



Australian Government

**Department of Infrastructure, Transport,
Regional Development and Local Government**

Australian Maritime Safety Authority



Navigation Act discussion paper

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Discussion paper

Re-write of the *Navigation Act 1912*

Purpose of Paper

1. The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government announced that a re-write of the *Navigation Act 1912* ('the *Navigation Act*') is being undertaken as part of the Government's maritime reform program in his speech to the National Shipping Industry Conference (NATSHIP) held in June 2009.
2. The *Navigation Act* is an outdated piece of legislation with many of its provisions having their origins in 19th century British shipping legislation and remaining largely unchanged for almost 100 years. The *Navigation Act* has its origins in the British Merchant Shipping Act 1854 and the subsequent Merchant Shipping Act 1894 which embodied most of the British law affecting shipping. These Acts covered a range of welfare and safety measures appropriate to the times to address the generally poor working conditions of seafarers and the high loss rate of both ships and lives.
3. This paper seeks stakeholder views on creating a new Act that will include the safety components existing in the *Navigation Act*, as part of the rewrite process. It identifies a range of issues currently under consideration and seeks stakeholder views on those issues.

Current Maritime Reform Issues

4. The rewrite of the *Navigation Act* and amendment of the Australian Maritime Safety Act 1990 will be the main vehicles for the necessary legislative amendments to implement the national regulator for commercial vessels. The States and the Northern Territory will be consulted through the Australian Maritime Group as the rewrite is progressed.
5. The House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government released a report 'Rebuilding Australia's Coastal Shipping Industry' on 20 October 2008. The report deals with coastal shipping policy which is currently regulated under Part VI of the *Navigation Act*. It is clear that coastal shipping is a key sector of the transport industry and a vital contributor to the national economy, given that Australia's international trade is dependent upon shipping. The Committee's recommendations covered a diverse range of fiscal, taxation, regulatory, immigration, defence, employment and training, environment and scientific research issues. A Government response to the recommendations is under consideration in the broader context of possible options to revitalise the Australian shipping industry. Accordingly, these issues are not discussed further in this consultation paper.
6. The Minister for Infrastructure, Transport, Regional Development and Local Government announced a review of the offence and penalty provisions in marine environment legislation on 18 April 2010. The review will look at the offence and penalty provisions of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* and the *Navigation Act 1912* in conjunction with Environment legislation (*Great Barrier Reef Marine Park Act 1975* & *Environment Protection and Biodiversity Conservation Act 1999*). The outcomes of the review will be implemented in the rewrite process.

7. The International Labour Organisation (ILO) Maritime Labour Convention, 2006 (No. 186) (MLC) is expected to come into force in international law in late 2011, and will place new obligations on member states regarding the working conditions of seafarers on ships, and ensuring that those rights and principles are properly complied with and enforced by ILO member States. The *Navigation Act* is proposed to be the main legislative vehicle for implementing the MLC at the Commonwealth level. Amendments to the existing *Navigation Act* required to give effect to the MLC will need to be made prior to the rewrite being completed. These changes will be retained in the post rewrite legislation package.

Reforming the Navigation Act

8. The *Navigation Act* is archaic and overdue for a rewrite. There is a need for the *Navigation Act* to be modernised to allow more flexibility for business. To cater for the current maritime industry environment the provisions of *Navigation Act* should be restructured around the objective of creating a modern framework for maritime safety and marine environment regulation. Provisions relating to commercial shipping arrangements and other economic regulation should be retained in a slimmer *Navigation Act* or moved to other legislation.
9. The current objectives of the rewrite are to:
- recast the Act in modern plain language;
 - reflect contemporary conditions and practices of the shipping industry;
 - remove unnecessary and out-dated provisions;
 - enhance ship safety and protection of the marine environment;
 - introduce greater flexibility to allow regulation to remain contemporary with national and international standards; and
 - provide confidence and certainty for industry.
10. Other problems that have been identified with the current regulatory framework include:
- the need to legislate national standards for smaller vessels not subject to international conventions;
 - outdated offence provisions which make it difficult to prosecute offences;
 - changes to corporate structures in the shipping industry which affect accountabilities and responsibilities;
 - uncertain operational interface between the Act and the Seafarers Rehabilitation and Compensation Act 1992, the Occupational Health and Safety (Maritime Industry) Act 1992 and the Offshore Petroleum and Greenhouse Gas Storage Act 2006; and
 - AMSA's limited jurisdiction to inspect vessels servicing the offshore industry in Australian waters.
- Q1. *Are these objectives appropriate? Should the rewrite seek to meet any other objectives?***

