



**Australian Government**  
**Australian Maritime Safety Authority**

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## **Marine Order 11 (Living and working conditions on vessels) 2013**

**(AISR modification compilation)**

**in effect under the *Navigation Act 2012***

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This is a compilation of *Marine Order 11 (Living and working conditions on vessels) 2013* prepared on 12 June 2013, taking into account modifications made by *Marine Order 2 (Australian International Shipping Register) 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

	Page
<b>Division 1 General.....</b>	<b>4</b>
1 Name of Order .....	4
2 Commencement.....	4
3 Purpose.....	4
4 Power .....	4
5 Definitions .....	5
6 Date of construction of a vessel.....	6
7 Application .....	6
7A AMSA approval of accommodation arrangements for certain International Register vessels .....	7
8 Exemptions and equivalents.....	7
9 Review of decisions .....	8
<b>Division 2 Maritime labour certificates.....</b>	<b>8</b>
10 Requirement to carry a maritime labour certificate.....	8
11 Application for maritime labour certificate.....	8
12 Issuing criteria.....	8
13 Duration of certificates .....	9
14 Criteria for revocation of certificate .....	9
15 Intermediate inspection.....	9
16 Records.....	9
17 Renewal of maritime labour certificate.....	10
<b>Division 3 Interim maritime labour certificates .....</b>	<b>10</b>
18 Application for an interim maritime labour certificate.....	10
19 Issue of an interim maritime labour certificate .....	10
20 Issue of an interim maritime labour certificate .....	10
<b>Division 6 Engagement and working conditions of seafarers .....</b>	<b>11</b>
42 Seafarers under 18 years .....	11
43 Seafarer's hours of rest .....	11
44 Record keeping — shipboard working arrangements .....	11
45 Record keeping — hours of work and rest .....	11
46 Record keeping — official log book .....	12
47 Seafarers' work agreements.....	12
48 Articles of agreement.....	12
49 Opportunity to seek advice .....	13
50 Availability of information .....	13
51 Notice period for termination.....	13
52 Record of service .....	13
53 Wages.....	14
<b>Division 7 Provisions.....</b>	<b>14</b>
54 Organisation and equipment of catering department .....	14
55 Training of persons processing food.....	14
56 Galleys .....	15
57 Storage of food .....	16
<b>Division 8 Health .....</b>	<b>16</b>
58 Medical care for seafarers working on board .....	17
59 Right to visit a medical practitioner or dentist .....	17
60 Medical services at no charge .....	17
61 Reporting of medical information .....	17
62 Treatment of patients .....	17
63 Medical supplies .....	18
64 Medically qualified person on board .....	19
65 Access to onshore medical facilities .....	19
66 Control of certain drugs .....	19
<b>Division 9 Accommodation — use and vessel plans.....</b>	<b>20</b>
67 Vessel plans.....	20
68 Modification of accommodation spaces.....	20
<b>Division 10 Accommodation — design and construction.....</b>	<b>20</b>

	Page	
69	Small vessels .....	20
70	Headroom .....	21
71	Location of sleeping rooms — non-passenger vessels .....	21
72	Location of sleeping rooms — passenger vessels .....	21
73	Sleeping rooms .....	21
74	Sleeping berths .....	22
75	Insulation .....	22
76	Pipes .....	22
77	Vessel batteries .....	23
78	Bulkhead and deckhead surfaces .....	23
79	Decks and flooring .....	23
80	Lighting and drainage .....	24
81	Air conditioning .....	24
82	Heating .....	24
83	Lighting .....	25
84	Floor space for sleeping rooms — non-officers .....	25
85	Floor space for officer rooms .....	26
86	Mess rooms .....	27
<b>Division 11</b>	<b>Accommodation and working spaces .....</b>	<b>27</b>
87	Noise and other ambient factors .....	27
<b>Division 12</b>	<b>Welfare of seafarers .....</b>	<b>27</b>
88	Recreational facilities, amenities and services .....	27
89	Mail .....	28
90	Visitors .....	28
91	Common vessel's office .....	28
<b>Division 13</b>	<b>Accommodation — sanitary and laundry facilities .....</b>	<b>28</b>
92	Sanitary facilities .....	28
93	Laundry facilities .....	28
<b>Division 14</b>	<b>Accommodation — hospital facilities .....</b>	<b>29</b>
94	Hospital accommodation .....	29
<b>Division 15</b>	<b>Repatriation .....</b>	<b>29</b>
95	Repatriation .....	29
96	Financial security .....	30
97	Paying for repatriation .....	30
98	Incapacity .....	30
99	Limitation of liability .....	31
100	Timeframe for claim .....	31
101	Repatriation transport .....	31
102	Property .....	31
103	Repatriation by AMSA .....	31
104	Documentation available for seafarer .....	32
<b>Schedule 1</b>	<b>Working conditions for seafarers under 18 years .....</b>	<b>33</b>
<b>Schedule 2</b>	<b>Official log book — matters that must be entered .....</b>	<b>33</b>
<b>Schedule 3</b>	<b>Seafarer's work agreement information .....</b>	<b>34</b>
<b>Schedule 4</b>	<b>Galleys .....</b>	<b>35</b>
<b>Schedule 5</b>	<b>Dry provision stores .....</b>	<b>35</b>
<b>Schedule 6</b>	<b>Sleeping rooms .....</b>	<b>36</b>
<b>Schedule 7</b>	<b>Sleeping berths .....</b>	<b>37</b>
<b>Schedule 8</b>	<b>Heating .....</b>	<b>37</b>
<b>Schedule 9</b>	<b>Mess room .....</b>	<b>38</b>
<b>Schedule 10</b>	<b>Recreational facilities .....</b>	<b>39</b>
<b>Schedule 11</b>	<b>Minimum standards for sanitary facilities .....</b>	<b>39</b>
<b>Schedule 12</b>	<b>Hospital accommodation .....</b>	<b>41</b>
<b>Schedule 13</b>	<b>Amendment .....</b>	<b>42</b>

**Section 11T111T**

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**Division 1 General**

**1 Name of Order**

This Order is *Marine Order 11 (Living and working conditions on vessels) 2013*.

**2 Commencement**

- (1) This Order, other than Schedule 13, commences on 1 July 2013.
- (2) Schedule 13 commences on 21 August 2013.

**3 Purpose**

This Order provides for the following matters for seafarers on board vessels:

- (a) working conditions;
- (b) provisions;
- (c) medical care and supplies;
- (d) accommodation;
- (e) sanitary facilities;
- (f) hospitals;
- (g) repatriation.

*Note* This Order replaces *Marine Orders Part 10 (Medical first aid on ships)*, *Marine Orders Part 14 (Accommodation)* and *Marine Orders Part 53 (Employment of Crews)* in force on 30 June 2013.

**4 Power**

- (1) Subsection 54(5) of the Navigation Act provides for regulations to be made prescribing matters relating to work agreements for regulated Australian vessels.
- (2) Subsection 61(1) of the Navigation Act provides for regulations to be made for the provision of food and drinking water on board vessels.
- (3) Subsection 65(1) of the Navigation Act provides for regulations to be made for the health of seafarers.
- (4) Subsection 74(1) of the Navigation Act provides for regulations to be made for accommodation to be provided for seafarers on vessels.

*Note* It is an offence for the 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 regulations made for section 74(1) of the Navigation Act — see Navigation Act, s 75.

- (5) Section 112 of the Navigation Act provides for regulations to be made for the carriage of passengers and for cargo operations.
- (6) Subsection 339(1) of the Navigation Act provides for regulations to be made prescribing matters required or permitted to be prescribed, or necessary or convenient, for carrying out or giving effect to the Navigation Act.
- (7) Paragraph 339(3)(c) of the Navigation Act provides for regulations to provide that agreements in force immediately before the repeal of the *Navigation Act 1912* comply with regulations made for subsection 54(5) of the Navigation Act.
- (8) Subsection 342(1) of the Navigation Act provides for the making of Marine Orders for any matter for which provision must or may be made by the regulations.

## 5 Definitions

(1) In this Order:

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

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

**Great Barrier Reef Region** has the same meaning as in the *Great Barrier Reef Marine Park Act 1975*.

**hours of rest** means time that is not:

- (a) hours of work; or
- (b) a break from work for up to 1 hour; or
- (c) time while engaged in emergency drills or emergency operations.

