



Australian Government
Australian Maritime Safety Authority

AMSA EX07

Marine Safety (Temporary operations) Exemption 2018

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*.

15 February 2018

Michael Kinley
Chief Executive Officer

Division 1 Preliminary

1 Name of instrument

This instrument is *Marine Safety (Temporary operations) Exemption 2018*.

2 Duration

This instrument:

- (a) commences on 1 April 2018; and
- (b) ceases to have effect at the end of 30 June 2020.

3 Repeal and transitional matters

- (1) *Marine Safety (Temporary operations) Exemption 2016* is repealed.
- (2) However, an approval issued under *Marine Safety (Temporary operations) Exemption 2016* that is in effect on 31 March 2018 continues in effect as if the instrument under which it was issued had not been repealed.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 and any requirement to have a load line certificate, for a period if:
 - (a) an application for approval for operation without the certificate 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 certificate for the period.
- (2) 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 for which operation without the certificate is required.
- (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.

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- (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

9 Exemption — after initial survey

- (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 certificate after initial survey is made to the National Regulator in the approved form; and
 - (b) the initial survey of 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 certificate.
- (2) The exemption commences on the day the National Regulator approves the vessel operating without the certificate and ends on the earlier of the following:
 - (a) the day the owner receives the certificate 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 a certificate or non-compliance with any conditions of a certificate. An approval may be given for more than 1 certificate.

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 paragraph 7(1)(f) of Marine Order 503 and, if the vessel must have a load line certificate, from paragraph 9(1)(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 the following:
 - (i) the day specified in the signed document;
 - (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 further certificate of survey 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 a further certificate of survey for the vessel has been made within 90 days before or after the expiry date of the certificate of survey; and
 - (d) the vessel has been surveyed by an accredited marine surveyor, or another person permitted under Marine Order 503 to conduct vessel surveys:
 - (i) within 90 days before or 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.
- (2) If 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

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>.

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- (b) ends 90 days after the day the certificate of survey that has been in force for the vessel expired.
 - (4) A vessel that is exempt under this section cannot be exempt again before a certificate of survey is issued for the vessel.

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 of survey that was in force for the vessel.

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

15 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 or 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.

16 Approval

- (1) The owner of a vessel may apply to the National Regulator for an approval mentioned in section 15.
- (2) The National Regulator may give the approval subject to conditions.

17 Conditions

The vessel complies with:

- (a) the conditions on the certificate of survey 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

18 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 the following:
 - (a) the day specified in the approval;
 - (b) 90 days after it commences.

19 Approval

- (1) The owner of a vessel may apply to the National Regulator for an approval mentioned in subsection 18(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) Law National Law Regulation 2013*.

initial survey means a full initial survey in accordance with section 4 of the National Standard for the Administration of Marine Safety (NSAMS).

load line certificate means a certificate issued under section 8 of *Marine Order 507 (Load line certificates — national law) 2013*.

Marine Order 503 means *Marine Order 503 (Certificates of survey — national law) 2017*.

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

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