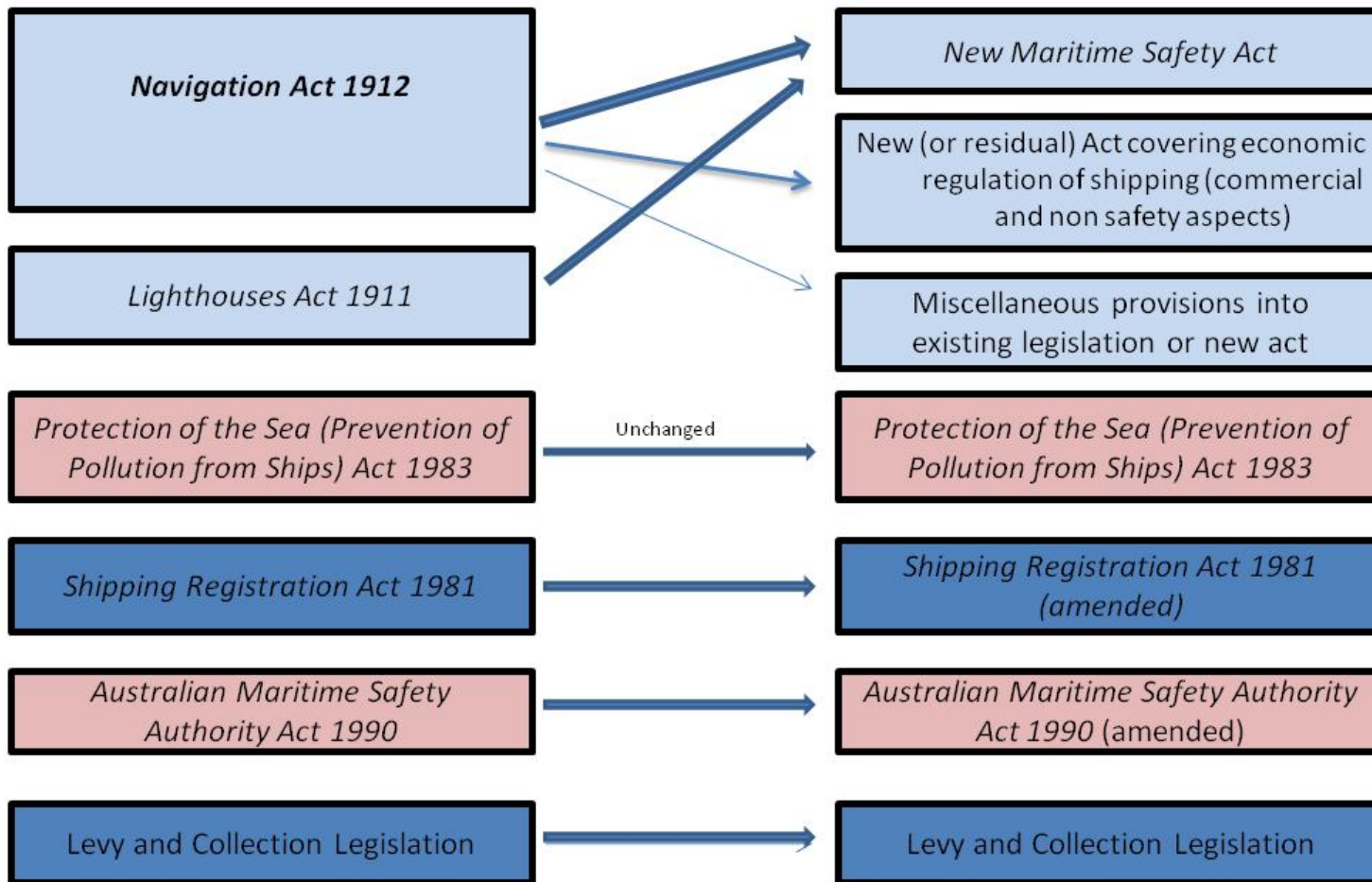
Possible structure of the legislation package

11. It is not intended that the re-write of the Act be used as a vehicle for substantive change to the current regulatory requirements, which are essentially based on standards in international conventions as adopted by Australia or on the National Standard for Commercial vessels. Rather, the re-write will focus on modernising and clarifying the current regulatory framework, with changes being predominantly of a technical nature.
 12. Following consideration of a range of options, the preferred approach is to create a new *Maritime Safety Act*, which would incorporate the *Lighthouses Act 1911* and retain provisions of the current Act relating to ship and seafarer safety, wreck and salvage and ship certification and survey under the MARPOL marine environmental protection convention.
 13. Major reforms to the *Shipping Registration Act 1981* are not proposed as part of this process although some suggested reforms to the *Shipping Registration Act* are likely to proceed including giving AMSA discretionary powers to exempt certain vessels from registration or to refuse registration of unsafe vessels.
 14. The chart on the next page summarises the possible overall legislative approach.
- Q2. *What are your views on this approach? Are there other approaches that could more effectively achieve the objectives of the rewrite process?***

Legislation Regime

current

potential



Operation of the new legislation

15. Once the structure of the new legislation is settled, it will be necessary to consider how any new primary legislation will operate, and the role of subordinate legislation under the new approach.
16. In the approach currently under consideration, the new primary legislation would focus on the broad principles and performance outcomes that the legislation is expected to achieve and allow for regulations and marine orders to be made as subordinate legislation. The principal offences and penalties would be set out in the primary Act, with the detailed standards and industry codes prescribed in subordinate legislation. This would mean the marine orders would provide the details of the international and national standards applied by the Act, which would facilitate timely amendments being made to those standards to reflect changes at the international and national level.
17. The Act would be reorganised into six specific parts along the structure set out below (a more detailed indicative outline of the Act is provided at [Appendix A](#)):

