

# Marine Safety (Commercial Vessels) Regulation 2010

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New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Regulation was repealed by cl 3 of the [Marine Safety Amendment \(Domestic Commercial Vessel National Law\) Regulation 2013 \(239\)](#) (LW 31.5.2013) with effect from 1.7.2013.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Marine Safety (Commercial Vessels) Regulation 2010



New South Wales

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# Marine Safety (Commercial Vessels) Regulation 2010



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Marine Safety (Commercial Vessels) Regulation 2010*.

### 2 Commencement

This Regulation commences on 1 January 2011.

### 3 Definitions

(1) In this Regulation:

**ABP Standard** means the standard entitled *National Standard for the Australian Builders Plate for Recreational Boats*, published under the authority of the Ministers comprising the Australian Transport Council, and as in force from time to time.

**approved training course or program** means a training course or program approved by the Minister under Division 4 of Part 5.

**approved training provider** means a training provider approved by the Minister under Division 4 of Part 5.

**certificate of competency** means a certificate of competency referred to in section 29 (d) of the Act.

**certificate of medical fitness** means a certificate of medical fitness issued by a registered medical practitioner (or, in the case of an eyesight test, a registered medical practitioner or optometrist) in accordance with Schedule One to Section 2 of the USLC or Schedule One to Section 3 of the USLC, as appropriate.

**chief engineer** means the person responsible for a vessel's machinery.

**coastal bar** means a bar named in Schedule 6 to the *Marine Safety (General) Regulation 2009*, being a shallow area where sediment is deposited across a river

mouth, lake, estuary or harbour entrance, and any channel through or around the shallow area, in the approximate location described opposite the name of the bar in that Schedule.

**first aid certificate** means a first aid certificate issued as a result of satisfactory completion of a unit of competency within the meaning of the [Vocational Education and Training Act 2005](#).

**fishing vessel** means a commercial vessel that is used for fishing operations.

**general purpose hand** or **GPH** means a member of the crew of a vessel, other than a master, mate, chief or other engineer or special personnel, whose primary duty is to assist in the safe operation of the vessel.

**hazard** means a thing, or a state of a thing, that has potential to cause the death of, injury to or illness of a person or damage to property or the environment.

**higher grade certificate of competency** means, in relation to another certificate of competency, a certificate of competency that allows the holder of the certificate to undertake duties on vessels of greater length or of greater propulsion power, or in more extensive operational areas, than is authorised by that other certificate of competency.

**hire and drive vessel** means a vessel that is hired out and that is used solely for pleasure by the person to whom it is hired out.

**hire out** a vessel to a person means let the vessel to the person for hire, reward or other consideration and includes make the vessel available to the person in the course of a business.

**interstate authority** means a person or body of the Commonwealth or of another State or Territory that exercises similar functions to RMS.

**length**—see subclause (2).

**mate** means the person next in rank to the master of a vessel and on whom the command of the vessel will fall in the event of the incapacity of the master.

**nm** means the international nautical mile of 1852 metres.

**non-passenger vessel** means a vessel that is not:

- (a) a passenger vessel, or
- (b) a fishing vessel, or
- (c) a hire and drive vessel.

**novel craft** means a hovercraft or submersible.

**parasailing vessel** means a power driven vessel used to tow a person over water using aerial equipment.

**partially smooth waters** means waters specified in Schedule 1.

**passenger** means any person on a vessel other than:

- (a) the master and other members of the crew, or
- (b) special personnel, or
- (c) a child under one year of age.

**passenger vessel** means a vessel that carries, or is authorised under the Act to carry, more than 12 passengers.

**public ferry wharf** has the same meaning as in section 125A of the Act.

**registered training organisation** means an organisation that is accredited to provide vocational education and training by:

- (a) the Vocational Education and Training Accreditation Board, or
- (b) a person or body that is authorised under the law of the Commonwealth or of another State or a Territory to accredit persons or bodies to provide vocational education and training courses.

**relevant fee**, in relation to a matter referred to in this Regulation, means the fee specified in Schedule 7 in relation to the matter.

**restricted certificate of competency** means a certificate of competency issued under clause 42.

**risk** means the chance that one or more hazards will cause something to happen that will have a detrimental impact on safety, measured in terms of the likelihood and consequences of the death of, injury to or illness of persons or damage to property or the environment.

**risk assessment** means the process of evaluating the probability and consequences of the death of, injury to or illness of persons or damage to property or the environment arising from exposure to identified hazards associated with a vessel.

**sail training vessel** means a sailing vessel used to provide sail training courses accredited by Yachting Australia Incorporated.

**sea-service** by a person means performance of relevant deck or engineering duties in a vessel under operating conditions. Operating conditions include when the vessel is underway, as well as any period of vessel preparation, maintenance or other work in which the person utilises relevant professional skills.

**sheltered waters** means waters comprising smooth waters or partially smooth waters.

**smooth waters** means waters specified in Schedule 2.

**special personnel**, in relation to a vessel, means all persons who:

- (a) have knowledge of safety procedures and handling of safety equipment on board the vessel, and
- (b) are not members of the crew, and
- (c) are carried on board in connection with the special purpose of the vessel, or because of special work being carried out aboard the vessel, and
- (d) are able bodied.

**survey certificate** means a survey certificate referred to in section 29 (b) of the Act.

**tender** means a vessel that:

- (a) is used only to transport goods or persons between the shore and its parent vessel or between its parent vessel and another vessel, and
- (b) does not operate further from its parent vessel than 1nm, and
- (c) is less than 7.5 metres in length.

**the Act** means the [Marine Safety Act 1998](#).

**the National Standard for Commercial Vessels (the NSCV)** means the document of that name adopted by the Australian Transport Council as referred to in section 427 of the [Navigation Act 1912](#) of the Commonwealth, as in force from time to time.

**trading vessel** means a passenger vessel or a non-passenger vessel.

**Uniform Shipping Laws Code (the USLC)** means the *Uniform Shipping Laws Code* adopted by the Australian Transport Council as referred to in section 427 of the [Navigation Act 1912](#) of the Commonwealth and as in force from time to time.

**watchkeeper** means a deck watchkeeper (the person in charge of the navigational watch) or engineer watchkeeper (the person in charge of the engineering watch).

**watchkeeping service** means sea-service on a vessel in one of the following positions while holding a certificate of competency:

- (a) in charge of a watch,
- (b) master, mate or engineer,

- (c) assistant to a master or an engineer,
- (d) in training by a master or an engineer.

**waterski vessel** means a power driven vessel used to tow a person by any means (including aerial equipment) on, over or under the water, but does not include a parasailing vessel.

