



Australian Government
Australian Maritime Safety Authority

Vessel traffic services Compliance and enforcement policy



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Contents

1. Regulatory framework	3
2. Purpose	4
3. AMSA Compliance and enforcement policy	5
4. VTS Compliance and enforcement policy	6
5. Roles and responsibilities	7
5.1 The role of AMSA	7
5.2 The role of the VTS authority	8
– Engagement and education	8
– Guidance and warnings	9
– Recommending enforcement action	10
– Monitoring compliance trends	10
6. VTS offence provisions	11
7. Example—providing guidance	12
8. Example—giving a warning	13

1. Regulatory framework

Australia is signatory to the *International Convention for the Safety of Life at Sea 1974* (SOLAS). In accordance with Regulation 12 of Chapter V of SOLAS, Australia has undertaken to establish vessel traffic services where the volume of traffic or the degree of risk justifies such services. In doing so, Australia (and AMSA) is required to follow the VTS Guidelines developed by the International Maritime Organization (IMO), in IMO Resolution A.857(20) (the Guidelines).

Paragraph 2.2.2.12 of the Guidelines provides that:

In planning and establishing a VTS, the...competent authority [AMSA] should establish a policy with respect to violations of VTS regulatory requirements, and ensure that this policy is consistent with national law.

Australia has implemented its obligations under SOLAS in the *Navigation Act 2012* (the Act), which enables regulations to be made for VTS. Accordingly, *Marine Order 64 (vessel traffic services) 2013* (marine order 64) establishes AMSA as the competent authority for VTS and makes provision for the regulation of:

- VTS authorities, including authorisation, certification and auditing
- VTS training organisations, including accreditation, approval of model courses and auditing
- Masters of ships, to provide the reports required by VTS authorities, and to comply with their instructions.
- Marine order 64 states that it is a condition of authorisation that a VTS authority operates in accordance with the Guidelines.

Section 2.2.3.8 of the Guidelines provides that a VTS authority must:

in a timely manner, provide mariners with full details of the requirements to be met and the procedures to be followed in the VTS area. This information should include the categories of vessels required or expected to participate; radio frequencies to be used for reporting; areas of applicability; the times and geographical positions for submitting reports the format and content of the required reports the VTS authority responsible for the operation of the service; any information, advice or instructions to be provided to participating ships and the types and level of services available. This information should be published in the appropriate nautical publications and in the World VTS Guide.



Find a list of Australia's VTS authorities at www.amsa.gov.au/authorised-vts

2. Purpose

This document sets out the Australian Maritime Safety Authority's (AMSA) vessel traffic service (VTS) compliance and enforcement policy.

It outlines the policy and regulatory requirements for VTS in Australia and the compliance and enforcement powers available to achieve the objectives of the legislation.

This policy is supplementary to AMSA's overarching compliance and enforcement policy.

3. AMSA Compliance and enforcement policy

Maritime safety legislation places obligations on maritime operators and other parties to ensure the safety of persons and ships, and for the protection of the marine environment, in the circumstances and to the standards specified in the legislation.

All persons with obligations under the legislation may be subject to compliance monitoring and investigation by AMSA, and where appropriate the use of compliance and enforcement measures—including prosecution.

The AMSA compliance and enforcement policy describes how we may use the compliance and enforcement powers provided by maritime legislation to achieve the objectives of that legislation.

It also provides the mechanism to ensure we are accountable, and that our decision making as part of our regulatory functions, is consistent, transparent and fair. The policy supports a graduated approach to compliance and enforcement to ensure actions taken are proportionate to the regulatory risk being managed.

In the event of any inconsistency between each policy, and the legislation under which AMSA exercises a statutory function, power or discretion, then the legislation will prevail.



The Compliance and enforcement policy is available at: www.amsa.gov.au/compliance-enforcement-policy

4. VTS Compliance and enforcement policy

The objectives of this policy are to achieve compliance with VTS regulations by:

- building awareness and providing education for the shipping industry and other maritime users
- establishing an effective deterrent—for example detection, penalties and prosecution for non-compliance
- ensuring compliance and enforcement action is consistent, transparent and fair.