Part	<i>Summary of Contents</i>
I	<i>General</i> objectives, application, interpretation, regulation/marine order making power
II	<i>Ship and Seafarer safety</i> ship inspection and survey, ship certification and documentation, ship standards and operations, passenger and cargo operations, safety of seafarers, pilotage and safe navigation, drugs and alcohol
III	<i>Wrecks and salvage</i>
IV	<i>Marine Aids to Navigation</i> incorporating the <i>Lighthouse Act 1911</i>
V	<i>Enforcement</i> detention, improvement and prohibition notices, civil penalties, enforcement powers
VI	<i>Miscellaneous</i> review of decisions, exemption powers, transitional arrangements

18. Consideration is also being given to the appropriate structure of the marine orders. The Orders might be restructured so that they are linked more closely to the international conventions. New Orders might be introduced to regulate the small commercial vessels sector based on the National Standard for Commercial Vessels. A full list of the current marine orders is provided at [Appendix B](#).

- Q3. What are your views on the proposed structure? Should we consider any other approaches?**
- Q4. Are there any other issues that you think need to be covered in a Maritime Safety Act?**

The use of marine orders

19. As indicated above, marine orders would retain a significant role under this legislative structure. They were introduced in the 1980s to improve the responsiveness to changes in regulations needed to implement changing requirements of national and international standards. The marine order mechanism has made it possible to implement the high frequency of amendments reflecting the fast pace of technological change and improving standards.
20. The Australian Maritime Safety Authority (AMSA) has an extensive consultation process in developing marine orders whereby it obtains comments from industry and other stakeholders in respect of proposed changes well in advance of their implementation. The Office of Best Practice Regulation is also consulted during this process to determine the need for a Regulation Impact Statement (where there might be a significant regulatory burden on industry).
21. Marine orders are disallowable instruments made by the CEO of AMSA. Since the development of the *Legislative Instruments Act 2003* and the Federal Register of Legislative Instruments a number of years ago, the transparency of the marine orders process has been enhanced. All marine orders are now registered on the Federal Register of Legislative Instruments and are published on the Comlaw website.
22. Marine orders are tabled in both Houses of Parliament and any Member of Parliament can raise a disallowance motion if there are concerns with the content or application of the order thus ensuring that the orders receive appropriate parliamentary scrutiny.
- Q5. What are your views on the maintenance of the role of marine orders in the new regulatory framework? Are current processes for developing marine orders adequate?**

Implementation of the national maritime safety regulator in the new Act

23. The new Act is intended to provide the main legislative vehicle for implementing the national maritime safety regulator being developed by COAG. Many of the required changes were outlined in the regulation impact statement on the national system provided for comment previously in 2009. This will require a new section to be added to define the application of the Act to all commercial vessels in Australia irrespective of their voyage pattern. Non-convention vessels (vessels not covered under Australia's international maritime obligations) will be required to comply with the National Standard for Commercial Vessels.

24. What is the National Standard for Commercial Vessels?

The Australian maritime sector is currently regulated by eight separate government agencies belonging to the Commonwealth, States and the Northern Territory each with different legislation in place. This federal system poses challenges if we are to achieve our goal of the seamless movement of vessels and their personnel around Australia. The National Maritime Safety Committee (NMSC) has been working to establish a single agreed benchmark of marine safety for Australia. NMSC liaises on a regular basis with Maritime and Marine Industry Groups, Commonwealth and State marine safety agencies, professional associations, unions and the wider community. The National Standard for Commercial Vessels (NSCV) is the principal technical standard for commercial vessels and will replace the Uniform Shipping Laws Code. It provides a common national standard for the design, construction, crewing and operation of vessels. The NSCV has been developed progressively and work continues to complete the standard.

- 25 A key component of the implementation of a single national system for maritime safety regulation involves the introduction of a national register for all commercial vessels. This could potentially be implemented through changes to the *Shipping Registration Act 1981* (SR Act).
- 26 Currently there is little consistency in the state and NT requirements regarding the registration of commercial vessels and it is therefore not possible to comprehensively analyse national data with a view to monitoring safety and compliance with standards.
- 27 In order to achieve these aims it might be appropriate to require all commercial vessels to be registered for the purposes of recording ownership, operator and vessel details, incident, inspection and survey history, and to provide better, nationally-accessible data to support improved compliance monitoring.
- 28 Changes to the SR Act could include inserting a definition of 'commercial vessels' by reference to the definition in the proposed Marine Safety Act; expressly excluding commercial vessels from the current exemption from registration of ships less than 24 metres in tonnage length and introducing different application requirements in respect of different classes of vessels to ensure relevant information in respect of commercial vessels is captured on the register. Not all 'new' vessels (those commercial vessels falling within the national regulator regime) might be subject to registration requirements, but it will be important that all vessels covered by the regulation can be identified.
- 29 It is not intended that foreign flagged vessels undertaking commercial activities in Australian waters will be required to be registered.
- Q6. Is the proposed approach for implementing a national regulator appropriate?**
- Q7. What are the practicalities around registering all commercial vessels operating in Australia?**

Extended Jurisdiction

30 It would be intended that the new Act would seek to address existing gaps in coverage of certain shipping operations in Australian waters. For example, vessels that do not come into a mainland port but engage in activities which do not constitute an exercise of innocent passage through Australia's territorial waters, may become subject to the jurisdiction of the new Act by redefining the term "port" to include offshore installations in Australian waters.

