline B3.1.11.

58 Common vessel's office

- (1) The owner of a regulated Australian vessel must ensure that the vessel has a separate office or a common vessel's office for use by deck and engine seafarers.
- (2) The owner of a vessel <3000 GT may apply for an exemption from subsection (1).

Division 11 Provisions

Note It is an offence to take a vessel to sea, or cause or permit a vessel to be taken to sea, unless the vessel is carrying drinking water and food — see sections 62 to 64 of the Navigation Act.

59 Food and drinking water

The owner of a regulated Australian vessel must ensure that quality food and drinking water is provided in accordance with paragraph 2 of MLC standard A3.2.

Note 1 Food and drinking water provisions must cater for the religious requirements and cultural practices of seafarers on board in addition to the duration and nature of the voyage.

Note 2 Food and water must be free of charge.

Note 3 Food must be suitable in respect of variety and nutritional value. Guidance on food and nutrition is available at the National Health and Medical Research Council website at www.eatforhealth.gov.au and the Food Standards Australia New Zealand website at www.foodstandards.gov.au.

Note 4 For drinking water standards, see the latest edition of the *Guidelines for drinking-water quality*, published by WHO, or the latest edition of Australian Drinking Water Guidelines published at www.waterquality.gov.au.

60 Organisation and equipment of catering department

The owner of a regulated Australian vessel must ensure that the organisation and equipment of the catering department on board a vessel allows for:

- (a) the preparation of adequate, varied, balanced and nutritious meals; and
- (b) the serving of meals in hygienic conditions.

61 Training of persons processing food

- (1) The owner of a regulated Australian vessel must ensure that a person who works on the vessel as a cook holds a certificate of proficiency as marine cook issued in accordance with *Marine Order 70 (Seafarer certification) 2014*.
- (2) The owner of a regulated Australian vessel operating with a prescribed manning level of less than 10, that because of its trading pattern does not need to carry a marine cook, must ensure that a person processing food in the galley is trained or instructed in:
- (a) food hygiene; and
- (b) personal hygiene; and
- (c) food handling on a vessel; and

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- (d) the storage of food on a vessel.
- (3) The owner of a vessel may apply for an exemption from the requirement in subsection (1).
- (4) AMSA may give an exemption:
 - (a) for a period up to 1 month; or
 - (b) until the vessel arrives at the next convenient port of call.

62 Galleys

- (1) The owner of a regulated Australian vessel must ensure that:
 - (a) the vessel has a galley for the preparation of food for the seafarers; and
 - (b) the galley is constructed in accordance with Schedule 10.
- (2) The owner must ensure that the galley has the following equipment:
 - (a) equipment for the preparation of food in a quantity sufficient for the seafarers on board, including the following:
 - (i) a refrigerator;
 - (ii) at least 1 cooking range;
 - (iii) at least 1 oven;
 - (iv) cooking utensils;
 - (v) hot and cold potable running water that complies with *Guidelines for drinking-water quality*, published by WHO, as amended from time to time;
 - (b) equipment for the cleaning of cooking utensils.
- (3) The owner must ensure that the equipment is constructed of material that can easily be kept clean.
- (4) The master of the vessel must ensure that the galley and its equipment are kept in a clean and orderly manner at all times.

63 Storage of food

- (1) In this section:
potentially hazardous food means a food that has to be kept at a certain temperature:
 - (a) to minimise the risk of the growth of pathogenic micro-organisms present in the food; or
 - (b) to prevent the formation of toxins in the food.
- (2) The owner of a regulated Australian vessel must:
 - (a) ensure that the seafarers have dry provision stores that meet the requirements mentioned in Schedule 11; and
 - (b) provide cold storage and refrigerators that are adequate for the storage of provisions.
- (3) The master of a regulated Australian vessel must ensure that:
 - (a) meat and fish are stored apart from each other; and
 - (b) all refrigerated or frozen food is kept at temperature below:
 - (i) for very cold food — -15°C; or

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(ii) for cold food — 5°C.

Penalty: 50 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.
- (5) A person is liable to a civil penalty if the person contravenes subsection (3).
Civil penalty: 50 penalty units.
- (6) The master of a regulated Australian vessel must ensure that food is stored so that:
- (a) it is protected from the likelihood of contamination; and
 - (b) the environmental conditions under which it is stored will not adversely affect the quality and suitability of the food; and
 - (c) potentially hazardous food is kept at its required temperature at all times.

Note The Australia New Zealand Food Standards give further guidance on the storage of food.

64 Inspection of food, drinking water, storage areas and galleys

The master of a regulated Australian vessel must ensure that weekly inspections are carried out and documented for:

- (a) the provision of food and drinking water; and
- (b) the spaces and equipment used for the storage and handling of food and drinking water; and
- (c) the galley and other equipment used for the preparation and service of meals.

Division 12 Health

Note It is an offence for an owner or master of a vessel to take the vessel to sea without the required medical supplies and instructions for their use — see Navigation Act, sections 66 and 67.

65 Medical care for seafarers on board

The owner of a regulated Australian vessel must put in place measures for the health protection, medical care and essential dental care for seafarers on board that:

- (a) give effect to:
 - (i) any requirements for occupational health protection and medical care relevant to their duties; and
 - (ii) any requirements for seafarers on board imposed by the country in which the vessel is registered; and
- (b) ensure seafarers have health protection and medical care as comparable as possible to that available to workers on shore, including prompt access to:
 - (i) necessary medicines, medical equipment and facilities for diagnosis and treatment; and
 - (ii) medical information and expertise.

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66 Right to visit a medical practitioner or dentist

- (1) The owner of a regulated Australian vessel must ensure that a seafarer in need of immediate medical care is promptly transported to shore and without delay taken to medical facilities onshore, including:
 - (a) outpatient treatment for sickness and injury; and
 - (b) hospitalisation when necessary; and
 - (c) facilities for essential dental treatment.

Note The *Biodiversity Act 2015* has prevention and control measures for disease that may be communicable and cause significant harm to human health. Such measures include the restriction of movement.

