

***Marine Safety (Domestic Commercial Vessel National Law Application) Consequential
Amendments Bill 2013***

CLAUSE NOTES

Part 1 - Preliminary

- Clause 1 Short title and citation.
- Clause 2 The Act commences on a day or days to be proclaimed.

Part 2 – Effect of Certain Consequential Amendments

- Clause 3 This clause states the amendments of this Act do not prevent further amendment or rescission of any regulations or rules in the future.

Part 3 – Co-operative Schemes (Administrative Actions) Act 2001 Amended

- Clause 4 States the Principal Act in this Part is the *Co-operative Schemes (Administrative Actions) Act 2001*.
- Clause 5 Amends Section 4(1) of the Principal Act to refer to the *Marine Safety (Domestic Commercial Vessel National Law Application) Act 2013*.

Part 4 – Federal Courts (State Jurisdiction) Act 1999 Amended

- Clause 6 States the Principal Act in this Part is the *Federal Courts (State Jurisdiction) Act 1999*.
- Clause 7 Amends Section 3 by including in the definition of *relevant State Act* the *Marine Safety (Domestic Commercial Vessel National Law Application) Act 2013*.

Part 5 – Fisheries (Abalone) Rules 2009

- Clause 8 States the Principal Rules in this Part are the *Fisheries (Abalone) Rules 2009*.
- Clause 9 Amends Rule 3 (interpretation) by inserting the definition of National Law.
- Clause 10 Amends Rule 18(2)(b)(i) (restrictions on fishing licence – recreational abalone) by omitting the reference to MAST survey and substituting with a reference to certificate of survey issued under the National Law.
- Clause 11 Amends Rule 19(2)(b)(i) (possessing abalone or apparatus on vessel) by omitting the reference to MAST survey and substituting with a reference to certificate of survey issued under the National Law.

Part 6 – Fisheries Rules 2009 Amended

- Clause 12 States the Principal Rules in this Part are the *Fisheries Rules 2009*.

- Clause 13 Amends Rule 3 (interpretation) by omitting the definition of auxiliary boat and substituting with the definition of auxiliary vessel as defined in the National Law.
- Amends Rule 3 (interpretation) by inserting a new definition of National Law.
- Clause 14 Amends Rule 8 (using vessel without fishing licence (vessel)) by omitting “boat” and substituting with “vessel” in subrule (2).
- Clause 15 Amends Rule 18 (fishing vessel distinguishing marks) by substituting “vessel” for “boat” in subrules 4(a) and 5(b)(i).
- Clause 16 Amends Rule 19 (auxiliary vessel) by substituting “vessels” for “boats” in subrules (1) and (2) and substitutes new subrule 3 that makes reference to the use of auxiliary vessels in accordance with the National Law.

Part 7 - Gas (Safety) Regulations 2002 Amended

- Clause 17 States the Principal Regulations in this Part are the *Gas (Safety) Regulations 2002*.
- Clause 18 Amends Regulation 69 (gas fitting work on vessel) by omitting the reference to boat and substituting it with vessel.

Part 8 – Litter Act 2007 Amended

- Clause 19 States the Principal Act in this Part is the *Litter Act 2007*.
- Clause 20 Amends Section 3 (interpretation) by removing the reference to the *Marine and Safety Authority Act 1997* in the definition of registered owner.

Part 9 – Marine Farming Planning Act 1995 Amended

- Clause 21 States the Principal Act in this Part is the *Marine Farming Planning Act 1995*.
- Clause 22 Amends Section 3 (interpretation) by inserting definitions of National Law and National Regulator.
- Clause 23 Amends Section 79 (maintenance of structures) to reference Marine and Safety Tasmania “as a delegate of the National Regulator”.

Part 10 – Marine Safety (Misuse of Alcohol) Act 2006 Amended

- Clause 24 States the Principal Act in this Part is the *Marine Safety (Misuse of Alcohol) Act 2006*.
- Clause 25 Amends Section 3 (interpretation) by inserting a new definition of vessel to have the same meaning as in the *Marine and Safety Authority Act 1997*.