31 These include:

- ships moving through Australia's territorial sea and/or EEZ for the purpose of loading or unloading at a roadstead or other less well identified off-shore loading point;
- ships moving through Australia's territorial sea and/or EEZ for the purpose of engaging in a ship to ship transfer; and
- ships which operate as or in conjunction with a petroleum installation within Australia's territorial sea or EEZ.

There are circumstances where it is appropriate to clarify that the *Navigation Act* provides sufficient jurisdictional reach for enforcement purposes. The Department and AMSA will explore legislative options to address safety and environment protection issues to the full extent of its jurisdiction.

Q8. Are there any additional jurisdictional gaps that need addressing in the Act?

Offence provisions

32 The current offence provisions in the *Navigation Act* have created some enforcement difficulties. The issues have been two-fold. Firstly, when an illegal discharge or safety contravention is committed on a vessel, the circumstances of the offence are likely to be wholly or almost wholly within the knowledge of the defendant. This difficulty has been exacerbated by the outdated offence provisions in the Act, which often require the prosecution to make out multiple intent based actions in order for the defendant to be found guilty of the offence.

33 Secondly, it is recognised that both the strict liability and the ordinary penalties are inadequate to encourage unscrupulous operators in the shipping industry to comply with safety and environment protection legislation. AMSA and the States and Territories have indicated that the current strict liability penalty provisions in marine pollution legislation have lagged behind the State and Territory equivalents.

34 The creation of civil penalty provisions based on strict liability offences may be an option to address these issues. The model currently under consideration for the maritime offence provisions is similar to the approach in the *Environment Protection and Biodiversity Conservation Act*, and would have a choice of criminal and civil penalties for each offence.

Q9. What are your views on the creation of civil penalty provisions? What safeguards should be built into the use of those provisions?

Enforcement powers

- 35 The Department and AMSA are also exploring options to introduce or enhance powers for AMSA to:
- issue defect notices or infringement notices for minor offences or deficiencies and for clear and undisputed offences;
 - accept binding undertakings from individuals and organisations;
 - extend detention powers in relation to vessels with deficiencies, including where not all required certificates are present and valid;
 - order a ship to proceed to a port, or not enter a port or specified waters, or to comply with specified requirements while in or near a port or specified waters, where AMSA has reason to believe a ship is not compliant with the regulations and it is necessary or expedient to ensure safety or to protect the environment;
 - undertake investigations, reviews and reports where AMSA has reason to believe that conditions aboard a ship may result in a diminution of the ship's safety management system; and
 - revoke, alter or suspend crew or ship certificates.
- 36 These powers in relation to safety regulation are consistent with powers extended to authorities such as the Civil Aviation Safety Authority, the National Offshore Petroleum Safety Authority and authorities operating under Occupational Health and Safety legislation.

Q10. *What are your views on the proposed increased powers of AMSA as detailed above? Should AMSA have more enforcement powers?*

Wreck and Salvage

- 37 Currently the *Navigation Act* grants AMSA the power to remove or order removal of both historic and non-historic wrecks. The power to remove historic wrecks is limited to circumstances involving preservation of human life, securing safe navigation of ships and dealing with an emergency involving a serious threat to the environment. There is no limitation on the circumstances in which AMSA can deal with wreck removal of a non-historic wreck, however in practice AMSA limits orders to remove a wreck to those circumstances specified for historic wrecks.
- 38 The new Act will clarify that AMSA's power is limited to order or undertake removal of both ordinary and historic wrecks to reflect the legislation's safety and environmental protection objectives.
- 39 Other alterations to the current provisions under consideration include:
- immunity from liability for damage caused by AMSA conducting wreck removal;
 - the creation of an offence for people boarding a stranded or wrecked vessel;
 - the creation of an offence for concealing, altering or destroying identification markings of a wrecked vessel;
 - a power to require the owner to mark a wreck as well as to remove a wreck and to require the owner to provide security for the marking as well as removal;
 - a power to impose conditions in any notice to the owner to remove or mark a wreck;

- a power to mark, remove, destroy or sink a wreck:
 - immediately if necessary for the purpose of saving human life, securing the safe navigation of ships, or protecting the marine environment;
 - where an owner can not be identified, or contacted;
 - if an owner refuses to co-operate by removing the wreck in the specified time.
- a power to remove the wreck to any location;
- make clear that the Authority may recover as a debt against an owner any expenses incurred by it in connection with the marking, removal, destruction or sinking and including the circumstances where the sale of a wreck does not cover the Authority's expenses and include detention power to compel security or unpaid costs/expenses;
- a power in relation to a wreck (that includes a ship that is wrecked, stranded, sunk, or abandoned as per definition),
 - the Authority has the right to access any wreck which may include traversing any land; and
 - the Authority may require, or prohibit, the doing of any act or thing by any person including the provision of equipment and machinery, facilities, or ship to provide assistance to the Authority in the exercise of its powers (subject to the payment of just compensation for damage caused or property used or acquired).
- an obligation for reporting a wreck; and
- clarification of the definition of wreck.

