



Input paper for the following body:

- | | | |
|-------------------------------|------------------------------|---|
| <input type="checkbox"/> ARM | <input type="checkbox"/> ENG | <input type="checkbox"/> PAP |
| <input type="checkbox"/> ENAV | <input type="checkbox"/> VTS | <input checked="" type="checkbox"/> LAP |

Purpose of paper:

- ☒ Input
☐ Information

Agenda item

10. Guidance document on maritime law with regard to AtoN

Author(s) / Submitter(s)

ARM Committee

Maritime Law – Marine Aids to Navigation

1 INTRODUCTION

The ARM Committee were requested to review a draft Guideline submitted by the WWA, paper ARM8-9.6 refers.

While reviewing the document it was realised that the LAP had not been consulted. The draft Guideline is below with initial ARM comments.

ARM has recognised that this document can only be informative and relates to States where there is no legal framework for AtoN provision.

2 ACTION REQUESTED

The LAP is requested to review this draft Guideline and respond to ARM9.

3 ANNEX

An informative recommendation has to be drafted, to be associated with the draft guideline at Annex A.

ANNEX A (APPROPRIATE COVER PAGE AND TABLE OF CONTENTS TO BE INCLUDED)

Introduction

The national maritime legislation of a maritime State¹, often referred to as The Shipping Act, should specify the Ministry or other Governmental Organisation(s) acting as the national Competent Authority for Vessel Traffic Services (VTS) and/or marine aids to navigation services. It should then include a specific Part or Section on “The Safety of Navigation” which should, amongst others, include articles on the incorporation of Chapter V of the International Convention for the Safety of Life at Sea (SOLAS) into national legislation; nomination of the VTS and/or Maritime Authority and its Director and the nomination of the National Marine Safety Information Coordinator. It should also contain Articles on marine aids to navigation, including VTS, if such a service has been established. This document proposes draft sections covering those specific issues.

Part [#] - Definitions

A marine “**aid to navigation**” means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and/or vessel traffic.

“**Director**” means the Director of [the Maritime Services Division or alternative name].

“**Maritime Safety Information (MSI)**” means navigational and meteorological warnings, meteorological forecasts, distress alerts and other urgent safety-related messages for ships/vessels² and mariners.

“**Minister**” means the Minister of [insert name of Ministry] OR the Minister assigned with the responsibility for shipping OR the Minister responsible for marine transportation.

“**National maritime safety information coordinator**” means the person officially nominated to coordinate and issue maritime safety warnings.

[Note: An Article on the obligation of the Director and the national MSI Coordinator should be included in the Act under the Section covering Notices to Mariners and Navigational Warnings. A proposed text is shown below].

“**Safety Convention**” means the International Convention for the Safety of Life at Sea (SOLAS) 1974, as amended.

“**Ship**” means any vessel or craft used for transportation on water irrespective of type and purpose.

“**Vessel**” means any ship, vessel or craft used for transportation on water irrespective of type and purpose.

¹ Maritime States have “flag”, “port” and “coastal” legal obligations. This paper covers only coastal State obligations.

² SOLAS refers to “ships”. The definition of which is included above. However, the definition of a vessel is specified in COLREGS. It will up to each Administration to decide which term it wished to use in its legislation.

Part [#] – Safety of Navigation

Section [#] - Application of Safety Convention

- (1). The Safety Convention, including all its related instruments, shall, unless expressly stated otherwise, be considered as incorporated into this Act³.
- (2). The Safety Convention shall, unless excepted by this Act, apply to all [insert name of country] vessels and all other vessels engaged on international voyages while they are in the waters of [insert name of country].
- (3) [insert applicable exemptions].

Section [#] – Notices to Mariners and Navigational Warnings

###. (1) The Director shall take all steps necessary to ensure that when intelligence of any danger is received from whatever reliable source, it shall be brought promptly to the knowledge of the public and all other national and international interested parties, including the regional NAVAREA [insert roman numeral of the relevant area] Coordinator, by all necessary means.

(2) Information provided under subsection (1) shall take the form of notices to mariners and/or navigational warnings which shall be issued and communicated by all available means as soon as the Director, or the national maritime safety information coordinator, is made aware of it.

(3) The Director may require the assistance of any person in the communication of information under this Section, and a person who without reasonable cause refuses to render such assistance when so requested, commits an offence and is liable on summary conviction to a fine not exceeding [insert value in local currency].

