



Australian Government
Australian Maritime Safety Authority

AMSA EX38

Marine Safety (Low complexity duties) Exemption 2016 (No. 2)

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*.

18 November 2016

Michael Kinley
Chief Executive Officer

1 Name of instrument

This instrument is *Marine Safety (Low complexity duties) Exemption 2016 (No. 2)*.

2 Duration

This instrument:

- (a) commences when it is made; and
- (b) ceases to have effect at the end of 30 June 2018.

3 Repeal

Marine Safety (Low complexity duties) Exemption 2016 made on 20 June 2016 is repealed.

4 Definitions

In this instrument:

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

existing vessel — see section 7 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 — national law) 2013*.

Marine Order 506 means *Marine Order 506 (Approval of training organisations — national law) 2013*.

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 means the National Standard for Commercial Vessels.

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.

Schedule 1 Duties

(section 5)

Item	Description of duty
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| 1 | The duties of the master or a crew member of an existing vessel, if: <ol style="list-style-type: none">(a) the crewing requirement for the vessel is that which applied on 30 June 2013 because of subparagraph 11(1)(e)(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 |
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Item	Description of duty
2	<p>The duties of the master or a crew member of a vessel that is not an existing vessel, if:</p> <ul style="list-style-type: none"> (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	<p>Commanding, or operating the engines of, a vessel <12 m long, if:</p> <ul style="list-style-type: none"> (a) the vessel has propulsion power: <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (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	<p>Commanding, or operating the engines of, a vessel <12 m long, if:</p> <ul style="list-style-type: none"> (a) the vessel has propulsion power: <ul style="list-style-type: none"> (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 vessel is only in a marina or mooring area
5	<p>Commanding, or operating the engines of, a vessel <12 m long, if:</p> <ul style="list-style-type: none"> (a) the vessel has propulsion power: <ul style="list-style-type: none"> (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

Item	Description of duty
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| | (d) the vessel is not carrying passengers; and |
| | (e) the vessel is only in the following areas: <ul style="list-style-type: none">(i) smooth waters;(ii) any waters:<ul style="list-style-type: none">(A) within 1 nautical mile from the previous point of departure from shore; and(B) within 1 nautical mile from shore;(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;(iv) any waters within 250 m of a structure fixed to the shore;(v) sheltered waters within 2 nautical miles from shore |
| 6 | Commanding, or operating the engines of, a vessel <12 m long, if: <ul style="list-style-type: none">(a) the vessel is used only for towing persons; and(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(c) the vessel has propulsion power, for an inboard or outboard engine, <500 kW; and(d) the person commands, or operates the engines of, the vessel only in daylight hours |
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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 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

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- (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 training organisation approved under section 7 of Marine Order 506 for each of the following units from the MAR Maritime Training Package:
- (A) MARI001 *Comply with regulations to ensure safe operation of a vessel up to 12 metres*;
- (B) MARK001 *Handle a vessel up to 12 metres*;
- (C) MARN002 *Apply seamanship skills aboard a vessel up to 12 metres*; 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:
- (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.
- 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 hold a first aid certificate of at least HLT Health Training Package unit of competency *Provide first aid* or an equivalent certificate determined by the National Regulator.
- 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 at least a

Marine Radio Operators VHF Certificate of Proficiency issued by the Australian Communications and Media Authority or an equivalent qualification determined by the National Regulator.
