



Australian Government
Australian Maritime Safety Authority

AMSA EX07

Marine Safety (Temporary operations) Exemption 2018 (No. 3)

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*.

7 September 2018

Michael Kinley
Chief Executive Officer

Division 1 Preliminary

1 Name of instrument

This instrument is *Marine Safety (Temporary operations) Exemption 2018 (No. 3)*.

2 Duration

This instrument commences when it is made and ceases to have effect at the end of 30 June 2020.

3 Repeal and transitional matters

- (1) *Marine Safety (Temporary operations) Exemption 2018 (No. 2)* made on 12 June 2018 is repealed.
- (2) However, an approval issued under *Marine Safety (Temporary operations) Exemption 2018 (No. 2)* that is in effect on the day before the commencement of this instrument continues in effect as if the instrument under which it was issued had not been repealed.

4 Definitions — dictionary

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.

Division 2 Temporary operations — operation without certificates

5 Exemption

- (1) A domestic commercial vessel is exempt from the requirement to have a certificate of survey, a certificate of operation or any requirement to have a load line certificate, for a period if:
 - (a) an application for approval for operation without the certificates is made to the National Regulator in the approved form; and
 - (b) the National Regulator approves in writing the operation of the vessel without the certificates for the period.
- (2) A domestic commercial vessel is exempt from the requirement to have a certificate of survey, a certificate of operation or any requirement to have a load line certificate, if:
 - (a) an application has been made for the renewal of a certificate of survey, a certificate of operation or a load line certificate; and
 - (b) the National Regulator is considering the approval of that application.
- (3) The exemption commences on the day the National Regulator gives the approval and ends on the earlier of the following:
 - (a) the day specified in the approval;
 - (b) 90 days after it commences.

6 Approval

- (1) The owner of a vessel may apply to the National Regulator for an approval mentioned in section 5.
- (2) The National Regulator may, in writing, give an approval if satisfied that approval is necessary:
 - (a) to enable the building, disposing of, fitting out, relocating, removing or repair of the vessel; or
 - (b) to enable the vessel to be moved to obtain the certificate or to return the vessel after the initial survey or other process has been completed; or
 - (c) for another temporary use.
- (3) The National Regulator may give the approval subject to conditions.

Division 3 Temporary operations — sea trials

7 Exemption — sea trials

- (1) A domestic commercial vessel undertaking a sea trial is exempt from the requirement to have a certificate of survey, a certificate of operation and any requirement to have a load line certificate, for a period if:
 - (a) the vessel has been surveyed by an accredited marine surveyor, or another person permitted under Marine Order 503 to conduct vessel surveys; and
 - (b) the person who conducted the survey:

- (i) considers that the vessel may be safely operated during the period taking into account the intended service category and operation of the vessel; and
 - (ii) has given the owner a signed document to that effect in the approved form and a copy of the signed document to the National Regulator.
- (2) For paragraph (1)(b)(i), the person who conducted the survey must take into account a passage plan for the sea trial.
- (3) The exemption:
- (a) commences on the day the person who conducted the survey gives the owner the signed document; and
 - (b) ends 14 days after it commences.

8 Condition

The exemption mentioned in section 7 is subject to the condition that the owner keeps the signed document on the vessel at all times while the exemption is in force.

Division 4 Temporary operations — after initial survey or where a change occurs to the vessel or its operation

Note This Division is intended to cover those vessels with changes mentioned in Schedule 1 to Marine Order 503. These vessels cannot renew a certificate of survey and Division 6 of this exemption will not apply.

9 Exemption — after initial survey or where a change occurs to the vessel or its operation

- (1) A domestic commercial vessel is exempt from the requirement to have a certificate of survey, a certificate of operation and any requirement to have a load line certificate if:
- (a) an application for approval for operation without the certificates after initial survey or where a change occurs is made to the National Regulator in the approved form; and
 - (b) the survey required for the vessel has been completed by an accredited marine surveyor or another person permitted under Marine Order 503 to conduct vessel surveys; and
 - (c) the person who conducted the survey has given the owner a signed document to the effect that the initial survey has been completed; and
 - (d) the person who conducted the survey has given the National Regulator a written report of each survey conducted of the vessel; and
 - (e) the National Regulator approves in writing the operation of the vessel without the certificates.
- (2) The exemption commences on the day the National Regulator approves the vessel operating without the certificates and ends on the earlier of the following:
- (a) the day the owner receives the certificates for the vessel;

(b) 90 days after it commences.

Note For the form of application for this section, and how it will be processed, contact the National Regulator.

10 Approval

- (1) The owner of a vessel may apply to the National Regulator for an approval mentioned in section 9.
- (2) The National Regulator may give the approval subject to conditions.

