



**Australian Government**  
**Australian Maritime Safety Authority**

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AMSA EX38

**Marine Safety (Low complexity duties) Exemption 2020**

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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*.

29 June 2020

**Michael Kinley**  
Chief Executive Officer

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### **Name of instrument**

This instrument is *Marine Safety (Low complexity duties) Exemption 2020*.

### **Duration**

This instrument commences on 1 July 2020 and ceases to have effect at the end of 30 June 2025.

### **Transitional matters**

- (1) A person who is not exempt in accordance with subsection 5(2) of *Marine Safety (Low complexity duties) Exemption 2017 (No.2)* continues not to be exempt for this instrument unless the National Regulator:
  - (a) considers the person now has a satisfactory level of medical fitness; and
  - (b) tells the person in writing.
- (2) If an approval given under *Marine Safety (Low complexity duties) Exemption 2015, 2016, 2016 (No.2), 2017 or 2017 (No.2)* is in effect and not expired, it is taken to be an approval given under this instrument.

### **Definitions**

In this instrument:

**auxiliary vessel** — see subsection 1.3(1) of NSCV Part D.

**existing vessel** — see section 16 of Marine Order 504.

**increased level of risk** — see section 13 of *Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013*.

**inland waters** — see subsection 1.3(1) of NSCV Part D.

**marine card** means a marine card that is:

- (a) issued by the Boating Industry Association Ltd; and
- (b) in force.

**Marine Order 504** means *Marine Order 504 (Certificates of operation and operation requirements — national law) 2018*.

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

*Note* **National Regulator** is defined in the *Marine Safety (Domestic Commercial Vessel) National Law* — see section 6.

**mooring area** means an area that is:

- (a) adjacent to, or near, a marina that controls it; and
- (b) determined under waterways management legislation to be an area for the mooring of vessels.

**NSCV** — see section 6 of the *Marine Safety (Domestic Commercial Vessel) National Law*, meaning of *National Standard for Commercial Vessels*.

**NSCV Part B** means *Part B — General requirements* of the NSCV.

**NSCV Part D** means *Part D — Crew Competencies* of the NSCV.

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**registered training organisation** has the same meaning as in *Marine Order 505 (Certificates of competency — national law) 2013*.

**sheltered waters** has the same meaning as in NSCV Part B.

**smooth waters** has the same meaning as in NSCV Part B.

**tender** has the same meaning as in subsection 1.3(1) of NSCV Part D.

**trainer assessor** means a person determined by the National Regulator under subparagraph (f)(i) of item 1 of Schedule 2.

## **5 Exemption**

- (1) A person is exempt from the requirement to hold a certificate of competency that would be required to perform the duties mentioned in Schedule 1 if the person meets the criteria mentioned in Schedule 2.
- (2) However, after receiving a report mentioned in paragraph 1(e) of Schedule 2, the person is not exempt if the National Regulator:
  - (a) considers that the person does not have a satisfactory level of medical fitness required to perform the duties; and
  - (b) tells the person in writing.

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## Schedule 1 Duties

(section 5)

Item	Description of duty
1	The duties of the master or a crew member of an existing vessel, if: (a) the crewing requirement for the vessel is that which applied on 30 June 2013 because of subsection 4(4) and subparagraph 5(b)(i) of Marine Order 504; and (b) there is no certificate of competency that is equivalent to a certificate that was issued by a State or the Northern Territory and is mentioned in Schedule 3 of NSCV Part D for the crewing requirements for the existing vessel; and (c) the person performs duties only in daylight hours
2	The duties of the master or a crew member of a vessel that is not an existing vessel, if: (a) the vessel is owned by a person who was an owner of an existing vessel; and (b) the vessel is being used for the same operations as the existing vessel so that there is no increased level of risk; and (c) there is no certificate of competency that is equivalent to a certificate that was issued by a State or the Northern Territory, and is mentioned in Schedule 3 of NSCV Part D, that would have applied for crewing requirements for the existing vessel; and (d) the person performs duties only in daylight hours
3	Commanding, or operating the engines of, a vessel <12 m long, if: (a) the vessel has propulsion power: (i) for an inboard engine — <100 kW; or (ii) for an outboard engine — <250 kW; and (b) the person operates only outboard engines if the person has no inboard engine sea service or training; and (c) the person commands, or operates the engines of, the vessel only in daylight hours; and (d) the vessel, carrying or not carrying passengers, is only in the following areas: (i) inland waters; (ii) if the vessel is a tender or auxiliary vessel — any waters that are ≤1 nautical mile from the parent vessel and in which the vessel is in sight of, and capable of communicating with, the parent vessel; (iii) any other waters approved by the National Regulator
4	Commanding, or operating the engines of, a vessel <12 m long, if: (a) the vessel has propulsion power: (i) for an inboard engine — <100 kW; or

