



Australian Government
Australian Maritime Safety Authority

AMSA MO 2013/10

Marine Order 505 (Certificates of competency — 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 General

1 Name of Order

This Order is *Marine Order 505 (Certificates of competency — national law) 2013*.

2 Commencement

This Order commences on 1 July 2013.

3 Purpose

This Order:

- (a) provides for certificates of competency; and
- (b) prescribes a standard for qualifications of crew and masters of domestic commercial vessels.

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4 Power

- (1) Division 4 of Part 4 of the national law provides for regulations dealing with certificates of competency.
- (2) Subsection 159(1) of the national law provides for regulations to prescribe matters required or permitted by the National Law to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to the National Law.
- (3) Subsection 159(2)(g) of the national law provides for regulations to prescribe standards for the qualifications of crew and masters of domestic commercial vessels.
- (4) Subsection 163(1) of the national law provides for making Marine Orders about matters for which regulations may be made.
- (5) Section 164 of the national law enables a Marine Order to provide for the application, adoption or incorporation of any matter in any written instrument in force or existing from time to time, including the NSCV.

5 Definitions

- (1) In this Order:

endorsement has the meaning given by NSCV Part D.

existing certificate means a certificate of competency (however described) issued by the marine safety agency of a State or the Northern Territory:

- (a) for a certificate in force on 30 June 2013 — before 1 July 2013; or
- (b) for a certificate applied for before 1 July 2013, but for which the application was not finally determined by 1 July 2013 — before 1 January 2014.

NSCV Part D means Part D — Crew competencies of the NSCV.

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

- AMSA
- approved form
- national law
- National Law Act
- NSCV.

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

- approved training organisation
- certificate of competency
- domestic commercial vessel
- fit and proper person
- owner.

- (2) Qualifying sea service is to be calculated in accordance with NSCV Part D.

6 Prescribed standard

For subsection 159(2) of the national law, NSCV Part D is a prescribed standard.

Note The NSCV is available on AMSA's website at <http://www.amsa.gov.au>.

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7 Applications under this Order

An application under this Order must be made in accordance with *Marine Order 501 (Administration — national law) 2013*, subject to modification of the period mentioned in section 12 of that Order from 90 days to 30 days.

Note A decision is reviewable in accordance with the review process mentioned in *Marine Order 501 (Administration — national law) 2013*.

Division 2 Certificates of competency**8 Certificates that may be issued**

- (1) The following certificates mentioned in NSCV Part D may be issued under this Order:
 - (a) General Purpose Hand;
 - (b) Coxswain Grade 2 NC;
 - (c) Coxswain Grade 1 NC;
 - (d) Master <24 m NC;
 - (e) Master (Inland waters);
 - (f) Master <35 m NC;
 - (g) Mate <80 m NC;
 - (h) Master <80 m NC;
 - (i) Marine Engine Driver Grade 3 NC;
 - (j) Marine Engine Driver Grade 2 NC;
 - (k) Marine Engine Driver Grade 1 NC;
 - (l) Engineer Class 3 NC.
- (2) For paragraphs 65(1)(b), 66(1)(b) and 67(1)(b) of the national law, a person must hold a certificate of competency mentioned in subsection (1) to perform the duties or functions for a domestic commercial vessel for which the certificate is required.

9 Form of application

An application for a certificate of competency must, in addition to complying with section 9 of *Marine Order 501 (Administration — national law) 2013*, include:

- (a) in accordance with the eligibility requirements for the certificate:
 - (i) a declaration of medical fitness; or
 - (ii) a certificate of medical fitness; and
- (b) details of how the applicant satisfies the eligibility requirements for the certificate under the NSCV and
- (c) details of the grade of certificate applied for.

Note A fee may be charged — see section 9 of the National Law Act.

10 Criteria for issue of certificate

- (1) For paragraph 60(1)(b) of the national law, the criterion to be met for the issue of a certificate of competency is that the applicant meets the eligibility criteria:
 - (a) mentioned in NSCV Part D for the certificate; or

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- (b) mentioned in NSCV Part D for another certificate of competency subject to any conditions that the National Regulator imposes on the certificate; or
- (c) for an existing certificate — the eligibility criteria that applied to it on 30 June 2013.

Note A course of study or training for a certificate of competency must be conducted by a training organisation approved under *Marine Order 506 (Approval of training organisations — national law) 2013* — see NSCV Part D.

- (2) The National Regulator, or a person approved by the National Regulator, may conduct a final assessment that is a criterion for the issue of a certificate of competency.
- (3) For paragraph (1)(b), if the applicant agrees to accept the other certificate of competency instead of the certificate for which the applicant applied, the application for the certificate of competency is taken to be an application for the other certificate of competency.

