



Australian Government
Australian Maritime Safety Authority

Marine Order 28 (Operations standards and procedures) 2012

(AISR modification compilation)

in effect under the *Navigation Act 2012*

This is a compilation of *Marine Order 28 (Operations standards and procedures) 2012*, prepared on 13 June 2013, taking into account modifications up to *Marine Order 2 (Australian International Shipping Register) 2013*.

Subsection 343(2) of the *Navigation Act 2012* provides that the Marine Orders may provide for specified orders that were in force under the *Navigation Act 1912* immediately before its repeal to have effect, for the *Navigation Act 2012*, with the modifications made for it in the Marine Orders.

Marine Order 4 (Transitional modifications) 2013 provides for this Order to have effect and makes modifications for it. *Marine Order 2 (Australian International Shipping Register) 2013* makes a modification to this Order as modified by *Marine Order 4 (Transitional modifications) 2013*.

This compilation is not a compilation for the *Legislative Instruments Act 2003*, and so is not registered on the Federal Register of Legislative Instruments.

Prepared by the Office of Legislative Drafting, Australian Maritime Safety Authority

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Division 1 General

1 Name of Order

This Order is *Marine Order 28 (Operations standards and procedures) 2012*.

2 Commencement

This Order commences on 15 April 2012.

3 Repeal of *Marine Orders Part 28, issue 3*

Marine Orders Part 28, issue 3 is repealed.

4 Purpose

4.1 This Order makes provision for the safe navigation and operation of vessels by giving effect to:

(a) the following provisions of the STCW Convention:

- (i) Regulation I/14;
- (ii) Regulation VIII/1;
- (iii) Regulation VIII/2; and

(b) the following provisions of the STCW Code:

- (i) Section A–I/14;
- (ii) Section A–VIII/1;
- (iii) Section A–VIII/2;
- (iv) Section B–I/14;
- (v) Section B–VIII/2.

4.2 This Order also gives effect to SOLAS in relation to the safe navigation and operation of vessels.

5 Power

5.1 Paragraph 340(1)(h) of the Navigation Act provides that the regulations may give effect to the STCW Convention.

5.2 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.

5.3 Paragraph 340(1)(a) of the Navigation Act provides that the regulations may provide for giving effect to SOLAS.

5.4 Subsection 342(1) of the Navigation Act provides for the making of orders about matters for which provision can be made by the regulations.

6 Definitions

Note 1 There are no terms currently defined specifically for this Order.

Note 2 Some terms used in this Order are defined in *Marine Order 1 (Administration) 2011*, including:

- Navigation Act
- Manager, Ship Operations and qualifications
- SOLAS
- STCW Code.

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Note 3 Other terms used in this Order are defined in the Navigation Act, including:

- AMSA
- owner (there is also a note about this term in *Marine Order 1 (Administration) 2011*)
- master
- seafarer
- inspector
- STCW Convention.

7 Vessels to which this Order applies

7.1 This Order applies to a regulated Australian vessel.

7.2 This Order, other than subsection 9.4, sections 11 and 15 and subsections 17.4, 17.5 and 18.3, applies to a foreign vessel:

- (a) in an Australian port; or
- (b) entering or leaving an Australian port; or
- (c) in the internal waters of Australia; or
- (d) in the territorial sea of Australia, other than in the course of innocent passage.

Note 1 **port** includes a **harbour** — see Navigation Act, s 14(1).

Note 2 The provisions mentioned in subsection 7.2 impose specific requirements for regulated Australian vessels beyond the requirements of the STCW Convention and Code.

Division 2 Responsibilities of owners and seafarers**8 General**

Owners of vessels and seafarers each have responsibility for ensuring that the obligations mentioned in paragraph 1 of Section A–I/14 of the STCW Code are given full effect.

9 Owners of vessels

9.1 The owner of a vessel is responsible for the assignment of seafarers for service in the vessel.

9.2 The owner of a vessel must ensure that:

- (a) each seafarer assigned to the vessel holds a certificate appropriate to the seafarer's duties, in accordance with:
 - (i) for a vessel mentioned in subsection 7.1 — *Marine Order 3 (Seagoing qualifications) 2004*; or
 - (ii) for a vessel mentioned in subsection 7.2:
 - (A) the STCW Convention; and
 - (B) the law of the country in which the vessel is registered; and
- (b) the vessel complies with the safe manning document issued to the vessel under Chapter V, regulation 14, paragraph 2 of SOLAS; and
- (c) documentation and data relevant to all seafarers employed on the vessel are maintained and readily accessible, including documentation and data on their experience, training, medical fitness and competency in assigned duties; and

