



Australian Government
Australian Maritime Safety Authority

AMSA EX2

Marine Safety (Certificates of survey) 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*.

24 June 2016

Michael Kinley
Chief Executive Officer

1 Name of instrument

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

2 Duration

This instrument:

- (a) commences on 1 July 2016; and
- (b) ceases to have effect at the end of 30 June 2019.

3 Repeal

Marine Safety (Certificates of survey) Exemption 2015 made on 27 February 2015 is repealed.

4 Definitions

- (1) In this instrument:

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

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

existing vessel means a vessel that:

- (a) a person was entitled to use in connection with a commercial, governmental or research activity at any time in the 2 years ending on 30 June 2013 or in another period ending on 30 June 2013 determined by the National Regulator — other than a vessel that has not been used in connection with a

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- commercial, governmental or research activity for any 2 year period after 30 June 2013 or another period determined by the National Regulator; or
- (b) if a vessel that was being constructed on 30 June 2013:
- (i) a person would have been entitled to use in connection with a commercial, governmental or research activity on 30 June 2013 if it had been completed on 30 June 2013; and
 - (ii) if the vessel is used in connection with a commercial, governmental or research activity after 30 June 2013 — is not a vessel that has not been used in connection with a commercial, governmental or research activity for any 2 year period after the vessel is completed or another period determined by the National Regulator; and
 - (iii) on 30 June 2013:
 - (A) its keel had been laid; or
 - (B) construction identifiable with the vessel had begun and at least the lesser of 50 tonnes, or 10% of the estimated mass of all structural material, of the vessel had been assembled; or
- (c) if a vessel for which an application for design approval was lodged before 1 July 2013:
- (i) a person would have been entitled to use in connection with a commercial, governmental or research activity on 30 June 2013 if it had been completed before 30 June 2013; and
 - (ii) if the vessel is used in connection with a commercial, governmental or research activity after 30 June 2013 — is not a vessel that has not been used in connection with a commercial, governmental or research activity for any 2 year period after the vessel is completed or another period determined by the National Regulator; and
 - (iii) before 1 July 2016:
 - (A) its keel had been laid; or
 - (B) construction identifiable with the vessel had begun and at least the lesser of 50 tonnes, or 10% of the estimated mass of all structural material, of the vessel had been assembled; and
 - (iii) is not a vessel mentioned in paragraph (b).

fire service organisation means an organisation established by State, Territory or Commonwealth legislation to provide the following services:

- (a) prevention, mitigation and suppression of fires;
- (b) protection of people from dangers to their safety and health from fire;
- (c) protection of property from destruction or damage by fire.

fire service vessel means a vessel used by a fire service organisation:

- (a) to transport volunteers and employees of the organisation and equipment to help with fire-fighting activities; or
- (b) for on-water fire fighting activities; or
- (c) to help government agencies and non-government organisations with transport, search and fire fighting activities in relation to fires or emergency events; or

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- (d) to train volunteers and employees of the organisation; or
(e) for fire awareness programs.

increased level of risk, for a vessel's operations, means an increase in the level of risk in the operation of the vessel, or to a person on the vessel, including an increase because of any of the following circumstances:

- (a) an upgrade in the service category of the vessel;
(b) a change in the propulsion power of the vessel;
(c) a change in the vessel's displacement;
(d) the commencement of overnight operations;
(e) an increase in the passenger numbers for the vessel;
(f) a modification of the vessel that may affect safety;
(g) a change to the vessel that requires a review of the vessel's stability.

inshore operations has the same meaning as in NSCV Part B.

landing barge has the same meaning as in *Marine Order 504 (Certificates of operation — national law) 2013*.

national law has the same meaning as in NSCV Part B.

National Standard for General Safety Requirements for Vessels means the standard of that name endorsed by the Standing Council on Transport and Infrastructure on 18 May 2012.

new vessel means a vessel that is not an existing vessel.

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

passenger has the same meaning as in NSCV Part B.

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.

service category has the same meaning as in NSCV Part B.

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

tender has the same meaning as in NSCV Part B.

VMR organisation, for a VMR vessel, means an organisation:

- (a) established for the primary purpose of providing marine search, rescue and public safety services; and

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- (b) that may be given responsibilities by a State, Territory or Commonwealth government in an emergency or disaster.

Note The responsibilities mentioned in paragraph (b) may be set out in a State, Territory or Commonwealth emergency management or search and rescue plan or subplan.

VMR vessel means a vessel that:

- (a) is owned by a VMR organisation; and
- (b) either:
- (i) is used for the purpose prescribed by paragraph 7(a) of the *Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013*; or
 - (ii) is mentioned in section 9 of the *Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013*; and
- (c) may be used only in connection with:
- (i) a commercial activity for which the supply is GST-free under section 38-250 of the A New Tax System Act; or
 - (ii) search and rescue activities for which no compensation is payable.