5. Roles and responsibilities

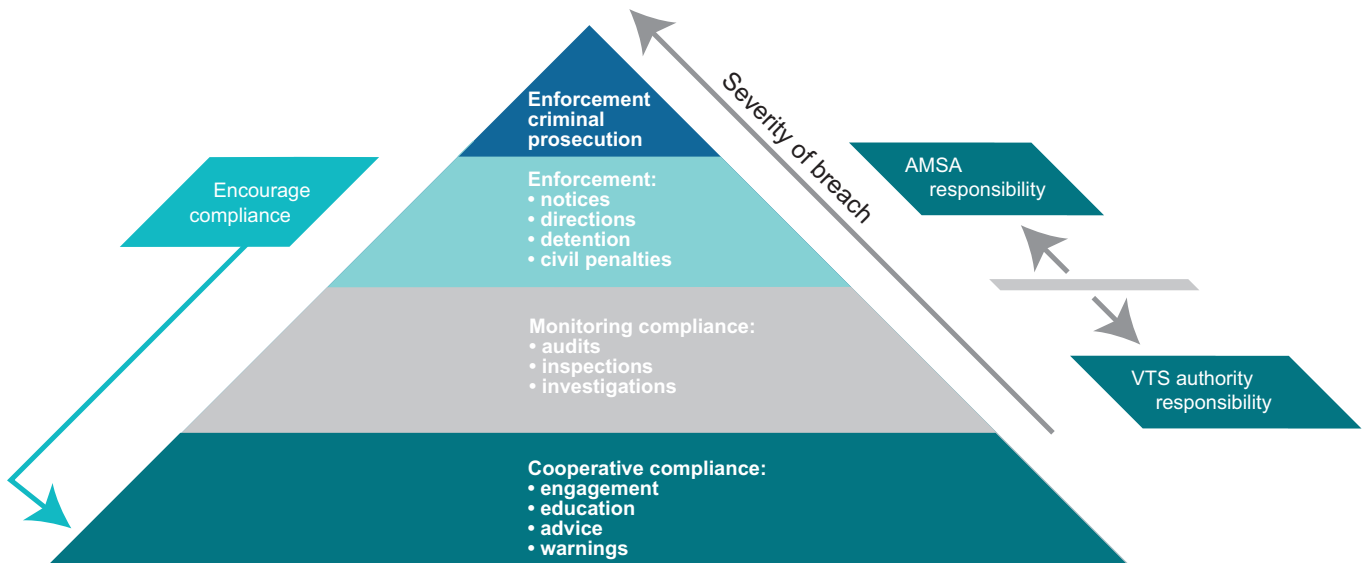


Figure 1: AMSA compliance and enforcement options

5.1 The role of AMSA

AMSA's role in relation to regulations for vessel traffic services include to:

- implement all enforcement action under the Act, including detention, civil penalty and prosecution
- assess the type of enforcement action to be taken on a case-by-case basis, and in a manner consistent with AMSA's compliance and enforcement policy
- provide formal feedback to VTS authorities about compliance actions taken, including the reasons for decisions and outcomes
- conduct audits to ensure a VTS authority is operating in accordance with this policy.

5.2 The role of the VTS authority

A VTS authority is responsible for undertaking co-operative compliance within their defined VTS area/s, noting that they:

- have a detailed knowledge of the VTS reporting requirements, procedures to be followed and the requirements of allied services within their area
- publish information about their individual VTS as per IMO Resolution A.857(20) through common mechanisms such as user guides, handbooks, the admiralty list of radio
- have detailed information readily available about any event or incident, for example traffic image, identity of ship or voice recording
- have the capacity to interact immediately with ships and allied services within the VTS area, for example via VHF radio.

Responsibilities of the VTS authority include:

Engagement and education

VTS authorities are responsible for engaging, educating and assisting mariners to meet their VTS obligations

This may include:

- using educational campaigns to inform, guide and encourage voluntary compliance
- providing general and targeted publications about their specific services including user guides, handbooks, ALRS, websites and engaging allied services
- targeted activities for ship masters including:
 - clarifying VTS related questions through direct communication, for example VHF radio
 - informing them of their obligations to report and where appropriate comply with instructions
 - raising awareness of the benefits of complying with VTS requirements and the potential consequences of non-compliance.
- liaising with the broader maritime community about meeting VTS requirements.

Guidance and warnings

The VTS authority should clearly communicate to the master whether the guidance or warning is being issued under the Act or marine order 64 rather than other legislative provisions such as Harbour Masters directions (or equivalent). To assist a VTS Operator this should be reflected in the VTS operating procedures.

Guidance and warnings are for promoting compliance with the law—there is no legal obligation for the master of a ship to comply. However, where the master ignores the guidance or a specific warning given for non-compliant behaviour, then AMSA may exercise its compliance options.

A VTS authority may give guidance or a warning to a ship's master in circumstances where there is a lack of awareness about or misinterpretation of a VTS requirement relevant to the ship.

Guidance

Guidance should be provided in good faith, based on the VTS authority's considered view and experience, and should clearly communicate to the ship's master if the guidance relates to the Act or the marine order.

Warnings

The VTS authority must report to AMSA all warnings issued. A warning may be taken into consideration if further enforcement action is required. AMSA may also choose to notify a ship's flag state of any warnings issued.

