



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

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AMSA EX40

**Marine Safety (Class C restricted operations) Exemption 2021**

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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*.

23 February 2021

**Michael Kinley**  
Chief Executive Officer

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**1 Name of instrument**

This instrument is *Marine Safety (Class C restricted operations) Exemption 2021*.

**2 Duration**

This instrument commences on 1 March 2021 and ceases to have effect at the end of 30 June 2025.

**3 Repeal**

*Marine Safety (Class C restricted operations) Exemption 2020* made on 29 June 2020 is repealed.

**4 Definitions and interpretation**

- (1) A definition in the dictionary applies to each use of the word or expression in this instrument.

*Note* The dictionary is located at the end of the instrument.

- (2) An approval given under any of the following instruments that is in effect and has not expired is taken to be an approval under this instrument:

- (a) *Marine Safety (Class C restricted operations) Exemption 2020*;
- (b) *Marine Safety (Class C restricted operations) Exemption 2018 (No. 2)*;
- (c) *Marine Safety (Class C restricted operations) Exemption 2018*;
- (d) *Marine Safety (Class C restricted operations) Exemption 2017*;
- (e) *Marine Safety (Class C restricted operations) Exemption 2015*.

**5 Exemption**

A domestic commercial vessel is exempt from the requirement to have a certificate of survey for sections 43 and 44 of the *Marine Safety (Domestic Commercial Vessel) National Law* if:

- (a) the vessel is <12 m long; and
- (b) the vessel is a non-passenger vessel (Class 2 vessel) or a fishing vessel (Class 3 vessel) under NSCV Part B; and
- (c) the vessel operates only in any of the following operational areas:
  - (i) that part of operational area C determined by the National Regulator;
  - (ii) operational area D;
  - (iii) operational area E; and
- (d) the vessel had undergone an initial survey that demonstrates that the vessel meets the requirements mentioned in Divisions 2 to 4 of Schedule 1; and
- (e) an application for approval is made to the National Regulator; and
- (f) the vessel is approved by the National Regulator.

*Note for subparagraph (c)(i)* For the part of operational area C determined by the National Regulator — see the AMSA website at <http://www.amsa.gov.au>.

*Note for paragraph (d)* Division 3 of Schedule 1 provides that the vessel may meet Schedule 2 instead of Schedule 1 in the circumstances mentioned.

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*Note for paragraph (e)* For the form of application and how it will be processed, contact the National Regulator. For the prescribed fee — see the *Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013*.

## **6 Conditions**

- (1) The exemption is subject to the conditions mentioned in Schedule 1.
- (2) The owner must also notify the National Regulator of any change relevant to the approval of the vessel, including:
  - (a) transfer of ownership; and
  - (b) change of name and address of the owner; and
  - (c) any alterations to the vessel or changes to the vessel's operation that may invalidate the vessel's approval or ability to operate under this exemption.

*Examples for paragraph (c)*

- 1 The vessel is altered in such a way that it needs to be reassessed for compliance with the applicable standard.
  - 2 The owner wishes to add a new service category to the vessel's operations.
- (3) The National Regulator may make the approval subject to further conditions.
  - (4) The National Regulator may vary a condition mentioned in subsection (3).
  - (5) The National Regulator may determine otherwise for equipment and arrangements for a vessel under subclause 3.1(2) of Schedule 1 only if satisfied that the alternative equipment and arrangements will in the operational circumstances achieve a level of safety at least equivalent to the level the vessel would achieve if the vessel were to carry the items.
  - (6) The exemption no longer applies to the vessel if the conditions in Schedule 1 or any further conditions imposed by the National Regulator under subsection (3) are not being met.

*Note* Section 144 of the national law provides that an owner of a vessel commits an offence if the owner breaches, or causes or permits another person to breach, a condition of the exemption.

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## Schedule 1 Conditions

(section 6)

### Division 1 Operations

#### 1.1 Operational requirements

- (1) The vessel must not:
  - (a) carry passengers unless it is a Class 2 vessel operating in D or E operational area; or
  - (b) carry dangerous goods; or
  - (c) have installed a net reel, crane, lifting device or deck load, the use of which is likely to adversely affect the stability or watertight integrity of the vessel; or
  - (d) be a support vessel in the offshore oil industry; or
  - (e) be set up for towage operations; or
  - (f) have an inboard engine which operates on fuel that has a flashpoint of less than 60°C; or
  - (g) be a 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
  - (h) have berthed accommodation; or
  - (i) be a sail vessel.
- (2) For paragraph 1(c), a net reel, crane, lifting device or deck load installed on the vessel adversely affects the stability or watertight integrity of the vessel if it is capable of:
  - (a) generating a heeling moment that may endanger or capsize the vessel; or
  - (b) creating a loading condition that exceeds the maximum loading for the vessel.
- (3) A marine surveyor accredited in stability approval or a Recognised Organisation must verify the calculation of the heeling moment or maximum loading for the vessel as part of the initial survey required under Division 4.

