



Australian Government
Australian Maritime Safety Authority

AMSA MO 2022/5

Marine Order 52 (Yachts and training vessels) 2022

I, Michael Kinley, Chief Executive Officer of the Australian Maritime Safety Authority, make this Order under subsection 342(1) of the *Navigation Act 2012*.

15 December 2022

Michael Kinley
Chief Executive Officer

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Division 1 Preliminary

1 Name of Marine Order

This Marine Order is *Marine Order 52 (Yachts and training vessels) 2022*.

1A Commencement

This Marine Order commences on 1 January 2023.

1B Repeal of *Marine Order 52 (Yachts and training vessels) 2016*

Marine Order 52 (Yachts and training vessels) 2016 is repealed.

2 Purpose

This Marine Order:

- (a) provides for the survey, maintenance and certification of yachts and training vessels; and
- (b) prescribes compliance with Part A of the Red Ensign Group Yacht Code as modified for Australia for yachts ≥ 24 m in length.

3 Power

- (1) The following provisions of the Navigation Act provide for this Marine Order to be made:
 - (a) subsection 98(1) which provides that the regulations may provide for safety certificates;
 - (b) paragraph 98(3)(a) which provides that the regulations may provide that vessels in a particular class must have safety certificates of specified kinds, either generally or in specified circumstances, including certificates relating to survey;
 - (c) section 314 which provides for regulations to be made prescribing matters for the application for certificates and, among other things, criteria to be satisfied for their issue by issuing bodies;
 - (d) subsection 339(2) which provides for regulations to be made prescribing matters related to safe navigation and pollution prevention;
 - (e) subsection 341(1) which provides that the regulations may provide for the imposition of penalties for a contravention of a provision of the regulations;
 - (f) subsection 342(4) which provides that a Marine Order may provide for a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other document as in force or existing at a particular time or from time to time.
- (2) Subsection 339(1) of the Navigation Act 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 Act.
- (3) Subsection 342(1) of the Navigation Act provides that AMSA may make orders about matters that can be provided for by regulation.

4 Definitions

- (1) In this Marine Order:

Australian National Annex means the latest edition of the Australian National Annex to Part A of the Red Ensign Group Yacht Code published by AMSA.

Certificate of Survey for a Cargo Vessel has the same meaning as in *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*.

IS Code means the *Code on Intact Stability, 2008* adopted by IMO Resolution MSC.267(85), as in force from time to time.

Passenger Vessel Safety Certificate has the same meaning as in *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*.

Red Ensign Group Yacht Code as modified for Australia means Part A of the Red Ensign Group Yacht Code as modified by the Australian National Annex.

Note The Red Ensign Group Yacht Code and the Australian National Annex are available on the AMSA website at <http://www.amsa.gov.au>.

sailing vessel means a vessel designed to carry sail as a supplementary or sole means of propulsion.

SOLAS certificate has the same meaning as in *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*.

trainee means a person who:

- (a) is receiving instruction in relation to the business of the vessel; and
- (b) has signed an agreement with a vessel's owner or master to travel on the vessel in the capacity of a trainee.

Note A trainee of a training vessel is not a seafarer or a passenger of the vessel.

A trainee is not a passenger despite any contribution to the cost of the voyage.

training vessel means a vessel that:

- (a) does not carry >12 passengers; and
- (b) is either a sailing vessel or a motor vessel; and
- (c) is operated for a purpose that includes providing instruction on the business of the vessel in relation to:
 - (i) the principles of responsibility, resourcefulness, loyalty and team endeavour; or
 - (ii) navigation and seamanship, marine engineering or other shipboard related skills.

yacht means a vessel that:

- (a) does not carry cargo; and
- (b) does not carry >12 passengers; and
- (c) has a commercial use that is related to the provision of a sport or pleasure activity.

Note A yacht need not be designed to carry sail.

- (2) A trainee on a training vessel is not a seafarer or a passenger of the vessel.

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

- equivalent
- GT

- length
- National Standard for Commercial Vessels (or NSCV)
- SOLAS
- USL Code.

Note 2 Other terms used in this Order are defined in the Navigation Act, including:

- inspector
- regulated Australian vessel.

Note 3 For delegation of AMSA's powers under this Order — see the AMSA website.

Note 4 Information on obtaining copies of any IMO Resolution, IMO document or other document that is mentioned in this Order is available from the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

5 Application

This Marine Order applies to:

- a regulated Australian vessel that is a yacht or training vessel; and
- other than Divisions 2, 3 and 5 — a foreign vessel that is a yacht or training vessel.

6 Equivalentents

- (1) A person may apply, in accordance with the application process set out in Division 3 of *Marine Order 1 (Administration) 2013*, for approval to use an equivalent.