A VTS authority may consider it necessary to escalate a non-compliance incident to AMSA without issuing a warning.



The Alleged vessel traffic services non-compliance report form 1618 is available at: www.amsa.gov.au/amsa1618

VTS authorities must maintain a register and keep records of all warnings issued—verbal and written. This may include voice wave files, transcripts and other types of correspondence.

The type of information recorded should at least include:

- issue date of the warning
- ship details—ship name and IMO number
- particulars of the event or incident
- nature of the action taken.

The Act provides that:

- a ship's master is not relieved from responsibility for the conduct of navigation when the ship is subject to VTS arrangements
- VTS arrangements being complied with does not affect the liability of the owner or master of a ship for loss or damage caused by the ship or by a fault of the navigation of the ship when complying with such arrangements.

Recommending enforcement action

Where a VTS authority considers enforcement action may be required, they should notify AMSA about the alleged offences or instances of VTS non-compliance as soon as practicable.

A VTS authority may choose to investigate the events or issues further before notifying AMSA.



To recommend enforcement action, complete and submit the Alleged vessel traffic services non-compliance report form 1618 available at www.amsa.gov.au/amsa1618

The report should include all supporting information to assist AMSA in determining the appropriate course of action. This information may also assist with the investigation and, or prosecution process.

The types of supporting information will vary depending on the nature and severity of the event. It may include a chartlet, voice recording and other relevant details including, how long the ship may be in port, and its next port of call.



If the VTS authority considers the situation to be urgent, they should contact AMSA's Response Centre on 1800 641 792.

Monitoring compliance trends

To improve compliance outcomes, authorities should monitor compliance trends and adjust their co-operative compliance strategy accordingly. At times, this may require a focused campaign to validate emerging threats and risks to the VTS area.

6. VTS offence provisions

VTS offence provisions under the Act and marine order 64 include:

<i>Navigation Act 2012</i>	Fault based offence	Civil penalty
<p>Section 215—Provision of reports to a VTS authority</p> <p>When a person is required by regulations to provide a report or information to a VTS authority and they do not provide the report or information.</p>	240 penalty units*	2400 penalty units*
<p>Section 216—Provision of false or misleading information provided to a VTS authority</p> <p>When a person provides a report or information to a VTS authority and the report or information is false or misleading in material particular.</p>	240 penalty units*	2400 penalty units*
<i>Marine Order 64 (vessel traffic services)</i>	Fault based offence	Civil penalty
<p>Section 33—Masters to provide reports to a VTS authority</p> <p>The master of a vessel must give the VTS authority each report or information required by the VTS authority.</p>	As per section 215 of the Act	As per section 215 of the Act
<p>Section 34—Masters to comply with instructions of a VTS authority (strict liability offence)</p> <p>The master of a vessel must comply with each instruction for the movement of a the vessel given by the VTS authority.</p>	50 penalty units*	50 penalty units*

* In 2019, one penalty unit equals \$210.

7. Example—providing guidance

A VTS authority would generally provide verbal guidance—such as a reminder about reporting requirements and/or obligations under the Act or marine order 64.

In most cases, potential compliance issues are resolved through engagement and education activities, including:

- clarifying questions about VTS procedures or requirements
- informing the master of their obligation to report and, where appropriate, comply with instructions
- raising awareness of the benefits of complying with VTS requirements, and the potential consequences for non-compliance.

A VTS operator may consider it necessary to provide more guidance where, based on their knowledge and experience, it would appear there is a lack of awareness about, or misinterpretation of a requirement.

Failure to provide an entry report

INFORMATION. You have entered the 'XXX VTS' area without providing an entry report. An entry report is mandatory under the *Navigation Act 2012* and *Marine Order 64 Vessel Traffic Services*. The reporting requirements for 'XXX VTS' are available from <list source/s>

ADVICE. Provide you entry report.

8. Example—giving a warning

A warning given to a ship's master should clearly outline the unacceptable behaviour, and the potential compliance actions if they ignore the warning.

A warning may be given:

- verbally, for example via VHF radio, or
- in writing via an email or letter.

Given the majority of warnings are given via VHF voice communications, the following examples are provided.

Failure to comply with an instruction

WARNING. There is a restricted area south of you distance 1.2 nautical miles.

INSTRUCTION. Do not enter this area.

Vessel continues to proceed to the restricted area

INFORMATION. 'XXX VTS' is authorised under the Navigation Act to issue instructions to vessels in its capacity as a VTS authority, authorised by the Australian Maritime Safety Authority. You are required by law to comply with those instructions.

Entering the restricted area may endanger the safety of the activities being conducted in the restricted area or the safety of your vessel.

ADVICE. Failure to comply with instructions may result in enforcement action being initiated. Significant penalties apply.

INSTRUCTION. Do not enter this area.

