



Australian Government
Australian Maritime Safety Authority

AMSA MO 2013/8

Marine Order 503 (Certificates of survey — national law) 2013

I, Graham Peachey, 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 Order under subsection 163(1) of the *Marine Safety (Domestic Commercial Vessel) National Law*.

21 June 2013

Graham Peachey
Chief Executive Officer

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Division 1 Preliminary

1 Name of Order

This Order is *Marine Order 503 (Certificates of survey — national law) 2013*.

2 Commencement

This Order commences on 1 July 2013.

3 Purpose

The purpose of this Order is to provide for certificates of survey for domestic commercial vessels to be issued by the National Regulator.

4 Power

- (1) Division 2 of Part 4 of the national law provides for matters that can be prescribed in the regulations for certificates of survey.
- (2) Section 75 of the national law provides for regulations to be made about certificates.
- (3) Subsection 159(1) of the national law provides for regulations to be made prescribing matters required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to the national law.
- (4) Subsection 159(2) of the national law provides for regulations to be made prescribing standards for the national law.
- (5) Subsection 163(1) of the national law provides that the National Regulator may make a Marine Order for any matter for which provision must or may be made by regulations, other than for matters mentioned in the section.
- (6) Section 164 of the national law allows a Marine Order to provide for any matter by applying, adopting or incorporating any matter contained in any written instrument in force or existing from time to time including the NSCV.

5 Application of Order

This Order applies to domestic commercial vessels.

6 Definitions

In this Order:

application for design approval includes:

- (a) an application to a State or Territory authority for:
 - (i) vessel design, plans or construction drawings approval; or
 - (ii) new vessel construction; or
 - (iii) initial survey; or
 - (iv) vessel survey; or
- (b) completion of a certificate of compliance for design for a State or Territory agency responsible for marine safety.

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new vessel means a vessel that is not an existing vessel.

Note 1 Some terms used in this Order are defined in *Marine Order 501 (Administration — national law) 2013*, including:

- AMSA Act
- approved form
- Load Lines Convention
- national law
- NSAMS
- NSCV
- significantly altered
- USL Code.

Note 2 Other terms used in this Order have the same meaning that they have in the national law, including:

- domestic commercial vessel
- National Regulator.

7 Existing and new vessels

- (1) For this Order, a vessel is an existing vessel if:
 - (a) a survey certificate was in effect for it at any time in the 2 years ending on 30 June 2013; or
 - (b) a person was entitled to operate it commercially at any time in the 2 years ending on 30 June 2013; or
 - (c) on 30 June 2013:
 - (i) its keel has been laid; or
 - (ii) construction identifiable with the vessel has begun and at least the lesser of 50 tonnes, or 10% of the estimated mass of all structural material, of the ship has been assembled; or
 - (d) for a vessel for which an application for design approval was lodged before 1 July 2013 — before 1 July 2016:
 - (i) its keel has been laid; or
 - (ii) construction identifiable with the vessel has begun and at least the lesser of 50 tonnes, or 10% of the estimated mass of all structural material, of the ship has been assembled.
- (2) However:
 - (a) a vessel to which paragraph (1)(d) applies must be surveyed in accordance with Section 4 of NSAMS; and
 - (b) an existing vessel is taken to be a new vessel if the National Regulator considers that:
 - (i) it has been altered to an extent that it must be reassessed against the construction, subdivision or stability standard that applies to it; or
 - (ii) its operations have changed so that there is an increased level of risk or it changes its operational area; and

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- (c) on application by the owner of an existing vessel — the National Regulator may determine that the vessel is taken to be a new vessel.

Note for subparagraph (b)(ii) An increased level of risk may result from any of the following:

- (a) an upgrade in service category that will subject the vessel or persons on the vessel to an increase in risk;
- (b) an increase in propulsion power;
- (c) an increase in displacement;
- (d) commencing overnight operations;
- (e) an increase in passenger numbers;
- (f) an alteration that affects safety outcomes;
- (g) changes that require a review of stability.

