



Australian Government
Australian Maritime Safety Authority

AMSA MO 2022/[number]

Marine Order 64 (Vessel traffic services) 2022

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

2022

[DRAFT ONLY — NOT FOR SIGNATURE]

Chief Executive Officer

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Division 1 Preliminary

1 Name of Order

This Order is *Marine Order 64 (Vessel traffic services) 2022*.

1A Commencement

This Order commences on 1 July 2022.

1B Repeal of *Marine Order 64 (Vessel traffic services) 2013*

Marine Order 64 (Vessel traffic services) 2013 is repealed.

2 Purpose

- (1) This Marine Order:
 - (a) provides for vessel traffic services for Australia; and
 - (b) gives effect to Regulation 12 of Chapter V of SOLAS.

3 Power

- (1) The following provisions of the Navigation Act provide for this Marine Order to be made:
 - (a) section 213 which provides for regulations to be made about vessel traffic services;
 - (b) paragraph 340(1)(a) which provides for regulations to be made to give effect to SOLAS;
 - (c) subsection 341(1) which provides that the regulations may provide for the imposition of penalties for a contravention of a provision of the regulations.
- (2) Subsection 339(1) of the Navigation Act provides for regulations to be made prescribing matters required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to the Act.
- (3) Subsection 342(1) of the Navigation Act provides that AMSA may make a Marine Order about matters that can be provided for by regulation.

4 Definitions and interpretation

- (1) In this Marine Order:

certificate of accreditation means a certificate of *accreditation* issued under section 15.

IALA means the International Association of Marine Aids to Navigation and Lighthouse Authorities.

IALA Standard 1010 means *IALA Standard S1010 Marine Aids to Navigation Planning and Service Requirements*, as amended from time to time.

IALA Standard 1040 means *IALA Standard S1040 Vessel Traffic Services*, as amended from time to time.

IALA Standard 1050 means *IALA Standard S1050 Training and Certification*, as amended from time to time.

IALA Standard 1070 means *IALA Standard S1070 Information Services*, as amended from time to time.

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instrument of authority means an instrument of authority issued under section 6.

Marine Order 1 means *Marine Order 1 (Administration) 2013*.

registered training organisation means a training organisation registered by any of the following:

- (a) the Australian Skills Quality Authority;
- (b) the Victorian Registration and Qualifications Authority;
- (c) the Training Accreditation Council, Western Australia.

the Guidelines means *Guidelines for Vessel Traffic Services* adopted by IMO Resolution A.1158(32) and as amended from time to time.

VTS area means the geographical area for which a VTS provider is authorised by AMSA to provide a vessel traffic service.

Note For a list of VTS areas — see the AMSA website at <http://www.amsa.gov.au>.

VTS provider has the same meaning as **vessel traffic service authority** in section 14 of the Navigation Act.

VTS training organisation means an organisation that has been issued a certificate of accreditation by AMSA under section 15.

Note 1 Some terms used in this Order are defined in Marine Order 1, including:

- IMO
- Navigation Act
- SOLAS.

Note 2 Other terms used in this Order are defined in the Navigation Act, including:

- AMSA
- vessel traffic service
- vessel traffic service authority.

Note 3 For delegation of AMSA's powers under this Order — see the AMSA website at <http://www.amsa.gov.au>.

Note 4 Information on obtaining copies of any IMO Resolution, IMO document or other document that is mentioned in this Marine Order is available from the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

- (2) The **competent authority** for the Guidelines is AMSA.

Division 2 Authorisation of VTS providers

5 Application for instrument of authority

- (1) A person may apply to AMSA for an instrument of authority, authorising the applicant to provide a vessel traffic service as a VTS provider.
- (2) The application must be in accordance with Marine Order 1.

Note Division 3 of Marine Order 1 provides some general rules about the making and determination of various kinds of applications. It provides that if a form is approved for the application, the approved form must be used. An approved form for the application for an instrument of authority is available on the AMSA website at: <http://www.amsa.gov.au>

- (3) The application must:
 - (a) set out the proposed VTS area; and

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- (b) describe the operational objectives for the proposed vessel traffic service and indicate how those objectives will contribute to the safety and efficiency of ship traffic and the protection of the environment; and
- (c) state how the applicant will meet the responsibilities of a VTS provider that are mentioned in paragraph 5.3 of the Guidelines; and
- (d) provide any document required in the approved form.

