AMSA EX38

**Marine Safety (Low complexity duties) Exemption 2015**

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*.

20 February 2015

Michael Kinley
Chief Executive Officer

1 **Name of instrument**
This instrument is *Marine Safety (Low complexity duties) Exemption 2015*.

2 **Duration**
This instrument:
(a) commences when it is made; and
(b) ceases to have effect at the end of 30 June 2016.

3 **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 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 outside a marina that is determined under waterways management legislation to be an area for the mooring of vessels.

NSCV means the National Standard for Commercial Vessels.

sheltered waters — see section 1.8 of NSCV Part B.

smooth waters — see section 1.8 of 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.

### 4 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 4)*

**Item** | **Description of duty**
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1 | The duties of the master or a crew member of an existing vessel, if:
   (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

2 | The duties of the master or a crew member of a vessel that is not an existing vessel, if:
   (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
Item | Description of duty
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(d) | the person performs duties only in daylight hours

3 | Commanding, or operating the engines of, a vessel <12 m long, if:
(a) | the vessel has propulsion power:
   (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:
   (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) | in a marina;
   (iv) | if the duties are for marina operations — a mooring area within sight of the marina;
   (v) | any other waters approved by the National Regulator

4 | Commanding, or operating the engines of, a vessel <12 m long, if:
(a) | the vessel has propulsion power:
   (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 is not carrying passengers; and
(e) | the vessel is only in the following areas:
   (i) | smooth waters;
   (ii) | any waters:
      (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
Item    Description of duty
5    Commanding, or operating the engines of, a vessel <12 m long, if:
   (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

Schedule 2    Criteria

   (section 4)

1    The person must:
   (a) be at least 16 years old; and
   (b) 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) complete training and assessment:
      (i) provided by a person determined by the National Regulator; and
      (ii) appropriate for the duties mentioned in Schedule 1; and
      (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

2    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 duties that include operating a vessel carrying passengers, 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.

4 For duties that include operating radio equipment on board the vessel, 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.