

**SENATE STANDING COMMITTEE ON
RURAL AND REGIONAL AFFAIRS AND TRANSPORT
Inquiry into the Performance of Australian Maritime Safety Authority**

Answers to questions taken on notice at the Committee hearing on 25 September 2019

Question (7 of 9):

Senator Brown:

You've got a couple of marine orders coming up, marine order 47 and 31. Are you able to provide to the Committee the information, reports, analysis that you took into account to come to your decision and consultation reports?

Answer:

Marine Order 47

The reviews of Marine Order 47 (Mobile Offshore Drilling Units) and Marine Order 60 (Floating offshore facilities) formally commenced in August 2018. However, discussions around the complexities of the offshore industry and the structure of the Marine Order have been ongoing for a number of years as part of AMSA's engagement with the Offshore Sector and regulating agencies.

Feedback received during these engagements was that the Orders no longer reflected industry operations, particularly with technological and international advances including new types of facilities (e.g. Shell Prelude FLNG and Ichthys). AMSA made a decision to review the Orders to ensure they still met the required safety outcomes. Marine Order 47 had not been reviewed since 2012 and Marine Order 60 since 2001.

The decision to combine both Orders was based on the existence of duplication across the two instruments and the operational synergies between Mobile Offshore Drilling Units (MODUs) in Marine Order 47 and floating offshore facilities such as Floating Production and Storage Offtake units (FPSOs) and Floating Storage Units (FSUs) in Marine Order 60. Both Orders were overdue for revision, given the operational advances in the industry, and changes to the treatment of offshore facilities under the Navigation Act 2012, as compared to the superseded Act. In this regard, aspects of the new Order that relate to floating offshore facilities are based on International Maritime Organization (IMO) instruments that provide for more appropriate arrangements for these vessels, as it is impractical to apply trading ship conventions to fixed assets. These arrangements apply the highest survey standards to all spaces of the vessel/s and resolves the serious issue of AMSA's lack of visibility as to the condition of these vessels while they are under NOPSEMA's (National Offshore Petroleum Safety and Environmental Management Authority) jurisdiction.

Following recommendations from the 2018 Senate enquiry into offshore health and safety, the new Order clarifies the transfer of jurisdiction from AMSA to NOPSEMA and vice versa, by stating the circumstances under which the Order applies (the 'application' provision). The new Order provides flexibility for operators and AMSA's Operations in

terms of the design, construction, survey and certification of these vessels, while meeting international treaty obligations. Operational matters are addressed under other existing marine orders, as for all other vessels, while offshore industry units are subject to the *Navigation Act 2012*.

Marine Order 31

Marine Order 62 (Government vessels) 2003 sets out requirements for compliance of government vessels to which the *Navigation Act 2012* applies. However, the current Marine Order 62 was issued under the *Navigation Act 1912* and was modified by Marine Order 4 (Transitional modifications) 2013 so that it can continue to remain in force after the *Navigation Act 1912* was repealed. For this reason, Marine Order 62 was due for review and reissue under the *Navigation Act 2012* in accordance with AMSA's Annual Regulatory Program. The review of Marine Order 62 commenced in August 2018.

In determining the scope of the review, operational issues and complexities were considered to ensure that a new Order would deliver the same or higher safety outcomes as the current legislation. Through AMSA's Flag Administration obligations, significant changes were identified in the way government vessels are owned and operated. In some cases a government owned vessel is operated by a commercial entity for the purpose of government business. In other cases a vessel owned and operated by a commercial entity is operating for government business, and in some other cases a vessel is owned by one commercial entity, operated by another but again operating on government business. Marine Order 62 had not been keeping pace with contemporary ownership and operation of government vessels. It was decided that government vessels, which are regulated Australian Vessels (RAV), should have to comply with the same regulations in Marine Order 31 as all RAV's.

It was therefore proposed to industry, through public consultation, to combine Marine Order 31 and Marine Order 62 into the one instrument and to repeal Marine Order 62.

Marine Order 31 sets out the requirements for survey, certification and maintenance of certification of vessels. It also provides reporting requirements to AMSA for defects on vessels and safe management and operation of vessels to which the International Safety Management (ISM) Code does not apply. Operational feedback was considered in the review of Marine Order 31 and it was determined that a number of provisions needed to be amended for clarity (e.g. requirements for dry-dock inspections of the bottom of passenger, cargo and fishing vessels under one heading created some confusion). It was further determined that clarification was needed on the application of some requirements to International Convention for Safety of Life at Sea (SOLAS) or non-SOLAS vessels to ensure the required safety outcome was achieved.

The review also captured recommendations from the Voluntary International Maritime Organization Audit of AMSA that recommended more clarity be provided regarding nuclear powered vessels as laid down in the SOLAS Convention.

In relation to consultation, both draft Marine Orders were published on AMSA's website during the consultation period and emailed to over 135 stakeholders directly, including ship

operating companies, seafarer representative organisations (maritime unions), classification societies, shipping industry peak bodies and interested government departments and agencies. As is our standard practice, a copy of the consultation reports, which includes comments received and AMSA responses, will be published on AMSA's website in due course.