Note For definitions of *equivalent* and *use* — see section 6 of *Marine Order 1 (Administration) 2013*.

- (2) AMSA may approve use of an equivalent only if satisfied that use of the equivalent would be at least as effective as compliance with the requirement to which the equivalent is an alternative.

Division 2 Certificate of Compliance (large yacht)

7 Certificate of Compliance (large yacht) required

For subsection 98(3) of the Navigation Act (which enables the regulations to provide that specified kinds of vessels are required to have specified safety certificates), a regulated Australian vessel that is a yacht ≥ 24 m in length must have a Certificate of Compliance (large yacht).

Note 1 It is an offence under sections 103 and 104 of the Navigation Act if a vessel is taken to sea without a required safety certificate in force for the vessel.

Note 2 A training vessel ≥ 24 m in length may also be required to hold a Certificate of Compliance (large yacht) — see definition of *yacht* in section 4.

Note 3 A yacht ≥ 24 m in length will also be required to hold a certificate mentioned in *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*. It may also be required to have other certificates under other Marine Orders — see Table 1 to the Australian National Annex.

8 Applying for Certificate of Compliance (large yacht)

- (1) For subsection 99(1) of the Navigation Act (which enables a person to apply to an issuing body for a safety certificate specified in the regulations), a Certificate of Compliance (large yacht) is a safety certificate.
- (2) Division 3 of *Marine Order 1 (Administration) 2013* (other than section 17) applies to an application to AMSA for a Certificate of Compliance (large yacht).

Note Division 3 of *Marine Order 1 (Administration) 2013* prescribes some general rules about the making and determination of various kinds of applications. Section 17 of that Order provides for internal review of decisions about applications. That section does not apply to safety certificates because those decisions are reviewable under subsection 313(1) of the Navigation Act.

9 Criteria for issue of Certificate of Compliance (large yacht)

For paragraph 100(1)(b) of the Navigation Act, the criteria for the issue of a Certificate of Compliance (large yacht) are:

- (a) the vessel is a yacht ≥ 24 m in length; and
- (b) the vessel, its equipment and appliances comply with the Red Ensign Group Yacht Code as modified for Australia.

10 Conditions on Certificate of Compliance (large yacht)

For paragraph 100(2)(a) of the Navigation Act, a Certificate of Compliance (large yacht) is subject to the condition that the vessel, its equipment and appliances are maintained to comply with the Red Ensign Group Yacht Code as modified for Australia.

Note An issuing body may impose other conditions on a safety certificate — see paragraph 100(2)(b) of the Navigation Act.

11 Endorsement of Certificate of Compliance (large yacht)

- (1) Each intermediate and annual survey and inspection of the outside of the bottom of a vessel must be endorsed on a Certificate of Compliance (large yacht).
- (2) An issuing body may endorse the certificate.

Note It is practice for an issuing body endorsing a certificate to be the same as the issuing body that originally issued the certificate.

12 Duration of Certificate of Compliance (large yacht)

- (1) A Certificate of Compliance (large yacht) comes into force in accordance with Regulation 14 of Chapter I of SOLAS.
- (2) A Certificate of Compliance (large yacht) remains in force for the period of 5 years unless:
 - (a) a shorter period is specified in the certificate; or
 - (b) the certificate ceases to be in force in accordance with Regulation 14 of Chapter I of SOLAS.

13 Variation of Certificate of Compliance (large yacht)

For subsection 101(1) of the Navigation Act, the criteria for variation of the Certificate of Compliance (large yacht) are that:

- (a) the vessel complies with any requirements that apply to it under Marine Orders; and
- (b) if the variation is to be to the duration of the certificate, the variation complies with the requirements of Regulation 14 of Chapter I of SOLAS for the duration of the certificate including for the extension of the expiry date of the certificate as if it were a SOLAS certificate other than a Passenger Vessel Safety Certificate.

14 Criteria for revocation of Certificate of Compliance (large yacht)

For subsection 102 of the Navigation Act, the criteria for revocation of a Certificate of Compliance (large yacht) are that:

- (a) the vessel does not comply with the Red Ensign Group Yacht Code as modified for Australia; or
- (b) a condition of the certificate has been, or AMSA reasonably suspects will be, breached; or
- (c) an endorsement required to be made to the certificate under section 11 has not been made; or
- (d) the vessel to which the certificate applies ceases to be registered in Australia; or
- (e) the owner of the vessel to which the certificate applies has requested the revocation; or
- (f) the certificate contains incorrect information.

