



MARINE ORDERS

Part 17

Liquefied gas carriers and chemical tankers

Issue 5

Order No. 5 of 2002

Pursuant to section 425(1AA) of the Navigation Act 1912, I hereby make this Order repealing Marine Orders Part 17, Issue 4, and issuing the attached Marine Orders, Part 17, Issue 5, to come into operation on 1 July 2002.

Roger Timms
Acting Chief Executive Officer

21 June 2002

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Previous issues

Issue 1, Order No 9 of 1986

Issue 2, Order No 2 of 1989

Issue 3, Order No 6 of 1994

Issue 4, Order No 13 of 1998

—Amended by Order No 19 of 1999

1 Purpose

1.1 Section 191 of the *Navigation Act 1912* provides that the regulations may make provision for and in relation to giving effect to SOLAS. Parts B and C of Chapter VII of SOLAS deal with the construction and equipment of ships carrying dangerous liquid chemicals and liquefied gases in bulk. Section 267P of the *Navigation Act 1912* makes provision for and in relation to giving effect to Regulation 13 of Annex II to the Prevention of Pollution from Ships Convention. Section 257 of the *Navigation Act 1912* provides that the regulations may make provision for and in relation to the stowing and carriage of cargo in ships. Subsection 425(1) of the *Navigation Act 1912* provides for regulations to be made prescribing matters requiring or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

1.2 Section 425(1AA) of the *Navigation Act 1912* provides for the making of orders with respect to matters that can be made by the regulations. This Part of Marine Orders therefore provides for the matters referred to in 1.1 with respect to the carriage of liquefied gases and chemicals as cargo.

2 Definitions of words and phrases used in this Part

AMSA means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*;

BCH Code means the IMO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, (IMO Resolution A.212(VII)) as amended at 1 July 2002;¹

Chief Marine Surveyor means the person occupying the position of Manager, Ship Inspection, in AMSA or, in respect of any particular purpose under this Part, a suitably qualified person authorised by the Manager, Ship Inspection, for that purpose;

EGC Code means the IMO Code for Existing Ships Carrying Liquefied Gases in Bulk (IMO Resolution A.329(IX)) as amended at 1 July 2002;¹

GC Code means the IMO Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IMO Resolution A.328(IX)) as amended at 1 July 2002;¹

¹ Copies of amendments to the Code are obtainable from AMSA.

General Manager means the person occupying the position of General Manager, Maritime Operations, in AMSA;

IBC Code means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IMO Resolution MSC.4(48)) as amended at 1 July 2002;¹

IGC Code means the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IMO Resolution MSC.5(48)), as amended at 1 July 2002;¹

IMO means the International Maritime Organization;

penal provision means a penal provision for the purposes of Regulation 4 of the Navigation (Orders) Regulations;²

SOLAS means the Safety Convention as defined in the *Navigation Act 1912*;

survey authority means a survey authority approved for the purposes of the *Navigation Act 1912*³;

surveyor means a person appointed to be a surveyor under s.190 of the *Navigation Act 1912*;

3 Interpretation

3.1 A reference to **the Administration** in a Code referred to in this Part is to be read as a reference to the Chief Marine Surveyor.

3.2 In this Part:

- headings and sub-headings are part of the Part;
- a footnote is not part of the Part, but may provide additional information or guidance in applying the Part.

² Regulation 4 of the Navigation (Orders) Regulations provides that a person who fails to comply with a provision of an order made under subsection 425(1AA) of the *Navigation Act 1912* that is expressed to be a penal provision is guilty of an offence and is punishable by:—

- (a) if the offender is a natural person—a fine not exceeding 20 penalty points; or
- (b) if the offender is a body corporate—a fine not exceeding 50 penalty points.

By virtue of section 4AA of the *Crimes Act 1914*, a penalty point is equivalent to \$110.

³ The following survey authorities are approved: American Bureau of Shipping; Bureau Veritas; Det Norske Veritas; Germanischer Lloyd; Lloyd's Register of Shipping; and Nippon Kaiji Kyokai.

4 Application

Unless the contrary intention appears, this Part applies to and in relation to:

- a ship registered in Australia; and
- a ship registered in a country other than Australia that is in the territorial sea of Australia or waters on the landward side of the territorial sea.

5 Exemptions & equivalents⁴

5.1 Exemptions

The Chief Marine Surveyor, if satisfied that compliance with a provision of this Part would be unnecessary or unreasonable having regard to a ship or class of ships, its equipment and its intended voyage, may exempt that ship or class of ships from compliance with such provision to the extent specified and subject to such conditions as that officer thinks fit.