8 Standards that apply to a vessel

For paragraph 10(2)(b), the standard that applies to a vessel is:

- (a) for a new vessel — the following standards applied in accordance with Section 4 of NSAMS:
 - (i) the NSCV other than Part C Sections 1 and 2;
 - (ii) USL Code Section 5, subsection C, clauses C.42 to C.47, C.49 to C.53, C.54.2, C.55 to C.57, C.61.1, C.61.2a, C.61.3, C.61.3a, C.61.4, C.61.5, C.67, C.68, C.69.1 to C.69.6 and C.70 to C.73;
 - (iii) USL Code Section 5, subsection D, clauses D.9 to D.15 and D.18 to D.36;
 - (iv) USL Code Section 5, subsection E;
 - (v) USL Code Sections 6 and 7;
 - (vi) USL Code Section 13:
 - (A) Part 2, clause 7; and
 - (B) Part 3, requirements in the tables for accommodation, ladders, gangways and safe means of access, safety nets, hawsers and warps and boat hooks; and
 - (C) Part 4, Appendices F, J and K; or
- (b) for an existing vessel — the following standards applied in accordance with the survey process that applied to the vessel when the vessel was last surveyed before 1 July 2013 or Section 4 of NSAMS:
 - (i) the construction, subdivision and stability standards that applied to the vessel when the vessel was last surveyed before 1 July 2013; and
 - (ii) the equipment standards that applied to the vessel on 30 June 2013.

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9 Applications under this Order

An application under this Order must be made in accordance with *Marine Order 501 (Administration — national law) 2013*.

Division 2 Requirements

10 Application for a certificate

- (1) An application for a certificate of survey for a vessel must be in the approved form.

Note 1 A fee may be charged — see section 9 of the *Maritime Safety (Domestic Commercial Vessel) National Law Act 2012*.

Note 2 It is an offence to operate a vessel without a certificate of survey — see sections 43 and 44 of the national law.

Note 3 Exemptions from this Order can be given under section 143 of the national law.

Note 4 Giving false or misleading information in an application is an offence — see section 136.1 of the Criminal Code.

- (2) The application must show that the vessel:
 - (a) is suitable for its intended use and area of operation; and
 - (b) will comply with the standard mentioned for the vessel in section 8.

11 Form of survey

- (1) For paragraph 38(1)(b) of the national law:
 - (a) a vessel must be surveyed in accordance with:
 - (i) for a new vessel — Section 4 of NSAMS; or
 - (ii) for an existing vessel — Section 4 of NSAMS, Section 14 of the USL Code or the survey process that applied to the vessel when it was last surveyed before 1 July 2013; and
 - (b) the survey must be conducted by the National Regulator or a person who the National Regulator is satisfied is competent to survey the vessel; and
 - (c) the survey must include plans for the vessel approved by the National Regulator, or a person the National Regulator is satisfied is competent to assess the plans, unless the National Regulator considers that it is not necessary for the survey to include plans.
- (2) For paragraph 38(1)(c) of the national law, the vessel must comply with the standard that applies to the vessel.

Note A decision not to issue a certificate of survey is a reviewable decision — see section 139 of the national law.

12 Criteria

For paragraph 38(1)(c) of the national law, the criteria for issue of a certificate of survey are that:

- (a) the application is made in accordance with section 10; and
- (b) the National Regulator is satisfied that the vessel:
 - (i) has been surveyed in accordance with the standard mentioned for the vessel in section 8; and
 - (ii) meets that standard; and

- (c) if the Load Lines Convention applies to the class of vessel — a load line certificate is in force for the class of vessel.

13 Term of certificate

A certificate of survey expires at the earlier of:

- (a) 5 years after it is issued; or
- (b) an earlier date stated on the certificate.