**hours of work** include time in which a seafarer is required to undertake work for the vessel.

**International Register vessel** means a ship registered on the Australian International Shipping Register.

**Maritime Labour Convention** means the Maritime Labour Convention, 2006, done at Geneva on 23 February 2006.

*Note* The Maritime Labour Convention comes into force on 20 August 2013.

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

**prescribed person**, for a vessel, means an inspector at the port where the vessel is located when a request for an inspection of seafarer accommodation is made.

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

**seafarer recruitment and placement service** means a person carrying on the business of recruiting seafarers for owners or placing seafarers with owners.

**specified drug** means diazepam, morphine, nitrazepam or pentazocine.

**SPS Code** has the same meaning as in *Marine Order 50 (Special Purpose Ships) 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** means a zone agreed, by the owner of the vessel and the seafarer, to be a war zone.

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

- Australian International Shipping Register
- General Manager, Ship Safety Division
- IMO
- Manager, Ship Inspection and Registration
- MARPOL
- Navigation Act

## Section 11T611T

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- NSCV
- passenger vessel
- Pollution Prevention Act
- SOLAS.

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

- AMSA
- approved form
- foreign vessel
- inspector
- International Maritime Dangerous Goods Code
- issuing body
- recognised organisation
- regulated Australian vessel
- seafarer
- special purpose vessel
- special personnel
- STCW Convention
- vessel
- work agreement.

- (2) For the definition of *competent authority* in paragraph 1(a) of Article II of the Maritime Labour Convention, the competent authority is AMSA.

### 6 Date of construction of a vessel

In this Order, a vessel is taken to have been constructed when:

- (a) its keel has been laid; or
- (b) construction identifiable with the vessel has begun and the vessel has been assembled to the lesser of:
- (i) at least 50 tonnes; or
  - (ii) 1% of the estimated mass of all structural material of the vessel.

### 7 Application

- (1) This Order applies to regulated Australian vessels.
- (2) However, for a vessel mentioned in subsection (3), only the following provisions of this Order apply:
- (i) Divisions 1 and 7;
  - (ii) sections 43 to 46, 58 to 60, 63 and 65;
  - (iii) sections 74 to 76 and 79 to 83;
  - (iv) Divisions 11 and 13.
- (3) For subsection (2), the vessel must be a regulated Australian vessel:
- (a) that:
- (i) is certified to operate exclusively in areas where port limits apply or in the Great Barrier Marine Park region; or
  - (ii) is in a service category other than class 1A, 2A, 1B or 2B as defined in section 3.5.1 of Part B of the NSCV; and

**Section 11T911T**

- (b) on which the employment of the seafarers is subject to the *Fair Work Act 2009*.
- (4) Section 103 also applies to a foreign vessel that is:
  - (i) in an Australian port; or
  - (ii) entering or leaving an Australian port; or
  - (iii) in the internal waters of Australia; or
  - (iv) in the territorial sea of Australia other than in the course of innocent passage.
- (5) An International Register vessel that was constructed before 21 August 2013 need not comply with Divisions 10, 11, 12 (other than sections 89 and 90), 13 and 14 and subsection 56(2) of this Order if AMSA approves the arrangements for the following kinds of accommodation on the vessel:
  - (a) accommodation of the crew or master;
  - (b) accommodation of the passengers;
  - (c) hospital accommodation.

**7A AMSA approval of accommodation arrangements for certain International Register vessels**

- (1) For subsection 7(8), the owner of an International Register vessel may apply to AMSA for approval of accommodation arrangements.
- (2) AMSA may approve the arrangements after considering:
  - (a) the date of construction of the ship; and
  - (b) the standards for accommodation on vessels that were in force in Australia at the time of construction of the vessel.

*Examples for paragraph (b)*

ILO ship construction standards and, until 1 July 2013, *Marine Orders Part 14, issue 1 (Accommodation)*.

- (3) AMSA may impose conditions on the approval.

**8 Exemptions and equivalents**

- (1) A person may apply, in accordance with the application process set out in *Marine Order 1 (Administration) 2011*, for acceptance of an equivalent measure or for an exemption from a provision that provides for an application for an exemption.
- (2) The decision maker for the application is the Manager, Ship Inspection and Registration.
- (3) The decision maker must consult the owner of any vessel to which the application applies and any seafarers' representative organisation that represents a seafarer on the vessel when considering whether to approve an application for exemption.

## Section 11T911T

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### 9 Review of decisions

A decision under this Order, other than a decision under section 8 or subsection 55(4), 70(3), 72(4) or 73(4), 84(4), 85(5) or 91(3) is taken to be a reviewable decision for section 18 of *Marine Order 1 (Administration) 2011*.

*Note* A decision under section 8 is a reviewable decision because it is mentioned in section 16 of *Marine Order 1 (Administration) 2011*.

## Division 2 Maritime labour certificates

### 10 Requirement to carry a maritime labour certificate

- (1) This section applies to a vessel after 20 August 2013.
- (2) For paragraphs 47(1)(a) and 48(1)(a) of the Navigation Act, a regulated Australian vessel must have a maritime labour certificate or an interim maritime labour certificate if the vessel is at least 500 gross tonnage and ordinarily engaged in overseas voyages.
- (3) If the vessel has a maritime labour certificate, the certificate must have a current declaration of maritime labour compliance attached to it.
- (4) A copy of the certificate and declaration must be:
  - (a) written in English; and
  - (b) displayed so that it is easily seen by seafarers; and
  - (c) made available on request to the following persons:
    - (i) a seafarer;
    - (ii) an inspector;
    - (iii) an authorised officer in a port state;
    - (iv) the vessel owner's representative;
    - (v) the seafarer's representative.
- (5) For a vessel of at least 200 GT and not more than 500 GT proceeding on an overseas voyage, the owner must ensure that the vessel meets the requirements mentioned in the form of declaration of maritime labour compliance in Part I of Appendix A5-II to the Maritime Labour Convention as if that declaration were required for the vessel.

### 11 Application for maritime labour certificate

A person may apply to AMSA for a maritime labour certificate in accordance with the process set out in *Marine Order 1 (Administration) 2011*.

### 12 Issuing criteria

The issuing body may issue the certificate in the approved form if the issuing body:

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

*Note* A maritime labour certificate may be issued under section 44 of the Navigation Act.



**13 Duration of certificates**

- (1) A maritime labour certificate has effect for a period, of not more than 5 years, determined by the issuing body, after it is issued or renewed.
- (2) An interim maritime labour certificate expires 6 months, or a shorter period determined by the issuing body, after it is issued.

**14 Criteria for revocation of certificate**

The criteria for revocation of a maritime labour certificate are that:

- (a) the vessel is not inspected as required; or
- (b) the certificate is not endorsed as required; or
- (c) the vessel changes flag; or
- (d) a vessel owner ceases to assume responsibility for the operation of a vessel;  
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) the issuing body or AMSA decides that the vessel does not comply with this Order; or
- (g) any corrective action the vessel owner is required to take is not taken.

**15 Intermediate inspection**

- (1) The owner of a vessel to which subsection 10(2) applies must ensure that it is inspected between the second and third anniversary dates of the certificate.
- (2) The inspection must:
  - (a) be carried out by an issuing body; and
  - (b) cover each matter mentioned in Appendix A5-1 of the Maritime Labour Convention.
- (3) If the vessel no longer complies with the Maritime Labour Convention, the issuing body may revoke the certificate.
- (4) In this section:

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

**16 Records**

- (1) The owner of the vessel must ensure that the following are recorded in English:
  - (a) a report of inspection by an issuing body;
  - (b) any deficiencies identified by an issuing body;
  - (c) the date the deficiency is reinspected by an issuing body for compliance.
- (2) The owner of the vessel must ensure that the records mentioned in subsection (1) are:
  - (a) attached to the maritime labour certificate; and
  - (b) available to the following persons:
    - (i) a seafarer;
    - (ii) an inspector;
    - (iii) an authorised person of the port state;

## Section 11T1711T

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- (iv) a representative of the owner;
- (v) a representative of a seafarer.

