

Domestic Commercial Vessel (DCV)

ADVISORY NOTE



DCV-A-030

- Date:** 28 October 2015
- Topic:** The Scope of the National System: Regulated Australian Vessels and Domestic Commercial Vessels
- Issue:** This Advisory provides advice about the application of the *Navigation Act 2012* and the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*.
- Advice:** The *Navigation Act 2012* (Navigation Act) and the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law) commenced on 1 July 2013.

Which law applies?

As a general statement of the law:

- an Australian commercial vessel which operates outside Australia's Exclusive Economic Zone (EEZ), or intends operating outside the EEZ, is a regulated Australian vessel (RAV) and is subject to the Navigation Act. RAVs are not subject to the National Law.
- an Australian commercial vessel which operates only within Australia's EEZ will generally be a domestic commercial vessel (DCV) and will be subject to the National Law.

However there are variations:

- an Australian commercial vessel which operates only within Australia's EEZ will also be categorised as a RAV if it holds a Statutory Certificate issued under the Navigation Act - unless the certificate is a MARPOL certificate, International Tonnage certificate or a declaration of maritime labour compliance¹.
- An Australian commercial vessel which operates outside Australia's EEZ, or intends operating outside the EEZ issued with a declaration under section 19 of the Navigation Act² will not be categorised as a RAV. Such vessels will be DCV.

What is the Exclusive Economic Zone (EEZ)?

The EEZ is the maritime zone over which Australia has sovereign rights in relation to exploring, exploiting, conserving and managing the natural marine resources. The outer edge of the EEZ is generally 200 nautical miles from Australia's territorial sea baseline; however the edge varies depending on agreements with neighbouring countries.

What are 'Statutory Certificates' for the purposes of the Navigation Act 2012 and RAVs?

Some Classification Societies are 'issuing bodies' under the Navigation Act (and are then referred to as Recognised Organisations). This means they have the power to issue Statutory Certificates required by the Navigation Act, including:

- Safety certificates issued in accordance with Marine Order 31 (Vessel Surveys and Certification) - including SOLAS certification or certificates of survey,
- Load Line certificates issued in accordance with Marine Order 16 (Load lines)

¹ See section 44 of Marine Order 31

² This is generally only applied to DCV that operated beyond the EEZ prior to 01 July 2013 provided such vessel do not operate in the EEZ, territorial sea or port of another country



- Tonnage certificates issued in accordance with Marine Order 19 (Tonnage Measurement)
- Pollution certificates issued in accordance with Marine Order 91- 97 - for MARPOL requirements
- Maritime labour certificates issued in accordance with Marine Order 11 – (living and working conditions).
- Anti-fouling certificates issued in accordance with Marine Order 98.

A Statutory Certificate issued by a Recognised Organisation³ has the same effect as if the certificate was issued by AMSA. As a matter of practice Classification Societies will recognise the certificates issued by another classification society when a vessel is transferring class.

'Statutory Certificates' that do not result in a vessel being categorised as a RAV

Navigation Act s 15 (c)(ii) provides the definition of 'regulated Australian vessel'. It allows for the regulations to identify statutory certificates, the holding of which will not result, of themselves, a vessel meeting the definition of a RAV. The statutory certificates issued under the Navigation Act that do not make a vessel a RAV are listed in Marine Order 31, s44 and are:

- i. Pollution Certificates (all certificates issued in accordance with MARPOL)
- ii. International Tonnage Certificates
- iii. Declarations of Maritime Labour Compliance (DMLC) parts I and II

Why are these certificates excluded?

MARPOL - DCVs that trigger the cargo, size or other criteria for the application of the various Annexes of MARPOL must comply with MARPOL but are not required to hold certification (because they do not undertake international voyages). However some owners choose to obtain statutory MARPOL certification under the Navigation Act. A DCV can retain such certification without being categorised as a RAV.

Tonnage - Tonnage certificates are required for registration under the *Shipping Registration Act 1981*. They are also sometimes held or sought by DCV owners for delivery voyages from overseas. These certificates have no expiry and remain in effect for the life of a vessel. Holding these certificates do not cause a vessel to be categorised as a RAV.

DMLC Part I and II - A similar situation applies for the declaration of maritime labour compliance. These are international requirements to which Australia is a party and the certificates can only be issued in accordance with the Navigation Act. A vessel owner may choose to obtain a Declaration of Maritime Labour Compliance under the Navigation Act and a DCV can retain that declaration and not be categorised as a RAV.

What other non-statutory certificates can be held by a DCV?

Certificates of Class issued in respect of the vessel being "in class" are not statutory certificates issued under the Navigation Act and do not make a DCV a RAV. Documents of Compliance in regard to the carriage of dangerous goods are not statutory certificates and can also be retained by DCV.

