



Australian Government
Australian Maritime Safety Authority

AMSA EX03

Marine Safety (Certificates of operation) Exemption 2016

I, Michael Kinley, Chief Executive Officer of the Australian Maritime Safety Authority (the National Marine Safety Regulator under section 9 of the *Marine Safety (Domestic Commercial Vessel) National Law*), make this instrument under subsection 143(1) of the *Marine Safety (Domestic Commercial Vessel) National Law*.

21 June 2016

Michael Kinley
Chief Executive Officer

1 Name of instrument

This instrument is *Marine Safety (Certificates of operation) Exemption 2016*.

2 Duration

This instrument:

- (a) commences on 1 July 2016; and
- (b) ceases to have effect at the end of 1 July 2019.

3 Repeal

The following instruments are repealed:

- (a) *Marine Safety (Certificates of operation) Exemption 2014*;
- (b) *Marine Safety (Bait gathering) Exemption 2015*.

4 Definitions

- (1) In this instrument:

bait gathering, for a domestic commercial vessel, means the specified operation of taking, under licence, of a crab, eugary, worm or yabby by hand or by a hand-held implement.

dangerous goods has the same meaning as in the *Navigation Act 2012*.

landing barge has the same meaning as in Marine Order 504.

Marine Order 504 means *Marine Order 504 (Certificates of operation — national law) 2013*.

Marine Safety (Domestic Commercial Vessel) National Law — see Schedule 1 to the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*.

Moreton Bay Marine Park means the Moreton Bay Marine Park described in the *Marine Parks (Declaration) Regulation 2006* (Qld), other than the following zones mentioned in the *Marine Parks (Moreton Bay) Zoning Plan 2008* (Qld):

- (a) the marine national park zone;
- (b) for the taking of anything other than beachworms — the conservation park zone.

national law means the Marine Safety (Domestic Commercial Vessel) National Law set out in Schedule 1 to the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*.

NSCV — see section 6 of the national law, meaning of **National Standard for Commercial Vessels**.

personal watercraft means a vessel that:

- (a) is <4 m long; and
- (b) has an internal combustion engine powering a water-jet pump as its primary source of propulsion; and
- (c) is designed to be operated by at least 1 person sitting, standing or kneeling on the hull of the vessel.

recreational boating qualification means a qualification that permits the holder to operate or be the member of the crew of a recreational vessel.

Examples

- a State or Territory recreational boat license.
- a Royal Yachting Association qualification.

- (2) In this instrument, the following terms have the meaning given by the Dictionary in NSCV Part B:

Class 2 vessel	Class 3 vessel	fast craft
hire and drive vessel	inshore operations	partially smooth waters
passenger	smooth waters	sailing vessel
tender		

Note For definitions of *certificate of operation*, *certificate of survey*, *improvement notice*, *prohibition notice* and *National Regulator* — see section 6 of the national law.

5 Exemption

- (1) For sections 53 and 54 of the national law, each vessel that is of a kind mentioned in Schedule 1 is exempt from the requirement to have a certificate of operation.
- (2) However, a vessel is not exempt under subsection (1) from the requirement to have a certificate of operation if the National Regulator, after considering the matters mentioned in subsection (3):
 - (a) considers that exempting the vessel from the requirement may jeopardise the safety of the vessel or a person on board the vessel; and
 - (b) determines in writing that the vessel must not be exempt from the requirement.

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- (3) For subsection (2), the matters are:
- (a) the results of any inspection or audit of the vessel; and
 - (b) any infringement, improvement or prohibition notice issued to a person that relates to an action or activity relating to the vessel; and
 - (c) any direction to a person that:
 - (i) is issued under subsection 109(1) of the national law; and
 - (ii) relates to the vessel.

6 Conditions

- (1) The exemption is subject to the conditions mentioned in Schedule 1 for the kind of vessel.
- (2) However, if under another exemption granted under subsection 143(1) of the national law the vessel does not have to comply with a condition mentioned in Schedule 1 for a vessel of its kind, the exemption for the vessel is not subject to the condition.

Examples

1 A vessel to which this exemption applies that is operated for recreational purposes that is exempt from the crewing requirements and NSCV Part B operational area limitations under *Marine Safety (Recreational use) Exemption 2013*.

2 A PWC that is used in a flyboard operation and to which this exemption applies that is exempt under *Marine Safety (Flyboards) Exemption 2014* from the condition mentioned in paragraph 11(1)(a) of MO504 (compliance with NSCV Part E).

