Australian Government

Australian Maritime Safety Authority

AMSA EX24

Marine Safety (Emergency services vessels) Exemption 2017 (No. 2)

I, Gary Prosser, Acting 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*.

12 December 2017

Gary Prosser
Acting Chief Executive Officer

1 Name of instrument

This instrument is *Marine Safety (Emergency services vessels) Exemption 2017 (No. 2)*.

2 Duration

(1) This instrument:

(a) commences on 1 February 2018; and

(b) other than section 8 — ceases to have effect at the end of 30 June 2020.

(2) Section 8 ceases to have effect at the end of 30 June 2018.

3 Repeal and transitional matters

(1) *Marine Safety (Emergency services vessels) Exemption 2017* made on 27 November 2017 is repealed.

(2) An approval issued under any of the following instruments continues to be in effect as if the instrument had not been repealed:

(a) *Marine Safety (Emergency service vessels) Exemption 2017*;

(b) *Marine Safety (Emergency service vessels) Exemption 2016*;

(c) *Marine Safety (Emergency service vessels and crew) Exemption 2016*;

(d) *Marine Safety (Emergency service vessels and crew) Exemption 2015*;

(e) *Marine Safety (Emergency service vessels and crew) Exemption 2014*.

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.

5 Exemption — survey

(1) The following vessels are exempt from the requirement mentioned in section 3, subparagraph 6(1)(b)(i) and paragraph 7(1)(a) of *Marine Order 503 (Certificates of survey — national law) 2017*:

(a) a fire service vessel;

(b) a VMR vessel.

Note Some VMR vessels may not require a certificate of survey — see *Marine Safety (Certificates of survey) Exemption 2017 (No. 2).*

(2) For subsection (1), it is a condition that the owner of the vessel must:

(a) for a new vessel — undergo an initial survey in accordance with the initial survey requirements in Section 4 of NSAMS 4; and

(b) undergo a renewal survey every five years in accordance with the renewal survey requirements in Section 4 of NSAMS 4; and

(c) within the first month of each periodic year in which the vessel is not required to be surveyed in accordance with this instrument:

(i) complete a declaration stating that the vessel complies with the standards mentioned in sections 4 and 5 of *Marine Order 503 (Certificates of survey — national law) 2017* that apply to the vessel; and

(ii) keep it with the vessel's safety management system; and

(d) for a vessel that is at least 15 years old or another age approved in writing by the National Regulator — ensure that, at least 21 months after and within 27 months after a certificate of survey is issued for the vessel, the vessel is surveyed for the matters mentioned for a year 3 survey for a Level 1 vessel in Table E.1 in Section 4 of NSAMS.

6 Exemption — NSCV outcomes

(1) After 30 June 2018, a VMR vessel is exempt from the requirement under paragraph 11(1)(f) of *Marine Order 504 (Certificates of operation — national law) 2013* to meet the outcomes of Part E of the NSCV.

(2) For subsection (1), it is a condition that:

(a) the vessel's operation complies with NSCV Part E other than subclauses 6(7) and 6(11) to (13) of Schedule 2; and

(b) the owner of the vessel ensures that the master and each member of crew:

(i) is at least 16 years old; and

(ii) meets the medical and eyesight requirements that are determined by the VMR organisation for the vessel, taking into account any guidance provided by the National Regulator to the VMR organisation on medical or eyesight requirements; and

(iii) tells the VMR organisation for the vessel, in writing, about any long term or permanent medical condition that is likely to affect the person's ability to perform the person's duties; and

(iv) for a VMR vessel that is not a PWC or is not operating in inland waters:

(A) carries out duties mentioned in Schedule 1 only if the master or crew member meets the requirements mentioned in Schedule 2 for the duties; or

(B) is certified, before 1 July 2018, by an emergency services authority, a volunteer marine rescue association or surf life saving association accredited by an emergency services authority, or a VMR organisation, as competent or able to operate the vessel and carries out duties in accordance with the certification; and

(v) meets any requirements of the VMR organisation for on-going training; and

Note See subsection (7) for how subparagraphs (2)(b)(i) to (iii), subparagraph (2)(b)(v) and paragraph (c) apply to PWCs.