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<b>Item</b>	<b>Description of duty</b>
	<ul style="list-style-type: none"> <li>(ii) for an outboard engine — &lt;250 kW; and</li> <li>(b) the person operates only outboard engines if the person has no inboard engine sea service or training; and</li> <li>(c) the vessel is only in a marina or mooring area</li> </ul>
5	<p>Commanding, or operating the engines of, a vessel &lt;12 m long, if:</p> <ul style="list-style-type: none"> <li>(a) the vessel has propulsion power: <ul style="list-style-type: none"> <li>(i) for an inboard engine — &lt;100 kW; or</li> <li>(ii) for an outboard engine — &lt;250 kW; and</li> </ul> </li> <li>(b) the person operates only outboard engines if the person has no inboard engine sea service or training; and</li> <li>(c) the person commands, or operates the engines of, the vessel only in daylight hours; and</li> <li>(d) the vessel is not carrying passengers; and</li> <li>(e) the vessel is only in the following areas: <ul style="list-style-type: none"> <li>(i) smooth waters;</li> <li>(ii) any waters: <ul style="list-style-type: none"> <li>(A) within 1 nautical mile from the previous point of departure from shore; and</li> <li>(B) within 1 nautical mile from shore;</li> </ul> </li> <li>(iii) any waters of an aquaculture lease approved by a State or Territory authority, and any waters approved by a State or Territory authority for the daily transit to and from the aquaculture lease;</li> <li>(iv) any waters within 250 m of a structure fixed to the shore;</li> <li>(v) sheltered waters within 2 nautical miles from shore</li> </ul> </li> </ul>
6	<p>Commanding, or operating the engines of, a vessel &lt;12 m long, if:</p> <ul style="list-style-type: none"> <li>(a) the vessel is used only for towing persons; and</li> <li>(b) the vessel, carrying or not carrying passengers, is only in waters that are approved as water ski areas by a State or Territory authority; and</li> <li>(c) the vessel has propulsion power, for an inboard or outboard engine, &lt;500 kW; and</li> <li>(d) the person commands, or operates the engines of, the vessel only in daylight hours</li> </ul>

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## **Schedule 2 Criteria**

(section 5)

- 1 The person must:
  - (a) be at least 16 years old; and
  - (b) other than a person performing duties mentioned in item 4 of Schedule 1 — meet the medical and eyesight requirements for a

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Coxswain Grade 2 NC certificate of competency in Chapter 4 of NSCV Part D, other than the requirements in Division 4.4 of Part D; and

- (c) tell the National Regulator, in writing, about any long term or permanent medical condition that is likely to affect the person's ability to perform the duties; and
- (d) undergo any medical examination that the National Regulator considers necessary; and
- (e) give the National Regulator a report by the medical practitioner of any medical examination mentioned in paragraph (d); and
- (f) other than a person performing duties mentioned in item 4 of Schedule 1 — complete training and assessment that is:
  - (i) provided by a person determined by the National Regulator; and
  - (ii) appropriate for the duties mentioned in Schedule 1; and
  - (iii) in accordance with the *Training and Assessment Criteria* and the *Final Practical Assessment Record*, published by AMSA, as in force from time to time.

*Note 1* For persons whom AMSA may determine to provide training and assessment — see *Training and Assessment Criteria*.

*Note 2* The *Training and Assessment Criteria* and the *Final Practical Assessment Record* are available on the AMSA website at <http://www.amsa.gov.au>.

- 2 For a person performing duties other than the duties mentioned in item 4 of Schedule 1, the person must hold:
- (a) both:
    - (i) a statement of attainment from a registered training organisation for each of the following units from the MAR Maritime Training Package:
      - (A) MARI003 *Comply with regulations to ensure safe operation of a vessel up to 12 metres* or equivalent;
      - (B) MARK007 *Handle a vessel up to 12 metres* or equivalent;
      - (C) MARN008 *Apply seamanship skills aboard a vessel up to 12 metres* or equivalent; and
    - (ii) a final practical assessment record determined by the National Regulator, completed by a trainer assessor, in which the trainer assessor has assessed:
      - (A) the competence of the person; and
      - (B) that the person has operational knowledge and knowledge of Australian maritime legislation appropriate for the duties that the person will perform; or
  - (b) both:
    - (i) a document demonstrating that the person has completed a course determined by the National Regulator; and
    - (ii) a final practical assessment record determined by the National Regulator, completed by a trainer assessor, in which the trainer assessor has assessed:

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- (A) the competence of the person; and
  - (B) that the person has operational knowledge and knowledge of Australian maritime legislation appropriate for the duties that the person will perform.

*Note* For paragraph (a), details of these courses are available at [myskills.gov.au](http://myskills.gov.au).

- 3 For a person performing duties mentioned in item 4 of Schedule 1, the person must:
  - (a) hold a recreational boating licence, however described, issued by a State or Territory and a marine card; or
  - (b) meet the requirements mentioned in item 1(f) and item 2.
- 4 For duties that include operating a vessel carrying passengers, other than the duties mentioned in item 4 of Schedule 1, the person must have a current first aid certificate of at least HLTAID003 *Provide first aid* or another course that the National Regulator considers to be equivalent.
- 5 For duties that include operating radio equipment on board the vessel, other than the duties mentioned in item 4 of Schedule 1, the person must hold a Short Range Operator Certificate of Proficiency issued by the Australian Communications and Media Authority or its delegate.

*Note* The Australian Maritime College (AMC) issues Short Range Operator Certificates of Proficiency as a delegate of the Australian Communications and Media Authority under section 122A of the *Radiocommunications Act 1992*. Information on equivalent qualifications is available on the AMC website.