### 17 Renewal of maritime labour certificate

- (1) A person may apply, before a maritime labour certificate expires, for the renewal of the certificate in accordance with the process set out in *Marine Order 1 (Administration) 2011*.
- (2) If an application is made under subsection (1), the vessel must be inspected for the matters mentioned in Appendix A5-I of the Maritime Labour Convention and this Order.
- (3) If an issuing body is satisfied that the vessel complies with the Maritime Labour Convention and this Order, it may issue a new certificate:
  - (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.

## Division 3 Interim maritime labour certificates

### 18 Application for an interim maritime labour certificate

- (1) A person may apply to an issuing body for an interim maritime labour certificate in accordance with the process set out in *Marine Order 1 (Administration) 2011*.
- (2) The issuing body must carry out an inspection of the vessel for the matters mentioned in Appendix A5-I of the Maritime Labour Convention before issuing the certificate.

### 19 Issue of an interim maritime labour certificate

- (1) An interim maritime labour certificate may be issued:
  - (a) to a new vessel on delivery; or
  - (b) to a vessel, when it changes its flag; or
  - (c) if a vessel owner assumes responsibility for the operation of the vessel for the first time.
- (2) For paragraphs 47(1)(a) and 48(1)(a) of the Navigation Act, an interim maritime labour certificate is a maritime labour certificate.

### 20 Issue of an interim maritime labour certificate

An interim maritime labour certificate may be issued for up to 6 months after the issuing body is satisfied that:

- (a) the vessel has been inspected for compliance with Appendix A5-I of the Maritime Labour Convention; and
- (b) the vessel owner has demonstrated that the vessel has adequate procedures to comply with this Order; and
- (c) the master is familiar with the requirements of this Order; and

- (d) an application has been made for a declaration of maritime labour compliance.

*Note* Divisions 4 and 5 (sections 21 to 41) will be inserted on 21 August 2013 — see Schedule 13.

## Division 6 Engagement and working conditions of seafarers

### 42 Seafarers under 18 years

- (1) A person must not employ or engage to work on a 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 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 if the work is not reasonably required for the training of the person as a seafarer in accordance with an approved program.
- (5) Subject to any instrument under the *Fair Work Act 2009* or any collective agreement that applies on the vessel, the owner of a vessel must ensure that the working conditions mentioned in Schedule 1 for a person under 18 years are met.

### 43 Seafarer's hours of rest

A seafarer must have at least the minimum hours of rest for a seafarer to whom Division 3 of *Marine Order 28 (Operations standards and procedures) 2012* applies.

### 44 Record keeping — shipboard working arrangements

- (1) The owner of a 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 the 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) 2012*; 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 <http://www.amsa.gov.au>.

### 45 Record keeping — hours of work and rest

- (1) The owner of a vessel must maintain records of seafarers' daily hours of rest.
- (2) The master must:
- (a) give the seafarer a copy of the record relating to him or her; and

## Section 11T4611T

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- (b) ensure that the record is endorsed by the master or a person authorised by the master and the seafarer.

### 46 Record keeping — official log book

- (1) The master of a vessel must ensure that the matters mentioned in Schedule 2, for events that occur while the person is the master of the vessel, are recorded in the official log book.
- (2) An entry in the official log book must be signed at the time of entry by:
  - (a) the master; and
  - (b) an officer or another seafarer.
- (3) An entry in the official log book 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) a qualified medical practitioner, if the practitioner is a seafarer.
- (4) When an entry in the official log book for a birth is made, the entry must be signed as soon as practicable by:
  - (a) the mother or father of the child; and
  - (b) another person, if any, present at the birth of the child.

### 47 Seafarers' 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) have effect for at least 9 months or for a whole voyage lasting up to 9 months.

*Note* For articles of agreement made under the *Navigation Act 1912* — see section 48.

- (2) However, the owner of the vessel may increase or decrease by 1 month the period of effect of a work agreement that has effect for at least 9 months.

*Note* This is consistent with the International Transport Federation uniform TCC collective agreement of 1 January 2012–14 — see <http://www.itfglobal.org>.

- (3) The work agreement must be signed by:
  - (a) the seafarer; and
  - (b) the owner of the vessel or a representative of the owner.
- (4) The owner of a vessel and the seafarer must each have a signed original of the seafarer's work agreement.

### 48 Articles of agreement

An articles of agreement made under the *Navigation Act 1912*:

- (a) continues in force until the earlier of:
  - (i) the agreement expires; or
  - (ii) 19 February 2014; and

- (b) for section 54 of the Navigation Act — is taken to satisfy the requirements of this Order relating to work agreements if it:
  - (i) was in force on 20 August 2013; and
  - (ii) complied with Division 8 of Part II of the Navigation Act.

#### 49 Opportunity to seek advice

The owner of a 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.

#### 50 Availability of information

- (1) The owner of a 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.
 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.

#### 51 Notice period for termination

Subject to any instrument under the *Fair Work Act 2009* or any collective agreement applying to a vessel, to terminate a work agreement:

- (a) the employer or the seafarer must give at least 7 days notice of the termination; and
- (b) the seafarer may give less than 7 days notice of the termination for:
  - (i) compassionate reasons; or
  - (ii) other urgent circumstances recognised in the work agreement.

#### 52 Record of service

- (1) The owner of a vessel must ensure that each seafarer is given a seafarer's discharge book, in the approved form, that includes a record of the seafarer's employment on board the vessel.

*Note* Approved forms are available on the AMSA website: [http:// www.amsa.gov.au](http://www.amsa.gov.au).

## Section 11T5311T

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- (2) The seafarer's discharge book must not contain any statement of:
- (a) the quality of the seafarer's work; or
  - (b) the seafarer's wages.

### 53 Wages

- (1) The owner of a vessel must pay the seafarer:
- (a) at an interval of no more than 1 month; and
  - (b) in accordance with the work agreement and if applicable, the relevant instrument under the *Fair Work Act 2009* or collective 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.
- (3) The owner of a 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) 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).  
Civil penalty: 50 penalty units.
- (6) The owner may charge a reasonable amount for providing the service mentioned in subsection (3).

## Division 7 Provisions

### 54 Organisation and equipment of catering department

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

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

### 55 Training of persons processing food

- (1) The owner of a vessel must ensure that a person who works on the vessel as a cook:
- (a) is over 18 years; and

## Section 11T5611T

- (b) has completed:
    - (i) a training course in hospitality that AMSA considers provides appropriate training for the performance of the duties or functions of marine cook; or
    - (ii) at least 6 months documented qualifying seagoing service as a marine cook before 1 July 2014; and
  - (c) holds a certificate of safety training issued in accordance with *Marine Order 3 (Seagoing qualifications) 2004*; and
  - (d) holds a Certificate of Medical Fitness issued in accordance with *Marine Order 9 (Health — medical fitness) 2010*.
- (2) The owner of a vessel operating with a prescribed manning level of less than 10, that due to the number of seafarers or the trading pattern does not have to carry a fully qualified 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
    - (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) The Manager, Ship Inspection and Registration may issue an exemption:
    - (a) for a period up to 1 month; or
    - (b) until the vessel arrives at the next convenient port of call.

**56 Galleys**

- (1) The owner of vessel must ensure that the vessel has a galley for the preparation of food for the seafarers.
- (2) The owner of a vessel must ensure that the galley is constructed in accordance with Schedule 4.
- (3) The owner of a vessel 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;
    - (iv) at least 1 oven;
    - (v) cooking utensils;
    - (vi) hot and cold potable running water that complies with *Guidelines for drinking-water quality*, published by the World Health Organization, 2011, 4th edition;
  - (b) equipment for the cleaning of cooking utensils.
- (4) The owner must ensure that the equipment is constructed of material that can easily be kept clean.
- (5) The master must ensure that the galley and its equipment are kept in a clean and orderly manner at all times.

## Section 11T5711T

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### 57 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 vessel must ensure that the seafarers have dry provision stores that meet the requirements mentioned in Schedule 5.
- (3) The owner of a vessel must provide cold storage and refrigerators that are adequate for the storage of provisions.
- (4) The master 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 —  $-15^{\circ}\text{C}$ ; or
    - (ii) for cold food —  $5^{\circ}\text{C}$ .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.
- (7) The master 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.
- (8) The master of a 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.