Note An approval for operation without certificates after initial survey may be given despite expiry of the certificates or non-compliance with certificate conditions.

Division 5 Temporary operations — minor non-conformances being rectified after periodic survey (other than renewal survey)

11 Exemption

- (1) A domestic commercial vessel is exempt from compliance with paragraphs 11(1)(f) and 11(2)(b) and (c) of Marine Order 503 and, if the vessel must have a load line certificate, from paragraphs 7(1)(a), (b) and (c) of Marine Order 507, to the extent that each paragraph requires the vessel to meet a specified standard if:
 - (a) a certificate of survey is in force for the vessel; and
 - (b) if the vessel must have a load line certificate — a load line certificate is in force for the vessel; and
 - (c) subsection (2) applies.
- (2) An accredited marine surveyor, or another person permitted under Marine Order 503 to conduct vessel surveys, has:
 - (a) conducted a periodic survey (other than a renewal survey) of the vessel; and
 - (b) considered that the vessel complies with the standards that apply to the vessel to the extent that only minor non-conformances are identified that will not jeopardise the safety of the vessel or any person on board; and
 - (c) given the owner a signed document to that effect in the approved form.

Note A list of accredited marine surveyors and recognised organisations is available on the AMSA website at <http://www.amsa.gov.au>.

- (3) The person who conducts the periodic survey must also specify the following in the signed document for the owner and give a copy of the signed document to the National Regulator as soon as practicable:
 - (a) each identified non-conformance; and
 - (b) each standard to which the identified non-conformance relates.
- (4) A signed document relating to an identified minor non-conformance may only be given once to an owner.

Note This temporary operations exemption should not apply repeatedly in relation to any particular minor non-conformance, as it is expected that the minor non-conformance will be rectified within the temporary operations exemption period.

- (5) The exemption:
- (a) commences on the day the person who conducted the periodic survey gives the owner the signed document; and
 - (b) ends on the earlier of:
 - (i) the day specified in the signed document; or
 - (ii) 90 days after it commences.

Note If an identified minor non-conformance is not rectified by the end of the temporary operations exemption period, the vessel must not be operated until it is rectified or a specific exemption is granted. A specific exemption may be granted for a particular vessel on application to the National Regulator.

- (6) In subsection (1):
- specified standard** means a standard specified in the signed document mentioned in subsection (3).

12 Condition

The exemption is subject to the condition that the owner keeps the signed document on the vessel at all times.

Division 6 Temporary operations — application being decided for renewal of certificates after renewal survey has been completed

13 Exemption

- (1) A domestic commercial vessel is exempt from the requirement to have a certificate of survey and any requirement to have a load line certificate, if:
- (a) the following certificates have been in force for the vessel:
 - (i) a certificate of survey; and
 - (ii) if required — a load line certificate; and
 - (b) the certificate of survey or load line certificate:
 - (i) has not been revoked; or
 - (ii) is not suspended; and
 - (c) an application for the renewal of certificate of survey for the vessel has been made within 180 days before or 90 days after the expiry date of the certificate of survey; and
 - (d) the vessel has completed a renewal survey by an accredited marine surveyor, or another person permitted under Marine Order 503 to conduct vessel surveys:
 - (i) 180 days before or 90 days after the certificate of survey ceases to be in force; and
 - (ii) in accordance with the standards that apply to the vessel; and
 - (e) the person who conducted the survey:
 - (i) considers that:
 - (A) the vessel complies with the standards that apply to the vessel; or
 - (B) the vessel complies with the standards that apply to the vessel to the extent that only minor non-conformances are

identified that will not jeopardise the safety of the vessel or any person on board; and

- (ii) has given the owner a signed document to that effect in the approved form.

Note for paragraph (d) A list of accredited marine surveyors and recognised organisations is available on the AMSA website at <http://www.amsa.gov.au>.

- (2) If sub-subparagraph (1)(e)(i)(B) applies, the person who conducted the survey must also specify the following in the signed document to be given to the owner and give a copy of the signed document to the National Regulator:
 - (a) each identified non-conformance; and
 - (b) each standard to which the identified non-conformance relates.
- (3) The exemption:
 - (a) commences the day the person who conducted the survey gives the owner the signed document; and
 - (b) ends on the earlier of:
 - (i) 120 days after the day the certificate of survey that has been in force for the vessel expired; or
 - (ii) on the day that the National Regulator makes a decision in relation to the renewal application for the vessel.
- (4) However, the National Regulator may extend the exemption period in paragraph (3)(b)(i) after notifying the applicant in writing.

14 Conditions

The exemption is subject to the following conditions:

- (a) the owner keeps the signed document on the vessel at all times;
- (b) the vessel complies with the conditions on the certificate, or certificates, previously in force for the vessel.