(c) for a VMR vessel that is a PWC or is operating in inland waters:

(i) if the State or Territory where the vessel is operating has recreational boating operator licencing requirements — the master of the vessel meets those requirements; and

(ii) the owner of the vessel:

(A) develops training programs for the master and crew of the vessel that ensure they are competent to operate a vessel of its kind; and

(B) ensures that the master and crew of the vessel complete the training programs; and

(d) the VMR organisation for the vessel may be audited by the National Regulator to ensure that training requirements mentioned in this instrument are being met.

Note When auditing a VMR organisation, the National Regulator may require the VMR organisation to give evidence to show that units of competency are being delivered in accordance with this instrument. When determining whether to carry out an audit, the National Regulator may take into account any previous audit of the VMR organisation undertaken by another organisation such as ASQA.

(3) An assessment mentioned in Schedule 2 must:

(a) assess whether the person is competent to perform the duties; and

(b) assess competency by requiring the person to undertake a range of practical tasks relating to their duties; and

(c) be carried out by a validated assessor who has completed the units of competency that the assessment is required to cover.

(4) A MAR Maritime Training Package or other unit of competency mentioned in Schedule 2 must be delivered by:

(a) a registered training organisation; or

(b) if the owner that delivers the training is not a registered training organisation — a validated trainer who has:

(i) completed the unit of competency or another unit of competency that the VMR organisation considers to be at least equivalent to the unit of competency; or

(iii) has knowledge and experience that the VMR organisation considers appropriate for the delivery of the training.

(5) After 30 June 2018, a fire service vessel is exempt from the requirements mentioned in paragraphs 11(1)(a) and (e) of *Marine Order 504 (Certificates of operation — national law) 2013.*

(6) For subsection (5), it is a condition that:

(a) the vessel's operation complies with NSCV Part E other than subclauses 6(7) and 6(11) to (13) of Schedule 2; and

(b) if the State or Territory where the vessel is operating has recreational boating operator licencing requirements — the master of the vessel meets those requirements; and

(c) the owner of the vessel:

(i) develops training programs for the master and crew of the vessel that ensure the master and crew are competent to operate a vessel of its kind; and

(ii) ensures that the master and crew of the vessel complete the training programs.

(7) In subsection (2) a reference to the master, for a PWC, is to be taken to be a reference to the person in command of the PWC.

7 Exemption — certificates of competency

A person is exempt from the requirement to hold a certificate of competency that would be required for the specified operation if:

(a) an emergency service authority certifies that the person is competent to operate the vessel; and

(b) the National Regulator approves in writing the specified operation; and

(c) after 30 June 2018 — the vessel is not a VMR vessel or a fire service vessel.

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*.

8 Conditions

The National Regulator may make an approval under this instrument subject to further conditions relating to crew duties and training.

Schedule 1 Duties of master and crew

(subparagraph 6(2)(b)(iv))

1 VMR crew or deckhand

The person:

(a) assists, under the direct supervision of the person in charge of the vessel or its engines, a master or engineer with any task that may be required on board; or

(b) for a vessel with an inboard engine — works, under the direct supervision of the person in charge of the vessel or its engines, in an engine room of a vessel with propulsion power <500 kW; or

(c) for a vessel with an outboard engine — works, under the direct supervision of the person in charge of the vessel or its engines.

Note A person must be assessed to confirm that the person is competent to carry out the duties — see subclause 1(2) of Schedule 2.

2 Command or operate to 3 nm from point of departure or port, harbour or sheltered waters

The person commands a vessel or operates the engines of a vessel:

(a) that is <24 m long; and

(b) up to 3nm from point of departure or a port, harbour or sheltered waters, or in any other waters specified in the vessel's certificate of operation; and

(c) that has:

(i) an inboard engine <500 kW; or

(ii) an outboard engine with unlimited power.