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

## Division 8 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, ss 66 and 67.



**58 Medical care for seafarers working on board**

The owner of a vessel must put in place measures for the health protection, medical care and dental care for seafarers working 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 work 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.

**59 Right to visit a medical practitioner or dentist**

The owner of a vessel must ensure that a seafarer can visit a medical practitioner or dentist without delay in a port of call.

**60 Medical services at no charge**

- (1) The owner of a 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 disorders; and
  - (d) include measures to stop the spread of insect borne diseases.

**61 Reporting of medical information**

- (1) When exchanging medical information for individual seafarers between a vessel and shore because of illness or injury, the approved form must be used by:
  - (a) the master of the vessel; and
  - (b) relevant on board medical personnel; and
  - (c) relevant onshore medical personnel.
- (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: [http:// www.amsa.gov.au](http://www.amsa.gov.au).

**62 Treatment of patients**

The owner of a vessel must ensure that the following are on board:

- (a) adequate medical supplies to treat a diseased or injured person;

**Section 11T6311T**

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- (b) a competent and qualified person to treat a diseased or injured person, until a medical practitioner treats the person.

**63 Medical supplies**

- (1) For subsections 66(1) and 67(1) of the Navigation Act, the vessel must be provided with:
  - (a) a medicine chest with at least the medicines, medical and surgical stores and appliances and antiscorbutics, and kept in the manner, mentioned in the most recent edition of *Medical carriage requirements on regulated Australian vessels*, published by AMSA;
  - (b) the most recent edition of *International Medical Guide for Ships*, published by the World Health Organization.
- (2) For a cargo that is classified as dangerous and is not included in the most recent edition of *International Medical Guide for Ships*, published by the World Health Organization, information about all of the following must be available to seafarers:
  - (a) the nature of substances in the cargo;
  - (b) the risks mentioned for the cargo as prescribed in the *International Maritime Dangerous Goods Code*, published by the International Maritime Organization, as in force from time to time;
  - (c) personal protective devices necessary to avoid the risks;
  - (d) medical procedures to deal with the risks;
  - (e) antidotes for the substances.
- (3) The owner of a vessel must ensure that the antidotes and personal protective devices mentioned in subsection (2) are available on board when dangerous goods are carried.

Penalty: 50 penalty units.
- (4) The owner of a vessel must ensure that the medicine chest and medical equipment are properly maintained.

Penalty: 50 penalty units.
- (5) The master of the vessel must inspect the medicine chest and medical equipment at least once every 12 months and check each of the following:
  - (a) that the labelling of medicine is correct and easily read;
  - (b) that the expiry date of the medicine is correct and easily read;
  - (c) that the expiry date of the medicine has not been reached;
  - (d) the medicine is stored correctly;
  - (e) the directions for the use of medicine are easily read;
  - (f) that the medical equipment is in good condition and functioning correctly.

Penalty: 50 penalty units.
- (6) The owner of a 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.

- (7) An offences against subsection (3), (4), (5) or (6) is a strict liability offence.
- (8) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

#### 64 Medically qualified person on board

- (1) For paragraphs 72(1)(b) and (2)(b) and 73(1)(b) and (2)(b) of the Navigation Act, the distance is 120 nautical miles.
- (2) For subsections 72(2) and 73(2) of the Navigation Act, to be qualified the person must have the medical training mentioned in section 14 of *Marine Order 3 (Seafarer Qualifications) 2004*.
- (3) A person mentioned in subsection (2) must undergo refresher training courses, at least once every 5 years, to enable the person to maintain and increase his or her knowledge and skills in medical care.

#### 65 Access to onshore medical facilities

The owner of a vessel must ensure that seafarers in need of immediate medical care are transported to shore and given access to medical facilities onshore, including:

- (a) outpatient treatment for sickness and injury; and
- (b) hospitalisation when necessary; and
- (c) facilities for dental treatment.

#### 66 Control of certain drugs

- (1) The owner of a vessel must ensure that kept onboard is a register of drugs in a form approved by AMSA.

Penalty: 50 penalty units.

*Note* The use of certain drugs is regulated in Australia — for further information see <http://www.tga.gov.au/industry/scheduling-poisons-standard.htm>.

- (2) The register must record the following details for each administration of a specified drug:
  - (a) the full name of the person to whom the specified drug is administered;
  - (b) the reason for administering the specified drug;
  - (c) the date and time the specified drug was administered;
  - (d) the name and quantity of the specified drug administered;
  - (e) the name and designation of the person who administered the specified drug.
- (3) The master of a vessel must ensure that any loss or theft of a specified drug is:
  - (a) recorded in the specified drug register; and
  - (b) reported to the appropriate law enforcement agencies as soon as practical after the vessel arrives in port.

*Note* For the meaning of *specified drug* — see section 5.

- (4) An offence against subsection (1) or (3) is a strict liability offence.

## Section 11T6711T

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

## Division 9 Accommodation — use and 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 in this Order – see Navigation Act, s75.

### 67 Vessel plans

Before construction of a vessel that is to be registered on the Australian 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; and
- (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 who may perform the role of issuing body is included in *Marine Order 1 (Administration) 2011*.

### 68 Modification of accommodation spaces

- (1) Before the substantial alteration or reconstruction of seafarer accommodation on a 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 67 (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) 2011*.
- (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 with the plans to be assessed.

## Division 10 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 in this Order – see Navigation Act, s75.

### 69 Small vessels

- (1) This section applies to a regulated Australian vessel under 200 gross tonnage that is normally engaged in overseas voyages.

**Section 11T7311T**

- (2) This Division does not apply to the vessel if the vessel complies with Part C1 of the National Standard for Commercial Vessels.

**70 Headroom**

- (1) The owner of a vessel must ensure that:
  - (a) there is at least 203 cm unobstructed headroom in all seafarer accommodation; or
  - (b) headroom complies with any exemption in force for the vessel under subsection (3).
- (2) The owner of a vessel may apply for an exemption to have headroom of less than 203 cm in seafarer accommodation.
- (3) The Manager, Ship Inspection and Registration may approve the application if he or she considers that the application:
  - (a) is reasonable; and
  - (b) will not cause discomfort to seafarers.

**71 Location of sleeping rooms — non-passenger vessels**

- (1) This section does not apply to a passenger vessel.
- (2) A sleeping room:
  - (a) must be above the load line amidships or aft; or
  - (b) if any other location is impracticable because of the size, type or intended service of the vessel — may be the fore part of the vessel but not forward of the collision bulkhead.

**72 Location of sleeping rooms — passenger vessels**

- (1) This section applies to the following vessels:
  - (a) passenger vessels; and
  - (b) special purpose vessels complying with the SPS Code.
- (2) The owner of a vessel must ensure that sleeping rooms are located:
  - (a) either:
    - (i) above the load line, or
    - (ii) in accordance with any exemption in force for the vessel under subsection (4); and
  - (b) not immediately beneath working alleyways; and
  - (c) behind the collision bulkhead.
- (3) The owner of a vessel may apply for an exemption to have a sleeping room located below the load line of a vessel.
- (4) The Manager, Ship Inspection and Registration may approve the application subject to conditions concerning the lighting and ventilation.

**73 Sleeping rooms**

- (1) The owner of a vessel must ensure that sleeping rooms on the vessel:
  - (a) meet the requirements mentioned in Schedule 6; or
  - (b) comply with any exemption in force for the vessel under subsection (3).

## Section 11T7411T

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- (2) The owner of a vessel may apply for an exemption from the requirement for individual sleeping rooms on any of the following:
  - (a) a vessel of less than 3 000 GT;
  - (b) a special purpose vessel;
  - (c) a passenger vessel.
- (3) The Manager, Ship Inspection and Registration may approve the application having regard to the health and wellbeing of seafarers.

### 74 Sleeping berths

- (1) The owner of a vessel must ensure that sleeping berths on the vessel meet the requirements mentioned in Schedule 7.
- (2) The owner of a vessel must provide each seafarer on board with clean, good quality bedding.

### 75 Insulation

- (1) The owner of a 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 vessel must ensure that each of the following spaces are insulated to prevent the space from heat 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 vessel must also take measures to protect accommodation spaces from the heat effects of steam or hot-water service pipes.

