



Consultation Feedback Report

Changes to AMSA general exemptions for temporary operations and extension of time

Outline

The Australian Maritime Safety Authority (AMSA) has amended the *Marine Safety (Temporary Operations) Exemption 2016* (Exemption 07) to improve the operational agility of the exemption in the following ways:

- allowing for accredited marine surveyors (AMS) or other persons permitted under MO503 to conduct surveys to approve temporary operations for sea trials, and after periodic and renewal surveys, including where minor non-conformances that do not jeopardise safety have been identified and are being rectified;
- providing for a limited extension of time to finalise the out of water component of a renewal survey after the certificate has expired and all other components of the renewal survey have been completed; and
- broadening the circumstances where the National Regulator may approve operation without certificates.

To complement these changes, the *Marine Safety (Periodic survey, equipment certification and compass adjustment) Exemption 2017* (Exemption 06) has also been amended to allow for an application for an extension of time for periodic survey, load line inspection and equipment certification to be made in the 90 days **before or after** the due date of the survey or inspection and/or the date of the expiry of the equipment certificate of currency.

The revised Exemption 06 and Exemption 07 have now been made and are available on the [AMSA website](#). The revised exemptions will commence on **1 April 2018**.

AMSA appreciates stakeholders taking the time to consider the consultation materials and providing comment.

Consultation Feedback

A copy of the proposed changes to Exemption 06 and Exemption 07 and consultation explanatory material (**Appendix B**) was provided to AMSA's domestic commercial vessel and fishing industry advisory committees, members of the Maritime Agencies Forum, and released for external public consultation for a six week period commencing on 31 October 2017.

AMSA received four submissions in response to the proposed changes to Exemption 06 and six submissions in response to the proposed changes to Exemption 07.

These comments and AMSA's responses to each comment is set out in **Table 1** and **Table 2**.

A broad synopsis of the consultation feedback received in response to the proposed changes to Exemption 06 and Exemption 07 is set out below.

Feedback on proposed changes to Exemption 06

AMSA received four comments from three submitters in response to the proposed changes to Exemption 06. Two submitters stated that they supported the changes, with one noting that it provides a time window of access opportunity whilst not compromising operational requirements. Two out of the four comments are in relation to compass adjustment and therefore are not in scope of the contemplated changes.

Feedback on proposed changes to Exemption 07

AMSA received six comments from five submitters in response to the proposed changes Exemption 07. Three submitters stated that they supported the changes as proposed. One submitter suggested that accredited marine surveyors should also be able to approve temporary operations permits after initial surveys have been conducted. One submitter suggested that there should be National Regulator oversight of what could be considered a 'minor' non-conformance.

After careful consideration, AMSA has decided not to make any further amendments in relation to persons other than the National Regulator (for example, an accredited marine surveyor) providing temporary approval. However, AMSA may give further consideration to these matters in the future.

In addition to the external feedback, AMSA received internal feedback in relation to Exemption 07 suggesting that AMSA specify the categories in which a marine surveyor must be accredited in order to approve a temporary exemption; and clarify the operation of Exemption 06 and Exemption 07 in relation to load line certificates.

Key changes following consultation

Overall there was broad support for the proposed changes to Exemption 06 and Exemption 07.

In addition to the changes released for consultation, AMSA has now made the following minor changes to Exemption 07 to reflect feedback received and to improve the accuracy and workability of the exemption:

- Division 5: Temporary operations – minor non-conformances being rectified after periodic survey (other than renewal survey)
 - Clarified that a temporary operations exemption approved after a minor defect is identified during periodic survey will only be approved *once*, and last for a maximum of 90 days after it commences. If the defect has not been rectified at the end of 90 days, the owner will need to apply for a specific exemption if they wish to continue operating.
 - Allowed for the provision of a temporary operations exemption from the requirement to have a load line certificate.
 - Specified the categories in which a surveyor would need to be accredited if they are going to approve a temporary exemption.
- Division 6: Temporary operations - application being decided for further certificate of survey after renewal survey has been completed
 - Provided that an application for approval can be part of the application for a certificate of operation or a separate application
 - Allowed for the provision of a temporary operations exemption from the requirement to have a load line certificate
- Dictionary

- Clarified the definition of accredited marine surveyor to provide that in order provide an approval under this division, they must be accredited in the following categories of surveying:
 - for a vessel that is **not** required to have a load line certificate: category L;
 - for a vessel that is required to have a load line certificate, but **not** a certificate of survey: category N; and
 - for a vessel that is required to have a load line certificate, and certificate of survey: categories L and N.
- Editorial changes
 - Updated the cross-reference to Marine Order 503 in section 11(1) to align with the new Marine Order which commenced on 1 January 2018;
 - Updated the definition of 'Marine Order 503' so that it refers to '2017' instead of '2013'; and
 - Removed reference to Marine Safety (Class C restricted operations) Exemption 2015 in section 3(2) as it is a typographical error.