- (2) In this Regulation, a reference to the length of a vessel is a reference to the measured length of the vessel, being whichever is the greater of the following:
  - (a) the length on deck, that is, the length from the fore part of the hull to the after part of the hull, measured parallel to the design loaded waterline,
  - (b) 96 per cent of the distance measured parallel to the design loaded waterline from the foremost part of the hull excluding appendages.
- (3) In this Regulation:
  - (a) a reference to the grant of a marine safety licence (or to a specified type of marine safety licence) includes a reference to the grant of recognition for the marine safety licence (or for the specified type of marine safety licence), or for a similar authorisation granted under the law of the Commonwealth, of another State or a Territory or of another country, and
  - (b) a reference to the suspension or cancellation of a marine safety licence (or to a specified type of marine safety licence) includes a reference to the withdrawal of recognition, indefinitely or for a period, for the marine safety licence (or for the specified type of marine safety licence), or for a similar authorisation granted under the law of the Commonwealth, of another State or a Territory or of another country.
- (4) For the purposes of this Regulation, a certificate of medical fitness or a first aid certificate is **current** if:
  - (a) subject to paragraph (b), the period of 2 years from the date of its issue has not expired (in the case of a certificate of medical fitness) or the period of 3 years from the date of its issue has not expired (in the case of a first aid certificate), or
  - (b) the person who issued the certificate has specified in the certificate that it is valid for a lesser period than the relevant period applying under paragraph (a) and that lesser period from the date of its issue has not expired.
- (5) For the purposes of this Regulation, a vessel is taken to be built when it reaches a stage of construction of having the keel laid or a stage of construction at which:
  - (a) the vessel is identifiable as a vessel of a particular type, and

(b) a part of the vessel has been fabricated and assembled that has a mass of at least 50 tonnes or one per cent of the mass of all structural material of the proposed completed vessel, whichever is the lesser.

(6) Notes included in this Regulation, other than in the Schedules, do not form part of this Regulation.

#### **4 Application of Regulation**

This Regulation does not apply to recreational vessels.

## **Part 2 General provisions for marine safety licences relating to commercial vessels**

#### **5 Application of Part**

This Part applies to and in respect of the following marine safety licences:

- (a) marine safety licences referred to in section 29 (b) of the Act (survey certificates),
- (b) marine safety licences referred to in section 29 (d) of the Act (certificates of competency),
- (c) marine safety licences referred to in clause 6.

#### **6 Additional types of marine safety licences**

For the purposes of all of the provisions of the Act, the following licences are declared under section 29 (h) of the Act to be marine safety licences:

- (a) a hire and drive licence referred to in Division 2 of Part 6,
- (b) a towage licence referred to in Part 8,
- (c) a load line certificate referred to in Part 9.

#### **7 Applications for marine safety licences**

(1) An application for a marine safety licence to which this Part applies must:

- (a) be made to the Minister in the approved form, and
- (b) be accompanied by the particulars and documents required by the Minister (including, for example, certificates of medical fitness), and
- (c) be accompanied by such proof of identity documentation as is required by the Minister, and
- (d) be accompanied by the relevant fee, and
- (e) comply with any other requirements of this Regulation in relation to applications

for the type of marine safety licence concerned.

- (2) The Minister may waive any of the requirements referred to in subclause (1) in the case of an application for a further marine safety licence of the same kind as one that has expired or is due to expire and that is or was held by the applicant.

## **8 Refusal to issue marine safety licence**

- (1) An application for a marine safety licence to which this Part applies may be refused in any of the following circumstances:
- (a) any information provided by the applicant is found to be false or misleading in a material particular or is, in the opinion of the Minister, inadequate to enable the application to be assessed properly,
  - (b) the applicant is not, in the opinion of the Minister, of good character,
  - (c) the holder of the licence has committed an offence against any provision of the marine legislation or section 52B of the *Crimes Act 1900* or any provision of the law of the Commonwealth or of another State or a Territory that the Minister considers is similar to a provision of the marine legislation or that section,
  - (d) the applicant has had a similar licence or authorisation suspended or cancelled under a law of the Commonwealth or of another State or a Territory for disciplinary reasons,
  - (e) in the case of an application for a further licence, the applicant has failed to comply with any condition of a current or previous licence,
  - (f) in the case of an application for a further licence, any fees for, or in connection with, a current or previous licence are overdue and have been overdue for a period of at least 14 days,
  - (g) if the Minister determines that it is in the public interest to do so.
- (2) If the Minister refuses to issue a marine safety licence, the Minister is to give notice in writing of the decision, and the reasons for the decision, to the applicant concerned.
- (3) For the purposes of subclause (1) (c), a person is taken to have committed an offence:
- (a) at the time that the person is found guilty of the offence by a court, or
  - (b) at the time that the person pays the penalty required by a penalty notice served on the person under section 126 of the Act in respect of the alleged offence (or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the *Fines Act 1996*), or
  - (c) at the time that the person pays the penalty required by an infringement notice or

expiation notice or the like issued under the law of the Commonwealth or of another State or a Territory in respect of the offence.

## **9 Suspension or cancellation of marine safety licences**

- (1) For the purposes of section 38 (1) (c) of the Act, the prescribed circumstances in which the Minister may suspend or cancel a marine safety licence to which this Part applies are as follows:
  - (a) any information provided by the holder of the licence for the purposes of the Act or this Regulation is found to be false, misleading or inadequate in a material particular,
  - (b) the holder of the licence is not, in the opinion of the Minister, of good character,
  - (c) the holder of the licence has committed an offence against any provision of the marine legislation or section 52B of the *Crimes Act 1900* or any provision of the law of the Commonwealth or of another State or a Territory that the Minister considers is similar to a provision of the marine legislation or that section,
  - (d) the Minister is of the opinion that the holder of the licence has been negligent or has engaged in improper conduct in relation to the safe navigation, management, care or working of a vessel,
  - (e) the holder of the licence has failed to comply with any condition of the licence,
  - (f) any fees for, or in connection with, the licence are overdue and have been overdue for a period of at least 14 days,
  - (g) the Minister has issued another licence to the holder which is intended to replace that licence,
  - (h) the Minister determines that it is in the public interest to do so,
  - (i) the holder of the licence requests that the licence be cancelled.
- (2) In addition to the circumstances in which the Minister may suspend or cancel a licence under subclause (1), the Minister may suspend or cancel a survey certificate for a vessel if:
  - (a) the Minister is satisfied that equipment required to be carried on the vessel should be investigated, or
  - (b) a defect or deficiency has been identified by the surveyor of the vessel, or
  - (c) the Minister is satisfied that the use of the vessel would be dangerous, or
  - (d) the vessel or a part of the vessel is being altered or reconstructed.

- (3) In addition to the circumstances in which the Minister may suspend or cancel a licence under subclause (1), the Minister may suspend or cancel a certificate of competency if the Minister is of the opinion that the holder does not have the standard of medical fitness required by this Regulation for the holder of a certificate of competency of the same class.
- (4) If the Minister suspends or cancels a marine safety licence, the Minister is to give notice in writing of the decision and (except in a case where the holder of the licence has requested the cancellation) the reasons for the decision to the holder of the licence.
- (5) The suspension or cancellation of a licence by the Minister (except in accordance with section 111 of the Act) takes effect on the day on which notice of it is given as referred to in subclause (4) or on a later day specified in the notice.
- (6) For the purposes of subclause (1) (c), a person is taken to have committed an offence:
  - (a) at the time that the person is found guilty of the offence by a court, or
  - (b) at the time that the person pays the penalty required by a penalty notice served on the person under section 126 of the Act in respect of the alleged offence (or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the [Fines Act 1996](#)), or
  - (c) at the time that the person pays the penalty required by an infringement notice or expiation notice or the like issued under the law of the Commonwealth or of another State or a Territory in respect of the offence.

## **10 Change of particulars to marine safety licences**

The holder of a marine safety licence to which this Part applies must notify the Minister in writing, or in another manner approved by the Minister, of each of the following events within 14 days of the event occurring:

- (a) any change in the particulars recorded on the licence, including any change of name or address of the holder,
- (b) any advice received from a medical practitioner that might cast doubt on the holder's fitness to hold the marine safety licence.