40 The proposed amendments are consistent with the Nairobi International Convention on the Removal of Wrecks, 2007.

Q11. What are your views on the additional wreck and salvage provisions detailed above? Can you identify any practical issues or concerns in relation to these provisions?

Lighthouses and aids to navigation

41 It is currently proposed to absorb the *Lighthouses Act 1911* into the new *Maritime Safety Act*. The provisions would be updated to reflect the guidelines of the International Association of Lighthouse Agencies and the International Maritime Organization. The main amendments under consideration are to:

- change the definitions to cover modern technology for navigation aids;
- define AMSA's powers in relation to navigation aids, including the power to gather information on new navigation aids which have been commissioned and aids that are to be decommissioned;
- introduce a requirement for audit of aids to navigation systems operated by any state or territory, port authority or other body, consistent with the IALA Guidelines on auditing navigational aids;
- include provisions for the creation and promulgation of charts as navigation aids; and
- modernise offence provisions relating to interference with a navigation aid.

Q12. Do you have any concerns about the amendments detailed above?

The Maritime Labour Convention, 2006 (No. 186)

42 The MLC sets minimum requirements for seafarers to work on a ship and contains provisions on conditions of employment, hours of work and rest, accommodation, recreational facilities, food and catering, occupational health and safety protection, medical care, welfare and social security protection. Compliance is secured through formalised inspection and certification compliance procedures, shipowners' and shipmasters' supervision of conditions on ships, flag state jurisdiction and control over local ships, and port state inspection of foreign ships.

43 The *Navigation Act* is the main legislative vehicle for implementing the MLC at the Commonwealth level. The Department is seeking to introduce legislative amendments to the *Navigation Act* in 2010 that will ensure Commonwealth compliance with the MLC. As such the MLC, and the obligations that it places on nations, is an important framework e consideration to keep in mind when pursuing any future legislative maritime reforms.

Q13. *In addition to the obligations placed on member states under the MLC, are there any other issues relevant to Australia's ongoing compliance with the MLC that should be taken into account in the rewrite of the Navigation Act?*

Employment provisions in Part II

44 Amendments to the *Navigation Act* to ensure compliance with the MLC may necessitate retaining some of the current Part II employment provisions (either in the residual *Navigation Act* or in an alternate legislative vehicle).

Q14. *Should employment matters under Part II of the Navigation Act, 1912 be removed to the new Maritime Safety Act or remain in the existing Act?*

Interface between the Act and workers compensation and OH&S legislation

45 OH&S legislation is currently the subject of a separate COAG reform process. In light of the proposed change to the jurisdiction of the *Navigation Act*, the Department of Education, Employment and Workplace Relations is currently considering the changes that may be desirable for the application provisions of the *Seafarers Rehabilitation and Compensation Act 1992* and the *Occupational Health and Safety (Maritime Industry) Act 1993*. One possible approach is that the application provisions would no longer refer to the *Navigation Act* for the purpose of defining the coverage of the Seacare scheme.

Q15. *What is your preferred approach for defining jurisdictional coverage for workers compensation and occupational health and safety purposes?*

Interface with the Offshore Petroleum and Greenhouse Gas Storage Act

- 46 Ship-like facilities are subject to one of two safety legislative regimes depending on their current mode of operation. The National Offshore Petroleum Safety Authority (NOPSA) administers Schedule 3 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGSA), in State and Commonwealth waters. Schedule 3 of the OPGGSA applies to facilities from the time they arrive at an offshore site to the time they leave the site.
- The Australian Maritime Safety Authority (AMSA) is responsible for ship safety, marine environment protection and marine and aviation search and rescue, including an OHS inspectorate role in the maritime industry, through the *Navigation Act* and the *Occupational Health and Safety (Maritime Industry) Act 1993*. This applies to Australian registered ships and, to a degree, foreign registered ships when in a ‘navigable form’.
 - The OPGGSA and its interface with the *Navigation Act* is currently being considered as part of the Government’s response to the Productivity Commission’s *Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector* and the Offshore Petroleum Safety Regulation Inquiry. The Department of Resources, Energy and Tourism is considering the recommendations of the two reports.
- 47 The OPGGSA dis-applies the *Navigation Act* and the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI)) from the time when an offshore vessel, for example an accommodation vessel, attaches to the seabed. This has created potential difficulties for those regulated by the two safety regimes, owing to uncertainty as to when the *Navigation Act* is dis-applied and re-applied. Government portfolios including AMSA, NOPSA, the Department of Infrastructure, Transport, Regional Development and Local Government, the Department of Resources, Energy and Tourism and the Department of Education, Employment and Workplace Relations, are working on options for addressing any unintended consequences resulting from the disapplication, noting current processes underway to create a single national maritime jurisdiction and to re-write the *Navigation Act*.
- 48 Concerns have been raised over whether AMSA has adequate statutory powers to ensure that where a vessel has become a “facility”, it will again meet the safety and environmental standards under the *Navigation Act*, and international maritime conventions when it reverts to its navigable form.
- 49 Furthermore, under the current provisions of the *Navigation Act*, AMSA does not have jurisdiction to inspect offshore industry vessels unless they are on an interstate or international voyage, or if there is a section 8A declaration in place. This includes towage vessels, anchor handling vessels, cargo/water supply vessels.
- Q16. Can you detail your preferred approach to deal with any concerns or issues in relation to the above?**
- Q17. Are there any other concerns stakeholders may have relating to the interface between the *Navigation Act*, the *Occupational Health and Safety (Maritime Industry) Act* and the *Offshore Petroleum and Greenhouse Gas Storage Act*?**