Part [#] – Marine Aids to Navigation

For the purposes of this Act marine aids to navigation shall include [Vessel Traffic Services]; electronic marine aids to navigation marks via radio transmission, fixed marine aids to navigation, such as lighthouses, beacons, leading lines, sector lights and auxiliary marks; the six categories of buoys listed in the “IALA Maritime Buoyage System” published by the International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA); or any other light, signal or mark established to aid marine navigation and includes all buildings, moorings and other works associated therewith.

###. The Director shall exercise general supervision over all marine aids to navigation, and in particular shall –

- (a) be responsible for the establishment, operation and maintenance of all marine aids to navigation established by the [Department of Maritime Affairs] and such other government owned marine aids to navigation as may be under the control of that [Department];
- (b) have the absolute right to ensure through audits, inspections or any other means that all other marine aids to navigation established by any port, marina or other maritime facility, are established

³ Giving effect to conventions by referencing them in national legislation is one of the valid options to implement mandatory instruments. However, when this method is used, national legislation should also include, *inter alia*, penal provisions to ensure enforcement and clear responsibilities of various entities defined in national legislation at the primary or secondary level.

in compliance with the stipulated conditions and specifications and are maintained in proper working order; and

- (c) bring to the attention of all concerned and other interested Governments information on changes to, or deficiencies in, any marine aid to navigation as soon as is practicably possible [cross refer to the Article on navigational warnings].

###. (1) There shall be established in [insert name of country] such marine aids to navigation as are necessary based on a formal assessment of risk, conducted under the supervision of the Director, to facilitate safe and expeditious navigation of all vessels within the waters of [insert name of country]

(2) Privately owned marine aids to navigation shall be established and maintained in accordance with the provisions of this Act.

###. (1) No marine aid to navigation shall be established by any party in [insert the name of the country] –

- (a) without the prior written consent of the Director, or any other person authorised by him for the purpose; and
- (b) unless it conforms to such specifications as may be stipulated by IALA.

(2) No marine aid to navigation shall be discontinued or have its lighting characteristics or any other distinguishing feature altered, without the prior written consent of the Director, or any other person authorised by him for the purpose.

(3) The Minister shall by Notice cause a list of all marine aids to navigation in the waters of [insert name of country] to be published and updated as necessary.

###. A person who –

- (a) contravenes section ### or ### [above];
- (b) wilfully or negligently damages, destroys, removes or allows a vessel to foul an aid to navigation;
- (c) wilfully or negligently does anything which causes the view of a marine aid to navigation to be obstructed in such a manner as to lessen its efficiency;
- (d) wilfully, negligently or without lawful authority does anything which interferes with a marine aid to navigation so as to hinder the effective use of that aid;
- (e) trespasses on or without lawful excuse, is found in or on -
 - (i) a marine aid to navigation; or
 - (ii) on any land upon which a marine aid to navigation is situated; and
- (f) fails to notify the Director as soon as practicable after a marine aid to navigation is damaged, destroyed or fouled,

is guilty of an offence and, in addition to the expenses of making good any damage so occasioned, is liable to a fine not exceeding *[insert value in local currency]*.

###. Where a vessel damages, destroys or fouls a marine aid to navigation in the waters of [insert name of country], the vessel may be detained until the cost of repairing, or replacing the marine aid to navigation, or rendering the marine aid to navigation effective again, is paid.

###. (1) No person shall show a light, including light from a fire, in such a place or manner as to mislead vessels navigating in the coastal areas of [insert name of country].

(2) Any person who fails to comply with subsection (1) is guilty of an offence and liable to a fine on summary conviction not exceeding *[insert value in local currency]*.

(3) The Director may cause to be extinguished or screened any false or unauthorised light, and for this purpose the Director, or any person authorised by him, may enter the place where the light is situated and forthwith extinguish or screen the same without causing unnecessary damage and the Director shall be entitled to recover the costs of so doing from the person showing such light.

####. The Minister may by regulations:

- (a) prescribe the system of lighting and other characteristics, marks and features of marine aids to navigation and in doing so shall have due regard to the International Association of Marine Aids to Navigation and Lighthouse Authorities "IALA Maritime Buoyage System", or any other international system of buoyage which may replace it;
- (b) prescribe the penalties for any contravention of such regulations.