5.2 Equivalents

Where a provision of this Part requires a particular fitting, material, appliance or apparatus, or type thereof to be fitted or carried in a ship or a particular provision to be made in a ship, the Chief Marine Surveyor may allow any other fitting, material, appliance or apparatus, or type thereof, to be fitted or carried, or any other provision to be made, if that officer is satisfied that the other fitting, material, appliance or apparatus, or type thereof, or provision, is at least as effective as that required by that provision of this Part.

5.3 Exemptions and equivalents not to contravene SOLAS

The Chief Marine Surveyor must not give an exemption under 5.1 or allow an equivalent under 5.2 if it would contravene SOLAS or a Code referred to in this Part.

6 Review of decisions

6.1 Internal review

6.1.1 If the Chief Marine Surveyor makes a decision under this Part, a person affected by the decision may apply to the General Manager for review of that decision.

⁴ Applications for exemptions or the allowance of equivalents should be made to the Chief Marine Surveyor and should be accompanied by relevant information. The Chief Marine Surveyor may seek additional information to assist in reaching a decision.

6.1.2 An application for internal review under 6.1.1 must be made in writing to the General Manager and must be accompanied by such information as the General Manager requires to enable that officer to make a proper decision.

6.1.3 The General Manager may:

- affirm the original decision by the Chief Marine Surveyor; or
- make any decision that could be made by the Chief Marine Surveyor in accordance with this Part.

6.2 Review by the AAT

6.2.1 Application may be made to the Administrative Appeals Tribunal for review of a decision by the General Manager under 6.1.3.

6.2.2 The General Manager must give his or her decision in writing within 28 days of receiving the application for internal review. The notice must include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Administrative Appeals Tribunal for review of the decision. The notice must also include a statement to the effect that the person may request a statement under section 28 of that Act.

6.2.3 Failure to comply with 6.2.2 in relation to a decision does not affect the validity of that decision.

7 Codes to have force of law

The provisions of:

- (a) the EGC Code;
- (b) the GC Code; or
- (c) the IGC Code,

and the provisions of:

- (d) the BCH Code; or
- (e) the IBC Code,

have the force of law as part of the law of the Commonwealth, in relation to a ship to which such Code is or Codes are expressed to apply.

8 Certificates

8.1 Issue

A certificate of fitness referred to in a Code applied by this Part will be issued by the Chief Marine Surveyor or by a survey authority in respect of a ship surveyed in accordance with that Code and found to be in compliance with the Code.

8.2 Validity

A certificate of fitness issued in accordance with 8.1:

- (a) remains in force for such period as is specified in the certificate, not being a period exceeding the maximum period prescribed by the relevant Code; and
- (b) ceases to be valid if the ship fails to undergo such surveys as are prescribed by the relevant Code,

unless earlier cancelled by the Chief Marine Surveyor or by a survey authority due to failure of the ship or its equipment to comply with the relevant Code.

9 Unsafe operations

9.1 Surveyor may stop loading or unloading

9.1.1 Where, in the opinion of a surveyor, a loading or unloading operation of a cargo to which this Part applies is or will be unsafe, whether or not the other provisions of this Part or the relevant Code are complied with, the surveyor may direct the person in control of the loading or unloading operation to stop the operation immediately or not to commence the operation.

9.1.2 Where a surveyor gives a direction under 9.1.1, the loading or unloading operation must not resume or commence until the surveyor is satisfied that the operation is safe and the direction is withdrawn.

9.1.3 A person must not contravene Provision 9.1.2.

This is a penal provision.

9.2 Review

9.2.1 If a surveyor gives a direction under 9.1.1 or refuses to withdraw a direction under 9.1.2:

- (a) the person in control of the loading or unloading operation; or
- (b) the shipper of the cargo; or

(c) the owner, master or agent of the ship
may request the Chief Marine Surveyor to review that decision.

9.2.2 The Chief Marine Surveyor must, if requested under 9.2.1, review the surveyor's decision and confirm, vary or withdraw it as the Chief Marine Surveyor considers appropriate.

10 Certificate to be in force

10.1 Australian ships

A cargo referred to in a Code applied by this Part must not be loaded onto or unloaded from a ship registered in Australia unless there is in force in respect of the ship a valid certificate of fitness in accordance with the applicable Code.

10.2 Non-Australian ships

A cargo referred to in the IBC Code or the IGC Code must not be loaded onto or unloaded from a ship to which the IBC Code or the IGC Code applies, being a ship not registered in Australia, unless there is in force in respect of the ship a valid certificate of fitness in accordance with the applicable Code.

10.3 A person must not contravene Provision 10.1 or Provision 10.2.

This is a penal provision.

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