Next Steps

50 The Department and AMSA are seeking comments on the proposed approach by 30 July 2010.



Indicative Table of Contents Maritime Safety Act

Part 1 General

- *Objectives of Act including:*
 - *the safe operation of commercial vessels*
 - *the harmonisation and consolidation of Australia's regulation of commercial vessels*
 - *to enable the effectiveness and efficiency of the national maritime industry*
 - *to provide for investigation of marine incidents and appropriate action following any such investigation*
- *Application - Remove voyage based application*
- *Interpretation – insert definition for commercial vessel and consequential removal of definitions of trading ship and pleasure craft*
- *Regulation/Marine Order making powers for Act (including Conventions,, Protocols and resolutions)*

Part II Ship and Seafarer Safety

Division 1 General

- *Objects of Part II*
- *Application of Part II*
- *Regulation/Marine Order making powers for Part II*
- *Interpretation*

Division 2 Ship inspection and survey

- *Objects of Division 2*

Powers of the Authority

- *Power to appoint surveyors*
- *Power to inspect, produce documents, and issue directions*

- *Power to inspect ships exempt from survey*

Duties/Obligations

- *Obligation for ship to be available for inspection*
- *Obligation for ships, excepting exempt ships, to be surveyed in accordance with Act/Regulations/Marine Orders*

Division 3 Ship Certification and Documentation

- *Objects of Division 3*

Powers of the Authority and others

- *Power to issue, endorse etc prescribed ship certificates and other documentation*
- *Power to delegate the issue of prescribed ship certificates and other documentation*
- *Power to suspend, cancel and otherwise deal with prescribed ship certificates and other documentation*
- *Power by Customs to refuse to grant clearance and detain if relevant statutory certificates and/or documentation is not produced*

Obligations/Duties

- *Obligation not to take a ship to sea without prescribed ship certificates and documentation*
- *Obligation not to take a ship to sea while detained by Customs*
- *Obligation not to take a foreign ship to sea without relevant documentation*
- *Obligation (or duty) for ship certificates and documentation to be made available for examination to any person on board*

Division 4 Ship Standards and Operations

- *Objects of Division 4*

Powers of the Authority

- *+Power to issue directions to ships, including foreign ships*

Duties/Obligations

- *Obligation not to take an unseaworthy ship to sea*
- *Duty is to ensure ship is properly equipped*
- *Obligation to maintain ship and equipment in accordance with ship certificates and documentation*
- *Obligation to comply with exemption conditions*
- *Obligation to give notice of alteration, damage, etc*
- *Obligations with respect to marks – subdivision load line and other*
- *Obligations with respect to musters, drills and tests of machinery and equipment*

- *Obligation by foreign ship to comply with a direction of the Authority*

Division 5 Passenger and Cargo Operations

- *Objects of Division 5*

Powers of the Authority

- *Power to issue direction concerning the carriage of passengers and cargo*

Duties/Obligations

- *Obligation to comply with a direction of the Authority*
- *Obligation not to overload the ship*
- *Duty to ensure appropriate precautions are taken concerning the carriage, etc of cargo*
- *Obligations concerning the description of dangerous goods*
- *Obligation to notify intention to ship dangerous goods*

Division 6 Safety of Seafarers

- *Objects of Division 6*

Powers of the Authority

- *Power to specify minimum complement of crew, etc*

Duties/Obligations

QUALIFICATIONS

- *Duty to ensure ship operates with adequate number of qualified crew, etc*
- *Duty to ensure crew are adequately qualified and/or trained*
- *Obligation not to perform duties of master, officer or seaman if unqualified (or not medically fit)*

SAFE WORKING CONDITIONS

- *Duty to prevent fatigue*
- *Duty to ensure work on board ship is carried out in a safe manner*

PERSONAL SECURITY

- *Duty to ensure crew is not left behind*

HEALTH

- *Duty to ensure ship operates with crew that are medically fit*
- *Duty to ensure adequate medical supplies is carried on board*
- *Duty to ensure adequate first-aid, medical and dental care is available*