- (2) The circumstances of *immediate medical care* include the following:
 - (a) serious injury or disease;
 - (b) injury or disease which might lead to temporary or permanent disability;
 - (c) communicable disease which poses a risk of transmission to other members of the crew;
 - (d) injury involving broken bones, severe bleeding, broken or inflamed teeth or severe burns;
 - (e) severe pain which cannot be managed on board ship, taking account of the operational pattern of the vessel, the availability of suitable analgesics and the health impacts of taking these for an extended period;
 - (f) serious mental health concerns;
 - (g) tele-medical advisory service recommending treatment ashore.

67 Medical services at no charge

- (1) The owner of a regulated Australian vessel must ensure that medical care and health protection services are provided at no charge to seafarers:
 - (a) on board the vessel; and
 - (b) in any port that the vessel visits.
- (2) The medical care and health protection services:
 - (a) are not limited to the treatment of sick or injured seafarers; and
 - (b) include measures of a preventative character (eg health promotion and health education programs); and
 - (c) include measures to stop the spread of infectious diseases, including sexually transmitted diseases; and
 - (d) include measures to stop the spread of insect borne diseases.

68 Reporting of medical information

- (1) When exchanging medical information for individual seafarers between a regulated Australian vessel and shore because of illness or injury, the approved form must be used by:
 - (a) the master of the vessel; and
 - (b) onboard medical personnel; and
 - (c) onshore medical personnel.

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- (2) The owner of a vessel must ensure that any completed forms are:
- (a) kept confidential; and
 - (b) only used to facilitate the treatment of seafarers.

Note Approved forms are available on the AMSA website www.amsa.gov.au.

69 Medical supplies

- (1) For subsections 66(1) and 67(1) of the Navigation Act, the regulated Australian vessel must be provided with:
- (a) a medicine chest that is kept in the manner mentioned in the latest edition of *Medical carriage requirements*, published by AMSA; and
 - (b) the latest edition of *International medical guide for ships*, published by WHO.
- (2) For cargo that is classified as dangerous and is not included in the latest edition of *Medical first aid guide for use in accidents involving dangerous goods*, published by WHO, information about all of the following must be available to seafarers:
- (a) the nature of substances in the cargo;
 - (b) the risks for the cargo as mentioned in the *International Maritime Dangerous Goods Code*;
 - (c) personal protective equipment necessary to avoid the risks;
 - (d) medical procedures to deal with the risks;
 - (e) antidotes for the substances.

Note The *Medical first aid guide for use in accidents involving dangerous goods* is published jointly by the IMO, WHO and the ILO. It is also known as the Chemicals Supplement to the *International medical guide for ships*, which is published by WHO.

- (4) The owner of a regulated Australian vessel must ensure that the antidotes and personal protective equipment mentioned in subsection (3) are available on board when dangerous goods are carried.
- Penalty: 50 penalty units.
- (5) The owner of a regulated Australian vessel must ensure that:
- (a) the medicine chest and medical equipment are properly maintained; and
 - (b) adequate medical supplies to treat a diseased or injured person are carried on board.
- Penalty: 50 penalty units.
- (6) The master of a regulated Australian vessel must ensure each of the following:
- (a) an inspection of the medicine chest and medical equipment is carried out at least once every 12 months; and
 - (b) the labelling of medicine is correct and easily read;
 - (c) the expiry date of the medicine is easily read;
 - (d) the expiry date of the medicine is monitored;
 - (e) the medicine is stored correctly;
 - (f) directions for the use of medicine are easily read;
 - (g) the medical equipment is in good condition and functioning correctly.
- Penalty: 50 penalty units.

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- (7) The owner of a regulated Australian vessel must ensure that expired medical supplies are replaced by the earlier of:
- (a) arrival at the next port of call at which medical supplies may be replaced; or
 - (b) within 3 months after their expiry dates.

Penalty: 50 penalty units.

- (8) An offence against subsection (4), (5), (6) or (7) is a strict liability offence.
- (9) A person is liable to a civil penalty if the person contravenes subsections (4), (5), (6) or (7).

Civil penalty: 50 penalty units.

70 Medically qualified person on board

- (1) For paragraphs 72(1)(b) and 73(1)(b) of the Navigation Act, the distance is 650 nautical miles.
- (2) For paragraphs 72(2)(b) and 73(2)(b) of the Navigation Act, the distance is 120 nautical miles.
- (3) For subsections 72(2) and 73(2) of the Navigation Act, to be qualified the person must hold a certificate attesting to satisfactory completion of an approved course of study that complies with the training and assessment standards mentioned in paragraphs 1 to 3 of section A-VI/4 of the STCW Code.

71 Control of certain drugs

- (1) The owner of a regulated Australian vessel must ensure that a register of controlled drugs is kept on board.

Penalty: 50 penalty units.

Note The use of certain drugs is regulated in Australia — for further information see www.tga.gov.au/industry/scheduling-poisons-standard.htm and consult a dispensing pharmacist.

- (2) The register must record the following details for each administration of a controlled drug:
- (a) the full name of the person to whom the controlled drug is administered;
 - (b) the reason for administering the controlled drug;
 - (c) the date and time the controlled drug was administered;
 - (d) the name and quantity of the controlled drug administered;
 - (e) the name and designation of the person who administered the controlled drug.

Note For the meaning of **controlled drug** — see section 4.

- (3) The master or owner of a regulated Australian vessel must ensure that any loss or theft of a controlled drug is:
- (a) recorded in the controlled drug register; and
 - (b) reported to the appropriate law enforcement agencies as soon as practical after the vessel arrives in port.

Penalty: 50 penalty units.

- (4) An offence against subsection (1) or (3) is a strict liability offence.
- (5) A person is liable to a civil penalty if the person contravenes subsection (1) or (3).

Civil penalty: 50 penalty units.

Division 13 Welfare of seafarers

72 Mail

The master of a regulated Australian vessel must ensure that the forwarding of seafarer's mail is as reliable and expeditious as possible.

73 Visitors

- (1) The owner of a regulated Australian vessel must ensure that:
 - (a) a seafarer may apply to the master of the vessel for the seafarer's partner, relative or friend to board the vessel as a visitor; and
 - (b) the master, if reasonably practicable, gives permission for the seafarer's partner, relatives and friends to board the vessel as visitors; and
- (2) In deciding whether it is reasonably practicable, the master may consider:
 - (a) any security clearance requirements; and
 - (b) whether to impose any conditions on the permission.