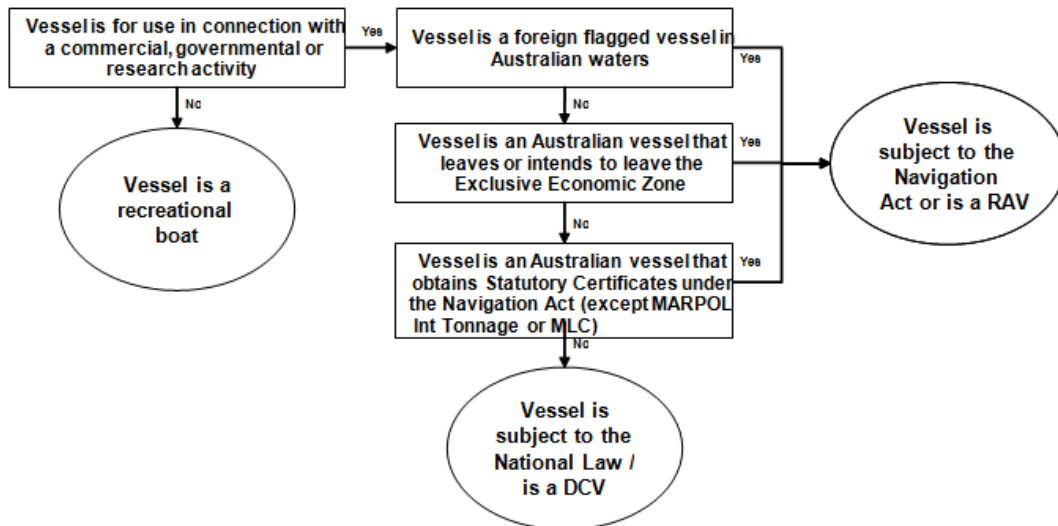
Can a vessel in 'Class' be a DCV?

If an owner is required to, or wishes to, have a DCV surveyed or constructed and maintained in accordance with the rules of a Classification Society (that is, have the vessel 'in Class'), they can do so. However, as explained above, to remain a DCV they must not obtain a Statutory Certificate (other than MARPOL, International Tonnage or a declaration of maritime compliance) from a Classification Society that is an AMSA Recognised Organisation.

³ A list of AMSA ROs is contained in the schedule to Marine Order 1

However, Classification Societies also produce documents that are not Statutory Certificates, such as material test certificates, stamped vessel drawings, tonnage certificates, stamped stability books and "Statements of Compliance" with conventions (indicating the vessel complies with the conventions and is surveyed to it but is not certified). These Classification Society documents can be submitted with an application for a Certificate of Survey under the National Law, as evidence that the vessel meets the construction standards of the National Law.

Note that some larger DCV are *required* to be designed, constructed and maintained in accordance with the rules of a Classification Society – see Guidance Notice AMSA 746 for more information.



Can a RAV become a DCV?

A RAV can 'opt out' of the Navigation Act and become a DCV if it operates only within the EEZ, requests its Statutory Certificates (except the certificates identified above) be revoked and obtains a Certificate of Survey and a Certificate of Operation under the National Law. The vessel may remain in Class and may maintain its MARPOL certification, International Tonnage and MLC statutory certificates as appropriate.

Can a DCV become a RAV?

A DCV can 'opt in' to the Navigation Act and become a RAV by obtaining Statutory Certificates from a Recognised Organisation or AMSA. The owner must apply to have the vessel's National Law Certificates of Survey and Operation cancelled or revoked.

Survey and certification requirements for foreign vessels transferring to Australia?

Foreign flagged vessels operating in Australia are subject to the Navigation Act. Where a foreign flagged vessel is transferring to the Australian flag:

- **As a RAV and in class with a Recognised Organisation**
The vessel must be registered under the *Shipping Registration Act 1981* and as a result existing certification will cease to be in effect (because it is issued by or on behalf of the former flag state) but will be recognised for the issue of certification under the Navigation Act. The Recognised Organisation will confirm the vessel complies with the relevant Australian requirements.
- **As a RAV and in class with a Classification Society that is not a Recognised Organisation**
The vessel must be registered under the *Shipping Registration Act 1981* and will need to transfer to an AMSA approved Recognised Organisation to enable statutory certificates to be

issued on AMSAs behalf.

- **As a RAV but not in class**

The vessel must be registered under the *Shipping Registration Act 1981*. The vessel may be required to hold Statutory Certificates (depending on size and type). Existing documentation for the vessel will likely cease to be in effect but may be used by a Recognised Organisation to assess compliance.

- **As a DCV**

- The vessel may be required to be registered under the *Shipping Registration Act 1981*
- If transferring to a DCV whilst still outside Australia:
 - a) Will need Navigation Act exemptions and/or short term Navigation Act certificates for the delivery voyage to Australia. Such exemptions and/or short term certificates can rely on surveys undertaken for the issue of National Law certificates but additional conditions may be placed on the vessel for the delivery voyage. Such National Law surveys will only be accepted where they are carried out by AMSA or a Recognised Organisation or a National Law delegate.
 - b) Upon arrival, must hold Certificates of Survey and Operation in accordance with National Law requirements.
 - c) May continue to be in class.
 - d) Must not hold any Statutory Certificates except as identified above.
- If transferring to a DCV whilst within Australia:
 - e) Refer to items b), c) and d)

Contact: If your vessel is a DCV, see <http://www.amsa.gov.au/domestic/national-law> or contact AMSA Connect on +61 2 6279 5000 for more information on the requirements of the National System