Maximum penalty: 20 penalty units.

## **11 Loss of marine safety licences**

- (1) If a marine safety licence to which this Part applies is lost, stolen, destroyed or defaced, the holder of the licence is, within 14 days, to notify the Minister in writing.

Maximum penalty: 20 penalty units.

- (2) The Minister may, on payment of the relevant fee, issue a duplicate licence to a person if satisfied that the person is the holder of a licence that has been lost, stolen, destroyed or defaced.

## **12 Return of marine safety licences**

- (1) The Minister may request in writing the holder of a marine safety licence to which this Part applies to return the licence to the Minister:
  - (a) to enable amendment of any conditions associated with the licence, or endorsement of conditions on or in association with the licence, or
  - (b) for the purpose of issuing a different licence, or
  - (c) to enable a new photograph of the holder of the licence to be taken if the marine safety licence contains a photograph of the holder and the Minister considers that the photograph is no longer a true likeness of the holder.
- (2) The holder of a marine safety licence to whom a request is made under this clause must not, without reasonable excuse, fail to comply with the request within the time specified in the request.

Maximum penalty (subclause (2)): 20 penalty units.

## **13 Cheating or forgery**

- (1) An applicant for a marine safety licence must not cheat in any examination associated with the marine safety licence.
- (2) A person must not:
  - (a) forge a marine safety licence, or
  - (b) use a forged marine safety licence, or
  - (c) alter a marine safety licence unless authorised to do so by the Minister, or
  - (d) use a marine safety licence that has been altered without the authorisation of the Minister.

Maximum penalty: 100 penalty units.

## **Part 3 Requirements for design, construction and equipment of**

## **commercial vessels and survey requirements**

### **Division 1 Classification of vessels**

#### **14 Classes of vessels**

- (1) The Minister is to designate each vessel as being in a particular service category in accordance with Chapter 3 of Part B of the NSCV.
- (2) Without limiting the way in which the Minister may designate a vessel as being within a service category, the Minister may specify the service category for a vessel in the registration certificate for the vessel issued by the Minister under the Act.
- (3) In this Regulation, a reference to a vessel of a specified class is a reference to a vessel that has been designated by the Minister as being of the same class when the Minister designated the service category of the vessel in accordance with Clause 3.5 of Chapter 3 of Part B of the NSCV.

**Note—**

Clause 3.5 of Chapter 3 of Part B of the NSCV specifies the service categories of vessels by reference to different classes.

- (4) When applying Chapter 3 of Part B of the NSCV for the purposes of this Regulation, the following terms are taken to have the meanings given by this Regulation:  

hire and drive vessel, non-passenger vessel, partially smooth waters, passenger vessel, sheltered waters, smooth waters

### **Division 2 Requirements for design, construction and equipment of commercial vessels**

#### **15 Requirements for design, construction and equipment of commercial vessels**

- (1) For the purposes of section 53A (1) (a) and (2) (a) of the Act, the requirements of this Division are prescribed as requirements relating to the design, construction and equipment of commercial vessels.

**Note—**

Section 53A of the Act makes it an offence for the owner or master of a commercial vessel to operate the vessel unless it complies with the requirements prescribed by the regulations relating to the design, construction or equipment of the vessel.

- (2) In this Division, a reference to something that is prescribed or required by this Regulation includes a reference to something that is prescribed or required by a provision of the USLC or NSCV that is applied by a provision of this Regulation.

#### **16 Design, construction and equipment of vessels required to have survey certificate**

- (1) Subject to subclauses (2) and (3), a vessel for which a survey certificate is required

must comply with the relevant requirements of the USLC relating to the design, construction and equipment of vessels of the same type.

- (2) A Class 4C vessel must carry the equipment specified in Section 2 of Part F of the NSCV for leisure craft.
- (3) A Class 4D or Class 4E vessel for which a survey certificate is required must carry the equipment required by the *Marine Safety (General) Regulation 2009* to be carried on a recreational vessel of the same type.

**Note—**

The vessels for which a survey certificate is required are specified in clause 25.

**17 Design, construction and equipment of Class 2D and Class 2E vessels for which survey certificate not required**

- (1) This clause applies to Class 2D and Class 2E vessels for which a survey certificate is not required other than vessels to which clauses 18, 18A and 22A apply.
- (2) A vessel to which this clause applies that was built before 1 July 2006, or was built on or after 1 July 2006 and is 6 metres or more in length must:
  - (a) be fitted with buoyancy as required by Section 6B of Part C of the NSCV, or
  - (b) carry a sufficient number of lifebuoys for all persons on board.
- (3) A vessel to which this clause applies that was built on or after 1 July 2006 and is less than 6 metres in length must meet the level flotation requirements specified in the ABP Standard.
- (4) A vessel to which this clause applies:
  - (a) must carry the equipment required by Sections 4, 7A, 7B, 7C and 7D of Part C of the NSCV if the vessel is 6 metres or more in length, and
  - (b) must carry the equipment required by the *Marine Safety (General) Regulation 2009* to be carried on recreational vessels of the same type if it is less than 6 metres in length, and
  - (c) must not be fitted with inboard under deck petrol engines.

**18 Design, construction and equipment of Class 2D and Class 2E waterski vessels**

- (1) This clause applies to Class 2D and Class 2E waterski vessels.
  - (1A) A vessel to which this clause applies must comply with the design and construction requirements specified in Section 2 of Part F of the NSCV.
- (2) A vessel to which this clause applies that has an inboard petrol engine must:

- (a) have a no smoking sign displayed on the vessel in a prominent place, and
  - (b) comply with the requirements of Schedule 3.
- (3) A vessel to which this clause applies must carry the equipment required by the *Marine Safety (General) Regulation 2009* to be carried on recreational vessels of the same type.

**18A Requirements for design, construction and equipment of certain Class 2 vessels that are tenders**

- (1) This clause applies to a Class 2 vessel that is a tender.
- (2) A vessel to which this clause applies that was built before 1 July 2006, or was built on or after 1 July 2006 and is 6 metres or more in length must:
- (a) be fitted with buoyancy as required by Section 6B of Part C of the NSCV, or
  - (b) carry a sufficient number of lifebuoys for all persons on board.
- (3) A vessel to which this clause applies that was built on or after 1 July 2006 and is less than 6 metres in length must meet the level flotation requirements specified in the ABP Standard.
- (4) A vessel to which this clause applies must carry the equipment required by the *Marine Safety (General) Regulation 2009* to be carried on recreational vessels of the same type.

**19 Design, construction and equipment of certain Class 3C vessels for which survey certificate not required**

- (1) This clause applies to Class 3C vessels for which a survey certificate is not required.
- (2) A vessel to which this clause applies that has an inboard petrol engine must:
- (a) have a no smoking sign displayed on the vessel in a prominent place, and
  - (b) comply with the requirements of Schedule 3.
- (3) A vessel to which this clause applies that was built before 1 July 2006, or was built on or after 1 July 2006 and is 6 metres or more in length must:
- (a) be fitted with buoyancy as required by Section 6B of Part C of the NSCV, or
  - (b) carry a sufficient number of lifebuoys for all persons on board.
- (4) A vessel to which this clause applies that was built on or after 1 July 2006 and is less than 6 metres in length must meet the level flotation requirements specified in the ABP Standard.