Part 11 – Marine and Safety (General) Regulations 2010 Amended

- Clause 26 States the Principal Regulations in this Part are the *Marine and Safety (General) Regulations 2010*.

- Clause 27 Amends Regulation 3 (interpretation) by inserting a number of new definitions to support the new regulations.
- Clause 28 Inserts a number of new regulations and schedules. These regulations and schedules are currently contained in the *Marine and Safety (Safe Operation) Regulations 2003* that are to be rescinded. They cover those issues that are currently legislated for in Tasmania but are not covered under the National Law. For example, the wearing of life jackets in an auxiliary vessel, directions to operate vessels at safe speeds and towage permits. Their preservation is important in maintaining current safety standards in Tasmania and hence included as amendments to the General Regulations.

Part 12 – Marine and Safety (Infringement Notices) Regulations 2008 Amended

- Clause 29 States the Principal Regulations in this Part are the *Marine and Safety (Infringement Notices) Regulations 2008*.
- Clause 30 Rescinds Regulation 4 – offences under the *Marine and Safety (Safe Operation) Regulations 2003*. These regulations will be rescinded as a result of Clause 40.
- Clause 31 Rescinds Regulation 8 – offences under the *Marine Safety (Safety Manning) Regulations 2007*. These regulations will be rescinded as a result of Clause 40.
- Clause 32 Rescinds Schedule 1 - offences under the *Marine and Safety (Safe Operation) Regulations 2003*. These regulations will be rescinded as a result of Clause 40.
- Clause 33 Rescinds Schedule 5 - offences under the *Marine Safety (Safety Manning) Regulations 2007*. These regulations will be rescinded as a result of Clause 40.

Part 13 – Marine and Safety Authority Act 1997 Amended

- Clause 34 States the Principal Act in this Part is the *Marine and Safety Authority Act 1997*.
- Clause 35 Amends Section 3 (interpretation) to align with the National Law by:
- omitting current definitions and substituting new definitions for “certificate of survey”, “commercial purpose”, “commercial vessel”, “master” and “vessel”
 - inserting new definitions for “domestic commercial vessel”, “National Law”, “National Regulator” and “owner of a vessel”
- Clause 36 Amends Section 5(c) (jurisdiction of Authority) to reflect jurisdiction over domestic commercial vessels is confined to waterway management issues as identified in Section 6 (2) of the National Law. It also provides clear jurisdiction to the Authority over any matters delegated to it by the National Regulator under the National Law.
- Clause 37 Amends Section 6(1) (general functions and powers) to ensure functions delegated by the National Regulator can be performed by MAST.
- Clause 38 Amends Section 38C to refer to “commercial purposes” as a result of amendments to Section 3 (interpretation).

Clause 39 Amends Section 40 by omitting those matters that are now covered by the National Law - safety manning and survey.

Clause 40 Amends Section 42(1) by omitting those matters that are now covered by the National Law – certificates of competency, certificates of survey, hire and drive vessels, load lines and embarking/disembarking and conduct of passengers.

Part 14 – Pollution of Waters by Oils and Noxious Substances Act 1987 Amended

Clause 41 States the Principal Act in this Part is the *Pollution of Waters by Oils and Noxious Substances Act 1987*.

Clause 42 Amends Section 3 (interpretation) to ensure the correct reference to the new *Navigation Act 2012* is made.

Part 15 – Radiation Protection Regulations 2006 Amended

Clause 43 States the Principal Regulations in this Part are the *Radiation Protection Regulations 2006*.

Clause 44 Amends Regulation 50(1) (exemptions for aircraft and vessels) to reflect the fact that survey is in effect under the National Law. As a result a new definition for “National Law” has also been inserted.

Part 16 – Legislation Rescinded

Clause 45 States the legislation specified in Schedule 1 is rescinded.

Schedule 1 Legislation Rescinded

Schedule 1 rescinds the following regulations as these issues will be covered by Marine Orders under the National Law:

Marine and Safety (Safe Operations) Regulations 2003

Marine and Safety (Safety Manning) Regulations 2007