Division 3 Certificate of Survey for a Yacht or Training Vessel**15 Certificate of Survey for a Yacht or Training Vessel required**

For subsection 98(3) of the Navigation Act (which enables the regulations to provide that specified kinds of vessels are required to have specified safety certificates), a regulated Australian vessel must have a Certificate of Survey for a Yacht or Training Vessel if:

- (a) the vessel is a yacht or training vessel; and
- (b) the vessel is <500 GT.

Note 1 It is an offence under sections 103 and 104 of the Navigation Act if a vessel is taken to sea without a required safety certificate in force for the vessel.

Note 2 A vessel that has a Certificate of Survey for a Yacht or Training Vessel may also be required to have other certificates under other Marine Orders — see Table 1 to the Australian National Annex for the certificate requirements for yachts.

Note 3 A vessel ≥ 300 GT is required to have a Cargo Vessel Safety Radio Certificate in accordance with *Marine Order 31 (SOLAS and non-SOLAS certification) 2019*.

16 Applying for Certificate of Survey for a Yacht or Training Vessel

- (1) For subsection 99(1) of the Navigation Act (which enables a person to apply to an issuing body for a safety certificate specified in the regulations), a Certificate of Survey for a Yacht or Training Vessel is a safety certificate.
- (2) Division 3 of *Marine Order 1 (Administration) 2013*, other than section 17, applies to an application to AMSA for a Certificate of Survey for a Yacht or Training Vessel.

Note Division 3 of *Marine Order 1 (Administration) 2013* prescribes some general rules about the making and determination of various kinds of applications. Section 17 of that Order provides for internal review of decisions about applications. That section does not apply to safety certificates because those decisions are reviewable under subsection 313(1) of the Navigation Act.

17 Criteria for issue of Certificate of Survey for a Yacht or Training Vessel

- (1) For paragraph 100(1)(b) of the Navigation Act, the criteria for the issue of a Certificate of Survey for a Yacht or Training Vessel are as follows:
 - (a) for a yacht ≥ 24 m in length — the vessel, its equipment and appliances comply with the Red Ensign Group Yacht Code as modified for Australia;
 - (b) for any other yacht or training vessel not being a vessel mentioned in paragraph (a) — the vessel, its equipment and appliances comply with the criteria for issue of a Certificate of Survey for a Cargo Vessel under *Marine Order 31 (SOLAS and non-SOLAS certification) 2019* except:
 - (i) to the extent that the vessel does not comply with regulation 11 of Part B, and Part B1, of Chapter II-1 of SOLAS — the requirements of the USL Code for watertight subdivision of Class 2 vessels; and
 - (ii) if the vessel is a sailing vessel — the intact stability of the vessel may be assessed using the intact stability criteria mentioned in the following clauses of section 8C of the USL Code:
 - (A) for monohulls — clause C.12;
 - (B) for catamarans and trimarans — clause C.14;
 - (c) the issuing body has approved arrangements for damage stability and trim of the vessel during intermediate stages of flooding;
 - (d) if the vessel is a sailing vessel < 24 m in length — the vessel is fitted with an auxiliary means of propulsion capable of propelling the vessel at least 6 knots in still water and calm air.

Note for paragraph (c) AMSA may impose on an approval the requirement for the vessel to carry specified damage control equipment such as collision mats, softwood wedges, quick drying cement and diving gear.

- (2) For subparagraph (1)(b), the issuing body must check damage stability calculations that take into account the design characteristics of the vessel and the arrangements, configuration and contents of the compartments that may be damaged.

18 Conditions on a Certificate of Survey for a Yacht or Training Vessel

For paragraph 100(2)(a) of the Navigation Act, a Certificate of Survey for a Yacht or Training Vessel is subject to the following conditions:

- (a) that the vessel and its equipment and appliances are maintained to comply with the requirements for issue of the certificate;
- (b) if the vessel is a sailing vessel to which the Red Ensign Group Yacht Code as modified for Australia does not apply:
 - (i) for a vessel that is of Class A or B of the USL Code either:
 - (A) if constructed before 1 July 2010 — the vessel carries information mentioned in clauses 8.C.12 and 8.C.13 of the USL Code 1993; and
 - (B) if constructed after 30 June 2010 — the vessel carries information in accordance with paragraph 3.6.7 of Part B of the IS Code;

- (ii) for a vessel that is in Class C or D of the USL Code — the vessel carries the intact stability information mentioned in section 8A of the USL Code 2008;
- (c) after any required survey of the vessel has been completed — any change to the structure, equipment, systems, fittings, arrangements or material covered by the survey, other than the direct replacement of equipment or fittings, is approved by an issuing body.

Note An issuing body may impose other conditions on a safety certificate — see paragraph 100(2)(b) of the Act.

19 Endorsement of Certificate of Survey for a Yacht or Training Vessel

- (1) Each intermediate and annual survey and inspection of the outside of the bottom of a vessel must be endorsed on a Certificate of Survey for a Yacht or Training Vessel by an issuing body.
- (2) An issuing body may endorse the certificate.