6 Issue of instrument of authority

AMSA may issue an instrument of authority if AMSA is satisfied that:

- (a) there needs to be a vessel traffic service for the proposed VTS area; and
- (b) the applicant can meet the responsibilities of a VTS provider that are mentioned in paragraph 5.3 of the Guidelines; and
- (c) the applicant can meet the responsibilities of a VTS provider that are mentioned in the normative provisions of IALA Standards 1010, 1040, 1050 and 1070.

Note 1 AMSA may conduct an audit of the applicant's operations to assess whether the applicant can meet the requirements of paragraphs (b) and (c) — see subsection 13(1).

Note 2 The normative provisions of the IALA Standards mentioned in paragraph (c) are the provisions that must be adopted by a member state to achieve compliance with the standard.

Note 3 Sections 17 and 18 of Marine Order 1 provide for the review of decisions that are made in accordance with the application process in that Order.

7 Conditions — instrument of authority

- (1) A VTS provider must:
 - (a) operate in accordance with the Guidelines; and
 - (b) operate the vessel traffic service within any VTS area set out in the instrument of authority; and
 - (c) establish and operate the vessel traffic service in accordance with the normative provisions of IALA Standards 1010, 1040, 1050 and 1070; and
 - (d) if it is the subject of an audit — comply with a reasonable request made by AMSA during the conduct of the audit.
- (2) AMSA may impose further conditions on the instrument of authority.

8 Form of instrument of authority

An instrument of authority must include the following:

- (a) the name of the VTS provider;
- (b) a description of the VTS area;
- (c) the operational objectives of the vessel traffic service to be provided;
- (d) the conditions that attach to the instrument of authority.

9 Term of instrument of authority

- (1) An instrument of authority:
 - (a) commences on the day it is issued; and
 - (b) expires at the earlier of:
 - (i) 5 years after the day it is issued; or
 - (ii) the day it is cancelled.

- (2) If an instrument of authority is suspended, it is not in effect during the period of suspension.
- (3) If a VTS provider intends to continue to provide a vessel traffic service after the expiration of its instrument of authority, the VTS provider must, in order to ensure continuity of the service, apply for a new instrument of authority at least 90 days before the existing instrument of authority expires.

10 Amendment of instrument of authority

- (1) AMSA may amend an instrument of authority on its own initiative:
 - (a) to change conditions imposed on the instrument of authority; or
 - (b) to impose further conditions on the instrument of authority; or
 - (c) to change details in the instrument of authority that are no longer accurate; or
 - (d) to include any other details AMSA considers necessary.

Note An amendment may be required if, for example, a major non-conformance is identified in an audit.
- (2) AMSA may amend an instrument of authority on application by the VTS provider that holds the instrument:
 - (a) to change the boundary of the VTS area; or
 - (b) to change details in the instrument of authority that are no longer accurate.
- (3) An application by the VTS provider must:
 - (a) be made in accordance with Marine Order 1; and
 - (b) set out the grounds for the application; and
 - (c) describe the proposed amendment.
- (4) AMSA must give written notice of the proposed amendment, seeking comments within a stated period of less than 90 days, to any person AMSA considers may have an interest in the proposed amendment including, in the case of an amendment initiated by AMSA, the VTS provider.
- (5) AMSA must consider any comments received.
- (6) AMSA may amend an instrument of authority only if satisfied that:
 - (a) the amendment is consistent with the safety and efficiency of vessel traffic and protection of the environment; and
 - (b) the VTS provider can continue to meet the responsibilities mentioned in paragraph 5.3 of the Guidelines; and
 - (c) the VTS provider is providing the vessel traffic service in accordance with the applicable normative provisions of IALA Standards 1010, 1040, 1050 and 1070.

Note The normative provisions of the IALA Standards mentioned in paragraph (c) are the provisions that must be adopted by a member state to achieve compliance with the standard.
- (7) A decision to amend an instrument of authority on AMSA's own initiative is a reviewable decision for section 17 of Marine Order 1.

Note Sections 17 and 18 of Marine Order 1 provide for the review of decisions that are made in accordance with the application process in that Marine Order. Those sections will therefore apply to a decision made on application by the VTS provider.