74 Welfare agencies

The master of a regulated Australian vessel must ensure that when the vessel is in a port where shore based welfare facilities are available:

- (a) a seafarer may visit the facilities; and
- (b) shore based welfare providers may visit seafarers on the vessel.

Note 1 Paragraph 1 of MLC regulation 4.4 provides that countries in which the Maritime Labour Convention is in force must ensure shore based welfare facilities are available for all seafarers. For requirements for foreign vessels — see Division 2.

Note 2 An employee assistance provider (EAP) is considered a welfare facility. For further information see the Australian Seafarers Welfare Council webpage at www.amsa.gov.au.

Division 14 Safety protection for seafarers

75 Safety protection

The owner of a regulated Australian vessel must put in place arrangements, and provide appropriately sized personal protective equipment, to minimise the risk of:

- (a) exposure to harmful levels of ambient factors and chemicals; and
- (b) injury or disease that may arise from the use of equipment and machinery on board the vessel;
- (c) the spread of other disease on board.

Division 15 Shipowners' liability

76 Financial security

- (1) The owner of a regulated Australian vessel must demonstrate to AMSA's satisfaction that the owner has financial security that meets subsection (2).

Note Financial security may be demonstrated by production of a current insurance cover note, evidence of protection of indemnity insurance or coverage under a scheme.

- (2) A master or owner of a regulated Australian vessel must not take the vessel to sea if the vessel does not have on board documentary evidence of financial security to meet liability arising from:

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- (a) death or long-term disability of a seafarer because of occupational injury, illness or hazard; and
 - (b) abandonment of any seafarer of the vessel.
Penalty: 50 penalty units.
- (3) The documentary evidence of financial security must include the following information:
- (a) the name of the vessel;
 - (b) the home port of the vessel;
 - (c) the call sign of the vessel;
 - (d) the IMO number of the vessel;
 - (e) the name and address of the provider or providers of the financial security;
 - (f) the contact details of the person responsible for receiving requests and arranging seafarer assistance;
 - (g) the name of the owner of the vessel or registered owner if different;
 - (h) the period of validity of the financial security;
 - (i) an attestation by the provider or providers of the financial security that:
 - (i) the security meets the requirements of MLC standards A2.5.2 and A4.2.1; and
 - (ii) at least 30 days notice is to be given to the Administration for any cessation of the security.
- (4) For paragraph (2)(b), abandonment is taken to have occurred if the owner of the vessel or registered owner has not:
- (a) complied with any repatriation requirement mentioned in sections 31 to 33;
or
 - (b) paid wages or other payments due to the seafarer for at least 2 months; or
 - (c) provided the necessary maintenance and support mentioned in paragraph 2(b) of MLC standard A2.5.2.
- Note* Paragraph 5 of MLC standard A2.5.2 provides that for paragraph 2(b) necessary maintenance and support includes adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care.
- (5) The owner must ensure that documentary evidence of the financial security is:
- (a) placed on board the vessel in a location where it is available for perusal, without the need for a seafarer to ask to access it; and
 - (b) written in English.
Penalty: 50 penalty units.
- Note* For paragraph (b), the documentary evidence written in English may be an English translation of the original documents that are in a language other than English.
- (6) An offence against subsection (2) or (5) is a strict liability offence.
- (7) A person is liable to a civil penalty if the person contravenes subsection (2) or (5).
Civil penalty: 50 penalty units.

Section 79**77 Incapacity**

- (1) If a seafarer of a regulated Australian vessel is incapacitated for work because of sickness or injury, the owner of the vessel must:
 - (a) pay the seafarer's wages in full:
 - (i) as long as the sick or injured seafarer is on board; or
 - (ii) until the seafarer is repatriated; and
 - (b) pay wages in whole or part, in accordance with the collective agreement or legislation that provides for workers' compensation for the seafarer, when the seafarer is repatriated, until the earliest of:
 - (i) when the seafarer recovers; or
 - (ii) when the seafarer is entitled to cash benefits under the collective agreement or legislation that provides for workers' compensation for the seafarer; or
 - (iii) 16 weeks after the incapacitation starts.

Note This section does not limit the liabilities of the vessel owner under applicable workers compensation legislation.

Penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

78 Limitation of liability

The owner of a regulated Australian vessel is not liable for:

- (a) an injury incurred by the seafarer while the seafarer was not employed, engaged or working on the vessel; or
- (b) an injury, sickness or death of the seafarer resulting from the wilful misconduct of the seafarer; or
- (c) a sickness or infirmity intentionally concealed by the seafarer when entering into the work agreement.

79 Property

- (1) The owner of a regulated Australian vessel must take measures:
 - (a) to safeguard the property left on board by a sick, injured or deceased seafarer; and
 - (b) to return it to the seafarer or the seafarer's next of kin.

Penalty: 50 penalty units.
- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

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Division 16 Maritime labour certificate and declaration of maritime labour compliance**80 Requirement for maritime labour certificate**

(1) For subsection 43(1) of the Navigation Act, the following kinds of maritime labour certificate are specified:

- (a) a maritime labour certificate (MLC);
 - (b) an interim maritime labour certificate (MLC).
- (2) For paragraphs 47(1)(a) and 48(1)(a) of the Navigation Act, a regulated Australian vessel must have a maritime labour certificate if the vessel is:
- (a) ≥ 500 GT; and
 - (b) proceeding on an overseas voyage or for use on an overseas voyage.

Note 1 It is an offence under subsections 47(2) and 48(2) of the Navigation Act if a vessel is taken to sea without a maritime labour certificate of a specified kind in force for the vessel.

Note 2 The form of a maritime labour certificate is available on the AMSA website at www.amsa.gov.au.

(3) The owner of a vessel that is not a vessel to which subsection (2) applies may apply to an issuing body for a maritime labour certificate as if it were a vessel to which subsection (2) applies.

Note Guidance on maritime labour certificates is available on the AMSA website at www.amsa.gov.au.

81 Declaration of maritime labour compliance

AMSA may issue a declaration of maritime labour compliance in accordance with paragraph 10 of MLC standard A5.1.3.

Note 1 The form of a declaration of maritime labour compliance is available on the AMSA website at www.amsa.gov.au. Part II of the declaration is to be completed by the vessel owner.