- (3) Also, the exemption for the vessel is not subject to a condition mentioned in Schedule 1 for the vessel for a period if:
 - (a) the owner of a vessel applies to the National Regulator for approval to operate in a way that does not comply with the condition; and
 - (b) the National Regulator approves in writing the operation of the vessel in the way sought in the application.
- (4) For an approval under subsection (3):
 - (a) the period must be not more than 90 days; and
 - (b) the National Regulator may make the approval subject to further conditions.
- (5) For section (1), if more than 1 Division of Schedule 1 applies to the vessel, the owner of the vessel may choose which Division is to apply.

Schedule 1 Vessels and conditions

(section 6)

Division 1 Vessels generally

Item	Kind of vessel	Conditions
1.1	Vessel that is being moved for the purpose of obtaining a certificate of survey or certificate of operation, including returning the vessel after the survey or other process has been completed	The vessel must be moved and returned by the most direct and practical route
1.2	Tender	The vessel must: <ul style="list-style-type: none">(a) be listed in its parent vessel's:<ul style="list-style-type: none">(i) certificate of operation; or(ii) safety management system; and(b) have its operational risks addressed either in the parent vessel's safety management system or in the tender's safety management system; and(c) comply with:<ul style="list-style-type: none">(i) the operation requirements mentioned in subclauses 6(1) to (6) and subclause 6(8) of Schedule 2 of NSCV Part E; and(ii) the minimum crewing requirements determined by the National Regulator for the kind of operations to be conducted by the vessel or by vessels of its kind

Division 2 Vessels

Item	Kind of vessel	Conditions
2.1	Class 2 or 3 vessel that: <ul style="list-style-type: none">(a) is <7.5 m long; and(b) operates only in sheltered (D or E) waters; and(c) does not carry:<ul style="list-style-type: none">(i) passengers; or(ii) dangerous goods, other than petroleum or gas products intended for use on the vessel or	<p>Vessel must comply with each condition that would apply to a vessel of its kind under paragraphs 11(1)(a), (c), (d), (e) and (f) of Marine Order 504</p> <p>Vessel must:</p> <ul style="list-style-type: none">(a) continue to meet any conditions to which the vessel is subject under:

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- fireworks carried on the vessel only for use on the vessel for a fireworks display; and
 - (d) does not have installed a net reel, deck load, crane or lifting device, the use of which the National Regulator has determined is likely to adversely affect the stability or watertight integrity of the vessel; and
 - (e) is not operated primarily for towage; and
 - (f) does not have an inboard petrol engine, other than a personal watercraft; and
 - (g) is not:
 - (i) a support vessel in the offshore oil or gas industry; or
 - (ii) a fast craft; or
 - (iii) a hire and drive vessel that operates before sunrise or after sunset including vessels that are hired overnight; or
 - (iv) a powered landing barge that is of a design or for a use that the National Regulator has determined is likely to adversely affect its stability; or
 - (v) a vessel determined by the National Regulator to be high risk

- (i) a condition of survey; or
- (ii) an exemption from the requirement to hold a certificate of survey; and
- (b) comply with all laws that apply to its operation; and
- (c) comply with any NSCV Part B limitations on each operational area of the vessel including environmental parameters

Note Paragraphs (a) to (c) are equivalent to the conditions mentioned in 11(1)(g) to (i) of Marine Order 504.

2.2 A vessel that:

- (a) is <7.5 m long; and
- (b) is engaged only in inshore operations; and
- (c) is used by a sailing school or training organisation to train members of the public for recreational boating qualifications

2.3 A human powered vessel

2.4 A sailing vessel that:

- (a) is <7.5 m long; and
- (b) has no auxiliary engine, or an auxiliary engine of ≤ 3.5 kW

propulsion power

2.5 Class 2 or 3 vessel that is a personal watercraft

2.6 A Class 2 vessel that:

- (a) is involved in sporting and recreational activities; and
- (b) is affiliated with a body determined by the National Regulator as having systems in place to manage risk; and
- (c) is engaged only in inshore operations

2.7 A vessel that:

- (a) is <7.5 m long; and
- (b) is used for bait gathering

The vessel must be used only in:

- (a) the Moreton Bay Marine Park; or
- (b) other smooth or partially smooth waters approved by the National Regulator for bait gathering

The master of the vessel must hold any licence that would be required to operate the vessel recreationally in the waters in which the bait gathering is carried out

The vessel must not be used for recreational purposes while being used for bait gathering