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11 Suspension or cancellation of instrument of authority

- (1) AMSA may suspend or cancel an instrument of authority if it considers that a condition that applies to the instrument of authority has not been complied with.
- (2) AMSA may cancel an instrument of authority if the VTS provider that holds the instrument of authority has given it to AMSA for cancellation.
- (3) A decision to suspend or cancel an instrument of authority is a reviewable decision for section 17 of Marine Order 1.

12 VTS provider may conduct recurrent training

- (1) A VTS provider may apply to AMSA for approval to conduct recurrent training in accordance with IALA model course V-103/5 Revalidation process for VTS Qualifications and Certification.
- (2) The application must be in accordance with Marine Order 1.
- (3) AMSA may approve the application if it considers that the VTS provider is capable of conducting the course.

Note Sections 17 and 18 of Marine Order 1 provide for the review of decisions that are made in accordance with the application process in that Marine Order.

Division 3 Auditing of VTS providers and applicants**13 Conduct of audits for vessel traffic services**

- (1) AMSA may conduct an audit to determine if:
 - (a) an applicant for an instrument of authority satisfies paragraphs 6(b) and (c); or
 - (b) a VTS provider is complying with the conditions of the instrument of authority that it holds; or
 - (c) it should approve an application mentioned in section 12; or
 - (d) a VTS provider approved under section 12 is conducting recurrent training in accordance with the IALA model course mentioned in subsection 12(1).
- (2) An audit may review all aspects of the operation of a VTS provider that are relevant to its provision of a vessel traffic service.

Note AMSA may charge a fee for the conduct of an audit mentioned in this section — see s 47 of the AMSA Act.

Division 4 Accreditation of VTS training organisations**14 Application for certificate of accreditation**

- (1) A person may apply to AMSA for accreditation as a VTS training organisation.
- (2) The application must be in accordance with Marine Order 1.

Note Division 3 of Marine Order 1 provides some general rules about the making and determination of various kinds of applications. It provides that if a form is approved for the application, the approved form must be used. An approved form for the application for a certificate of accreditation is available on the AMSA website at: <http://www.amsa.gov.au>

- (3) The application must:
 - (a) show that the applicant is a registered training organisation; and
 - (b) state which vessel traffic service courses the applicant proposes to provide; and

- (c) state how the applicant considers it can meet the responsibilities of a VTS training organisation that are mentioned in the normative provisions of IALA Standard 1050.

Note The normative provisions of IALA Standard 1050 are the provisions that must be adopted by a member state to achieve compliance with the standard.

15 Issue of certificate of accreditation

AMSA may accredit the applicant as a VTS training organisation and issue a certificate of accreditation if satisfied that:

- (a) the applicant is a registered training organisation; and
(b) the applicant can meet the responsibilities of a VTS training organisation that are mentioned in the normative provisions of IALA Standard 1050.

Note 1 AMSA may conduct an audit of the applicant's operations to assess whether the applicant can meet the requirements of paragraphs (a) and (b) — see subsection 21(1).

Note 2 The normative provisions of the IALA Standard mentioned in paragraph (b) are the provisions that must be adopted by a member state to achieve compliance with the standard.

Note 3 Sections 17 and 18 of Marine Order 1 provide for the review of decisions that are made in accordance with the application process in that Order.

16 Conditions — certificate of accreditation

- (1) A VTS training organisation must:
- (a) operate in accordance with the normative provisions of IALA Standard 1050; and
(b) renew annually their registration as a registered training organisation; and
(c) show AMSA annually evidence of the renewals mentioned in paragraph (b); and
(d) if it is the subject of an audit — comply with a reasonable request made by AMSA during the conduct of the audit.
- (2) AMSA may impose further conditions on the certificate of accreditation.

17 Form of certificate of accreditation

A certificate of accreditation must include the following:

- (a) the name of the VTS training organisation;
(b) the vessel traffic service courses that the VTS training organisation is to provide;
(c) the conditions that attach to the certificate of accreditation.

18 Term of certificate of accreditation

A certificate of accreditation:

- (a) commences on the day it is issued; and
(b) expires at the earlier of:
(i) 5 years after the day it is issued; or
(ii) the day it is cancelled.