Note 2 A person may apply for a declaration whether or not the vessel is required to have a maritime labour certificate (MLC).

82 Documents to be carried on board

(1) The master of a regulated Australian vessel ≥ 500 GT must not take the vessel to sea if:

- (a) the vessel's maritime labour certificate (MLC) or interim maritime labour certificate (MLC) is not carried on the vessel; and
- (b) the maritime labour certificate (MLC) does not have attached a declaration of maritime labour compliance in accordance with paragraph 10 of MLC standard A5.1.3; and
- (c) a copy of the certificate carried on the vessel is not:
 - (i) written in English; and
 - (ii) displayed so that it is easily read by seafarers; and
 - (iii) made available on request to any seafarer, inspector, authorised officer in a port state or representative of the owner or of a seafarer.

Penalty: 50 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

- (3) A person is liable to a civil penalty if the person contravenes subsection (1).
Civil penalty: 50 penalty units.

Division 17 Maritime labour certificates

83 Application for maritime labour certificate (MLC)

For subsection 43(2) of the Navigation Act, an application for a maritime labour certificate (MLC) must be made to an issuing body in writing.

Note Information on applying for a maritime labour certificate (MLC) is available on the AMSA website at www.amsa.gov.au.

84 Issuing criteria

For paragraph 44(1)(b) of the Navigation Act, the criteria for the issue of a maritime labour certificate (MLC) are that the issuing body:

- (a) has inspected the vessel for the matters mentioned in Appendix A5-I of the Maritime Labour Convention and this Marine Order; and
- (b) is satisfied the vessel complies with the Maritime Labour Convention and this Marine Order.

85 Duration of maritime labour certificate (MLC)

- (1) A maritime labour certificate (MLC) is in force for a period, of no more than 5 years, determined by the issuing body.
- (2) However, for section 45 of the Navigation Act, an issuing body may vary the expiry date of the existing certificate if:
 - (a) a renewal inspection has been completed before the expiry of the certificate; and
 - (b) the renewal inspection demonstrates compliance with the Maritime Labour Convention and this Marine Order; and
 - (c) the new certificate cannot be issued and made available on board the vessel before the expiry of the certificate.
- (3) For subsection (2), a further period not exceeding 5 months from the expiry date of the existing certificate may be endorsed by the issuing body on the certificate.

Note Subsection 87(2) sets out the time when a new maritime labour certificate (MLC) comes into force after the renewal inspection.

86 Intermediate inspection

- (1) The owner of a regulated Australian vessel for which a maritime labour certificate (MLC) is in force must ensure that the vessel is inspected by an issuing body:
 - (a) between the second and third anniversary dates of the certificate; and
 - (b) for each matter mentioned in Appendix A5-1 of the Maritime Labour Convention and this Marine Order.Penalty: 50 penalty units.
- (2) The owner of a vessel that is inspected in accordance with subsection (1) must ensure that:
 - (a) the following is recorded in English:
 - (i) a report of the inspection by the issuing body;

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- (ii) any deficiencies identified by the issuing body;
 - (iii) the date any deficiency mentioned in subparagraph (ii) is to be reinspected by the issuing body for compliance; and
 - (b) the records mentioned in paragraph (a) are:
 - (i) attached to the maritime labour certificate (MLC); and
 - (ii) made available on request to any seafarer, inspector, authorised person of a port state or representative of the owner or of a seafarer.
- Penalty: 50 penalty units.
- (3) An offence against subsection (1) or (2) is a strict liability offence.
 - (4) A person is liable to a civil penalty if the person contravenes subsection (1) or (2).

Civil penalty: 50 penalty units.
 - (5) In this section:

anniversary date means the date in each year that is the same as the date in the year the certificate expires.

87 Renewal of maritime labour certificate (MLC)

- (1) For paragraph 44(1)(b) of the Navigation Act, an issuing body may issue a new maritime labour certificate (MLC) (renewal) if satisfied that the following criteria are met:
 - (a) an application has been made under section 84 before the certificate expires;
 - (b) the vessel has been inspected for the matters mentioned in Appendix A5-I of the Maritime Labour Convention and compliance with this Marine Order.
- (2) The new certificate commences:
 - (a) if the application is made within 3 months before the expiry of the existing certificate — from the date it was due to expire; or
 - (b) if the application is made more than 3 months before the expiry of the existing certificate — from the date the inspection requirements for renewal were met.

88 Criteria for revocation

For section 46 of the Navigation Act, the criterion for revocation of a maritime labour certificate (MLC) is:

- (a) there is evidence that the vessel no longer complies with the Maritime Labour Convention or this Marine Order; or
- (b) the vessel is not endorsed by an issuing body following an inspection required under section 86; or
- (c) the vessel changes flag; or
- (d) the ownership of the vessel changes; or
- (e) a substantial alteration is made to the vessel's structure or equipment to which Title 3 of the Maritime Labour Convention applies; or
- (f) any corrective action the vessel owner is required to take is not taken.

Division 18 Interim maritime labour certificates (MLC)

89 Application for interim maritime labour certificate (MLC)

For subsection 43(1) of the Navigation Act, an application for an interim maritime labour certificate (MLC) must be made to an issuing body in writing.

Note Information on applying for an interim maritime labour certificate (MLC) is available on the AMSA website at www.amsa.gov.au.

90 Criteria for interim maritime labour certificate (MLC)

For paragraph 44(1)(b) of the Navigation Act, the criteria for the issue of an interim maritime labour certificate (MLC) are that:

- (a) any of the following:
 - (i) the vessel is a new vessel that has, on delivery, been handed over to the owner;
 - (ii) the flag of the vessel is changed;
 - (iii) the owner has assumed responsibility for the operation of the vessel which is new to that owner; and
- (b) the issuing body, having inspected the vessel for the matters mentioned in Appendix A5-I of the Maritime Labour Convention and this Marine Order, is satisfied that:
 - (i) the owner of the vessel has demonstrated that the vessel has adequate procedures to comply with the Maritime Labour Convention and this Marine Order; and
 - (ii) the master of the vessel is familiar with the requirements of the Maritime Labour Convention and this Marine Order; and
 - (iii) the owner of the vessel has completed Part II of the declaration of maritime labour compliance and given it to an issuing body; and
- (c) an interim maritime labour certificate (MLC) has not previously been issued for the vessel.