- (5) A vessel to which this clause applies must carry the following equipment:
- (a) one lifejacket Type 1 within the meaning of the *Marine Safety (General) Regulation 2009* for each person on board the vessel,
  - (b) one 4.5 kg dry chemical powder type fire extinguisher or one 9 litre foam type fire extinguisher,
  - (c) one anchor with a line suitable for the purpose of securing the vessel given the vessel's size, weight and area of operation.

**20 Design, construction and equipment of Class 3D and Class 3E vessels for which survey certificate not required**

- (1) This clause applies to Class 3D and Class 3E vessels for which a survey certificate is not required.
- (2) A vessel to which this clause applies that was built before 1 July 2006, or was built on or after 1 July 2006 and is 6 metres or more in length must:
  - (a) be fitted with buoyancy as required by Section 6B of Part C of the NSCV, or
  - (b) carry a sufficient number of lifebuoys for all persons on board.
- (3) A vessel to which this clause applies that was built on or after 1 July 2006 and is less than 6 metres in length must meet the level flotation requirements specified in the ABP Standard.
- (4) A vessel to which this clause applies:
  - (a) must carry the equipment required by the *Marine Safety (General) Regulation 2009* to be carried on recreational vessels of the same type, and
  - (b) must not be fitted with inboard under deck petrol engines.

**21 Design, construction and equipment of Class 4 vessels for which survey certificate not required**

- (1) This clause applies to Class 4 vessels for which a survey certificate is not required.
- (2) A vessel to which this clause applies must comply with the requirements of Section 2 of Part F of the NSCV relating to the design and construction of vessels of the same type.
- (3) A vessel to which this clause applies must carry the equipment required by the *Marine Safety (General) Regulation 2009* to be carried on recreational vessels of the same type.

## **22 Design, construction and equipment for sail training vessels**

- (1) A sail training vessel must:
  - (a) be no more than 24 metres in length, and
  - (b) in the case of a vessel that is not operating in sheltered waters, have a structure and stability approved in writing by RMS.
- (2) A sail training vessel must carry:
  - (a) the equipment required by the *Marine Safety (General) Regulation 2009* to be carried on recreational vessels of the same type, and
  - (b) if the vessel is a yacht of 10 metres or more in length—the equipment specified in Part 1 of Schedule 4, and
  - (c) if the vessel is a yacht less than 10 metres in length—the equipment specified in Part 2 of Schedule 4.

### **22A Design, construction and equipment of personal watercraft for which survey certificate not required**

- (1) This clause applies to personal watercraft for which a survey certificate is not required.
- (2) A vessel to which this clause applies must comply with the requirements of Section 2 of Part F of the NSCV relating to the design and construction of vessels of the same type.

## **23 General equipment requirements**

- (1) Any equipment required to be carried on a commercial vessel by this Regulation must be:
  - (a) stowed and marked as required by this Regulation, and
  - (b) of the type prescribed by this Regulation, and
  - (c) serviced or replaced in accordance with any expiry date marked on the equipment.
- (2) Any notice or instruction prescribed by this Regulation for display in relation to equipment carried on a commercial vessel must be displayed on the vessel and any instruction regarding the proper use of equipment on the vessel must be made available as prescribed by this Regulation.

## **24 Equipment to be carried by commercial vessels that have 2 or more survey certificates**

- (1) This clause applies to a vessel that is the subject of two or more survey certificates.

- (2) The items of equipment required by this Regulation to be carried on a vessel to which this clause applies are the items of equipment required by this Regulation to be carried on a vessel of the same type that is operating in the same operational area, for the same purpose and in the same conditions.
- (3) That equipment must satisfy the requirements of this Regulation.

## **Division 3 Survey certificates**

### **25 Vessels required to have survey certificates**

- (1) For the purposes of section 53A (1) (b) and (2) (b) of the Act, a survey certificate is required for the following vessels:
  - (a) Class 1A, Class 1B, Class 1C, Class 1D and Class 1E vessels,
  - (b) Class 2A, Class 2B, and Class 2C vessels,
  - (c) Class 2D and Class 2E vessels that:
    - (i) carry passengers, or
    - (ii) carry fuel or dangerous goods, or
    - (iii) are equipped with dredging machinery and have a total brake power of 500kW or more, or
    - (iv) are equipped with pile driving equipment, or
    - (v) are landing vessels, or
    - (vi) are mooring or crane vessels with a crane lifting capacity of more than 3 tonnes, or
    - (vii) are 25 metres or more in length, or
    - (viii) are tugs (vessels primarily designed to be used to tow other vessels or floating plant or equipment), or
    - (ix) are used for thrill or adventure rides, or
    - (x) are novel craft, or
    - (xi) are used for parasailing,
  - (d) Class 3A and Class 3B vessels,
  - (e) Class 3C power driven vessels other than vessels that are less than 7.5 metres in length and are used for ocean haul or beach fishing,

- (f) Class 3D and Class 3E vessels that are 25 metres or more in length,
- (g) Class 4C power driven vessels,
- (h) Class 4D and Class 4E power driven vessels that are 7.5 metres or more in length.

**Note—**

Section 54 (1) of the Act prevents the Minister from issuing a survey certificate for a vessel unless the vessel complies with the relevant requirements as to design, construction and equipment.

- (2) Despite subclause (1), a survey certificate is not required for the following vessels:
  - (a) vessels to which clause 18 or 22 applies,
  - (b) personal watercraft,
  - (c) tenders,
  - (d) surf life saving vessels.

**26 Automatic recognition of certain survey certificates of other jurisdictions**

A survey certificate or other similar authorisation issued under the law of the Commonwealth or of another State or a Territory is taken to be automatically recognised as a survey certificate issued under the Act subject to the same conditions on which it was issued but only if the authorisation was not issued with an exemption from the need to comply with any requirement of the USLC or the NSCV.

**27 Survey plates**

- (1) The Minister, when issuing a survey certificate for a vessel:
  - (a) must issue a survey plate for the vessel that includes such particulars as the Minister considers appropriate in relation to the survey certificate, and
  - (b) may issue directions in writing as to the manner and position in which the survey plate is to be affixed to the vessel.
- (2) The owner and master of a vessel for which a survey certificate is in force must ensure that, when the vessel is being operated, the survey plate issued under this clause for the vessel is firmly affixed to the vessel in accordance with the directions (if any) issued by the Minister under subclause (1) and, subject to those directions:
  - (a) is affixed in a prominent position so as to be clearly visible to a person facing the survey plate when at a distance of 2 metres from the survey plate, and
  - (b) in the case of a passenger vessel—is affixed in a public area used by passengers of the vessel, and
  - (c) in the case of a vessel (other than a passenger vessel)—is affixed inside the

wheelhouse or, if the vessel does not have a wheelhouse or it is impracticable to do so, is affixed as close as practicable to the vessel's controls.

Maximum penalty: 50 penalty units.

## **28 Display of survey identifying numbers**

The owner of a vessel that is the subject of a survey certificate must ensure that the survey number of the vessel set out in the survey certificate is clearly displayed on the vessel in the following manner:

- (a) on each side of the vessel, on the hull or the wheelhouse, on the transom of the vessel or on such other part of the vessel as the Minister may approve, and
- (b) in numerals of not less than 150 mm in height or of such lesser size as the Minister may approve in writing, and
- (c) in white numerals if on a dark background or black numerals if on a light background, and
- (d) so as to be distinguishable from a distance of not less than 60 metres.

Maximum penalty: 50 penalty units.