Note for subparagraph (c)(i) Section 38-250 of the A New Tax System Act allows for nominal compensation to be charged for a supply.

Note for subparagraph (c)(ii) The vessel may be used, for example, for training, maintenance, fundraising work and any other activity related to the search or search and rescue activities of the vessel, provided no fee is charged.

For paragraph (c)(i) a VMR organisation that is not an endorsed charity under the A New Tax System Act is to be taken to be an endorsed charity for section 38-250 of that Act.

Note **Owner** is defined in the *Marine Safety (Domestic Commercial Vessel) National Law* — see section 6. **Owner** includes the person with overall general control and management of the vessel.

5 Exemption

- (1) For sections 43 and 44 of the national law, each vessel mentioned in Schedule 1 is exempt from the requirement to have a certificate of survey, subject to:
- (a) any conditions mentioned for the vessel in Schedule 1; and
 - (b) approval in writing from the National Regulator, if the vessel:
 - (i) is not a vessel to which Division 5 of Schedule 1 applies; and
 - (ii) is not a human-powered vessel, a sailing vessel mentioned in item 2.4 of Schedule 1 or a personal watercraft.

Note 1 An application for approval can be part of the application for a certificate of operation or a separate application. For the form of application and how it will be processed, contact the National Regulator.

Note 2 A fee may be charged — see s 9 of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*.

- (2) For paragraph (1)(a), if more than 1 Division of Schedule 1 applies to the vessel, the owner of the vessel may choose which Division is to apply.

6 Further conditions

- (1) The vessel must comply with clause 5.3 of NSCV Section F2, as if that clause applied to the vessel, if:
 - (a) Division 1, 5 or 6 of Schedule 1 does not apply the vessel; and
 - (b) the vessel is:
 - (i) a human powered vessel; or
 - (ii) a sailing vessel mentioned in item 2.4 of Schedule 1.
- (2) For paragraph 5(1)(b), the National Regulator may make the approval subject to further conditions that take account of the condition, age, use and operational area of the vessel.

7 Transitional matters

An approval issued under a previous edition of *Marine Safety (Certificates of survey) Exemption* continues to be in force as if it had not been repealed.

Schedule 1 Vessels and conditions

(section 5)

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 | <p>The vessel must:</p> <ul style="list-style-type: none">(a) if the parent vessel is a vessel in survey — be inspected with the parent vessel whenever the parent vessel is surveyed; and(b) comply with:<ul style="list-style-type: none">(i) for a tender to a Class 1, 2 or 3 vessel, if the tender operates only in sheltered waters and is <7.5m long — the National Standard for General Safety Requirements for Vessels; or(ii) for any other tender to a Class 1, 2 or 3 vessel:<ul style="list-style-type: none">(A) the flotation performance, engine power rating, load capacity and fuel system requirements mentioned in Chapter 3, Sections 3.3, 3.4, 3.5 and 3.6 of the National Standard for General Safety Requirements for Vessels; and(B) equipment requirements determined by the National Regulator for the vessel or vessels of its kind; or(iii) for a tender to a Class 4 vessel — the requirements for tender vessels in Section F2 of the National Standard for Commercial Vessels |

Division 2 Non-survey vessels

| Item | Kind of vessel | Conditions |
|------|--|---|
| 2.1 | <p>Class 2, 3 or 4 vessel that:</p> <ul style="list-style-type: none">(a) is <7.5 m long; and(b) operates only in sheltered (D or E) waters; and(c) if a Class 2 vessel — carries no passengers or up to 4 day passengers; and(d) if a Class 3 vessel — carries no passengers; and(e) does not carry dangerous goods, other than petroleum or gas products intended for use on the vessel or fireworks carried on the vessel only for use on the vessel for a fireworks display; and(f) does not have installed a net reel, deck load, crane or lifting device, the use of which the National Regulator determines is likely to adversely affect the stability or watertight integrity of the vessel; and(g) is not operated primarily for towage; and(h) does not have an inboard petrol engine, other than a personal watercraft; and(i) is not:<ul style="list-style-type: none">(i) a support vessel in the offshore oil or gas industry; or(ii) an overnight hire and drive vessel; or(iii) a landing barge that is of a design or for a use | <p>Vessel must comply with:</p> <ul style="list-style-type: none">(a) the National Standard for General Safety Requirements for Vessels, whether operating inshore or beyond inshore waters; or(b) an equivalent standard determined by the National Regulator |

| Item | Kind of vessel | Conditions |
|------|---|---|
| | | that the National Regulator has determined is likely to adversely affect its stability. |
| 2.2 | A vessel that is: | |
| | (a) <24 m long; and | |
| | (b) used by a sailing school or training organisation to train members of the public for recreational boating qualifications; and | |
| | (c) engaged only in inshore operations | |
| 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 | A personal watercraft | |

Note An application for a certificate of operation for a vessel mentioned in this Division must include a declaration that the vessel complies with the condition — see *Marine Order 504 (Certificates of operation — national law) 2013*.