### 76 Pipes

- (1) The owner of a vessel must ensure that steam pipes and exhaust pipes to or from machinery do not pass through seafarer accommodation that is not an open deck alleyway.
- (2) The owner of a vessel must ensure that steam pipes and hot water pipes passing through an open deck alleyway and forming part of the seafarer accommodation 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

**Section 11T7911T**

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

**77 Vessel batteries**

The owner of a vessel must ensure that:

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

**78 Bulkhead and deckhead surfaces**

The owner of a 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.

**79 Decks and flooring**

- (1) The owner of a vessel must ensure that decks in the seafarer accommodation spaces on the vessel are:
  - (a) constructed of material in accordance with *Marine Order 15 (Construction — fire protection, fire detection and fire extinction) 2009*; and
  - (b) a non-slip surface; and
  - (c) impervious to damp; and
  - (d) easily kept clean; and
  - (e) 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.

## Section 11T8011T

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

### 80 Lighting and drainage

The owner of a vessel must ensure that there is the following on the vessel:

- (a) lighting in accordance with *Accident prevention on board ship and in port*, published by the International Labour Office, as in force from time to time; and
- (b) drainage that prevents liquids from pooling on the deck.

### 81 Air conditioning

- (1) The owner of a 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*:
  - (a) accommodation for seafarers;
  - (b) a radio room;
  - (c) a centralised machinery control room.
- (2) The owner of a 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*; 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 vessel must ensure that all sanitary spaces on the vessel have ventilation to the open air, independent of any other part of the seafarers' accommodation.
- (4) The owner of a 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.

### 82 Heating

- (1) The owner of a vessel must ensure that seafarer accommodation areas on the vessel have a heating system that meets the requirements mentioned in Schedule 8.
- (2) This section does not apply to a vessel that operates in tropical waters only.
- (3) The owner of a 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.



## Section 11T8411T

**83 Lighting**

- (1) The owner of a vessel must take all reasonable steps to ensure that sleeping rooms and mess rooms on the vessel have natural light.
- (2) The owner of a vessel must ensure that the accommodation spaces for seafarers on the vessel have:
  - (a) artificial light in accordance with *Accident prevention on board ship and in port*, published by the International Labour Office, as in force 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 vessel must ensure that an electric reading lamp is installed at the head of each seafarer's sleeping berth.

**84 Floor space for sleeping rooms — non-officers**

- (1) The owner of a vessel must ensure that sleeping rooms:
  - (a) have floor space dimensions of at least those mentioned in table 1; or
  - (b) comply with any exemption in force for the vessel under subsection (4).
- (2) For table 1, the floor space:
  - (a) includes space occupied by:
    - (i) berths; and
    - (ii) lockers; and
    - (iii) chest of drawers; and
    - (iv) seats; and
  - (b) does not include space occupied by small or irregularly shaped spaces:
    - (i) that do not add to the space available for free movement; and
    - (ii) cannot be used for installing furniture.

**Table 1 Floor space for sleeping rooms — non-officers**

Size and type of vessel	Type of sleeping room	Floor area
less than 3 000 GT	1 occupant	4.5 m <sup>2</sup>
greater than 3 000 GT and less than 10 000 GT	1 occupant	5.5 m <sup>2</sup>
greater than 10 000 GT	1 occupant	7 m <sup>2</sup>
less than 3 000 GT, that is not:	up to	at least 7 m <sup>2</sup>
(a) a passenger vessel; or	2 occupants	
(b) a special purpose vessel		
passenger vessel or special purpose vessel	2 person occupancy sleeping room	7.5m <sup>2</sup>

**Section 11T8511T**

<b>Size and type of vessel</b>	<b>Type of sleeping room</b>	<b>Floor area</b>
passenger vessel or special purpose vessel	3 person occupancy sleeping room	11.5 m <sup>2</sup>
passenger vessel or special purpose vessel	4 person occupancy sleeping room	14.5 m <sup>2</sup>
special purpose vessel	more than 4 occupants	3.6 m <sup>2</sup> per person

- (3) The owner of a vessel may apply for an exemption to have the floor area for a single sleeping berth reduced on a vessel if it is for the purpose of providing single berth accommodation on any of the following:
- a vessel of less than 3 000 GT;
  - a passenger vessel;
  - a special purpose vessel.
- (4) The Manager, Ship Inspection and Registration may approve the application having regard to the health and safety of seafarers.

**85 Floor space for officer rooms**

- The owner of a vessel must ensure that each officer on board has an individual sleeping room.
- The owner of a vessel must ensure that the master, chief engineer, chief mate and, if practicable, the first engineer has, in addition to a sleeping room:
  - a sitting room adjoining the sleeping room; or
  - a day room; or
  - equivalent space.
- The owner of a vessel must ensure that, if no adjoining sitting room, day room or equivalent space is provided for vessels' officers, the floor space dimensions are at least those mentioned in table 2.

**Table 2 Floor space for officer rooms**

<b>Type of vessel</b>	<b>Type of room</b>	<b>Floor area</b>
A passenger vessel or special purpose vessel	junior officers	7.5m <sup>2</sup> per person
A passenger vessel or special purpose vessel	senior officers	8.5m <sup>2</sup> per person
A vessel other than a passenger vessel or special purpose vessel		vessel >3000 GT and <10 000 GT — 7.5m <sup>2</sup> per person
A vessel other than a passenger		vessel ≥10 000 GT — 10m <sup>2</sup> per person

**Section 11T8811T**

Type of vessel	Type of room	Floor area
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vessel or special purpose vessel

- (4) The owner of a vessel may apply for an exemption to have the floor area for a single sleeping berth reduced on a vessel if it is for the purpose of providing single berth accommodation on any of the following:
- (a) a vessel of less than 3 000 GT;
  - (b) a passenger vessel;
  - (c) a special purpose vessel.
- (5) The Manager, Ship Inspection and Registration may approve the application having regard to the health and safety of seafarers.

**86 Mess rooms**

- (1) The owner of a vessel must ensure that the vessel has a mess room that meets the requirements mentioned in Schedule 9.
- (2) The owner must ensure that the mess room is available to all seafarers.
- (3) The owner of a vessel may apply for an exemption from any of the requirements mentioned in Schedule 9.
- (4) The Manager, Ship Inspection and Registration may approve the application having regard to the health and safety of seafarers.

**Division 11 Accommodation and working spaces**

**87 Noise and other ambient factors**

- (1) This section applies to a regulated Australian vessel that is:
  - (a) constructed after 20 August 2013; and
  - (b) at least 500 gross tonnage.
- (2) The owner of the vessel must:
  - (a) ensure that the vessel is assessed in accordance with the standards mentioned in IMO resolution A468(XII) *Code of noise levels on board ships* as if the resolution applied to all vessels to which this Order applies; and
  - (b) adopt measures in accordance with the guidance provided in the ILO Code of Practice *Ambient factors in the workplace*, 2001, as amended from time to time, to ensure that the standards are complied with.

**Division 12 Welfare of seafarers**

**88 Recreational facilities, amenities and services**

- (1) The owner of a vessel must ensure that the vessel has recreational facilities that:
  - (a) comply with Schedule 10; and
  - (b) are adapted to meet the special needs of seafarers living and working on the vessel.

### Section 11T8911T

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- (2) The owner must ensure that the recreational facilities are reviewed frequently, to ensure that they are appropriate for any changes in the needs of seafarers resulting from developments in the maritime industry.
- (3) A vessel under 3000 gross tonnage may combine the recreation room furnishings with mess room facilities.

#### 89 Mail

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

#### 90 Visitors

- (1) A seafarer engaged to work on a vessel may apply to the master of the vessel for the seafarer's partner, relative or friend to board the vessel as a visitor.
- (2) The master of a vessel must ensure that, if reasonably practicable, a seafarer is given permission for his or her partner, relatives and friends to board the vessel as visitors.
- (3) The master may impose conditions on the permission given under subsection (2).
- (4) When deciding a request from a seafarer to have a visitor on board, the master must consider any security clearance requirements.

#### 91 Common vessel's office

- (1) The owner of a 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 may apply for an exemption from subsection (1).
- (3) The Manager, Ship Inspection and Registration may approve the application having regard to the health and safety of seafarers.