## **29 Conditions of survey certificates relating to periodic surveys**

- (1) It is a condition of a survey certificate for a vessel that inspection of the vessel in accordance with the survey schedule issued under section 54 (3) of the Act for the vessel is to be carried out by a surveyor appointed by RMS.
- (2) It is a condition of a survey certificate for a vessel that:
  - (a) any defect or deficiency identified by the surveyor in relation to the vessel during any such inspection is rectified in the manner, and within the time, specified by the surveyor in a notice in writing given to the holder of the survey certificate, and
  - (b) the vessel is made available for further inspection, if so required by the surveyor, and
  - (c) the holder of the certificate must provide such evidence that any such defect or deficiency has been rectified as the surveyor requires.

### **Note—**

Section 54 (3) of the Act requires the Minister to issue a survey schedule with a survey certificate and to require as a condition of the certificate that the vessel be inspected in accordance with that schedule to ensure that it continues to comply with relevant requirements and be safe to operate.

### **30 Conditions of survey certificates relating to holding tanks**

It is a condition of a survey certificate for a vessel that if a holding tank is required to be fitted to the vessel under the *Marine Pollution Act 1987* after the initial survey of the vessel:

- (a) the tank must comply with the requirements of that Act and the regulations under that Act, and
- (b) a report in writing by a naval architect or other suitably qualified person is to be provided by the holder of the certificate certifying that the holding tank complies with those requirements and that the stability of the vessel has not been, and is unlikely to be, affected adversely in a material way by the installation and intended use of the holding tank, and
- (c) the vessel must not be used for commercial purposes until the report referred to in paragraph (b) has been submitted to RMS and RMS has acknowledged receipt of the report in writing to the holder of the certificate.

### **31 Masters of vessels to comply with survey certificate conditions**

- (1) The master of a vessel that is required to have a survey certificate must not operate the vessel in contravention of any condition of the survey certificate.

Maximum penalty: 50 penalty units.

- (2) It is a defence to a prosecution for an offence against subclause (1) if the master did not have reasonable cause to believe that the vessel was being so operated.

### **32 Owners of vessels to notify certain events**

- (1) The owner of a vessel for which there is a survey certificate must notify RMS in writing as soon as practicable, and in any event within 24 hours, after the vessel is damaged or altered in any way that would make the vessel unsafe (within the meaning of section 44 of the Act).
- (2) The owner of a vessel for which there is a survey certificate must notify RMS in writing within 24 hours after any of the following events occurs:
  - (a) the loss of the vessel,
  - (b) the constructive loss of the vessel, that is, when the vessel has been damaged in a way that makes its return to service unlikely,
  - (c) the withdrawal from service of the vessel,
  - (d) the transfer of the vessel to another jurisdiction.

Maximum penalty: 50 penalty units.

### 33 Survey record books

- (1) The Minister is to issue a survey record book for a vessel at the same time as granting the survey certificate for the vessel.
- (2) The owner of a vessel must ensure that the survey record book for the vessel is:
  - (a) maintained in accordance with the conditions of the survey certificate, and
  - (b) retained on board the vessel to which it relates unless the vessel is less than 7.5 metres in length or is an open vessel, and
  - (c) produced on demand by an authorised officer or within a period specified by an authorised officer.

Maximum penalty: 50 penalty units.

- (3) The owner of a vessel must notify the Minister in writing of the loss or destruction of the survey record book for the vessel within 7 days after the book is lost or destroyed.

Maximum penalty: 50 penalty units.

- (4) The Minister may, on payment of the relevant fee, issue a replacement book.

## Part 4 Crew requirements

### 34 Application of Part

This Part does not apply to a Class 4C, 4D or 4E vessel.

### 35 Meaning of “minimum crew”

In this Part, the **minimum crew** of a vessel is a crew comprising at least the number of persons with the qualifications:

- (a) specified in Schedule 5 for a vessel of the same type, or
- (b) if the minimum crew requirements specified in Schedule 5 include a requirement that is to be determined by the Minister, determined for the vessel by the Minister on application made in accordance with clause 37, or
- (c) determined by the Minister on application made in accordance with clause 37, or
- (d) if the Minister makes a determination under clause 37 (3) for the vessel, notified to the owner of the vessel in accordance with that clause.

### 36 Requirement to carry minimum crew

The owner and master of a vessel to which this Part applies are each guilty of an offence if:

- (a) in a case where a determination of the minimum crew is required under this Regulation, the vessel is operated before the determination has been made without the approval in writing of the Minister, or
- (b) the minimum crew is not carried on the vessel when it is being operated.

Maximum penalty: 50 penalty units.

### **37 Determination by Minister**

- (1) The Minister may, on application by the owner of a vessel, determine the minimum crew required to be carried on the vessel.
- (2) An application made under this clause:
  - (a) must be in the form approved by the Minister, and
  - (b) must be accompanied by such supporting material as the Minister requires.
- (3) If the Minister considers that the minimum crew specified in Schedule 5 or previously determined by the Minister under this clause is not appropriate for a particular vessel, the Minister may make a determination (or further determination) of the minimum crew for the vessel.
- (4) The Minister is to determine the minimum crew for a vessel taking into account the following:
  - (a) the minimum crew for vessels of that type set out in Schedule 5,
  - (b) the design characteristics of the vessel, including equipment and machinery of the vessel,
  - (c) the type of operation that will be undertaken in the vessel, including the area of operation and the duration of voyages,
  - (d) any other matter that the Minister considers relevant to the safe navigation of the vessel.
- (5) Without limiting the matters that the Minister may take into account when determining the minimum crew for a vessel, the Minister may take into account submissions received on safety matters in relation to the vessel concerned, or in relation to vessels of the same type, from industrial organisations or industry associations.
- (6) The owner of a vessel, or a representative of an industrial organisation that represents one or more crew members on a vessel, may apply in writing to the Minister for a review of a determination of the Minister as to the minimum crew required for the vessel.

- (7) On receiving an application under subclause (6), the Minister is to appoint a safety crewing committee to review the Minister's determination consisting of the following persons:
- (a) a person nominated by the owner of the vessel concerned,
  - (b) a person chosen by the Minister who is a representative of an industrial organisation that represents one or more crew members on the vessel or, if there is no such industrial organisation, another person chosen by the Minister whom the Minister considers represents the interests of the crew of the vessel,
  - (c) a person nominated by the Minister.
- (8) The Minister is to consider the findings of the safety crewing committee and may make another determination if the Minister considers it appropriate to do so.
- (9) The Minister is to give notice in writing of the results of a review of a determination to the applicant for the review and, if the applicant is not the owner of the vessel concerned, the owner of the vessel.
- (10) Any determination by the Minister under this clause:
- (a) must be notified in writing to the owner of the vessel concerned and to such other persons as the Minister determines, and
  - (b) takes effect on and from the date specified in the notification, and
  - (c) may be revoked by notice in writing given to the owner of the vessel concerned.
- (11) In this clause, **industrial organisation** means:
- (a) an industrial organisation of employees within the meaning of the [Industrial Relations Act 1996](#), or
  - (b) an association of employees registered as an organisation under the [Fair Work \(Registered Organisations\) Act 2009](#) of the Commonwealth.

## Part 5 Crew qualifications

### Division 1 Grades of and authorisations conferred by certificates of competency

#### 38 Members of crew required to hold certificates of competency

- (1) For the purposes of section 58 of the Act, each member of the crew of a vessel performing the duties described in Column 1 of Schedule 6 is required to hold an appropriate certificate of competency.
- (2) The appropriate certificate of competency required to be held by the member of the

crew is the grade of certificate of competency specified in Column 2 of Schedule 6 opposite the description of the duties of that member of the crew.