Division 3 VMR vessels

| Item | Kind of vessel | Conditions |
|------|---|---|
| 3.1 | Class 2D or 2E vessel that: | |
| | (a) is <12 m long; and | |
| | (b) does not carry passengers; and | |
| | (c) is not exempted under <i>Marine Safety (Class C restricted operations) Exemption 2015</i> from the requirement to have a certificate of survey; and | |
| | (d) is a VMR vessel | |
| | | 1. The vessel must comply with the National Standard for General Safety Requirements for Vessels. |
| | | 2. The owner of the vessel must: |
| | | (a) for approval under paragraph 5(1)(b) — give the National Regulator a declaration stating that the vessel complies with the National Standard for General Safety |

| Item | Kind of vessel | Conditions |
|------|----------------|--|
| | | Requirements for Vessels; and (b) between 11 and 12 months after the last declaration: (i) complete a further declaration stating that the vessel complies with the National Standard for General Safety Requirements for Vessels; and (ii) keep it with the vessel's safety management system. |

Note Other exemptions may apply to some VMR vessels — see *Marine Safety (Emergency services vessels) Exemption 2016*.

Division 4 Fire service vessels

| Item | Kind of vessel | Conditions |
|------|--|---|
| 4.1 | Class 2D or 2E vessel that: (a) is <12 m long; and (b) does not carry passengers; and (c) is not exempted under <i>Marine Safety (Class C restricted operations) Exemption 2015</i> from the requirement to have a certificate of survey; and (d) is a fire service vessel | 1. The vessel must comply with the National Standard for General Safety Requirements for Vessels. 2. The owner of the vessel must: (a) for approval under paragraph 5(1)(b) — give the National Regulator a declaration stating that the vessel complies with the National Standard for General Safety Requirements for Vessels; and (b) between 11 and 12 months after the last declaration: (i) complete a further declaration stating that the vessel complies with the National Standard for General Safety Requirements for Vessels; and (ii) keep it with the vessel's safety management system. |

Division 5 Existing vessels

| Item | Kind of vessel | Conditions |
|------|---|---|
| 5.1 | Existing vessel for which, on 30 June 2013, a survey certificate was not required | <ol style="list-style-type: none">1. The vessel must comply with the equipment, design and construction requirements that applied to the vessel on 30 June 2013.2. The vessel must also, if it is of a kind that, if it were a new vessel, would not be required to have a certificate of survey—comply on 30 June 2016 with the equipment requirements of the National Standard for General Safety Requirements for Vessels.3. The vessel may be altered or modified to the extent that that it must be reassessed against the construction, subdivision or stability standard that applies to it only if:<ol style="list-style-type: none">(a) the National Regulator considers there will not be an increased level of risk because of the proposed alteration or modification and has approved the alteration or modification in writing; and(b) the vessel complies with any requirements determined by the National Regulator for the vessel.4. The vessel's operations or service category may change only if:<ol style="list-style-type: none">(a) the National Regulator considers there will not be an increased level of risk because of the change in the vessel's operations or service category and has approved the change in writing; and(b) the vessel complies with any requirements determined by the National Regulator for the vessel.5. The vessel may operate in an area other than the area in which the vessel was permitted to operate before 1 July 2013 only if:<ol style="list-style-type: none">(a) the National Regulator has approved the change in writing; and(b) the vessel complies with any requirements determined by the National Regulator for the vessel. |

Division 6 Other vessels

| Item | Kind of vessel | Conditions |
|------|--|--|
| 6.1 | Waterski or wakeboard towing vessel with an inboard engine | Vessel must comply with design, construction, equipment and survey requirements that applied to the vessel, or to vessels of the same type as the vessel, on 30 June 2013. |
| 6.2 | Permanently moored vessel | |
| 6.3 | Ferry-in-chains | |
| 6.4 | Submersible or wing-in-ground effect craft | |

| Item | Kind of vessel | Conditions |
|-------------|--|-------------------|
| 6.5 | Novel vessel for which the NSCV does not provide an appropriate technical solution | |
| 6.6 | Unpowered barge | |
| 6.7 | A vessel used by a volunteer search, rescue, or search and rescue, organisation for which a certificate of operation was issued before the day this exemption was made | |