### Division 13 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 in this Order – see Navigation Act, s75.

#### 92 Sanitary facilities

The master of a vessel must ensure that seafarers have convenient access on the vessel to sanitary facilities that meet the requirements mentioned in Schedule 11.

#### 93 Laundry facilities

- (1) The owner of a vessel must ensure that laundry facilities are available to seafarers.
- (2) The laundry facilities must:
  - (a) be close to seafarer accommodation; and
  - (b) include at least:
    - (i) a washing machine; and
    - (ii) a drying machine or heated and ventilated drying room; and
    - (iii) an iron and ironing board or equivalent.

## Division 14 Accommodation — 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 in this Order – see Navigation Act, s75.

### 94 Hospital accommodation

The owner of a vessel carrying at least 15 seafarers engaged in a voyage of at least 3 days duration 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 12.

## Division 15 Repatriation

### 95 Repatriation

- (1) The owner of a 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's work agreement, collective agreement or award expires;
  - (b) the seafarer's work agreement is terminated:
    - (i) on expiry of the notice period given in accordance with the work agreement; or
    - (ii) by the owner of a vessel; or
    - (iii) by the seafarer for justified reasons;
  - (c) the seafarer is no longer able to carry out his or her duties under the work agreement;
  - (d) the seafarer cannot be expected to carry out his or her duties in specific circumstances;
  - (e) the seafarer has worked on the vessel for at least 9 months;
  - (f) the seafarer's work agreement is terminated because of:
    - (i) illness, injury or other medical condition for which the seafarer must be repatriated and is medically fit to travel; or
    - (ii) wreck or foundering;
  - (g) 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.
  - (h) the vessel is on its way to a war zone to which the seafarer does not consent to go;
  - (i) termination or interruption of employment:
    - (i) in accordance with an industrial award; or
    - (ii) in accordance with a collective agreement; or
    - (iii) for a similar reason.

## Section 11T9611T

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- (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 a 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 specified in the terms of the seafarer's work arrangements.

### 96 Financial security

The owner of a vessel must demonstrate to AMSA's satisfaction financial security to assure compensation if a seafarer dies or suffers a long-term disability because of:

- (a) an occupational injury; or
- (b) an illness; or
- (c) a hazard.

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

### 97 Paying for repatriation

- (1) If a seafarer is repatriated, the owner of a vessel must, at least, pay for the following:
  - (a) the seafarer's passage to the repatriation destination;
  - (b) accommodation 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 a 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.

### 98 Incapacity

If sickness or injury results in a seafarer being incapacitated for work, the owner of a 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

**Section 11T10311T**

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- (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) the seafarer recovers; or
  - (ii) 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.

**99 Limitation of liability**

- (1) The owner of a vessel is not liable for:
  - (a) an injury incurred by the seafarer while the seafarer was not in the service of 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.
- (2) This Order does not affect any right of the owner or seafarer to recover costs under law or third-party contractual arrangements.

**100 Timeframe for claim**

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

**101 Repatriation transport**

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

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

**102 Property**

The owner of a 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.

**103 Repatriation by AMSA**

- (1) AMSA must arrange for the repatriation of a seafarer if the owner of a regulated Australian vessel:
  - (a) has not made arrangements to repatriate the seafarer; or
  - (b) is not meeting the cost of repatriating the seafarer.
- (2) The owner of a vessel must pay to AMSA the costs incurred by AMSA under subsection (1).

**Section 11T10411T**

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- (3) AMSA may detain a vessel until the owner pays to AMSA the costs incurred under:
- (a) for a regulated Australian vessel — subsection (1); or
  - (b) for a foreign vessel — section 92 of the Act.

**104 Documentation available for seafarer**

The owner of a regulated Australian vessel must ensure that a copy of this Order is carried on board the vessel.



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## **Schedule 1 Working conditions for seafarers under 18 years**

(subsection 42(3))

- 1 A seafarer under 18 years may only work:
  - (a) no more than 8 hours in any 24 hours; and
  - (b) no more than 40 hours in 7 days.
- 2 In an unavoidable situation if safety is at risk or required to undertake an emergency drill, 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 The seafarer must have:
  - (a) a break of at least 1 hour for the main meal of the day; and
  - (b) a 15 minute rest as soon as possible after 2 hours of continuous work.
- 4 However, clause 3 does not apply if:
  - (a) it is impracticable for seafarers assigned to watchkeeping duties or on a rostered shift work system that are in:
    - (a) the deck; or
    - (b) the engine room; or
    - (c) the catering department; or
  - (b) the scheduled training of seafarers would be impaired in accordance with guidelines set by AMSA.
- 5 The seafarer may perform the following tasks only under supervision and instruction:
  - (a) lifting, moving or carrying heavy loads or objects, unless the AMSA determines that the seafarer is competent to do so;
  - (b) entry into 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.
- 6 A record of the circumstances mentioned in clause 4 and the reasons for it must be kept and signed by the master.

## **Schedule 2 Official log book — matters that must be entered**

(section 46(1))

- 1 Any conviction by a court of a seafarer and any sentence imposed.
- 2 Any promotion, including:
  - (a) the date of the promotion; and
  - (b) the rating that the seafarer is promoted to; and
  - (c) any increase in wages.

- 3 Any misconduct by a seafarer.
- 4 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.
- 5 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
  - (d) details of the incident.
- 6 Any matter that must be entered into the official log-book by an agreed code of conduct applying to the vessel.
- 7 A list of the effects of a deceased seafarer.

*Note* The master may make entries in the official log-book about matters that are not required by the Navigation Act, regulations or marine orders.

### **Schedule 3 Seafarer's work agreement information**

(subsection 47(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 any health or social security protection benefits to be provided to the seafarer by the owner of the vessel
- 12 the terms for the termination of the agreement and conditions of termination
- 13 the date for expiry of the agreement
- 14 if the agreement has been made for the duration of the voyage:
  - (a) the port of destination;
  - (b) the time that has to elapse after arrival at the port before the agreement expires
- 15 the seafarer's entitlement to repatriation

- 
- 16 the seafarer's home port
  - 17 a mention of the collective bargaining agreement or award that applies to the seafarer
  - 18 if the collective bargaining agreement applies to the seafarer — how the seafarer can obtain a copy of the agreement

## **Schedule 4 Galleys**

(subsection 56(2))

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

## **Schedule 5 Dry provision stores**

(subsection 57(2))

- 1 Dry provision stores must:
  - (a) be enclosed by bulkheads constructed of materials in accordance with *Marine Order 15 (Construction - Fire prevention, fire detection and fire extinction) 2009* 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.

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## Schedule 6 Sleeping rooms

(subsection 73(1))

- 1 For a vessel that is not a passenger vessel, there must be an individual sleeping room for each seafarer.
- 2 For a passenger vessel, no more than 4 seafarers who do not carry out the duties of vessel officers may be allocated to a sleeping room.
- 3 There must be separate sleeping rooms for men and women.
- 4 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.
- 5 A sleeping room must be:
  - (a) properly equipped to ensure the reasonable comfort of occupants. and
  - (b) designed and arranged to facilitate tidiness.
- 6 A sleeping room must have, for each occupant, the following items:
  - (a) either:
    - (i) a clothes locker, of at least 475 litres, that can be locked by the occupant and has a separate drawer or equivalent space of at least 56 litres; or
    - (ii) a clothes locker, of at least 500 litres, that can be locked by the occupant and has a drawer and a shelf;
  - (b) a table or a fixed, drop-leaf or slide-out desk with comfortable seating;
  - (c) a mirror;
  - (d) a small cabinet for toiletries;
  - (e) a book rack;
  - (f) coat hooks;
  - (g) curtains or equivalent window coverings for side lights.
- 7 Furniture in a sleeping room must be made of a smooth, hard, material unlikely to warp or corrode.
- 8 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.
- 9 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) 2009*; and
  - (b) watertight; and

- (c) gastight.

## Schedule 7 Sleeping berths

(subsection 74(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.
- 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) 2009*; 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 with a cushioning bottom; or
  - (b) has cushioning with a spring bottom or spring mattress; or
  - (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 8 Heating

(subsection 82(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* under normal conditions of weather and climate that the vessel operates in;
- (e) radiators and other heating apparatus must be placed and shielded to avoid the risk of fire, danger, or discomfort to the occupant.