- *Duty to provide adequate provisions, catering, etc*

Division 7 Pilotage and Safe Navigation

- *Objects of Division 7*

Power of Authority

- *Power to exempt from requirement to navigate with a licensed pilot.*

Duties/Obligations

PILOTAGE

- *Obligation to navigate with a licensed pilot*
- *Obligation to comply with exemption conditions concerning navigating with a licensed pilot*
- *Obligation not to perform duties of licensed pilot if unqualified*

SAFE NAVIGATION

- *Duty to ensure the safe navigation of ship*
- *Obligation to comply with collision regulations*
- *Obligation with respect to careful navigation near ice*
- *Obligation by passenger, or any person, not to interfere with ship or machinery*
- *Obligation by passenger, or any person, not to enter ship, etc without master's permission*

RENDERING ASSISTANCE

- *Obligation to render assistance*

REPORTING OF ACCIDENTS

- *Obligation to report accidents*

Division 8 Drugs and Alcohol

- *Objects of Division 8*

Powers of the Authority

Duties/Obligations

- *Obligation to carry out duties as a master, seafarer, etc without impairment*
- *Obligation regarding blood alcohol content and drug use*
- *Obligation to undergo examination or provide samples*
- *Obligation not to consume alcohol before undergoing examination, etc*
- *Obligation not to permit or require performance of duties by person impaired*

DRAFT

Part III Wrecks and Salvage

Division 1 General

- *Objects of Part III*
- *Application of Part III*
- *Regulation/Marine Order making powers for Part III*
- *Interpretation*

Division 2 Wrecks

- *Objects of Division 2*

Powers of the Authority

- *Power to deal with wreck, etc*
- *Power to detain to recover expenses of the Authority*
- *Power to pass over land and issue direction to require assistance, etc*

Duties/Obligations

NOTIFICATION

- *Obligation to notify Authority in circumstances of wreck, etc*
- *Obligation to notify Authority in circumstances of finding or taking possession of wreck*

COMPLIANCE WITH DIRECTION

- *Obligation to comply with a direction of the Authority*

IMPEDING OR HINDERING

- *Obligation not to impede or hinder the exercise of the Authority' power, etc*
- *Obligation not to deface, etc any marks of identification*

Division 2 Salvage

- *Objects of Division 2*

Claims involving the Crown

- *Salvage claims by the Crown*
- *Salvage claims against the Crown*

Part IV Marine Aids to Navigation

- *Objects of Part IV*
- *Application of Part IV*
- *Regulation/Marine Order making powers for Part IV*
- *Interpretation*

Powers of the Authority

- *Power to acquire marine aid to navigation, etc*
- *Power to acquire marine aid to navigation by compulsory process*
- *Power to establish and maintain marine aid to navigation*
- *Powers of inspection and maintenance*
- *Power to issue notice in relation to marine aid to navigation, etc operated by third party*

Duties/Obligation

- *Obligation by operator or marine aid to navigation, etc to inform the Authority of certain matters*
- *Obligation to comply with notice issued by the Authority*
- *Obligation not to damage or destroy marine aid to navigation*
- *Obligation to notify Authority of damage to marine aid to navigation*

Other

- *Transfer of marine aid to navigation to be valid and effectual*
- *Liability for expenses of Authority to repair or replace in event of damage or destruction*

Part V Enforcement

- *Objects of Part V*
- *Interpretation*

Division 1 Detention

POWER OF THE AUTHORITY TO DETAIN

- *Power to detain ship (unseaworthy, substandard)*
- *Power to detain (incorrectly marked)*
- *Power to detain (operator of radio installations)*
- *Power to detain ship (ship and equipment does not correspond substantially to certification or documentation)*
- *Power to detain (certificates and other documentation cancelled)*
- *Power to detain (contravention of Act/Marine Orders)*

COSTS

- *Cost of detention*
- *Security for costs*
- *Circumstances where complainant is liable for costs of detention*

OBLIGATION TO COMPLY

- *Obligation to comply with detention order*

Division 2 Improvement and Prohibition Notices

IMPROVEMENT NOTICES

- *Power by Authority to issue improvement notices*
- *Obligation to comply with improvement notice*

PROHIBITION NOTICES

- *Power by Authority to issue improvement notices*
- *Obligation to comply with improvement notice*

Division 3 Civil Penalties

- *Power by Authority to apply to Federal Court for an order*
- *Matters the Federal Court must have regard to in making order*
- *Consequences of two or more contraventions under the Act, etc*
- *Enforcement of Federal Court Order*
- *Authority may recover by negotiation a civil penalty*

Division 4 Enforcement Powers of the Authority

- *Power of the Authority to search, etc*

Division 5 Matters relevant to legal proceedings

EVIDENCE AND SERVICE

- *Production of dispositions*
- *Proof of certificates and other documents*
- *Evidence as to execution*
- *Admissibility of documents in evidence*
- *Evidence in proceedings*
- *Service of summons and notices*

PENALTIES AND OFFENCES

- *Application of penalties and moneys*
- *Beneficial owners subject to pecuniary penalties*
- *Penalties in Marine Orders*
- *Application of 19B of the Crimes Act 1914*

IMMUNITIES

- *No civil action against an official, etc*
- *No civil action against pilot or pilotage provider*

MISCELLANEOUS

- *Proceedings against corporations*
- *Presumption of jurisdiction*

Part VI Miscellaneous

- *Objects of Part VI*
- *Interpretation*

Division 1 Review of Decisions

- *Internal Review*
- *Application to Administrative Appeal Tribunal*

Division 2 Exemption Powers

Division 3 Transitional Arrangements

Marine Orders currently in force @ 11 May 2010

Note: Some superseded Marine Orders are included for reference purposes only. Such superseded Marine Orders may still be relevant where an exemption, approval or a provision may apply in particular circumstances.