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- (d) when each seafarer is assigned to the vessel, he or she is familiarised with his or her specific duties and with all vessel arrangements, installations, equipment, procedures and vessel characteristics that are relevant to his or her routine or emergency duties; and
 - (e) the vessel's complement can effectively coordinate their activities:
 - (i) in an emergency; and
 - (ii) in performing functions vital to safety, security or the prevention or mitigation of pollution; and
 - (f) each seafarer assigned to the vessel has received refresher and updating training as required by the STCW Convention; and
 - (g) at all times on board the vessel, there is effective oral communication in accordance with Chapter V, regulation 14, paragraphs 3 and 4 of SOLAS.
Penalty: 50 penalty units.
- 9.2A An offence against subsection 9.2 is a strict liability offence.
- 9.2B A person is liable to a civil penalty if the person contravenes subsection 9.2.
Civil penalty: 50 penalty units.
- 9.3 The owner of a vessel must give written instructions to the master of the ship in accordance with paragraph 2 of Section A-I/14 of the STCW Code.
Penalty: 50 penalty units.
- 9.3A An offence against subsection 9.3 is a strict liability offence.
- 9.3B A person is liable to a civil penalty if the person contravenes subsection 9.3.
Civil penalty: 50 penalty units.
- 9.4 The owner of a vessel must provide a ship-specific introductory program and training to assist each newly employed seafarer in accordance with paragraph 1 of Section B-I/14 of the STCW Code.

10 The master

The master of a ship must comply with paragraph 3 of Section B-I/14 of the STCW Code.

11 Newly assigned seafarers

- 11.1 A seafarer who is newly assigned to a vessel must comply with paragraphs 4 and 5 of Section B-I/14 of the STCW Code.
- 11.2 Subsection 11.1 applies even if the seafarer was assigned to the vessel on a previous occasion.

Division 3 Standards for watchkeeping**12 Seafarers to whom this Division applies**

- 12.1 This Division applies to the following:
 - (a) a seafarer who is doing assigned duty as officer of a watch or as a rating forming part of a watch;
 - (b) a seafarer who is doing duty involving designated safety, prevention of pollution and security duties;
 - (c) a seafarer who is on call for duties mentioned in paragraph (a) or (b);

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- (d) the master and chief engineer (because they are taken to be on call at all times).
- 12.2 For paragraph 12.1(b), *designated safety, prevention of pollution and security duties* are:
- (a) duties identified as duties of that kind in any of the following documents:
- (i) a document outlining the safety management system for the vessel;
 - (ii) a document outlining shipboard procedures for the vessel;
 - (iii) the employment contract for an individual seafarer; or
- (b) duties that are duties of that kind according to practices followed on an individual vessel, including practices relating to the duties to be performed by seafarers having a particular role on the vessel.

Note A safety management system is required by the International Safety Management (ISM) Code, as defined in SOLAS, Chapter IX, regulation 1.

13 Responsibility of owners

- 13.1 The owner of a vessel must ensure that sections 14 to 18 are complied with for each seafarer assigned to the vessel.
- Penalty: 50 penalty units.
- 13.2 An offence against subsection 13.1 is a strict liability offence.
- 13.3 A person is liable to a civil penalty if the person contravenes subsection 13.1.
- Civil penalty: 50 penalty units.

14 Minimum hours of rest

- 14.1 The minimum hours of rest for a seafarer must be:
- (a) 10 hours in any 24 hours; and
 - (b) 77 hours in any 7 days.
- 14.2 The minimum hours of rest may be divided into 2 periods, of which 1 period must be at least 6 hours.
- 14.3 The interval between consecutive periods of rest must not exceed 14 hours.

15 Exceptions from minimum hours of rest

- 15.1 The owner of a vessel may apply to AMSA, in accordance with *Marine Order 1 (Administration) 2011*, for approval of an exception from the rules in section 14 about minimum hours of rest for a seafarer.

Note An approval may relate to several seafarers, or classes of seafarers — see *Acts Interpretation Act 1901*, para 23(b) and s 33(3AB).

- 15.2 The decision maker for an application under subsection 15.1 is the Manager, Ship Operations and Qualifications.
- 15.3 The decision maker may approve an exception only if it is in accordance with Section A —VIII /1 of the STCW Code.

Note *Marine Order 1 (Administration) 2011* deals with the following:

- making of an application
- seeking further information about an application
- the time allowed for consideration of an application
- notification of a decision on an application
- review of decisions.

Section 9T179T**16 Emergency or drill or other overriding operational conditions**

- 16.1 This section applies in any of the following circumstances:
- (a) an emergency, including:
 - (i) a situation affecting the immediate safety of the vessel, persons on board or cargo; or
 - (ii) giving assistance to other vessels or persons in distress at sea;
 - (b) if a drill is being conducted;
 - (c) 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.
- 16.2 The master may:
- (a) suspend the watch schedule; and
 - (b) personally perform any hours of work necessary while the circumstances exist; and
 - (c) require another seafarer to perform any hours of work necessary while the circumstances exist.
- 16.3 As soon as practicable after the circumstances end, the master must:
- (a) if the master performed work in a scheduled rest period while the circumstances existed — take a compensatory rest period; and
 - (b) ensure that any other seafarer who performed work in a scheduled rest period while the circumstances existed is given a compensatory rest period.
- 16.4 If a seafarer's minimum hours of rest are disturbed by call outs to work while the seafarer is on call (eg when a machinery space is unattended), the seafarer must be given a compensatory rest period.
- 16.5 Musters, fire-fighting and lifeboat drills, and drills required by legislation or international instruments, must be conducted in a way that minimises the disturbance of rest periods and does not induce fatigue.