11 Form of certificate

- (1) A certificate of competency must include the following:
 - (a) the name of the person to whom it is issued;
 - (b) the date of birth of the person;
 - (c) a passport-style photograph taken in the previous 6 months;
 - (d) the date of expiry of the certificate;
 - (e) the kind of certificate;
 - (f) the restrictions (if any) on the certificate;
 - (g) the conditions (if any) on the certificate;
 - (h) the endorsements (if any) on the certificate;
 - (i) if the delegate who issued the certificate is an employee of an agency of a State or the Northern Territory — the name (or abbreviated name) of the agency.
- (2) However, after the National Regulator decides to issue a certificate of competency and before the person to whom it is issued receives it, a letter from the National Regulator setting out the details of the certificate of competency is taken to be a certificate of competency.

Note This is intended to allow the person to use the certificate while the plastic card including the photograph is prepared and before the person receives it.

- (3) A certificate of competency may include anything else the National Regulator considers relevant.

12 Conditions

For paragraph 60(4)(b) of the national law, a certificate of competency is subject to the following conditions:

- (a) the holder must tell the National Regulator, in writing, about any long term or permanent medical condition that is likely to affect the holder's ability to perform duties under the certificate;
- (b) the holder must tell the National Regulator, in writing within 21 days, if:
 - (i) the holder changes address; or
 - (ii) a matter recorded on the certificate is no longer correct;

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- (c) the National Regulator may require the holder to undertake medical examination or testing;
- (d) if the certificate is issued because the applicant met the eligibility criteria that applied to an existing certificate on 30 June 2013 — the conditions that applied to the existing certificate on 30 June 2013.

Note The National Regulator may impose other conditions — See Act, s 60(4)(b).

13 Term of certificate

A certificate of competency expires at the earlier of:

- (a) 5 years after it is issued or renewed; or
- (b) a lesser period determined by the National Regulator.

Division 3 Endorsements**14 Application**

- (1) An application for an endorsement must, in addition to complying with section 9 of *Marine Order 501 (Administration — national law) 2013*:
 - (a) describe the certificate to be endorsed; and
 - (b) describe the endorsement sought; and
 - (c) if the certificate has been issued — include the original certificate or a copy of the certificate to be endorsed, certified by a person authorised to witness a statutory declaration.
- (2) The National Regulator may endorse a certificate if satisfied that:
 - (a) the certificate is, or will be, in force at the time of endorsement; and
 - (b) the applicant has completed any course of study or training, or sea service, that is required for the endorsement; and
 - (c) the form of endorsement has been approved by the National Regulator.

Note Forms of endorsement that have been approved by the National Regulator are in the document *Marine Order 505 approved endorsements* on the AMSA website at <http://www.amsa.gov.au>.

15 Effect of endorsement

- (1) An endorsement on a certificate of competency is taken to be an exemption granted under section 143 of the national law to the extent that it permits the holder of the certificate to perform duties or functions that the certificate does not otherwise permit.
- (2) Breach of a condition of an endorsement is taken to be a breach of a condition of the certificate that is endorsed.

Division 4 Variation, suspension and revocation**16 Application for variation, suspension or revocation**

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

Section 19**17 Criteria for variation**

- (1) For paragraph 62(1)(b) of the national law, the criterion for the National Regulator to vary a certificate of competency on application is that the certificate no longer reflects the qualifications or competencies of the applicant.
- (2) For subsection 62(2) of the national law, the criterion for variation of a certificate of competency by the National Regulator on the National Regulator's initiative is that the National Regulator considers that any of the information mentioned in the certificate is no longer accurate.

18 Criteria or purposes for suspension

- (1) For paragraph 63(1)(b) of the national law, the criteria for the National Regulator to suspend a certificate of competency on application are that:
 - (a) the holder of the certificate has given the National Regulator a declaration that the certificate will not be used for the period for which the suspension is sought; and
 - (b) any fees relating to the certificate have been paid.
- (2) For paragraph 63(2)(b) of the national law, purposes for the suspension of a certificate of competency by the National Regulator on the National Regulator's initiative are the following:
 - (a) ensuring unpaid fees are recovered;
 - (b) ensuring the competency and medical requirements of NSCV Part D are met.

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 63(2)(a) of the national law.

19 Criteria for revocation

- (1) For paragraph 64(1)(b) of the national law, the criteria for the National Regulator to revoke a certificate of competency on application are that:
 - (a) the holder of the certificate has given the National Regulator a declaration that the certificate is no longer in use; and
 - (b) any fees relating to the certificate have been paid.
- (2) For subsection 64(2) of the national law, the criteria for revocation of a certificate of competency 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 The National Regulator may also revoke a certificate of competency if satisfied that the holder is not a fit and proper person to hold the certificate — see subsection 64(3) of the national law.