14 Conditions on certificate

A certificate of survey is subject to the following conditions:

- (a) the vessel must be surveyed in accordance with:
 - (i) for a new vessel — Section 4 of NSAMS; or
 - (ii) for an existing vessel — Section 4 of NSAMS, USL Code Section 14 or the standard that applied to the vessel when it was last surveyed before 1 July 2013;
- (b) any defect identified in any survey, including a periodic survey, must be rectified in accordance with any directions by the National Regulator;
- (c) a person who conducts a periodic survey of the vessel must give to the National Regulator a report on the condition of the vessel and the extent of its compliance with the standard that applies to the vessel;
- (d) any certificate of currency required for any equipment on the vessel must be kept current;
- (e) the maximum number of people permitted on the vessel, or any part of the vessel, must not be exceeded;
- (f) the vessel must continue to comply with the construction, subdivision, stability and equipment standards that applies to the vessel;
- (g) the vessel must not be altered without approval by the National Regulator;
- (h) if the owner of the vessel transfers ownership to another person, the transferor must, within 14 days after the transfer, tell the National Regulator in writing:
 - (i) when the transfer occurred; and
 - (ii) the name and address of the transferee;
- (i) the owner of the vessel must tell the National Regulator in writing within 14 days if:
 - (i) the vessel is sunk or scrapped, and when and where the sinking or scrapping occurred; or
 - (ii) the owner changes address; or
 - (iii) any matter recorded on the certificate is no longer accurate; and
- (j) the owner of the vessel must tell the National Regulator in writing at least 7 days before:
 - (i) changing the nature of its operations; or
 - (ii) any alteration or replacement affecting the vessel's electrical system, machinery or associated systems, stability, watertight integrity or subdivision or equipment type;

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- (k) the certificate must be displayed in a prominent place on the vessel, unless impracticable because of the size or use of the vessel.

Note 1 Other conditions may be imposed — see national law, s 38(3)(b).

Note 2 It is an offence to breach a condition of a certificate of survey — see sections 45 and 46 of the national law.

Division 3 Variation, suspension and revocation

15 Form of application for variation, suspension or revocation of certificate

An application for variation, suspension or revocation of a certificate of survey must be made by the owner of the vessel in the approved form.

16 Criteria for variation

- (1) For paragraph 40(1)(b) of the national law, the criteria for the National Regulator to vary a certificate of survey on application are that:
 - (a) information on the certificate of survey is no longer correct; or
 - (b) the vessel has been altered, sold or damaged.
- (2) For subsection 40(2) of the national law, the criteria for the National Regulator to vary a certificate of survey on the National Regulator's own initiative are that:
 - (a) the National Regulator becomes aware that a vessel to which the certificate applies has been significantly altered, damaged or sold; or
 - (b) the National Regulator considers that any of the information mentioned in the certificate is no longer accurate.

17 Criteria or purposes for suspension

- (1) For paragraph 41(1)(b) of the national law, the criteria for the National Regulator to suspend a certificate of survey on application are that:
 - (a) the owner of the vessel applies in the approved form for suspension of the certificate of survey; and
 - (b) any fees relating to the certificate have been paid.
- (2) For paragraph 41(2)(b) of the national law, purposes for the suspension of a certificate of survey by the National Regulator on the National Regulator's own initiative are the following:
 - (a) ensuring unpaid fees are recovered;
 - (b) ensuring necessary repairs are made to a vessel;
 - (c) ensuring a vessel meets the standards that apply to it;
 - (d) ensuring that a vessel is not operated in contravention of a direction, improvement notice or prohibition notice.

Note The National Regulator may also suspend a certificate on its initiative if satisfied the suspension is necessary for other purposes (eg protecting human life) — see paragraph 41(2)(a) of the national law.

18 Prescribed period for suspension

For subparagraph 41(3)(b)(i) of the national law, the prescribed period of suspension is 6 months.

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19 Criteria for revocation

- (1) For paragraph 42(1)(b) of the national law, the criteria for the National Regulator to revoke a certificate of survey on application are that:
 - (a) the owner of the vessel applies in the approved form for revocation of the certificate of survey; and
 - (b) any fees relating to the certificate have been paid.
- (2) For subsection 42(2) of the national law, the criteria for revocation of a certificate of survey by the National Regulator on the National Regulator's initiative are that:
 - (a) the National Regulator considers it to be necessary in the interest of marine safety or protecting the environment; or
 - (b) the certificate was issued erroneously.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.