*Note* The heeling moment may be calculated using the lesser of:

  - (a) the force the device or load is able to generate; and
  - (b) the breaking strain of any weak links or safety reliefs.
- (4) The vessel may:
  - (a) carry up to 12 persons who are either crew, including the master, or special personnel, if operating:
    - (i) within 5 n mile of a shore base that is also within restricted C operational area; or
    - (ii) within D or E operational area; and

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- (b) carry up to 6 persons who are either crew, including the master, or special personnel, if operating within 15 n mile of the shore that is also within restricted C operational area; or
  - (c) carry up to 3 persons who are either crew, including the master, or special personnel, if the vessel is operating beyond 15 n mile from the shore that is also within in restricted C operational area.
- (5) However, the 12 persons permitted to be carried in D or E operational area under subparagraph 4(a)(ii) may include a limit of 4 day passengers, if the vessel is a Class 2 vessel and the 12 person maximum is not exceeded.

## **Division 2 Design and construction requirements**

### **2.1 Design and construction to be fit for purpose**

The vessel must be designed and constructed so that it is fit for the purpose for which the vessel is intended by the owner, to the satisfaction of the person who surveys the vessel under clause 4.1.

### **2.2 Vessel flotation**

The vessel must comply with section 10.3 of NSCV Part F2.

### **2.3 Stability requirements**

The vessel must have stability characteristics so that it is fit for the purpose for which the vessel is intended by the owner, to the satisfaction of the person who inspects the vessel under clause 4.1.

### **2.4 Load capacity**

The vessel must not exceed the load capacity that applies to the vessel in any of the following standards that applies to a vessel of its kind:

- (a) *ABYC Standards and Technical Information Reports for Small Craft H-5 Boat Load Capacity*;
- (b) *AS 1799-2009 Small craft Part 1: General requirements for power boats*;
- (c) *ISO 6185 Parts 1 to 4 — Inflatable boats*;
- (d) *ISO 14946:2001 — Small craft - Maximum load capacity*.

### **2.5 Machinery — bilge pumps**

- (1) The vessel must have a bilge pump that can drain all bilges or closed under floor compartments other than airtight void spaces or spaces filled to more than 90% volume with low density floatation.
- (2) For an open vessel, the bilge system must be able to operate and be protected from damage when the vessel is swamped.
- (3) A bailer may be used instead of a bilge pump on vessels that are <5 m long.

### **2.6 Machinery — fuel tanks, pipes etc**

- (1) A fuel tank must comply with clause 4.7 of NSCV Subsection C5A.

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- (2) Fuel piping for any non-portable fuel tank must be of seamless, heavy gauge metal.
  - (3) However, a flexible fuel line may be used:
    - (a) in accordance with clause 4.7.1.5 of NSCV Subsection C5A; and
    - (b) between the fuel shut-off valve or cock and the main engine.
  - (4) If a flexible fuel line is used, it must:
    - (a) comply with:
      - (i) the requirements for type A1 mentioned in ISO 7840:2013 *Small craft — Fire-resistant fuel hoses*; or
      - (ii) the requirements for type A mentioned in SAE J1527: *Marine fuel hoses*; and
    - (b) be securely installed to avoid chafing and allow regular inspection.
  - (5) However, a flexible fuel line from the fuel filter to the outboard engine that is supplied by the engine manufacturer need not comply with the standards mentioned in paragraph 4(a).
  - (6) A fuel filter must be positioned:
    - (a) after the shutoff; and
    - (b) externally on the vessel.
  - (7) Any shafting fitted must comply with either of the following standards or with a standard determined by the National Regulator to be equivalent to either standard:
    - (a) *ABYC Standards and Technical Information Reports for Small Craft, P-6 (ANS) Propeller Shafting Systems*, July 2010;
    - (b) NSCV Subsection C5A.