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Division 5 Renewal of certificates

Subdivision 5.1 Renewals generally

20 Application process

- (1) A person may apply to the National Regulator for renewal of a certificate.
- (2) The application must, in addition to complying with section 9 of *Marine Order 501 (Administration — national law) 2013*:
 - (a) mention the certificate to be renewed; and
 - (b) include details of how the applicant meets:
 - (i) the requirements for renewal mentioned in this Subdivision; and
 - (ii) the requirements for the certificate mentioned in NSCV Part D.
- (3) An application may be made at any time before or after expiry of the certificate.
- (4) However, if the application is made after expiry of the certificate, the certificate is not valid until it is renewed.

21 First aid

The applicant, other than an applicant for a Coxswain Grade 2 certificate, must have a current first aid certificate of at least HLTF A311A *Apply first aid*.

Note An applicant who holds a First Aid, Medical First Aid or Medical Care certificate issued under STCW must comply with this provision — the HLTF A *Apply first aid* is valid for 3 years while a STCW certificate may be valid for 3 to 5 years.

22 Replacement by another certificate

- (1) If the applicant does not meet the eligibility criteria mentioned in this Order or NSCV Part D for the certificate, the National Regulator may offer the applicant another certificate of competency for which the applicant does meet the eligibility criteria mentioned in this Order and NSCV Part D subject to any conditions that the National Regulator imposes on the certificate.
- (2) If the applicant agrees to accept the other certificate of competency instead of the certificate for which the applicant applied for renewal, the application for renewal of the certificate of competency is taken to be an application for renewal of the other certificate of competency.

23 Period for renewal

A renewed certificate has effect for the lesser of:

- (a) 5 years from the date of renewal; or
- (b) a lesser period determined by the National Regulator.

Subdivision 5.2 Standard renewals

24 Certificates to which Subdivision 5.2 applies

This Subdivision applies to an application for renewal of any of the following certificates of competency:

- (a) General Purpose Hand;
- (b) Coxswain Grade 2 NC;
- (c) Coxswain Grade 1 NC;

- (d) Master <24 m NC;
- (e) Master (Inland waters);
- (f) Marine Engine Driver Grade 3 NC;
- (g) Marine Engine Driver Grade 2 NC.

25 Renewal requirements

The applicant must:

- (b) for a certificate other than a Coxswain grade 2 certificate — have a current first aid certificate of at least HLTFA311A *Apply first aid*; and
- (b) make a declaration of medical fitness in accordance with NSCV Part D.

26 Failing to meet medical requirements

- (1) The National Regulator must not renew the certificate if the applicant does not meet the medical requirements of the NSCV Part D.
- (2) However, the National Regulator may renew the certificate if the applicant meets the medical requirements later because of eye acuity surgery or other ailment that could be treated successfully over time.

Subdivision 5.3 Other renewals (revalidation)

Note This Subdivision deals with what was previously known as revalidation.

27 Certificates to which Subdivision 5.3 applies

This Subdivision applies to an application for renewal of any of the following certificates of competency:

- (a) Master <35m NC;
- (b) Master <80m NC;
- (c) Marine Engine Driver Grade 1 NC;
- (d) Engineer Class 3 NC;
- (e) Mate <80 m NC.

28 Renewal requirements

The applicant must:

- (a) have a current first aid certificate of at least HLTFA311A *Apply first aid*; and
- (b) have a medical certificate of fitness in accordance with NSCV Part D; and
- (c) comply with section 30.

29 Sea service requirement

The applicant must have qualifying sea service as officer of the watch, or undertaking engineering tasks, for duties of the kind to which the certificate applies, accrued in the 5 years before the application, of at least:

- (a) for a Marine Engine Driver Grade 1 NC certificate — 120 days; or
- (b) for a Class 3 Engineer NC certificate — 120 days; or
- (c) for a Master <35 m NC certificate — 120 days; or
- (d) for a Master <80 m NC certificate — 120 days; or

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- (e) for a Mate <80 m NC certificate — 120 days.

30 Other requirements

An applicant who does not meet the sea service requirement may instead:

- (a) complete an approved renewal course; or
- (b) complete an approved final assessment; or
- (c) accrue 60 days qualifying sea service in the 6 months before the application; or
- (d) for a seasonal fisher (eg an abalone fisher) — have worked in a seasonal fishery for at least 120 days in the 5 years before the application; or
- (e) have other approved industry experience (eg State or Territory marine safety agency assessor or operational employee, fleet manager, shore-side servicing, teaching at an approved training organisation for maritime studies, marine surveyor); or
- (f) complete a task book approved by the National Regulator for the certificate.

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>.