Changes were made to Exemption 06 in response to the feedback received from VSU on load line certificates.

- A new section was added to deal with extension of time for load line inspections, whether these are scheduled under Marine Order 507 (for vessels with a Certificate of Survey) or the USL Code (for vessels with no Certificate of Survey but a grandfathered requirement to maintain a load line certificate).

Consequential changes

No consequential changes been made to any other instruments.

More information

For further information on these changes, please contact: standards.secretariat@amsa.gov.au.

TABLE 1 – Submissions received on proposed changes to Exemption 06

Note: AMSA has removed names of people and organisations from the report prior to publication.

Comment No.	Provision	Industry comment / submission	Response to submission
1.	General	Exemption 06 and 07: Entirely supported as it provides a time window of access opportunity whilst not compromising operational requirements.	Thank you for your submission. Your feedback has been noted.
2.	Division 3 – compass adjustment	I am a maritime stakeholder, having been registered with AMSA since April 2015. I have been receiving Domestic Vessels e-News via email, and no prior notification of any Draft changes/Exemptions pertaining to Compass Adjustment on DCV's has been received. I was first alerted to the Exemption 06 by the Special Edition Domestic vessel e-News June 2017 (received 27.06.17) which indicated "Exemption 06 now allows compasses to be adjusted when they show a deviation of more than 5 degrees on any heading, rather than by a set date. In the latest AMSA EX06, Division 3, Section 8 (3), it is my interpretation that DCV's can be exonerated from having the magnetic compass adjusted even if the Deviation exceeds 5 degrees. Surely this ruling will contravene the safety of navigation practices for which AMSA stands for. I would like to know:- a) On what grounds "Exemption 06 Division 3 Compass Adjustment" has been initiated. b) Circumstances where Approval may be provided by the National Registrar to allow DCV's to operate without a correctly adjusted Magnetic Compass, even if the Deviation is more than 5 degrees (as per Section 9 Approval). During the period May – August 2016, many of the [organisation name removed] provided feedback and submissions to AMSA in response to the proposed changes to Marine Orders and NSCV rule changes pertaining to Compass Adjustment. With the proposed introduction of this Exemption 06, I feel that Safe Navigation and Marine Safety could be jeopardized with the relaxed approach to the use of, and Adjustment of the Magnetic Compass. If an 'un-corrected' Compass on board a DCV has Deviations in excess of 5 degrees, surely this is an accident waiting to happen if such vessels are allowed to continue operating in survey.	Thank you for your submission. The proposed changes being made to Exemption 06 are not related to compass adjustment. To clarify, the sole change to Exemption 06 is to allow applications for extension of time to be made either prior to or after the relevant survey date or certificate of currency expires. This change is to address circumstances where an owner of a domestic commercial vessel is unable to apply to the National Regulator for the extension before the relevant date occurs. The changes relating to compass adjustment commenced on 1 July 2017 and were consequential to changes made to NSCV Part C7A to D in relation to frequency of adjustment of compasses.
3.	Division 3 – compass adjustment	My interpretation of this Exemption for DCV's is that in either case of Paragraphs 7 or 8, applications regarding NSCV's, irrespective of the vessels Class, - an exemption can be applied for, to exonerate the vessel	Thank you for your submission. As noted above, the proposed changes being made to Exemption 06 at this time are not related to compass adjustment.

Comment No.	Provision	Industry comment / submission	Response to submission
		<p>from undertaking Compass Adjustment. This negates any requirement to conform to Clause A4 of NSCV Section C7C, and even if the Deviation on any heading is more than 5 degrees, approval to still operate the vessel (without compass adjustment) can be obtained, subject to certain conditions and written application. In my view this could significantly jeopardise the safety of navigation, which should be of primary concern to AMSA. I would like to know on what grounds this particular "Exemption 06 Division 3 Compass Adjustment" has been formulated. I would also be obliged to know what certain conditions mentioned in "9 (3) Approval" might be.</p>	
4.	General	<p>[Organisation name removed] supports the AMSA proposal to amend Marine Safety (Periodic survey, equipment certification and compass adjustment) Exemption 2017 (EX06) to allow for an application for an extension of time for periodic survey and equipment certification to be made: <input type="checkbox"/></p> <ul style="list-style-type: none"> • in the 90 days before or after the due date of the survey or inspection; and <input type="checkbox"/> • in the 90 days before or after or the date of the expiry of the equipment certificate of currency. 	Thank you for your submission. Your feedback has been noted.

TABLE 2 – Submissions received on proposed changes to Exemption 07

Note: Submitter names will be removed from the report before it is published.