Note For criteria for revocation of an interim maritime labour certificate (MLC) — see section 89.

91 Duration of interim maritime labour certificate (MLC)

An interim maritime labour certificate (MLC) expires 6 months, or a shorter period determined by the issuing body, after it is issued.

Division 19 Onboard complaints

92 Onboard complaint procedure

- (1) The owner of a regulated Australian vessel must ensure that the vessel has an onboard complaint procedure, for a seafarer to make a complaint alleging a breach of the Maritime Labour Convention, that:
 - (a) seeks initially to resolve complaints at the lowest possible level; and
 - (b) has contact information for:
 - (i) AMSA; and
 - (ii) the maritime administration in the seafarers' country of residence; and

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- (iii) the name of a person on board the vessel who can provide confidential and impartial advice to the seafarer on the complaint and assist the seafarer in following the onboard complaint procedure; and
- (c) ensures that the confidentiality of the seafarer's complaint is maintained; and
- (d) provides that a seafarer making a complaint must be able to give the complaint to any of the following:
 - (i) the seafarer's superior officer;
 - (ii) the head of the seafarer's department;
 - (iii) the master of the vessel;
 - (iv) the owner of the vessel or the owner's representative; and
- (e) provides that a seafarer must also be able to file the complaint with any of the following:
 - (i) AMSA;
 - (ii) the maritime administration of the country in which the vessel is located;
 - (iii) any person who may have an interest in the seafarers' health and wellbeing; and
- (f) provides that a seafarer making a complaint must be able:
 - (i) to get assistance from another person, including an official or delegate of a seafarers' representative organisation; and
 - (ii) to be accompanied or represented throughout the complaint procedures; and
- (g) provides that:
 - (i) if the head of department or superior officer receives a complaint, he or she must take action within 7 days to resolve the matter in accordance with the onboard complaint procedure; and
 - (ii) if the seafarer who made the complaint is not satisfied that the matter has been resolved by the head of department or superior officer, the seafarer may give the complaint to the master of the vessel; and
 - (iii) if the master receives a complaint, the master must attempt to resolve it personally.

Penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

93 Copy of procedure

- (1) The owner of a regulated Australian vessel must ensure that a copy of the onboard complaint procedure is available to seafarers on board the vessel.

Penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

Section 96**94 Complaint not resolved on board**

- (1) If a complaint is not resolved on board a regulated Australian vessel, the master of the vessel must refer it ashore, within the earlier of 7 days or arrival at the next port, to the owner of the vessel.

Penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

Note The seafarer may take action under the *Fair Work Act 2009* to stop being bullied at work. *Guidance on Eliminating Shipboard Harassment and Bullying* published by the International Chamber of Shipping and International Transport Workers' Federation is on the ICS website at www.ics-shipping.org.

95 Recording complaints

- (1) The master of a regulated Australian vessel must ensure that details mentioned in subsection (2) of a complaint that is made on board by a seafarer, and any outcomes, are recorded, but not in the official logbook.

Penalty: 50 penalty units.

- (2) For subsection (1), the details are:
- (a) the date and time when the complaint was made; and
 - (b) to whom it was made; and
 - (c) the nature of the complaint; and
 - (d) any outcomes from the onboard complaints procedure; and
 - (e) if the complaint has not been resolved — any additional action taken to expedite the matter, including whether or not the matter has been referred ashore to the vessel owner to resolve.
- (3) The master of a regulated Australian vessel must ensure that a copy of the record of the complaint is given to the seafarer who made the complaint.

Penalty: 50 penalty units.

- (4) An offence against subsection (1) or (3) is a strict liability offence.
- (5) A person is liable to a civil penalty if the person contravenes subsection (1) or (3).

Civil penalty: 50 penalty units.

96 No adverse action

A person must not take adverse action against a seafarer in response to the seafarer making or proposing to make a complaint.

Note This section does not affect the right of a person to take action on a vexatious or malicious complaint.

Civil penalty: 50 penalty units.

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Division 20 Onshore complaints

Note This Division applies to a regulated Australian vessel and a foreign vessel.

97 Report of Maritime Labour Convention breach

- (1) A seafarer on a vessel that is in an Australian port, or is on a voyage to an Australian port, may report a complaint alleging a breach of the Maritime Labour Convention to AMSA.
- (2) Any person with an interest in the living and working conditions of a vessel that is in an Australian port, or is on a voyage to an Australian port, may report a complaint alleging a breach of the Maritime Labour Convention to AMSA.
- (3) If AMSA receives a complaint under subsection (1) or (2), AMSA must investigate the complaint and act in accordance with its obligations under MLC regulations 5.1.4, 5.2.1 and 5.2.2.

Note 1 Information on AMSA's procedures for handling seafarer complaints is available on the AMSA website at www.amsa.gov.au.

Note 2 An AMSA inspector may investigate a complaint and exercise the powers of inspectors, including the giving of directions — see Chapter 8, Part 4 of the Navigation Act.

Note 3 AMSA may detain a vessel under section 248 of the Navigation Act if an AMSA inspector reasonably suspects that the vessel is unseaworthy or substandard, or that the vessel has been, is or will be involved in a contravention of the Act. A vessel is seaworthy only if, among other things, the living and working conditions on board the vessel do not pose a threat to the health, safety or welfare of the vessel's seafarers — see Navigation Act, section 23.

Division 21 Official logbook**98 Record keeping — official logbook**

- (1) The master of a regulated Australian vessel must ensure that the matters mentioned in Schedule 12, for events that occur while the person is the master of the vessel, are recorded by an entry in the official logbook.
- (2) An entry in the official logbook must be:
 - (a) made as soon as practicable after the event to which it relates; and
 - (b) dated to show the date of occurrence of the event and the date of entry.
- (3) An entry in the official logbook must be signed at the time of entry by:
 - (a) the master; and
 - (b) an officer or another seafarer.
- (4) An entry in the official logbook for a death, injury or illness must be signed at the time of entry by each of the following:
 - (a) the master;
 - (b) an officer;
 - (c) another seafarer;
 - (d) if the vessel carries a qualified medical practitioner on board as a seafarer — the qualified medical practitioner.
- (5) When an entry in the official logbook for a birth is made, the entry must be signed as soon as practicable by:
 - (a) the mother or father of the child; and

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(b) another person, if any, present at the birth of the child.