Note It is practice for an issuing body endorsing a certificate to be the same as the issuing body that originally issued the certificate.

20 Duration of Certificate of Survey for a Yacht or Training Vessel

- (1) A Certificate of Survey for a Yacht or Training Vessel comes into force:
 - (a) on the day specified in the certificate; and
 - (b) if an existing certificate is held that is not expired — on completion of the renewal survey.
- (2) The certificate remains in force for the period of 5 years unless:
 - (a) a shorter period is specified as the expiry date in the certificate; or
 - (b) the vessel ceases to be registered in Australia; or
 - (c) any survey or inspection is not completed in accordance with this Marine Order; or
 - (d) the certificate is not endorsed in accordance with this Marine Order; or
 - (e) the certificate is replaced by re-issue.

21 Variation of Certificate of Survey for a Yacht or Training Vessel

For subsection 101(1) of the Navigation Act, the criteria for variation of a Certificate of Survey for a Yacht or Training Vessel are that:

- (a) the vessel complies with any requirements that apply to it under Marine Orders; and
- (b) if the variation is to be to the duration of the certificate, the variation complies with the requirements of section 22 of *Marine Order 31 (SOLAS and non-SOLAS certification) 2019* as if the vessel had a Certificate of Survey for a Cargo Vessel.

22 Criteria for revocation of Certificate of Survey for a Yacht or Training Vessel

For subsection 102 of the Navigation Act, the criteria for revocation of a Certificate of Survey for a Yacht or Training Vessel are that:

- (a) a condition of the certificate has been, or AMSA reasonably suspects will be, breached; or

Division 4 Requirements for foreign vessels

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- (b) an endorsement required to be made to the certificate under section 19 has not been made; or
- (c) the vessel to which the certificate applies ceases to be registered in Australia; or
- (d) the owner of the vessel to which the certificate applies has requested the revocation; or
- (e) the certificate contains incorrect information.

Division 4 Requirements for foreign vessels

23 Foreign vessels

- (1) A foreign vessel that is a yacht ≥ 24 m in length must comply with Part A of the Red Ensign Group Yacht Code.
- (2) A foreign vessel that is a yacht < 24 m in length or a training vessel must have at least 1 certificate, or other documentary evidence that:
 - (a) attests to the vessel's seaworthiness; and
 - (b) includes details of the vessel's area of operation, its equipment and manning requirements; and
 - (c) demonstrates it complies with requirements of the Administration of the country in which the vessel is registered.

Note 1 See *Marine Order 31 (SOLAS and non-SOLAS certification) 2019* for SOLAS certification requirements that also includes requirements for foreign vessels.

Note 2 It is an offence for the owner and master to take a foreign vessel to sea without appropriate documents — see sections 106 and 107 of the Navigation Act. It is also an offence for the owner or master to take an unseaworthy vessel to sea — see sections 109 and 110 of the Navigation Act. An inspector may have regard to Part A of the Red Ensign Group Yacht Code when inspecting a foreign vessel that has been certified as complying with the Red Ensign Group Yacht Code.

Division 5 Other matters

24 Training vessels — general

- (1) The owner must ensure:
 - (a) a trainee is carried on board a vessel for the sole purpose of:
 - (i) receiving instruction in the principles of responsibility, resourcefulness, loyalty or team endeavour; or
 - (ii) instruction in navigation and seamanship, marine engineering or other competency related to the business of the vessel; and
 - (b) for any training task on board the vessel — a trainee is:
 - (i) provided proper instruction; and
 - (ii) set clear learning objectives; and
 - (iii) adequately supervised by competent and qualified personnel familiar with the business of the vessel; and
 - (c) the trainee has a valid certificate of medical fitness from a person registered as a medical practitioner in a State or Territory of Australia.

Penalty: 50 penalty units.

Note for subparagraph (b)(i) Proper instruction means an approach designed to ensure trainees engage and have a good opportunity to understand their training task. A best practice approach would include clear, precise language for lesson style instruction, practical demonstration or experiential learning; providing opportunity for trainees to clarify confusing points and offer feedback; and ensuring that any task is manageable from a learning perspective.

Note for subparagraph (b)(ii) Clear learning objectives involve trainees being provided directions in relation to what they have to do to complete a training task, when they have to do it, how they do it, how the task connects to other tasks and why the task builds relevant knowledge/experience.

Note for subparagraph (c)(iii) Adequate supervision means crew or personnel who are able to dedicate their attention to supervising the training task and are not otherwise engaged in performing duties related to the business of the vessel necessary for safe manning.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).
Civil penalty: 50 penalty units.