## **Division 2 Requirements to be satisfied for issue of certificates of competency**

### **39 Examinations, certificates of medical fitness and other conditions to be satisfied for issue of certificates of competency**

- (1) A certificate of competency (other than for a general purpose hand or a master of vehicular ferry in chains) is not to be issued to a person unless the person:
  - (a) has attained the age required for the issue of a certificate of the relevant grade as specified in Section 2 or 3 (as appropriate) of the USLC, and
  - (b) has completed, to the satisfaction of the Minister, all of the requirements for sea service applicable to the relevant grade of certificate of competency as specified in Section 2 or 3 (as appropriate) of the USLC, and
  - (c) has completed a training course approved by the Minister within the period of 5 years immediately preceding the date of lodgement of the application, and
  - (d) if required by the Minister, has passed an examination conducted by RMS or another person or body approved by the Minister, and
  - (e) has demonstrated, to the satisfaction of the Minister, that he or she has sufficient knowledge of the English language to be able to undertake safely all the functions authorised to be carried out by the holder of the relevant grade of certificate of competency, and
  - (f) holds a current certificate of medical fitness, and
  - (g) holds a current first aid certificate.
- (2) A certificate of competency for a master of vehicular ferry in chains is not to be issued to a person unless the person:
  - (a) has completed the sea service required by the Minister, and
  - (b) has completed a training course approved by the Minister within the period of 5 years immediately preceding the date of lodgement of the application, and
  - (c) if required by the Minister, has passed an examination conducted by RMS or another person or body approved by the Minister, and
  - (d) holds a current certificate of medical fitness, and
  - (e) holds a current first aid certificate.

- (3) A certificate of competency for a general purpose hand is not to be issued to a person unless the person:
  - (a) has completed a training course approved by the Minister within the period of 5 years immediately preceding the date of lodgement of the application, and
  - (b) holds a current certificate of medical fitness, and
  - (c) holds a current first aid certificate.
- (4) This clause does not apply to a certificate of competency issued in the circumstances referred to in clause 42.

#### **40 Issue of further certificates of competency**

The Minister is not to issue to an applicant a certificate of competency that takes effect on the expiry of, or within 12 months after the expiry of, a certificate of competency of the same grade that is or was held by the applicant unless the revalidation requirements set out in Division 5 have been complied with within the period of 12 months immediately preceding the date of the application.

#### **41 Records of sea-service**

- (1) The Minister may require an applicant for a certificate of competency to produce a record of sea-service in a form approved by the Minister.
- (2) The Minister may reduce the amount of sea-service required by an applicant for a certificate of competency if the Minister is satisfied that the applicant has satisfactorily completed:
  - (a) an approved competency based training course involving structured on-the-job training, or
  - (b) the tasks set out in one of the following books relating to the grade of certificate of competency concerned:
    - (i) a record of service book issued by RMS,
    - (ii) a task book published by the National Marine Safety Committee under the National Record of Practical Experience and Sea-Service Scheme,
    - (iii) a task book issued by an authority of the Commonwealth or of another State or a Territory.
- (3) The Minister may accept from an applicant for a certificate of competency proof of marine qualifications, courses undertaken or sea-service performed with the Australian Defence Force in satisfaction of some or all of the requirements relating to sea-service.

- (4) The owner or master of a vessel, or engineer on a vessel, on which a person who is an applicant for a certificate of competency has served must certify an entry in that person's record of service on the vessel, at the request of the person or the Minister, if the entry is correct and is not misleading.

Maximum penalty: 4 penalty units.

- (5) An officer of RMS may certify an entry in the record of service on a vessel of an applicant for a certificate of competency, at the request of the applicant or the Minister, if the entry is correct and is not misleading.

- (6) A person must not certify an entry under subclause (4) or (5) or in a task book referred to in subclause (2) (b) if the person knows, or ought reasonably to know, that the entry is false or misleading.

Maximum penalty: 4 penalty units.

#### **42 Restricted certificates of competency**

- (1) Despite clause 39, the Minister may issue a certificate of competency to an applicant (other than an applicant for a certificate of competency as a general purpose hand) as a restricted certificate of competency if:

- (a) the Minister is of the opinion that it is unreasonable or impractical for the applicant to complete all of the requirements referred to in clause 39 (1) (b) for an unrestricted certificate of competency, and
- (b) the applicant complies with clause 39 (1) (a), (c), (d), (e), (f) and (g), and
- (c) the Minister is of the opinion that failure to complete the requirements in question will not affect the applicant's ability to carry out safely the functions authorised by the restricted certificate of competency.

- (2) A restricted certificate of competency issued under this clause:

- (a) is to be clearly endorsed with the word "RESTRICTED", and
- (b) is to contain a statement of the nature and extent of the restrictions.

#### **43 Special endorsements**

- (1) The holder of a certificate of competency may apply to the Minister for an endorsement of the certificate of competency that allows the holder (if not otherwise authorised by the certificate of competency) to serve as a master on a vessel that:

- (a) is a Class 1 vessel, or a Class 2 vessel carrying passengers, that will cross a coastal bar, or
- (b) is a square rigged sailing vessel, or

- (c) is an air cushioned or other high speed vessel, or
  - (d) is operating in circumstances indicated in Column 1 of Schedule 6 as requiring endorsement of the certificate concerned, or
  - (e) is carrying pollutants, or flammable liquids or gases, in bulk.
- (2) An application under subclause (1):
- (a) must be made in writing in the form and manner approved by the Minister, and
  - (b) must be accompanied by the relevant fee, and
  - (c) must be accompanied by the certificate of competency and such other documentation (including proof of identity documentation) as is required by the Minister.
- (3) The Minister may refuse to make an endorsement under this clause on a certificate of competency relating to the crossings of a coastal bar or bars unless satisfied that the applicant for the endorsement has demonstrated that the applicant has appropriate experience in crossing the coastal bar or coastal bars for which the endorsement is sought.
- (4) If the Minister refuses to make an endorsement or revokes an endorsement, the Minister is to give notice in writing of the decision, and the reasons for the decision, to the holder of the certificate of competency concerned.

#### **44 Automatic recognition of certificates of competency of other jurisdictions**

A certificate of competency or other similar authorisation issued under the law of the Commonwealth or of another State or a Territory is taken to be automatically recognised as a certificate of competency issued under the Act subject to the same conditions on which it was originally issued.

**Note—**

If the holder of a certificate of competency referred to in clause 44 requires the conditions to which the certificate is subject to be changed, the holder may apply to the Minister for the issue of a new certificate of competency that takes the form of a grant of recognition as referred to in section 65 of the Act.

### **Division 3 Examinations for certificates of competency**

#### **45 Conduct of examinations**

- (1) The Minister may conduct, or authorise any person or body to conduct on the Minister's behalf, examinations for the purposes of meeting any of the requirements for any class of certificate of competency (other than a certificate of competency for a general purpose hand).
- (2) Examinations must be in accordance with:

- (a) the requirements set out in Section 2 or Section 3 (as appropriate) of the USLC, and
  - (b) such other requirements determined by the Minister from time to time.
- (3) Examinations are to be conducted on such dates, at such times and in such places as the Minister may determine.