Note It is an offence under section 309 of the Navigation Act if the master of a regulated Australian vessel does not keep an official logbook in accordance with the regulations.

Schedule 1 Seafarer recruitment and placement service — conditions of registration

(sections 17 and 19)

The conditions of registration for a seafarer and placement service are that:

- (a) AMSA may undertake, on provision of reasonable notice, an audit to determine whether the service complies with the conditions of registration; and
- (b) the service may charge a fee for a service to a seafarer only if it is for obtaining any of the following:
 - (i) a medical certificate of fitness in accordance with *Marine Order 76 (Health — medical fitness) 2017*;
 - (ii) a seafarer's qualification in accordance with *Marine Order 70 (Seafarer certification) 2014*;
 - (iii) a national seafarer's record book;
 - (iv) a passport;
 - (v) a travel document, other than a visa, that is necessary for the duties that the seafarer is going to undertake; and
- (c) the service must have a register of persons recruited or placed, that includes information on:
 - (i) the seafarer's medical examination; and
 - (ii) the seafarer's identity documents; and
 - (iii) any fees charged under paragraph (b); and
 - (iv) other items that the seafarer has to provide to get employment; and
- (d) the service must keep the following records about persons recruited or placed to work on a vessel:
 - (i) the seafarer's qualifications;
 - (ii) the seafarer's record of employment;
 - (iii) personal data relevant to employment;
 - (iv) medical data relevant to employment; and
- (e) for each seafarer for whom it provides services, the service must ensure that:
 - (i) the seafarer is qualified to carry out the duties for which he or she is employed; and
 - (ii) the seafarer holds the documents necessary for the work; and
 - (iii) the seafarer's work agreements are in accordance with law that applies to them; and
- (f) the service must:
 - (i) ensure that certificates and documents submitted for employment are up to date; and
 - (ii) verify employment references; and

- (iii) keep a record of each vessel for which the service provides the seafarer recruitment and placement service; and
- (iv) ensure that there is a means by which the services can be contacted in an emergency at all hours; and
- (v) investigate any complaint about its activities and tell AMSA if a complaint is unresolved; and
- (vi) not deduct wages paid as a result of any reimbursement of wages to a seafarer when an underpayment has been identified and paid; and
- (g) ensure the following protections are met for each seafarer:
 - (i) explaining their rights and duties under a work agreement;
 - (ii) providing the work agreement for examination before it is signed; and
 - (iii) providing a copy of the work agreement after it is signed;
 - (iv) insurance, or equivalent measure, is in place to compensate for any monetary loss the seafarer incurs caused by:
 - (A) the service provider failing to meet a legal obligation to the seafarer; or
 - (B) the shipowner failing to meet its obligations under a work agreement;
 - (v) explaining the insurance arrangement, or equivalent measure, in place to protect the seafarer;
 - (vi) when placing a seafarer on a vessel — to the extent practicable ensure that the owner of the vessel is insured to protect seafarers from being stranded in a foreign port.

Schedule 2 Working conditions for seafarers under 18 years

(subsection 20(5))

- 1 A seafarer under 18 years must not work more than:
 - (a) 8 hours in any 24 hours; and
 - (b) 40 hours in 7 days.
- 2 In the circumstances mentioned in clause 3, the seafarer:
 - (a) may work more than the hours mentioned in clause 1; and
 - (b) must be given compensatory rest period for any additional hours worked.
- 3 For clause 2, the circumstances are any of the following:
 - (a) an emergency, including circumstances in which the immediate safety of the vessel, a person on board or cargo is at risk;
 - (b) assistance must be given to another vessel or person in distress at sea;
 - (c) a drill is being conducted;
 - (d) essential shipboard work that:
 - (i) cannot be delayed for safety or environmental reasons; and
 - (ii) could not reasonably have been anticipated when the voyage started.
- 4 The seafarer must have:
 - (a) a break of at least 1 hour for the main meal of the day; and

Schedule 3 Seafarer's work agreement information

- (b) a 15 minute rest as soon as possible after 2 hours of continuous work.
- 5 However, clause 4 does not apply if:
 - (a) it is impracticable for seafarers assigned to watchkeeping duties or on a rostered shift work system that are in:
 - (i) the deck; or
 - (ii) the engine room; or
 - (iii) the catering department; or
 - (b) the scheduled training of seafarers would be impaired in accordance with guidelines set by AMSA.
- 6 The seafarer may perform the following tasks only under supervision and instruction:
 - (a) lifting, moving or carrying heavy loads or objects, unless AMSA has determined that the seafarer is competent to do so;
 - (b) entering boilers, tanks and other confined spaces;
 - (c) operating power machinery and tools, or acting as a signaller to the person operating power machinery and tools;
 - (d) handling mooring lines, tow lines or anchoring equipment;
 - (e) working aloft or on deck in heavy weather.
- 7 The master of the vessel must keep a signed record of each occasion to which clause 5 applies and the reasons for it.

Schedule 3 Seafarer's work agreement information

(subsection 21(1))

- 1 The seafarer's full name, address and date of birth, or, if the seafarer's date of birth is unknown, the seafarer's estimated age.
- 2 The seafarer's birthplace.
- 3 The vessel owner's full name and address.
- 4 The vessel operator's full name and address.
- 5 The employer's full name and address.
- 6 The place where the seafarer's employment agreement is entered into.
- 7 The date the seafarer's employment agreement is entered into.
- 8 The role the seafarer is employed or engaged to do.
- 9 The amount of the seafarer's wage.
- 10 The amount of paid leave or the formula used for calculating it.
- 11 The terms for the termination of the agreement and conditions of termination.
- 12 The date for expiry of the agreement, if any.
- 13 If the agreement has been made for the duration of a single voyage:
 - (a) the port of destination;
 - (b) the time that has to elapse after arrival at the port before the agreement expires.