Comment No.	Provision	Industry comment / submission	Response to submission
1.	General	Exemption 06 and 07: Entirely supported as it provides a time window of access opportunity whilst not compromising operational requirements.	Thank you for your submission. Your feedback has been noted.
2.	All	Hallelujah.	Thank you for your submission. Your feedback has been noted.
3.	Division 4	I'd suggest you allow accredited surveyors with the right categories to approve temp ops after initial survey. It's a hold up, and often a critical time when the customer is trying to take delivery by sea. The TOE is issued based on a surveyor's recommendation any way, why not cut out the delay. It would be easy to place controls to reduce risk e.g. following must be signed off - plan approval, construction surveys, stability test or sistership comparison, commissioning, electrical sign off, SMS etc.	Thank you for your submission. Your feedback has been noted. After careful consideration, AMSA has decided to not make any further amendments in relation to persons other than the National Regulator (including an Accredited Marine Surveyor) to provide temporary approval. We consider that there are additional risks associated with a vessel operating after initial survey, but before a certificate of survey has been issued, to a vessel being used in limited circumstances during a sea trial; and that National Regulator oversight of the former situation is still required.
4.	General	<p>[Organisation name removed] supports the AMSA proposal to amend Marine Safety (Temporary Operations) Exemption 2016 (EX07) to improve the operational agility of the exemption in the following ways: <input type="checkbox"/></p> <ul style="list-style-type: none"> • allowing for accredited marine surveyors or other persons permitted under MO503 to conduct surveys (further referred to as 'marine surveyors' in this document) to approve temporary operations for sea trials; <input type="checkbox"/> • allowing for marine surveyors to approve temporary operations after a periodic survey where minor non-conformances that do not jeopardise safety have been identified. This will permit operation while the minor non-conformances are being rectified; • allowing for marine surveyors to approve temporary operations after a renewal survey, including where non-conformances that do not jeopardise safety have been identified, to permit operation 	Thank you for your submission. Your feedback has been noted.

Comment No.	Provision	Industry comment / submission	Response to submission
		<p>while an application for a further certificate of survey is being decided; <input type="checkbox"/></p> <ul style="list-style-type: none"> • providing for a limited extension of time to finalise the out of water component of a renewal survey after the certificate has expired and all other components of the renewal survey have been completed; and <input type="checkbox"/> • broadening the circumstances where the National Regulator may approve operation without certificates. 	
5.		<p>While I think it is a good thing to become more aligned to class societies in allowing vessels to still operate with minor deficiencies after a survey. However the problem I have with it is there is no clear definition of what constitutes a “minor” deficiency. The example of faded reflective tape on lifejackets is weak, poor and totally insufficient in providing guidance. Also with so many surveyors operating independently there will be a large difference in opinion of what is “minor”. Yet if anything happens and there is a court of inquiry even a “minor” deficiency can be made out to be life threatening or a contributing cause of the injury or death. This clause should be changed to the accredited surveyor submits to the National Regulator for determination whether the non-conformances are minor or not. i.e. The national Regulator should respond to the person who submits the non-conformances upon receipt of the documents in (3).</p>	<p>Thank you for your submission.</p> <p>The National Regulator will be aware of these minor non conformances as the exemption requires that the accredited marine surveyor (AMS) reports them (in addition to the reporting requirements imposed on AMS as a condition of their accreditation, and the reporting requirement imposed on vessel owners as a condition of their certificate of survey under Marine Order 503).</p> <p>The National Regulator has recourse to a number of compliance and enforcement options if it considers that the non-conformance requires rectification before the vessel can operate (e.g. directions notice).</p> <p>Instructions to surveyors will be published to provide examples of the kind of matters that the National Regulator considers to be ‘minor non-conformances’.</p>
6.		<p>This modification to the regulations is welcomed as it will stop vessels operating illegally and brings in line the way classification societies operate with Conditions of class however it has pushed the responsibility onto the Accredited Surveyor where in the case of classification societies it is not the class surveyor that carries the responsibility it is the classification society itself. The National Regulator needs to step up and take responsibility for vessels operating with non-conformances.</p>	<p>Thank you for your submission.</p> <p>The National Regulator will be aware of these minor non-conformances as the exemption requires that the accredited marine surveyor (AMS) reports them (in addition to the reporting requirements imposed on AMS as a condition of their accreditation, and the reporting requirement imposed on vessel owners as a</p>

Comment No.	Provision	Industry comment / submission	Response to submission
			<p>condition of their certificate of survey under Marine Order 503).</p> <p>The National Regulator has recourse to a number of compliance and enforcement options if it considers that the non-conformance requires rectification before the vessel can operate (e.g. directions notice).</p> <p>Instructions to surveyors will be published to provide examples of the kind of matters that the National Regulator considers to be 'minor non-conformances'. An AMS or recognised organisation is not compelled to approve a temporary operations exemption. The exemption itself is provided by the National Regulator – on the basis that an accredited marine surveyor considers that the vessel can safely operate.</p>