## **Schedule 9 Mess room**

(subsection 86(1))

- 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 accommodation; 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 m<sup>2</sup> per person of the planned seating capacity; and
  - (f) have tables and seats that:
    - (i) are appropriate in number for the number of seafarers likely to use the mess room at the same time; and
    - (ii) are sufficient in number to accommodate the greatest number of seafarers likely to use them at the same time; and
    - (iii) have tops that are made of damp-resistant material; and
    - (iv) 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 rooms, the mess room must have:
  - (a) lockers suitable in size and design to contain utensils for the seafarers onboard; and
  - (b) facilities for washing and drying utensils hygenically.
- 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.
- 4 Seating between a table and a bulkhead, or a vessel's side must have a clearance of at least 635 mm.

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- 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 10 Recreational facilities**

(subsection 88(1))

- 1 Recreational facilities must at least include the following:
  - (a) a bookcase;
  - (b) facilities for reading and writing;
  - (c) if practicable — televisions and videos and facilities for games;
  - (d) a space or spaces on an open deck:
    - (i) to which off-duty seafarers have access; and
    - (ii) that is of adequate size for the size of the vessel and the number of seafarers on board;
  - (e) a prayer room or similar facility;
  - (f) facilities for recreational handicrafts;
  - (g) exercise facilities.

## **Schedule 11 Minimum standards for sanitary facilities**

(section 92)

- 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 Seafarers must have a change room that is:
  - (a) located outside and easily accessible to the machinery space; and
  - (b) fitted with:
    - (i) individual clothes lockers; and
    - (ii) showers; and
    - (iii) washbasins with hot and cold running fresh water.
- 8 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.
- 9 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.
- 10 Floors in sanitary facilities must be:
  - (a) of an approved, durable material; and
  - (b) impervious to damp; and
  - (c) properly drained.
- 11 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.
- 12 Sanitary facilities must be lit in accordance with *Accident prevention on board ship and in port*, published by the International Labour Office, as in force from time to time, heated and ventilated.
- 13 Sanitary facilities must have towels, soap and toilet paper for all seafarers.
- 14 Sanitary facilities must have a means of preventing the escape of gases from the sewage system.
- 15 Sanitary facilities must have a soil pipe that is constructed to facilitate cleaning and minimise the risk of obstruction.
- 16 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 12 Hospital accommodation**

(paragraph 94(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 accommodation; or
  - (ii) in close proximity to the 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:

<b>Number of persons carried on board</b>	<b>Number of berths</b>
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 1 200	11
at least 1 200	the sum of: (a) 11; and (b) 1 for every 300 persons more than 1 200

## **Schedule 13 Amendment**

(subsection 2(2))

### **[1] Section 3**

*substitute*

### **3 Purpose**

- (1) This Order provides for the following matters for seafarers on board Australian registered vessels:
  - (a) maritime labour certificates;
  - (b) recruitment and placement;
  - (c) complaints;
  - (d) working conditions;
  - (e) provisions;
  - (f) medical care and supplies;
  - (g) accommodation;
  - (h) sanitary facilities;
  - (i) hospitals;
  - (j) repatriation.
- (2) This Order gives effect to the Maritime Labour Convention 2006.

### **[2] Before subsection 4(1)**

*insert*

- (1A) Section 42 of the Navigation Act provides for regulations to provide for maritime labour certificates.

**[3] Subsections 4(4) and (5)**

*substitute*

- (4) Paragraph 340(1)(i) of the Navigation Act provides for regulations to be made to give effect to the Maritime Labour Convention.
- (5) Subsection 339(1) of the Navigation Act provides for regulations to be made prescribing matters required or permitted to be prescribed, or necessary or convenient for carrying out or giving effect to the Navigation Act.
- (5A) Subsection 342(1) of the Navigation Act provides for the making of Marine Orders for any matter for which provision must or may be made by the regulations.

**[4] Subsection 5(1), after definition of *approved***

*insert*

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

**[5] Subsection 5(1), after definition of *hours of rest***

*insert*

*interim maritime labour certificate* has the same meaning as in Regulation 5.1.3 of the Maritime Labour Convention.

*maritime labour certificate* has the same meaning as in Regulation 5.1.3 of the Maritime Labour Convention.

**[6] Subsection 5(1), definition of *Maritime Labour Convention***

*omit*

**[7] Subsection 5(1), after definition of *prescribed person***

*recruitment service provider* means a person that provides a service to vessel owners and seafarers for the recruitment and placing of seafarers on vessels.

**[8] Subsection 5(1), note 2**

*substitute*

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

- AMSA
- approved form
- foreign vessel
- inspector
- International Maritime Dangerous Goods Code
- Maritime Labour Convention
- recognised organisation
- regulated Australian vessel
- special personnel
- STCW 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 <http://www.austlii.edu.au>.

**[9] Subparagraph 7(1)(b)(iv)**

*omit*

aquaculture.

*insert*

aquaculture; and

**[10] After subparagraph 7(1)(b)(iv)**

*insert*

(c) to the extent that a foreign vessel is required to comply with the Maritime Labour Convention or would otherwise receive more favourable treatment because it flies the flag of a country that has not ratified the Maritime Convention — applies to the foreign vessel when it is:

(i) in an Australian port; or

(ii) entering or leaving an Australian port; or

(iii) in the internal waters of Australia; or

(iv) in the territorial sea of Australia other than in the course of innocent passage.

**[11] Subsection 7(2)**

*omit*

**[12] Section 9**

*after*

section 8

*insert*

or Division 2 or 3

**[13] Section 9, note**

*substitute*

*Note 1* A decision under section 8 is a reviewable decision because it is mentioned in section 16 of *Marine Order 1 (Administration) 2011*.

*Note 2* Section 313 of the Navigation Act provides for review by the Administrative Appeals Tribunal of decisions made under sections 44, 45 and 46 of the Act relating to maritime labour certificates.

**[14] After section 9**

*insert*

**9A Copy of Maritime Labour Convention**

The owner of a vessel must ensure that a copy of the Maritime Labour Convention is on board the vessel and available to seafarers.

[15] **Section 20, note**

*substitute*

**Division 4 Recruitment and placement**

**21 Recruitment fees**

- (1) A person must not charge a seafarer for recruitment services.
- (2) However, a person may charge a seafarer a reasonable amount for helping the seafarer to obtain the following:
  - (a) a medical certificate of fitness in accordance with *Marine Order 9 (Health — medical fitness) 2009*;
  - (b) a seafarer's qualification in accordance with *Marine Order 3 (Seafarer qualifications) 2004*;
  - (c) a national seafarer's record book;
  - (d) a passport;
  - (e) a travel document, other than a visa that is necessary for the duties that the seafarer is going to undertake.

**22 Recruitment service providers**

- (1) A recruitment service provider whose primary purpose is the recruitment and placement of seafarers must tell AMSA in writing in the approved form before providing those services after 20 August 2013.

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.

**23 Recruitment register**

- (1) A recruitment service provider must have a register of persons recruited or placed, that includes information on:
  - (a) the seafarer's medical examination; and
  - (b) the seafarer's identity documents; and
  - (c) the fees that may be charged under subsection 21(2); and
  - (d) other items that the seafarer has to provide to get employment.

Penalty: 50 penalty units.
- (2) The recruitment service provider must make the register available to AMSA for inspection.

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) The register is not a public register.

## **24 Records**

- (1) A recruitment service provider must keep the following records about persons recruited or placed to work on a vessel:
  - (a) the seafarer's qualifications;
  - (b) the seafarer's record of employment;
  - (c) personal data relevant to employment;
  - (d) medical data relevant to employment.Penalty: 50 penalty units.
- (2) A person is liable to a civil penalty if the person contravenes subsection (1).  
Civil penalty: 50 penalty units.

## **25 Verifying qualifications and documentation**

- (1) A recruitment service provider must ensure, for each seafarer for whom it provides services, that:
  - (a) the seafarer is qualified to carry out the duties for which he or she is employed; and
  - (b) the seafarer holds the documents necessary for the work; and
  - (c) the seafarer's work agreements are in accordance with law that applies to them.
- (2) A person is liable to a civil penalty if the person contravenes subsection (1).  
Civil penalty: 50 penalty units.