3 Command or operate beyond 3 nm from point of departure or port, harbour or sheltered waters

The person commands a vessel or operates the engines of a vessel:

(a) operating:

(i) in a state or territory other than Queensland — up to 30 nm from point of departure or port, harbour or sheltered waters; or

(ii) in Queensland — either:

(A) up to 50 nm from point of departure or port, harbour or sheltered waters; or

(B) within the Great Barrier Reef Region or the Torres Strait zone; and

(b) operating beyond the operational area mentioned in paragraph (a) only if the VMR organisation:

(i) conducts a risk assessment of the following:

(A) the range and capability of the vessel;

(B) the abilities of the crew;

(C) potential fatigue of the crew; and

(ii) considers the risk assessment confirms that the vessel is safe to operate beyond the operational area mentioned in paragraph (a); and

(iii) considers that the vessel is operating in sea and weather conditions that:

(A) comply with the requirement mentioned in the table to section 3.4 of NSCV Part B for operational area category C for the design parameter weather and sea characteristics; and

(B) are within the limits mentioned for operational area category C for the Beaufort scale, assumed gusting wind pressure and design significant wave height design parameters in the table to section 3.4 of NSCV Part B.

Schedule 2 Requirements for master and crew

(subparagraph 6(2)(b)(iv))

1 VMR crew or deckhand

(1) The person must:

(a) hold HLTAID003 *Apply First Aid*; and

(b) have completed the following units from the MAR Maritime Training Package, or another unit of competency or other training considered by the VMR organisation for the vessel to be an equivalent:

(i) MARF001;

(ii) MARF002;

(iii) MARF004;

(iv) MARN002; and

(c) either:

(i) hold a Long Range Operator Certificate of Proficiency, or

(ii) have completed a unit of competency or other training considered by the VMR organisation for the vessel to be equivalent to the training required for the Long Range Operator Certificate of Proficiency; or

(iii) have completed a unit of competency or other training considered by the VMR organisation for the vessel to be appropriate for the operation of the vessel in its area of operation; and

(d) have completed an induction provided by the VMR organisation for the vessel on the vessel's operations; and

(e) have completed any additional units of competency or training required by the VMR organisation for the vessel; and

(f) if required by any training undertaken by the person and if the VMR organisation does not maintain a skills log for the person — maintain a skills log approved by the VMR organisation for the vessel as required; and

(g) if the VMR organisation does not maintain a sea time log for the person — maintain a sea time log approved by the VMR organisation for the vessel.

(2) The person must be assessed by a validated assessor for the VMR organisation for the vessel to confirm that the person is competent to carry out the duties.

Note 1 The MAR Maritime Training Package units mentioned in this Schedule may be completed at an approved training organisation (ATO) (eg as part of a NSCV Part D certificate) or at an organisation or group that is not an ATO or a registered training organisation.

Note 2 For information on the Long Range Operator Certificate of Proficiency — see the Australian Maritime College website at http://www.amc.edu.au

Note 3 A person requesting recognition of other units of competency, certificates or training should give the VMR organisation information about the content of the unit, certificate or training completed and evidence to show that the person has completed it. For more information on recognition of other units of competency, certificates or training — see the Australian Government Department of Education and Training website at training.gov.au.

2 Command or operate to 3 nm from point of departure or a port, harbour or sheltered waters

(1) The person must:

(a) hold HLTAID003 *Apply First Aid*; and

(b) have completed the following units from the MAR Maritime Training Package, or another unit of competency or other training considered by the VMR organisation to be equivalent:

(i) MARC005;

(ii) MARF001;

(iii) MARF002;

(iv) MARF004;

(v) MARN002;

(vi) MARI001;

(vii) MARJ001;

(viii) MARK001; and

(c) either:

(i) hold a Long Range Operator Certificate of Proficiency, or

(ii) have completed a unit of competency or other training considered by the VMR organisation for the vessel to be equivalent to the training required for the Long Range Operator Certificate of Proficiency; or

(iii) have completed a unit of competency or other training considered by the VMR organisation for the vessel to be appropriate for the operation of the vessel in its area of operation; and

(d) have completed training provided by the VMR organisation for the vessel on setting up and securing a vessel towing operation; and

(e) have completed any additional units of competency or other training required by the VMR organisation for the vessel; and

(f) if required by any training undertaken by the person and if the VMR organisation does not maintain a skills log for the person — maintain a skills log approved by the VMR organisation for the vessel as required; and

(g) if the VMR organisation does not maintain a sea time log for the person — maintain a sea time log approved by the VMR organisation for the vessel.