#### **46 Examiners**

- (1) The examiners for examinations are to be appointed by the Minister or by the person or body authorised by the Minister to conduct the examinations.
- (2) A person must not be appointed as an examiner unless the person holds a certificate of competency.
- (3) An examiner must not conduct an examination for a higher grade of certificate of competency than that held by the examiner.

#### **47 Acceptance of examinations conducted by other Authorities**

The Minister may treat an applicant for a certificate of competency as having passed an examination required for the issue of the certificate if satisfied that:

- (a) the applicant has passed an examination conducted by an authority of the Commonwealth or of another State or a Territory or by a body approved by the Minister, and
- (b) the examination is equivalent to an examination required to be passed by the applicant for the issue of the certificate of competency.

#### **48 Examination fees to be paid in advance**

A person is not eligible to sit for an examination or re-examination for a certificate of competency unless he or she has paid the relevant fee.

### **Division 4 Approval of training courses, programs and training providers for certificates of competency**

#### **49 Training courses and programs**

- (1) For the purposes of the award of a certificate of competency, the Minister may approve training courses or programs that are conducted in accordance with the Maritime Industry Training Package (TDM07) developed by the Transport and Logistics Industry Skills Council Limited and endorsed in 2007.
- (2) A training course or program is valid for the purposes of this Regulation only if it is approved under subclause (1) and delivered by an approved training provider.

## **50 Approved training providers**

- (1) The Minister may approve a registered training organisation to be an approved training provider for the purpose of providing approved training courses or programs.
- (2) An approval under this clause may be unconditional or subject to conditions.

## **51 Auditing**

- (1) The Minister may audit each approved training course or program or approved training provider.
- (2) In carrying out an audit, the Minister may have regard to guidelines published by a person or body considered by the Minister to have expertise in training delivery or maritime matters.

## **52 Variation and revocation of approvals**

- (1) The Minister may, by notice in writing, vary or revoke any approval given under this Division.
- (2) The Minister may vary or revoke an approval only after having given the holder of the approval written notice of the Minister's intention to vary or revoke the approval setting out the reasons for the decision.
- (3) The notice must include a statement that the holder of the approval concerned may make submissions to the Minister in relation to the proposed variation or revocation within 14 days after the date of the notice.
- (4) Subclauses (2) and (3) do not apply to a variation or revocation of an approval at the request of the holder of the approval.

## **Division 5 Revalidation of certificates of competency**

### **53 Applications for revalidation**

- (1) An application for revalidation of a certificate of competency may be made to the Minister by an applicant for a further certificate of competency who:
  - (a) is the holder of a certificate of competency, or
  - (b) was the holder of a certificate of competency within the period of 12 months immediately preceding the date of the application for the further certificate.
- (2) A reference in this Division to the holder of a certificate of competency includes a reference to a former holder of a certificate who has made an application to revalidate the certificate in accordance with this clause.
- (3) An application for revalidation of a certificate of competency must be in the approved

form and accompanied by the relevant fee.

#### **54 Eligibility for revalidation of certificates of competency**

- (1) The Minister is not to revalidate a certificate of competency unless the applicant for revalidation has indicated in the application that:
  - (a) the applicant possesses a current certificate of medical fitness, and
  - (b) the applicant possesses a current first-aid certificate, and
  - (c) the applicant has completed one of the following to the satisfaction of the Minister:
    - (i) one year of sea-service (or such lesser period as may be approved by the Minister) accumulated within the 5-year period immediately preceding the date of application for revalidation,
    - (ii) where the Minister conducts revalidation courses, a revalidation course, appropriate to the certificate of competency held, undertaken within the 12-month period preceding the date of application for revalidation,
    - (iii) an oral examination conducted by the Minister or an authority of the Commonwealth or of another State or a Territory for the purposes of revalidation,
    - (iv) one year of employment in the past 5 years in an occupation such as marine surveyor, marine pilot, harbour master, trainer providing training on behalf of an approved training provider or manager of a fishing vessel, passenger vessel or trading vessel.
- (1A) Subclause (1) (c) does not apply to the revalidation of a certificate of competency for a master of a vehicular ferry in chains or a general purpose hand.
- (2) The Minister may require an applicant for revalidation to submit such documents as the Minister specifies in support of the application.

### **Division 6 Prescribed conditions of certificates of competency**

#### **55 Ongoing requirement for holders of certificates of competency to have certificates of medical fitness**

It is a condition of every certificate of competency that the holder of the certificate of competency:

- (a) must hold a current certificate of medical fitness, and
- (b) must not perform functions authorised by the certificate of competency if the holder is aware that he or she does not have a satisfactory level of medical fitness according to

the relevant requirements specified in Schedule One of Section 2 or Section 3 (as appropriate) of the USLC for the class of certificate of competency concerned, and

- (c) must comply with any requirement of the Minister from time to time to undergo any further assessments of medical fitness carried out by a person specified by the Minister.

**56 Ongoing requirement for holders of certificates of competency to have current first aid certificate**

It is a condition of every certificate of competency that the holder of the certificate of competency must hold a current first aid certificate.

**Part 6 Hire and drive vessels**

**Division 1 General requirements relating to hiring out of hire and drive vessels**

**57 Offence to hire out hire and drive vessels unless authorised**

A person must not hire out a hire and drive vessel unless:

- (a) there is a survey certificate in force for the vessel that authorises the hiring out of the vessel, or
- (b) the vessel is authorised to be hired out under a hire and drive licence.

Maximum penalty: 50 penalty units.

**58 Requirements in relation to persons who hire out vessels**

- (1) A person must not hire out a hire and drive vessel unless satisfied that the hirer is competent to take charge of the vessel.

Maximum penalty: 50 penalty units.

- (2) A person who hires out a hire and drive vessel must, before making the vessel available to the hirer, issue to the hirer clear and concise written instructions on each of the following matters that are relevant to the vessel:

- (a) the correct and safe handling and navigation of the vessel,
- (b) the correct and safe operation of machinery, fuel, gas and pumping systems and valves or openings in the hull,
- (c) the stowage and use of lifesaving appliances,
- (d) the location and use of fire appliances, and
- (e) the waters in which the vessel is permitted to be operated and any restriction or

limitation on the operation of the vessel in those waters.

Maximum penalty: 50 penalty units.

- (3) Instructions issued for the purposes of subclause (2) (e) may include a plan or map.
- (4) Before making available a vessel to a hirer, the person hiring out the vessel must obtain from the hirer a signed statement indicating that the hirer fully understands the instructions issued to the hirer under this clause in relation to the vessel.

Maximum penalty: 50 penalty units.

- (5) A person who hires out a hire and drive vessel that is fitted with a motor must, before making the vessel available to the hirer, ensure that refuelling instructions that comply with subclause (6) are displayed in a position on the vessel adjacent to the fuelling point and where they can best be seen.

Maximum penalty: 50 penalty units.

- (6) The refuelling instructions are to include the following:

- (a) instructions in or to the effect of the following:

No smoking; engine off; all switches off; all galley appliances and naked lights extinguished; all ports, doors and hatches closed; passengers ashore, if practicable.

All portable fuel tanks to be removed from vessel for filling.

After refuelling, remove any spillage and open ports, doors and hatches.

The vessel to be clear of explosive gases before relighting any galley appliances or starting the engine.

- (b) any other specific safety instructions necessary for the refuelling of the vessel.