Note 1 Under section 185 of the Navigation Act, the owner of a vessel must report marine incidents and dangers to navigation to AMSA. Under section 186 of the Navigation Act, the master of a vessel must report marine incidents and dangers to navigation to AMSA. Section 13A of *Marine Order 31 (Ship surveys and certification) 2006* prescribes matters in relation to reports under sections 185 and 186.

Note 2 Section 221 of the Navigation Act enables requirements to be prescribed for reporting about movements of vessels. *Marine Order 63 (AUSREP) 2006* prescribes the requirements.

17 Watch schedules and records

- 17.1 The operator of a vessel must ensure that current watch schedules are displayed in areas of the vessel easily accessible by all seafarers on board.
- 17.2 The schedules must be in a standardised format in the working language of the vessel and in English.
- 17.3 A seafarer must record his or her hours of work and rest for the following periods:
- (a) the duration of the seafarer's assignment to the vessel; or

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- (b) for a seafarer whose duties do not normally include duties mentioned in paragraphs 12.1(a) or (b) but who is required to do duty, or to be on call for duties, of that kind for a particular watch — the duration of the watch.

Note For offences relating to false or misleading information or documents — see Division 137 of the *Criminal Code*.

17.4 For subsection 17.3, a seafarer must:

- (a) make a personal record of his or her hours of work and rest every day; and
 (b) transfer the personal record to the records of the vessel in the standardised format mentioned in subsection 17.6 within 7 days after the period of work or rest to which the record relates.

17.5 The operator of a vessel must keep records transferred under paragraph 17.4(b) for at least 12 months after the events recorded (the *retention period*).

17.6 The records must be in a standardised format in the working language of the vessel and in English.

Note The standardised format may be the format mentioned in the note at the foot of this section.

17.7 The operator of a vessel must, on request by a seafarer during the retention period, give the seafarer a copy of the records relating to the seafarer, endorsed by the master, or a person authorised by the master, and by the seafarer.

17.8 The records must be available for inspection by an inspector during the retention period.

Note The IMO/ILO guidelines for the development of tables of seafarers' shipboard working arrangements and formats of records of seafarers' hours of work or hours of rest may be used for the watch schedules and keeping of records. The guidelines are available at <http://www.imo.org>.

18 Watchkeeping

18.1 The owner and the master of a vessel, and any person engaged in watchkeeping duties on the ship, must observe the standards for watchkeeping mentioned in Section A–VIII/2 of the STCW Code, taking into account the guidance given in Section B–VIII/2 of the STCW Code.

Note The relevant text of Chapter VIII of Sections A and B of the *STCW Code — Information for seafarers regarding watchkeeping standards* is available on the AMSA website at <http://www.amsa.gov.au>.

18.2 The master of a vessel must ensure that watchkeeping arrangements are in accordance with subparagraphs 1 to 5 of paragraph 2 of Regulation VIII/2 of the STCW Convention.

Notes to Marine Order 28 (Operations standards and procedures) 2012

Note 1

Marine Order 28 (Operations standards and procedures) 2012 (in effect under subsection 343(2) of the *Navigation Act 2012*) as shown in this compilation comprises *Marine Order 28 (Operations standards and procedures) 2012* modified as indicated in the following tables.

Table of Orders

Year and number	Registration date	FRLI number	Commencement date	Saving or transitional provisions
<i>Marine Order 28, issue 4</i> (MO 2012/3)	4 April 2012	F2012L00790	15 April 2012	–
<i>Marine Order 4 (Transitional modifications) 2013</i> (MO 2013/3)	30 May 2013	F2013L00871	1 July 2013	Section 3 and Schedules 1-42
<i>Marine Order 2 (Australian International Shipping Register) 2012</i> (MO 2013/2)	27 May 2013	F2013L00848	1 July 2013	Section 3 and Schedule 1

Table of amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted mod. = modified

Provision affected	How affected
1.....	mod. 2013/3
4.....	mod. 2013/3
5.....	mod. 2013/3
6.....	mod. 2013/3
7.....	mod. 2013/3
8.....	mod. 2013/3
9.....	mod.2013/3
11.....	mod. 2013/3
12.....	mod. 2013/3
13.....	mod. 2013/3
15.....	mod. 2013/3
16.....	mod. 2013/3
17.....	mod. 2013/3
18.....	mod. 2013/3, mod.2013/2