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- 14 Any health or social security protection benefits to be provided for the seafarer by the owner of the vessel.
 - 15 The seafarer's entitlement to payment of wages and other benefits under the work agreement if:
 - (a) there is loss or foundering of the vessel resulting in sickness or injury; or
 - (b) 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 ships.
 - 16 The seafarer's entitlement to repatriation including repatriation following an act of piracy or an act of armed robbery against ships.
 - 17 The seafarer's home port.
 - 18 A mention of any award that applies to the seafarer.
 - 19 If a collective agreement applies to the seafarer — a copy of that agreement.
 - 20 A list of the geographic location of war zones, if any.

Note Information on zones that may be classified as war zones can be found on the International Transport Federation website at www.itfglobal.org.

Schedule 4 Sleeping rooms

(paragraph 40(1)(b))

- 1 The sleeping rooms must be arranged and allocated:
 - (a) to separate watches; and
 - (b) to ensure that no seafarer working during the day shares a room with a watchkeeper.
- 2 A sleeping room must have, for each occupant, the following items:
 - (a) a mirror;
 - (b) a small cabinet for toiletries;
 - (c) a book rack;
 - (d) coat hooks;
 - (e) curtains or equivalent window coverings for side lights.
- 3 Furniture in a sleeping room must be made of a smooth, hard, material unlikely to warp or corrode.
- 4 There must not be any direct openings into sleeping rooms from any of the following areas:
 - (a) cargo spaces;
 - (b) machinery spaces;
 - (c) galleys;
 - (d) storerooms;
 - (e) drying rooms;
 - (f) communal sanitary areas.
- 5 Any part of a bulkhead separating the sleeping rooms must be:
 - (a) constructed of materials in accordance with *Marine Order 15 (Construction — Fire prevention, fire detection and fire extinction) 2014*; and

- (b) watertight; and
- (c) gastight.

Schedule 5 Sleeping berths

(subsection 41(1))

- 1 Each seafarer must have a separate sleeping berth that is at least 198 cm by 80 cm.
- 2 Sleeping berths must be arranged as follows:
 - (a) no more than 2 tiers; and
 - (b) for a berth placed along the vessel's side — 1 tier where a sidelight is situated above a berth; and
 - (c) for a double tier berth:
 - (i) the lower tier must be at least 30 cm above the floor; and
 - (ii) the upper berth must be:
 - (A) midway between the bottom of the lower berth and the lower side of the deckhead beams; and
 - (B) fitted with a safety or guard rail; and
 - (C) fitted with a ladder or stairs firmly secured to a deck, deckhead or bulkhead.

Note for subparagraph (c)(i) The height of the mattress is not included in this measurement.

- 3 The framework and lee-board of a berth must be:
 - (a) made of material in accordance with *Marine Order 15 (Construction — Fire prevention, fire detection and fire extinction) 2014*; and
 - (b) hard, smooth and unlikely to corrode or harbour vermin.
- 4 The owner of a vessel must ensure that each berth is fitted with a mattress that:
 - (a) is comfortable as with a cushioning bottom; or
 - (b) has cushioning with a spring bottom or spring mattress; and
 - (c) has approved cushioning material; and
 - (d) is made of material that is unlikely to harbour vermin.
- 5 If a berth is placed over another, the owner of the vessel must ensure that a dust-proof bottom is fitted on the upper berth under the bottom mattress or the spring bottom.

Schedule 6 Heating

(subsection 48(1))

The heating system must have each of the following characteristics:

- (a) when seafarers are living on board, the system of heating the seafarer accommodation must be capable of operation at all times;
- (b) the heating system must use:
 - (i) hot water; or

- (ii) warm air; or
- (iii) electricity;
- (c) steam must not be used as a medium for heat transmission;
- (d) it must be capable of maintaining the temperature in seafarer accommodation to ISO standard 7547/2002 *Ships and marine technology — Air-conditioning and ventilation of accommodation spaces — Design conditions and basis of calculations*, as amended from time to time, under normal conditions of weather and climate in which the vessel operates;
- (e) radiators and other heating apparatus must be placed and shielded to avoid the risk of fire, danger, or discomfort to the occupant.

Schedule 7 Mess room

(section 50)

- 1 The mess room must:
 - (a) be located as close to possible to the galley; and
 - (b) be located as far as possible from sleeping rooms; and
 - (c) be of adequate size and comfort; and
 - (d) have ongoing facilities for refreshment; and
 - (e) have a floor area of at least 1.5 m² per person of the planned seating capacity; and
 - (f) have tables and seats that:
 - (i) are appropriate and sufficient in number to accommodate the greatest number of seafarers likely to use them at the same time; and
 - (ii) have tops that are made of damp-resistant material; and
 - (iii) have tops that are unlikely to harbor vermin; and
 - (g) be equipped with a refrigerator that is:
 - (i) conveniently situated; and
 - (ii) of sufficient capacity for the number of persons using the mess room; and
 - (h) have facilities for hot beverages and cool water.
- 2 If pantries for storage are not accessible from a mess room, the mess room must have:
 - (a) lockers suitable in size and design to contain utensils for the seafarers on board; and
 - (b) facilities for washing and drying utensils hygienically.
- 3 The owner of a vessel must ensure that a mess room has quantities of mess utensils, plates and cups that are:
 - (a) of an approved material; and
 - (b) easily cleanable; and
 - (c) appropriate in number.

Schedule 8 Minimum standards for sanitary facilities

- 4 Seating between a table and a bulkhead, or a vessel's side must have a clearance of at least 635 mm.
- 5 The width of a table must be at least:
 - (a) if seats are provided along both sides — 760 mm; or
 - (b) if seats are provided only on 1 side — 380 mm.
- 6 Each mess room must have enough single chairs for each person using the room at the same time.
- 7 A mess room chair must have arm rests, unless there are chairs with arm rests in a separate recreation room.
- 8 Instead of chairs, settees may be provided that:
 - (a) are at least 380 millimetres wide; and
 - (b) have upholstered or padded seats; and
 - (c) have comfortably shaped backs.