## **2.7 Propulsion power**

The vessel must not have propulsion power more than the limit for the vessel set by any of the following standards:

- (a) *ABYC Standards and Technical Information Reports for Small Craft*;
- (b) *AS 1799-2009 General Requirements for Power Boats*;
- (c) *ISO 6185 Parts 1 to 4 Inflatable boats*;
- (d) *ISO 11592:2001: Small craft less than 8 m length of hull — Determination of maximum propulsion power rating*.

## **2.8 Electrical**

The vessel must comply with NSCV Subsection C5B.

## **2.9 Vision and window light transmission**

The vessel must comply with the requirements for field of vision, windows and decks of *AS 1799.1 — 2009 Small craft Part 1: General requirements for power boats*.

## **2.10 Watertight and weathertight integrity**

- (1) Penetration fittings through the hull of the vessel must comply with:
  - (a) NSCV Subsection C5A; or

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- (b) ISO 9093-1:1994 *Small craft — Seacocks and through-hull fittings — Part 1: Metallic.*
- (2) Any deck opening that may be open during fishing or other operations carried out at sea must be arranged near to the centreline.
  - (3) Any sea inlet must be fitted with a valve in an easily accessible position at the hull side.
  - (4) Any penetration through the hull that is not a sea inlet below the loaded waterline must be fitted with a non-return valve at the hull side.
  - (5) Any scupper or discharge pipe that passes through the side of the vessel must be fitted with a valve or cock in an easily accessible position against the vessel's side, unless:
    - (a) a bilge alarm is fitted and other means are provided to stop the entry of water that are to the satisfaction of the person who surveys the vessel under clause 4.1; or
    - (b) the discharge is  $\leq 50$  mm internal diameter, the lowest point of which is  $\geq 225$  mm above the deepest load waterline.
  - (6) However, any waste or soil discharge  $> 50$  mm internal diameter from a space above the freeboard deck that is led through the vessel's side  $\geq 225$  mm above the designed load waterline may be fitted with an automatic non-return valve instead of a valve or cock.
  - (7) For this clause, a valve must be:
    - (a) made of steel or material of an equivalent strength and robustness; and
    - (b) if possible — attached direct to the hull.

## **2.11 Steering systems**

- (1) The vessel's steering equipment must be fit for the purpose for which the vessel is intended by the owner, to the satisfaction of the person who surveys the vessel under clause 4.1.
- (2) A vessel  $\geq 7.5$  m long must have an emergency means of steering.

## **Division 3 Equipment requirements**

### **3.1 Safety equipment**

- (1) All equipment carried must comply with the specification, installation and servicing requirements of NSCV Section F2.
- (2) Unless the National Regulator determines otherwise or the vessel has in place the alternative equipment and arrangements set out in Schedule 2 for the kind of vessel mentioned, the vessel must carry the following:
  - (a) a level 150 lifejacket with a whistle and light for each of the maximum number of persons the vessel is permitted to carry;
  - (b) a buoyant appliance with 30 m of 8 mm rope attached and with a self-igniting light;
  - (c) 2 red hand flares;
  - (d) an orange hand-held smoke signal;

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- (e) 3 parachute distress rockets;
  - (f) a battery-operated signalling torch;
  - (g) a V sheet marine distress signal;
  - (h) a first aid kit in accordance with workplace health and safety requirements;
  - (i) at least 2 litres of emergency drinking water for each person on board.

*Note 1 for paragraph (b)* If a vessel carries at least 1 lifebuoy the vessel satisfies paragraph (b).

*Note 2 for paragraph (b)* If a vessel carries a lifebuoy with line attached as part of option 3, section 10.3 of NSCV Subsection F2, the vessel satisfies paragraph (b).

*Note 3 for paragraph (b)* Examples of buoyant appliances are horse shoe life rings, rescue buoys and rescue tubes. These buoyant appliances must comply with item 3 of table 11 of NSCV Part F2.

### **3.2 Fire equipment**

- (1) Unless the vessel has in place the alternative equipment and arrangements set out in Schedule 2 for the kind of vessel mentioned, a vessel that carries fuel or a battery or that has on it a gas installation or fuel stove must carry the kind and quantity of fire extinguisher mentioned in AS 1799.1 — 2009 *Small craft Part 1: General requirements for power boats*.

*Example AS 1799.1 — 2009 Small craft Part 1: General requirements for power boats* requires that a vessel that uses petrol and has tanks of a capacity greater than 25 l to carry at least one extinguisher of a rating not less than 20B.