Part	Title
	<u>MISCELLANEOUS AMENDMENTS</u>
1	<u>INCIDENTAL MARINE ORDER</u>
3	<u>SEAGOING QUALIFICATIONS (compilation)</u>
6	<u>MARINE RADIO QUALIFICATIONS</u>
9	<u>HEALTH - MEDICAL FITNESS</u>
10	<u>MEDICAL FIRST AID ON SHIPS</u>
11	<u>SUBSTANDARD SHIPS</u>
12	<u>CONSTRUCTION - SUBDIVISION AND STABILITY , MACHINERY AND ELECTRICAL INSTALLATIONS</u>
14	<u>ACCOMMODATION (Compilation)</u>
15	<u>CONSTRUCTION - FIRE PROTECTION, FIRE DETECTION AND FIRE EXTINCTION</u>
16	<u>LOAD LINES (Compilation)</u>
17	<u>LIQUEFIED GAS CARRIERS AND CHEMICAL TANKERS (Compilation)</u>
18	<u>MEASURES TO ENHANCE MARITIME SAFETY</u>
19	<u>TONNAGE MEASUREMENT</u>
21	<u>SAFETY OF NAVIGATION AND EMERGENCY PROCEDURES</u>
23	<u>EQUIPMENT - MISCELLANEOUS AND SAFETY MEASUREMENTS - Superseded*</u> Superseded by Part 21, Issue 4
25	<u>EQUIPMENT - LIFE SAVING</u>
26	<u>NON-GMDSS RADIO EQUIPMENT - Superseded*</u> Superseded by Part 27, Issue 2
27	<u>RADIO EQUIPMENT</u>
28	<u>OPERATIONS STANDARDS AND PROCEDURES (Compilation)</u>
29	<u>EMERGENCY PROCEDURES & SAFETY MEASURES - Superseded *</u> Superseded by Part 21, Issue 4
30	<u>PREVENTION OF COLLISIONS</u>

31	<u>SHIP SURVEYS AND CERTIFICATION (Compilation)</u>
32	<u>CARGO HANDLING EQUIPMENT (Compilation)</u>
33	<u>CARGO AND CARGO HANDLING - GRAIN</u>
34	<u>SOLID BULK CARGOES (Compilation)</u>
35	<u>ADDITIONAL SAFETY MEASURES FOR BULK CARRIERS (Compilation)</u>
41	<u>CARRIAGE OF DANGEROUS GOODS</u>
42	<u>CARGO STOWAGE AND SECURING</u>
43	<u>CARGO & CARGO HANDLING - LIVESTOCK</u>
44	<u>SAFE CONTAINERS</u>
47	<u>MOBILE OFFSHORE DRILLING UNITS (Compilation)</u>
49	<u>HIGH-SPEED CRAFT</u>
50	<u>SPECIAL PURPOSE SHIPS</u>
51	<u>FISHING VESSELS</u>
52	<u>SAILING SHIPS (Compilation)</u>
53	<u>EMPLOYMENT OF CREWS</u>
54	<u>COASTAL PILOTAGE</u>
55	<u>PUBLICATION OF INSPECTION DATA</u>
56	<u>REEFREP</u>
57	<u>HELICOPTER OPERATIONS</u>
58	<u>INTERNATIONAL SAFETY MANAGEMENT CODE (Compilation)</u>
59	<u>OFFSHORE SUPPORT VESSEL OPERATIONS</u>
60	<u>FLOATING OFFSHORE FACILITIES</u>
61	<u>SAFE WORKING ON BOARD SHIPS</u>
62	<u>COMMONWEALTH SHIPS</u>
63	<u>AUSREP</u>
91	<u>MARINE POLLUTION PREVENTION - OIL</u>
92	Marine Orders Part 92 Powers of Intervention - Noxious substances ceased to be in effect from 23 May 2006 by virtue of Item 98 of Schedule 1, Protection of the Sea (Powers of Intervention) Act No.44 of 2006.
93	<u>MARINE POLLUTION PREVENTION - NOXIOUS LIQUID SUBSTANCES</u>

94	<u>MARINE POLLUTION PREVENTION - PACKAGED HARMFUL SUBSTANCES</u>
95	<u>MARINE POLLUTION PREVENTION - GARBAGE</u>
96	<u>MARINE POLLUTION PREVENTION - SEWAGE</u>
97	<u>MARINE POLLUTION PREVENTION - AIR POLLUTION</u>
98	<u>MARINE POLLUTION - ANTI-FOULING SYSTEMS</u>