Schedule 8 Minimum standards for sanitary facilities

(section 54)

- 1 Sanitary facilities on a vessel must:
 - (a) be separate for men and women; and
 - (b) be at a convenient location; and
 - (c) have, for every 6 persons or less who do not have a private bathroom, at least a toilet, wash basin and shower.
- 2 A vessel that is not a passenger vessel must have, in each sleeping room without a private bathroom, a washbasin with hot and cold running fresh water.
- 3 Sanitary facilities used by at least 2 persons must be situated convenient to and separate from sleeping rooms.
- 4 If there are at least 2 toilets in a compartment, the toilets must be sufficiently screened to ensure privacy.
- 5 Showers must be screened for privacy.
- 6 There must be sanitary facilities easily accessible from the following places:
 - (a) the navigation bridge;
 - (b) the mess room;
 - (c) the machinery space;
 - (d) the engine room control centre.
- 7 Washbasins, showers and baths must:
 - (a) have hot and cold running fresh water; and
 - (b) be of a size adequate for washing a seafarer; and
 - (c) be constructed of suitable material; and
 - (d) have a smooth surface, not liable to crack, flake or corrode.
- 8 All toilets on a vessel must have an ample flush of water or other suitable flushing means that is available at all times and independently controllable.

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- 9 Floors in sanitary facilities must be:
 - (a) of an approved, durable material; and
 - (b) impervious to damp; and
 - (c) properly drained.
 - 10 Bulkheads in sanitary facilities must be:
 - (a) made of steel or other approved material; and
 - (b) watertight for at least 23 cm above the level of the deck.
 - 11 Sanitary facilities must be lit in accordance with *Accident prevention on board ship and in port*, published by the ILO, as amended from time to time, heated and ventilated.
 - 12 Sanitary facilities must have towels, soap and toilet paper for all seafarers.
 - 13 Sanitary facilities must have a means of preventing the escape of gases from the sewage system.
 - 14 Sanitary facilities must have a soil pipe that is constructed to facilitate cleaning and minimise the risk of obstruction.
 - 15 Each shower space must have:
 - (a) a soap holder; and
 - (b) a hand rail; and
 - (c) a kerb; and
 - (d) individual drainage; and
 - (e) a mat or grating of non-slipping, hygienic material; and
 - (f) either:
 - (i) a toilet seat lid suitable for sitting on; or
 - (ii) a hinged seat next to each shower.

Schedule 9 Hospital accommodation

(paragraph 56(c))

Hospital accommodation must:

- (a) in all weathers:
 - (i) be of easy access; and
 - (ii) provide comfortable housing for the occupants; and
 - (iii) be conducive to the patient receiving prompt and proper attention; and
- (b) be designed to facilitate:
 - (i) medical consultation; and
 - (ii) the giving of first aid; and
 - (iii) prevention of the spread of infectious disease; and
- (c) have the following, designed to ensure the comfort and facilitate the medical treatment of the occupants:
 - (i) equipment;
 - (ii) layout;
 - (iii) furniture;

- (iv) lighting;
- (v) ventilation;
- (vi) heating;
- (vii) water supply; and
- (d) have sanitary facilities for the exclusive use of the occupants:
 - (i) as part of the hospital accommodation; or
 - (ii) in close proximity to the hospital accommodation; and
- (e) have sanitary facilities that have at least:
 - (i) 1 toilet; and
 - (ii) 1 washbasin; and
 - (iii) 1 tub or shower; and
- (f) have hospital berths as follows:

Number of persons carried on board	Number of berths
less than 75	2
at least 75 and less than 150	3
at least 150 and less than 200	4
at least 200 and less than 400	5
at least 400 and less than 500	8
at least 500 and less than 700	9
at least 700 and less than 900	10
at least 900 and less than 1200	11
at least 1200	the sum of:
	(a) 11; and
	(b) 1 for every 300 persons more than 1200

Schedule 10 Galleys

(subsection 62(1))

- 1 The galley must be situated as near as practicable to the seafarers' mess room.
- 2 The floor must have efficient scuppers.
- 3 The galley must have:
 - (a) an efficient mechanical exhaust ventilation system to draw off fumes from cooking appliances is fitted; or
 - (b) natural ventilation that ensures that fumes:
 - (i) escape to open air; and
 - (ii) do not remain in the galley.
- 4 The floor must be made of material that can be easily kept clean.
- 5 A cupboard or dresser that is not flush with the deck must have clearance of at least 225 millimetres above the deck.

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- 6 If the galley is not next to the seafarers' mess room, there must be equipment to enable food to be served hot in the mess room in all weather.

Schedule 11 Dry provision stores

(subsection 63(2))

- 1 Dry provision stores must:
 - (a) be enclosed by bulkheads constructed in accordance with *Marine Order 15 (Construction — fire protection, fire detection and fire extinction) 2014*; and
 - (b) be situated, constructed and ventilated to avoid deterioration of the stores caused by:
 - (i) heat draught; or
 - (ii) condensation; or
 - (iii) infestation by insects or vermin.
- 2 Dry provision stores must not:
 - (a) be situated close to a space in which heat is generated and that is not adequately insulated against heat; or
 - (b) be used for the storage of bedding or textiles.

Schedule 12 Official logbook — matters that must be entered

(subsection 98(1))

- 1 Any conviction by a court of a seafarer while the seafarer is employed, engaged or working on the vessel and any sentence imposed.
- 2 Any promotion, including:
 - (a) the date of the promotion; and
 - (b) the rank or position to which the seafarer is promoted; and
 - (c) any increase in wages.
- 3 Any misconduct by a seafarer.
- 4 Details of each inspection mentioned in section 53 and section 63.
- 5 If a stowaway is discovered on board:
 - (a) the person's full name; and
 - (b) the person's date of birth; and
 - (c) the place of the stowaway's boarding; and
 - (d) the place the stowaway is put to shore; and
 - (e) any proceedings taken against the person and the result of the proceedings.
- 6 If the vessel is involved in a marine incident causing a loss of life or serious injury to a person, the person's:
 - (a) full name; and
 - (b) age; and
 - (c) birthplace; and

Schedule 12 Official logbook — matters that must be entered

- (d) details of the incident.
- 7 Any matter that must be entered into the official logbook by an agreed code of conduct applying to the vessel.
- 8 A list of the effects of a deceased seafarer.

Note The master of the vessel may make entries in the official logbook about matters that are not required by the Navigation Act, regulations or Marine Orders.

Note

1. All legislative instruments and compilations of legislative instruments are registered on the Federal Register of Legislation under the *Legislation Act 2003*. See www.legislation.gov.au.