- (2) Each fire extinguisher must:
  - (a) comply with AS/NZS 1841:1:2007 *Portable fire extinguishers — general requirements*; and
  - (b) be serviced in accordance with AS/NZS 1851:2012 *Routine service of fire protection systems and equipment*.
- (3) A vessel that has a main engine that has an engine power of >120 kw and is located in an enclosed space must have a means of smothering fire in the space, including remote fuel shut-offs and ventilation closing devices.

### **3.3 Navigation equipment**

- (1) Unless the vessel has in place the alternative equipment and arrangements set out in Schedule 2 for the kind of vessel mentioned, the vessel must carry:
  - (a) a sound signal (horn), and, if the horn is portable, a spare canister; and
  - (b) a magnetic compass that:
    - (i) complies with NSCV Subsection C7C other than the compass adjustment requirements; and
    - (ii) has a magnetic compass card with diameter  $\geq 75$  mm; and
  - (c) nautical charts of the area of operation (including charts in electronic form), of a suitable scale and properly corrected at the time of sailing; and



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- (d) if the vessel is  $\geq 7$  m long — a black ball day shape signal at least 300 mm in diameter.
  - (2) Any navigation lights must be fitted in accordance with, and comply with, NSCV Subsection C7C.
  - (3) If navigation lights are not fitted, the vessel may operate only:
    - (a) in daylight hours; and
    - (b) if there is no restricted visibility.

### **3.4 Communications equipment**

Unless the vessel has in place the alternative equipment and arrangements set out in Schedule 2 for the kind of vessel mentioned, the vessel must comply with NSCV Subsection C7B.

### **3.5 Other equipment**

Unless the vessel has in place the alternative equipment and arrangements set out in Schedule 2 for the kind of vessel mentioned, the vessel must have:

- (a) an anchor and cable that complies with NSCV Subsection C7D; and
- (b) a 9 L robust bucket with a lanyard attached; and
- (c) if the vessel is  $< 5$  m long — 2 oars.

## **Division 4 Other requirements**

### **4.1 Survey requirements and reports**

- (1) The vessel must undergo:
  - (a) an initial survey; and
  - (b) an in and out of water periodic survey, conducted within the 3 months before or the 3 months after each 5<sup>th</sup> anniversary of the vessel's approval.
- (2) The initial and periodic surveys:
  - (a) must be conducted by:
    - (i) a recognised organisation; or
    - (ii) an accredited marine surveyor who is accredited in the categories identified in, and to perform the survey tasks permitted by, Chapter 7 of Part 2 of the National Law – Marine Surveyors Accreditation Guidance Manual; and
  - (b) must comprise a physical survey of the vessel; and
  - (c) may include testing of the vessel or its equipment unless the surveyor considers it appropriate to rely instead upon documentation; and
  - (d) must survey the items, and in the manner, mentioned in Chapter 7 of Part 2 of the National Law – Marine Surveyors Accreditation Guidance Manual 2014.

*Examples of documentation for paragraph (c)*

- CE certification
- National Marine Manufacturers Association (NMMA) certification

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- SOLAS certification for safety equipment.
- (3) The initial and periodic surveys must show that the vessel complies with Divisions 2 and 3 of this Schedule.
  - (4) After a survey of the vessel, the owner must ensure that the National Regulator is provided a report setting out the condition of the vessel and the extent of its compliance with the requirements of this exemption.

## Schedule 2 Alternative equipment and arrangements for fishing vessels that are <12 m long

(Clauses 3.1 to 3.5 of Schedule 1)