(2) The person must be assessed by a validated assessor for the VMR organisation for the vessel to confirm that the person is competent required to carry out the duties.

3 Command or operate beyond 3 nm from point of departure or port, harbour or sheltered waters

(1) The person must:

(a) hold HLTAID003 *Apply First Aid*;

(b) have completed the following units from the MAR Maritime Training Package, or another unit of competency or other training considered by the VMR organisation for the vessel to be an equivalent unit:

(i) MARF001;

(ii) MARF002;

(iii) MARF004;

(iv) MARN002;

(v) MARI001;

(vi) MARJ001;

(vii) MARK001;

(viii) MARH001;

(ix) MARC005;

(x) MARC006; and

(c) either:

(i) hold a Long Range Operator Certificate of Proficiency, or

(ii) have completed a unit of competency or other training considered by the VMR organisation for the vessel to be equivalent to the training required for the Long Range Operator Certificate of Proficiency; or

(iii) have completed a unit of competency or other training considered by the VMR organisation for the vessel to be appropriate for the operation of the vessel in its area of operation; and

(d) have completed training provided by the VMR organisation for the vessel on:

(i) coordinating search and rescue operations; and

(ii) setting up and securing a vessel towing operation; and

(e) have completed any additional units of competency or training required by the VMR organisation for the vessel; and

(f) if required by any training undertaken by the person and if the VMR organisation does not maintain a skills log for the person — maintain a skills log approved by the VMR organisation for the vessel as required; and

(g) if the VMR organisation does not maintain a sea time log for the person — maintain a sea time log approved by the VMR organisation for the vessel.

(2) The person must be assessed by a validated assessor for the VMR organisation for the vessel to confirm that the person is competent to carry out the duties.

Dictionary

(section 4)

A New Tax System Act means the *A New Tax System (Goods and Services Tax) Act 1999.*

emergency service authority means an organisation:

(a) established to provide emergency response, emergency management services or disaster relief; and

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

Note An emergency service authority's responsibilities may be set out in a State, Territory or Commonwealth emergency management or search and rescue plan or subplan.

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

(d) to train volunteers and employees of the organisation; or

(e) for fire awareness programs.

inland waters has the meaning given by NSCV Part B.

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

NSAMS has the same meaning as in *Marine Order 501 (Administration — national law) 2013*.

NSCV — see section 6 of the *Marine Safety (Domestic Commercial Vessel) National Law*, meaning of *National Standard for Commercial Vessels*.

operational area has the meaning given by NSCV Part B.

periodic year, for a vessel that has a certificate of survey, means the later of:

(a) the year commencing on the day the certificate of survey was issued; or

(b) the year commencing on the day the most recent survey was completed.

personal watercraft (or ***PWC***) 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.

propulsion power has the same meaning as in NSCV Part D.

registered training organisation means a training organisation registered by any of the following:

(a) the Australian Skills Quality Authority (ASQA);

(b) the Victorian Registration and Qualifications Authority;

(c) the Training Accreditation Council Western Australia.

Note See the website at http://www.asqa.gov.au for information about ASQA, the website at http://www.vrqa.vic.gov.au for information about the Victorian Registration and Qualifications Authority and the website at http://www.tac.wa.gov.au for information about the Training Accreditation Council Western Australia.

sheltered waters has the meaning given by NSCV Part B.

specified operation means an operation of a domestic commercial vessel connected with emergency services.

Torres Strait zone has the meaning given by NSCV Part B.

validated assessor means a person who:

(a) meets the requirements of ASQA, Training Accreditation Council Western Australia or Victoria Registration and Qualifications Authority for an assessor; and

(b) has been approved by a VMR organisation to assess a person's competence to operate a vessel, or be a member of crew on a vessel, up to a specified length and operational area.

validated trainer means a person who:

(a) meets the requirements of ASQA, Training Accreditation Council Western Australia or Victoria Registration and Qualifications Authority for a trainer; and

(b) has been approved by a VMR organisation to train a person to operate a vessel, or be a member of crew on a vessel, up to a specified length and operational area.

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

(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.