19 Amendment of certificate of accreditation

- (1) AMSA may amend a certificate of accreditation on its own initiative:
 - (a) to change conditions imposed on the certificate of accreditation; or
 - (b) to impose further conditions on the certificate of accreditation; or
 - (c) to change details in the certificate of accreditation that are no longer accurate; or
 - (d) to include any other details AMSA considers necessary.
- Note* An amendment may be required if, for example, an audit has identified a major non-conformance.
- (2) AMSA may amend a certificate of accreditation, on application by the VTS training organisation that holds the certificate, to change details in the certificate of accreditation that are no longer accurate.
- (3) An application by the VTS provider must:
 - (a) be made in accordance with Marine Order 1; and
 - (b) set out the grounds for the application; and
 - (c) describe the proposed amendment.
- (4) AMSA must give written notice of the proposed amendment, seeking comments within a stated period of less than 90 days, to any person AMSA considers may have an interest in the proposed amendment including, in the case of an amendment initiated by AMSA, the VTS training organisation.
- (5) AMSA must consider any comments received.
- (6) AMSA may amend a certificate of accreditation only if satisfied that:
 - (a) the applicant is a registered training organisation; and
 - (b) the applicant can continue to meet the responsibilities of a VTS training organisation that are mentioned in the normative provisions of IALA Standard 1050.
- (7) A decision to amend a certificate of accreditation on AMSA's initiative is a reviewable decision for section 17 of Marine Order 1.

Note Sections 17 and 18 of Marine Order 1 provide for the review of decisions that are made in accordance with the application process in that Marine Order. Those sections will therefore apply to a decision made on application by the VTS training organisation.

20 Suspension or cancellation of certificate of accreditation

- (1) AMSA may suspend or cancel a certificate of accreditation if it considers that a condition that applies to the certificate of accreditation has not been complied with.
- (2) AMSA may cancel a certificate of accreditation if the VTS training organisation that holds the certificate of accreditation has given it to AMSA for cancellation.
- (3) A decision to suspend or cancel a certificate of accreditation is a reviewable decision for section 17 of Marine Order 1.

Division 5 Auditing of VTS training organisations and applicants

21 Conduct of audits for VTS training organisations

- (1) AMSA may conduct an audit to determine if:

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- (a) an applicant for a certificate of accreditation satisfies paragraphs 15(a) and (b); or
 - (b) a VTS training organisation is complying with the conditions of the certificate of accreditation that it holds.
- (2) An audit may review all aspects of the operation of a VTS training organisation that are relevant to the delivery of vessel traffic service courses.

Note AMSA may charge a fee for the conduct of an audit mentioned in this section — see s 47 of the AMSA Act.

Division 6 Obligations for masters

22 Obligations for masters

- (1) For paragraph 213(2)(e) of the Navigation Act, the master of a vessel must, if requested by a VTS provider, give a report or information about the vessel's identity or passage including a report or information on any of the following matters:
 - (a) the vessel's identity, position and condition;
 - (b) the vessel's course and speed;
 - (c) the vessel's attributes, cargo and communication methods;
 - (d) the vessel's route before entering the VTS area and the time and location of its entry into the VTS area;
 - (e) the vessel's route or intended route after leaving the VTS area;
 - (f) the time and location or intended time and location of leaving the VTS area;
 - (g) the vessel's last and next ports of call;
 - (h) conditions of the VTS area relevant to the safety of shipping or pollution of the environment.

Note Section 215 of the Navigation Act makes it an offence not to comply with a request under this subsection to give a report or information to a VTS provider.

- (2) A person commits an offence if:
 - (a) the person is the master of a vessel; and
 - (b) the person receives an instruction from a VTS provider for the movement of the vessel; and
 - (c) the person does not obey the instruction.

Penalty: 50 penalty units.

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

Civil penalty: 50 penalty units.

Note Part 6 of the Navigation Act deals with vessel traffic services and other matters. Section 212 of the Act applies Part 6 to all vessels including regulated Australian vessels, foreign vessels, domestic commercial vessels and recreational vessels.

Division 7 Transitional and savings

23 Transitional

- (1) Subsection (2) applies to an application made under *Marine Order 64 (Vessel traffic services) 2013* if the application:

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- (a) is made before 1 July 2022; and
 - (b) is not decided before 1 July 2022.
- (2) The application is taken to be an application to which this Marine Order applies.

24 Savings

- (1) An instrument of authority that was in effect on 30 June 2022 continues in effect as an instrument of authority under this Marine Order.
- (2) A certificate of accreditation that was in effect on 30 June 2022 continues in effect as a certificate of accreditation under this Marine Order.

Note

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