Kind of vessel	Equipment and arrangements
<p>Class 3C restricted vessel &lt;12 m long and operating:</p> <ul style="list-style-type: none"> <li>- only for the purpose of commercial fishing in accordance with Commonwealth, State or Territory commercial fisheries legislation; and</li> <li>- within 2 n mile of land; and</li> <li>- in significant wave heights of not more than 2.5 m; and</li> <li>- in Australian waters extending north of latitude 23.5 S on the west coast and latitude 29 S on the east coast.</li> </ul>	<p><b>All equipment must comply with the design, manufacture and performance measures in Schedule 2 of NSCV Section F2.</b></p> <ul style="list-style-type: none"> <li>- anchor with chain and/or rope</li> <li>- bailer (if vessel is not self-draining) and bilge pump with a pump capacity 4 kL/hr*</li> <li>- communication equipment to contact shore or other vessels</li> <li>- fire blanket and portable fire extinguisher(s)#</li> <li>- lifejacket (level 150) on board for each person that must be worn when the vessel is crossing a designated coastal bar</li> <li>- waterproof buoyant torch or lantern</li> <li>- navigation lights (if vessel is operating outside daylight hours or in restricted visibility)</li> <li>- first aid kit as determined by a risk assessment that is documented in the vessel's safety management system</li> <li>- two red hand-held flares and an orange hand-held smoke signal</li> <li>- V sheet marine distress signal</li> <li>- electronic navigation device (if vessel not equipped with a chart and a compass)</li> <li>- an effective means of retrieving person overboard if more than 1 person is on board</li> <li>- minimum 2 L of emergency drinking water for each person on board</li> </ul> <p><i>* Only applies to vessels over 5 m. Two pumps, each with a pump capacity 4 kL/hr, to be carried for vessels &gt;7.5 m.</i></p> <p><i># Minimum 1 x 1 kg dry powder and more and/or larger fire extinguisher(s) if required by a risk assessment.</i></p>
<p>Class 3C restricted vessel &lt;12 m long and operating:</p> <ul style="list-style-type: none"> <li>- only for the purpose of commercial beach</li> </ul>	<p><b>All equipment must comply with the design, manufacture and performance measures in Schedule 2 of NSCV Section F2.</b></p>

Kind of vessel	Equipment and arrangements
<p>fishing in accordance with Commonwealth, State or Territory commercial fisheries legislation; and</p> <ul style="list-style-type: none"> <li>- with at least two shore-based persons who: <ul style="list-style-type: none"> <li>• are responsible for keeping watch over the vessel at all times; and</li> <li>• are responsible for raising an alarm if the master appears to be in danger; and</li> <li>• are familiarised with the vessel's operation that is set out in a documented safety management system; and</li> <li>• are physically able to retrieve a person from the water; and</li> </ul> </li> <li>- within 200 m of land and within 400 m of shore based persons.</li> </ul>	<ul style="list-style-type: none"> <li>- lifejacket (level 150) on board for each person that must be worn when the vessel is crossing a designated coastal bar</li> <li>- bailer (if vessel is not self-draining)</li> <li>- waterproof buoyant torch or lantern</li> <li>- navigation lights (if vessel is operating outside daylight hours or in restricted visibility)</li> <li>- an effective means of retrieving person overboard if more than 1 person is on board</li> </ul>

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## Dictionary

(section 4)

**accredited marine surveyor** means a person who is accredited under section 24 of the *Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013*.

**Class 2 vessel** means a vessel that has the vessel use category 2 under section 2.1 of NSCV Part B.

**Class 3 vessel** means a vessel that has the vessel use category 3 under section 2.1 of NSCV Part B.

**crew** has the same meaning as in NSCV Part B.

**dangerous goods** has the same meaning as in NSCV Part C4.

**day passenger**, for a vessel, means a passenger who is not provided with sleeping accommodation.

**land** has the same meaning as in NSCV Part G.

**landing barge** has the same meaning as in *Marine Order 503 (Certificates of survey — national law) 2018*.

**long**, for a vessel, means the measured length of the vessel calculated in accordance with NSCV Part B.

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

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

**marine surveyor accredited in stability approval** means a person who is accredited under section 24 of the *Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013* in the category of initial survey — stability approval mentioned in paragraph 21(b) of the Regulation.

**National Law – Marine Surveyors Accreditation Guidance Manual 2014** means the *National Law – Marine Surveyors Accreditation Guidance Manual 2014* that is published by AMSA.

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

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

**NSCV Part C** means *Part C — Design and construction* of the NSCV.

**NSCV Part G** means *Part G — Non-survey vessels* of the NSCV.

**NSCV Part F** means *Part F — Special vessels* of the NSCV.

**open vessel** has the meaning given by NSCV Part B.

**operational area C** has the same meaning as in NSCV Part B.

**operational area D** has the same meaning as in NSCV Part B.

**operational area E** has the same meaning as in NSCV Part B.

**passenger** has the same meaning as in NSCV Part B.

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**recognised organisation** has the meaning given by section 14 of the *Navigation Act 2012*.

**remote enclosed water** means waterways where assistance from shore based facilities or other vessels is not readily available and rescue services are likely to be required in an emergency.

**sail vessel** means a vessel designed to carry sail as its primary means of propulsion.

**shore base** has the same meaning as in NSCV Part B.

**significant wave height** has the same meaning as *significant wave height* in NSCV Part B.

**special personnel** has the meaning given by NSCV Part B.

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