## **26 Validity of qualifications and experience**

- A recruitment service provider must ensure that:
- (a) required certificates and documents submitted for employment are up to date; and
  - (b) employment references are verified.
- Penalty: 50 penalty units.
- (2) A person is liable to a civil penalty if the person contravenes subsection (1).  
Civil penalty: 50 penalty units.

## **27 Protection against stranding**

When placing a seafarer on a vessel, a recruitment service provider must to the extent practicable ensure that the owner of the vessel is insured to protect seafarers from being stranded in a foreign port.

## **28 Emergency contact**

- (1) A recruitment service provider must ensure that the recruitment service provider can be contacted at all times in an emergency.  
Penalty: 50 penalty units.
- (2) A person is liable to a civil penalty if the person contravenes subsection (1).  
Civil penalty: 50 penalty units.

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## 29 Complaints

- (1) A recruitment service provider must investigate any complaint about the recruitment service provider's activities and tell AMSA if a complaint is unresolved.  
Penalty: 50 penalty units.
- (2) A person is liable to a civil penalty if the person contravenes subsection (1).  
Civil penalty: 50 penalty units.

## 30 Insurance

- (1) A recruitment service provider must ensure that it has in place insurance to compensate a seafarer for any monetary loss the seafarer incurs, caused by the service provider failing to meet a legal obligation to the seafarer.  
Penalty: 50 penalty units.
- (2) A person is liable to a civil penalty if the person contravenes subsection (1).  
Civil penalty: 50 penalty units.

## Division 5 Complaints

### 31 On board complaints procedure

- (1) The owner of a vessel must ensure that the vessel has an on board procedure for a seafarer to make a complaint alleging a breach of this Order.
- (2) The complaint procedure must:
  - (a) be fair, effective, well documented and expeditious; and
  - (b) seek initially to resolve complaints at the lowest possible level; and
  - (c) give the seafarer the right:
    - (i) to complain directly to the master; and
    - (ii) to get assistance from another person, including an official or delegate of a seafarers' representative organisation; and
    - (iii) to be accompanied or represented throughout the complaint procedures; and
  - (d) have contact information for:
    - (i) AMSA; and
    - (ii) the maritime administration in the seafarers' country of residence; and
    - (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 complaint procedure; and
  - (e) ensure that the confidentiality of the seafarer's complaint is maintained.

### 32 Copy of procedure

The owner of a vessel must ensure that a copy of the on board complaint procedure is available to seafarers on board the vessel.

### 33 Making the complaint

- (1) A person making a complaint on board the vessel must be able to give the complaint to any of the following:
  - (a) the seafarer's superior officer;

- (b) the head of the seafarer's department;
  - (c) the master of the vessel;
  - (d) the owner of the vessel or the owner's representative.
- (2) A seafarer or any other person who has an interest in the matter must also be able to file the complaint with any of the following:
- (a) AMSA;
  - (b) the maritime administration of the country in which the vessel is located;
  - (c) any person who may have an interest in the seafarers' health and wellbeing on board the vessel.

### **34 Procedure when complaint made**

- (1) 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 on board complaint procedure.
- (2) If the seafarer who made the complaint is not satisfied that the matter is resolved by the head of department or superior officer, the seafarer may give the complaint to the master.
- (3) If the master receives a complaint, he or she must deal with it him or herself in accordance with the on board complaint procedure.

### **35 On board support for seafarer**

- (1) The owner of a vessel must ensure that a person on board is nominated as a person who can:
  - (a) advise a seafarer on the complaint procedure available to him or her; and
  - (b) if requested by a representative — attend any meetings or hearings into the complaint.
- (2) A seafarer may be accompanied and represented at all times by a seafarer of his or her choice on board the vessel.
- (3) A person nominated under subsection (1) who has direct involvement in the complaint does not have to accompany the seafarer to a meeting or hearing.

### **36 Recording complaints**

- (1) The master of a vessel must ensure that details of a complaint that is made on board by a seafarer, and any outcomes, are recorded, but not in the official log book.
- (2) The details must include:
  - (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 on-board 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; and
  - (f) if the matter has been referred ashore — to whom it was referred.



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### **37 No adverse action**

- (1) A person must not take adverse action against a seafarer in response to the seafarer making a complaint.
- (2) Subsection (1) does not affect the right of a person to take action on a vexatious or malicious complaint.

### **38 Referring a complaint to shore**

- (1) If a complaint is not resolved on board the vessel, the master of the vessel must refer it ashore, within the earlier of 7 days or arrival at the next port, to:
  - (a) the vessel owner; or
  - (b) AMSA; or
  - (c) a representative of the seafarer; or
  - (d) the maritime administration of the country in which the vessel is located.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) The seafarer may also take action under the *Fair Work Act 2009* if it applies to the complaint.

### **39 Reporting Maritime Labour Convention breach**

- (1) A seafarer who alleges a breach of the Maritime Labour Convention may report the breach to AMSA to facilitate a prompt and practical means of redress.
- (2) If AMSA receives a report under subsection (1), AMSA must take the following steps:
  - (a) find out if the on-board complaints system has been used;
  - (b) if appropriate — tell the seafarer that the on-board complaints system should be used;
  - (c) if it has been used — examine the records of the matter;
  - (d) consider whether the complaint affects:
    - (i) all seafarers, or a category of seafarers, on the vessel; or
    - (ii) an individual seafarer;
  - (e) try to resolve the matter at a shipboard level.
- (3) AMSA may also consider a more detailed inspection of the vessel including matters other than those mentioned in Appendix A5-III to the Maritime Labour Convention.

### **40 Complaints not resolved on-board**

- (1) If AMSA receives a complaint from a foreign vessel and cannot resolve the complaint at a shipboard level, AMSA must:
  - (a) tell the flag state administration of the vessel; and
  - (b) ask the flag state administration to provide a corrective plan of action within 7 days after being told.

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- (2) If the flag state administration tells AMSA that it will deal with the complaint, AMSA may cease its involvement with the complaint unless:
- (a) AMSA is not satisfied that the action taken will effectively resolve the complaint; or
  - (b) the flag state administration:
    - (i) does not reply within 7 days; or
    - (ii) tells AMSA that it will not deal with the complaint.
- (3) If AMSA receives a complaint from a regulated Australian vessel, AMSA must ensure that the steps mentioned in subsection 39(2) are completed.

#### **41 Complaint not resolved by AMSA**

If AMSA is not able to resolve the complaint, AMSA must:

- (a) make a report on the complaint and the actions to resolve it, including any response to the complaint from the competent authority of the flag State; and
- (b) give a copy of the report to:
  - (i) the Director General of the International Labour Organization; and
  - (ii) an organisation nominated by the seafarer;
  - (iii) an organisation nominated by the owner of the vessel.

#### **[16] After section 90**

*insert*

#### **90A Welfare agencies**

The master of a vessel must ensure that, if reasonably practicable, when the vessel is in port:

- (a) seafarers have permission to visit shore based welfare facilities; and
- (b) shore based welfare providers can visit seafarers on the vessel.

#### **[17] Paragraph 95(3)(b)**

*omit*

arrangements

*insert*

agreement

#### **[18] Subsection 103(2)**

*substitute*

- (2) The owner of a vessel must pay to AMSA the costs incurred by AMSA:
- (a) under subsection (1); or
  - (b) for repatriation of the seafarer to Australia by or on behalf of the country in which the vessel is registered.

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## Notes to Marine Order 11 (Living and working conditions on vessels) 2013

### Note 1

*Marine Order 11 (Living and working conditions on vessels) 2013* (in force under the *Navigation Act 2012*) as shown in this compilation comprises *Marine Order 11 (Living and working conditions on vessels) 2013* modified as indicated in the following tables.

#### Table of Orders

Year and number	Registration date	FRLI number	Commencement date	Saving or transitional provisions
Marine Order 11 (Living and working conditions on vessels) 2013 (MO 2013/4)	24 May 2013	F2013L00841	1 July 2013	–
Marine Order 2 (Australian International Shipping Register) 2013 (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
5.....	mod. 2013/2
7	mod. 2013/2
7A	mod.2013/2