Division 6A Temporary operations — application being decided for renewal of certificate of operation during transition period

15 Exemption

- (1) A domestic commercial vessel is exempt from the requirement to have a certificate of operation if:
 - (a) a certificate of operation has been in force for the vessel; and
 - (b) the certificate of operation:
 - (i) has not been revoked; or
 - (ii) is not suspended; and
 - (c) an application for the renewal of certificate of operation for the vessel has been made to the National Regulator before 30 June 2019.

Note If one certificate of operation has been in force for more than one domestic commercial vessel, each vessel is exempt under this section.

- (2) The exemption:
 - (a) commences the day after the certificate of operation expires; and
 - (b) ends on the earlier of:
 - (i) 120 days after the day the certificate of operation that has been in force for the vessel expired; or
 - (ii) on the day that the National Regulator makes a decision in relation to the renewal application for the vessel.
- (3) However, the National Regulator may extend the exemption period in paragraph (2)(b)(i) after notifying the applicant in writing.

15A Conditions

The exemption is subject to the following conditions:

- (a) the vessel continues to operate under the conditions prescribed on the certificate of operation being renewed for the vessel; and
- (b) the certificate of operation being renewed for the vessel must not have expired more than 90 days prior to the renewal application.

Division 7 Temporary operations — extension of time to finalise survey after certificate has expired

16 Exemption

- (1) A domestic commercial vessel is exempt from the requirement to have a certificate of survey and any requirement to have a load line certificate if:
 - (a) an application for approval for operation without the certificate of survey and any required load line certificate is made to the National Regulator in the approved form; and
 - (b) all in-water components of the renewal survey have been completed as far as is reasonably practicable, by an accredited marine surveyor or other person authorised to conduct inspections; and
 - (c) the person who conducted the in-water components of the renewal survey has given the National Regulator a written report of each survey conducted of the vessel; and
 - (d) the National Regulator approves in writing the operation of the vessel without the certificate of survey and load line certificate for the period.
- (2) The exemption commences on the expiry date of the certificate that was in force and ends on the earlier of the following:
 - (a) the date specified in the approval;
 - (b) 90 days after the date of expiry of the certificate.

17 Approval

- (1) The owner of a vessel may apply to the National Regulator for an approval mentioned in section 16.
- (2) The National Regulator may give the approval subject to conditions.

18 Conditions

The vessel complies with:

- (a) the conditions on the certificate that was in force for the vessel; and
- (b) any additional conditions imposed by the National Regulator.

Division 8 Temporary operations — operation outside scope of certificate

19 Exemption

- (1) This section applies to a vessel:
 - (a) that has a certificate of operation or a certificate of survey; and
 - (b) for which the owner applies to the National Regulator for approval to operate in a way:
 - (i) that is not authorised by the certificate of operation; or
 - (ii) for which the certificate of survey does not provide.
- (2) The vessel is exempt from the requirement to comply with the certificate if:
 - (a) an application is made in the approved form; and
 - (b) a report on the condition of the vessel is given to the National Regulator, if required; and
 - (c) the National Regulator approves in writing the operation of the vessel in the way sought in the application.
- (3) The exemption commences on the day the National Regulator gives the approval and ends on the earlier of:
 - (a) the day specified in the approval; or
 - (b) 90 days after it commences.

20 Approval

- (1) The owner of a vessel may apply to the National Regulator for an approval mentioned in subsection 19(1).
- (2) The National Regulator may, in writing, give an approval if satisfied that the vessel may be safely operated during the period.
- (3) The National Regulator may give the approval subject to conditions.

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* in the following categories of surveying:

- (a) for the survey of a vessel that is not required to have a load line certificate — periodic survey (**category L**);
- (b) for the survey of a vessel that must have a load line certificate but not a certificate of survey — periodic survey—load line (**category N**);
- (c) for the survey of a vessel that must have a certificate of survey and a load line certificate — category L and category N.

Note The list of accredited marine surveyors is available on the AMSA website at <http://www.amsa.gov.au>. For the list of categories of survey — see section 21 of the *Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013*.

initial survey has the same meaning as in Marine Order 503.

load line certificate means a certificate issued under section 5 of *Marine Order 507 (Load line certificates — national law) 2018*.

national law means the Marine Safety (Domestic Commercial Vessel) National Law set out in Schedule 1 to the National Law Act.

Marine Order 501 means *Marine Order 501 (Administration — national law) 2013*.

Marine Order 503 means *Marine Order 503 (Certificates of survey — national law) 2018*.

Marine Order 507 means *Marine Order 507 (Load line certificates — 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.

periodic survey has the same meaning as in Marine Order 503.

renewal survey has the same meaning as in Marine Order 503.

sea trial means a trial, test or demonstration, at sea, of the seaworthiness or any other operational aspect of a vessel or its equipment.