## **59 Keeping of records by persons who hire out vessels**

- (1) A person who hires out a hire and drive vessel must:
  - (a) keep a register in accordance with this clause, and
  - (b) produce the register for inspection if required by an authorised officer.
- (2) The register must be kept in the form approved by RMS and must include the following in respect of each vessel authorised to be hired out under the licence:
  - (a) the name or distinguishing number or survey number of the vessel,
  - (b) the full name and address of each hirer of the vessel,

- (c) the signed statement obtained from the hirer in accordance with clause 58 (4),
  - (d) the date and time of each hiring of the vessel,
  - (e) the date and time of each return of the vessel,
  - (f) the number of persons that each hirer intends to carry on the vessel,
  - (g) if applicable, the number of each hirer's marine safety licence that authorises the hirer to drive the vessel.
- (3) The register is to be retained for a period of not less than 12 months from the date of the last entry in the register.
- (4) A person who hires out a hire and drive vessel must not make the vessel available to a hirer unless the information required to be kept in the register by subclause (2) (other than paragraph (e)) has been recorded in the register in relation to the hiring.

Maximum penalty: 50 penalty units.

#### **60 Requirements relating to persons who hire vessels**

- (1) A person who hires a hire and drive vessel must not operate the vessel, or permit the vessel to be operated, in contravention of any written instructions provided to the hirer in accordance with clause 58 by the person who hired out the vessel.

Maximum penalty: 50 penalty units.

- (2) It is a defence to an offence under this clause that the operation of the vessel concerned occurred in an emergency.

### **Division 2 Hiring out of vessels subject to hire and drive licences**

#### **61 Definitions**

In this Division, ***hire and drive operation*** means any operation or activity that involves the hiring out of a vessel for which a survey certificate is not required.

#### **62 Requirement to have hire and drive licence**

A person must not conduct a hire and drive operation unless the person holds a hire and drive licence that authorises the conduct of that operation.

Maximum penalty: 50 penalty units.

#### **63 Identification of vessels involved in hire and drive operations**

- (1) When issuing a hire and drive licence, the Minister is to supply the holder of the licence with a distinguishing number for each vessel authorised to be operated under the licence.

- (2) The holder of a hire and drive licence must ensure that any distinguishing number supplied by the Minister in respect of a vessel operated under the licence is displayed on the vessel in accordance with any requirements of the Minister notified in writing to the holder.

Maximum penalty (subclause (2)): 50 penalty units.

#### **64 Condition relating to exclusive use of waters**

It is a condition of a hire and drive licence that the hire and drive operation authorised by the licence must not permit exclusive use of any navigable waters in which it is carried on unless authorised by an aquatic licence within the meaning of the *Marine Safety (General) Regulation 2009*.

#### **65 Audit of records**

- (1) It is a condition of a hire and drive licence that the holder of the licence must have the records required to be kept under this Part in relation to the hire and drive operation authorised by the licence audited in accordance with this clause.
- (2) An audit is to be conducted once a year or at such lesser frequency notified in writing to the owner of the vessel by RMS.
- (3) An audit is to be conducted by a person, or class of persons, approved by RMS to conduct audits under this clause.
- (4) It is a condition of a hire and drive licence that the results of each audit required to be carried out under this clause are provided to RMS in accordance with its directions.

### **Part 7 Bar crossings**

#### **66 Application of Part**

This Part applies to Class 1 vessels and to Class 2 vessels that are carrying passengers.

#### **67 Authorisation required for bar crossings**

- (1) The master of a vessel to which this Part applies must not operate the vessel across a coastal bar unless:
  - (a) the survey certificate for the vessel authorises coastal bar crossings, and
  - (b) the master holds a certificate of competency that has been endorsed as referred to in clause 43 (1) (a) so as to authorise the crossing of the coastal bar.

Maximum penalty: 50 penalty units.

- (2) The owner of a vessel is guilty of an offence if the vessel is operated in contravention of subclause (1).

Maximum penalty: 50 penalty units.

### **68 Requirements on masters of vessels in relation to bar crossings**

- (1) The master of a vessel to which this Part applies must ensure that, when the vessel is crossing a coastal bar, each person on board the vessel who is a passenger or special personnel:
  - (a) is in an open area in the after part of the vessel, and
  - (b) is wearing an appropriate lifejacket.

Maximum penalty: 50 penalty units.

- (2) The master of a vessel to which this Part applies must not cross a coastal bar if the maximum wind speed is more than 20 knots or the swell height is more than 2 metres.

Maximum penalty: 50 penalty units.

- (3) In this clause:

**appropriate lifejacket** means a lifejacket that is an appropriate lifejacket as determined in accordance with clause 83 of the [Marine Safety \(General\) Regulation 2009](#).

## **Part 8 Towage licences**

### **69 Towage licences required for towing vessels or floating plant**

- (1) The master of a commercial vessel must not use the vessel to tow any other vessel or item of floating plant on a sea-going voyage unless there is a towage licence in force that authorises the towing of the towed vessel.

Maximum penalty: 5 penalty units.

- (2) Subclause (1) does not apply to the towing of a vessel in distress at sea or stranded if it is necessary for the saving of life or property to tow the vessel before a towage licence could reasonably be obtained.

### **70 Issue of towage licences**

- (1) The Minister may issue a towage licence that authorises:
  - (a) the towing of a particular vessel or vessels, or class of vessels or classes of vessels, on one or more occasions, or
  - (b) the towing of any vessel on one or more occasions.
- (2) Without limiting the Minister's power to refuse to issue a towage licence, the Minister may refuse to issue the licence unless a vessel proposed to be towed pursuant to the

licence:

- (a) undergoes such inspection as the Minister may specify, and
- (b) undergoes such repair or other work as, in the opinion of the Minister, is necessary to render the vessel seaworthy for the proposed voyage.

#### **71 Condition of towage licences**

It is a condition of a towage licence that, if the Minister so requires, a vessel proposed to be towed pursuant to the licence must:

- (a) undergo such inspection as the Minister may specify, and
- (b) undergo such repair or other work as, in the opinion of the Minister, is necessary to render the vessel seaworthy for the proposed voyage.

### **Part 9 Load lines**

#### **72 Load line requirements**

- (1) This clause applies to Class 1A, Class 1B, Class 1C and Class 2 vessels that are more than 24 metres in length.
- (2) The owner and master of a vessel to which this clause applies must ensure that the vessel is not operated:
  - (a) without a load line certificate for the vessel, or
  - (b) without the vessel displaying the load line mark, and any associated mark, specified in the certificate, or
  - (c) so that any load line mark or associated mark is submerged by water.

Maximum penalty: 50 penalty units.

- (3) It is a defence to a prosecution against the owner of a vessel for an offence against subclause (2) (b) if the owner establishes that the owner had caused a copy of the relevant mark to be displayed and had no means of knowing that it was no longer displayed.
- (4) It is a defence to a prosecution for an offence against subclause (2) (c) in relation to the associated mark for a vessel if the defendant establishes that had the vessel been floating without a list in still water of the class for which the associated mark concerned is appropriate the associated mark would not have been submerged.
- (5) It is a defence to a prosecution for an offence against subclause (2) (c) in relation to the load line mark for a vessel if the defendant establishes that had the vessel been floating without a list in still salt water with a specific gravity of 1.025 the load line

mark would not have been submerged.

### **73 Requirements for issue of load line certificates**

A load line certificate must not be issued for a vessel unless the vessel:

- (a) complies with the requirements of Section 7 of the USLC in relation to weathertight and watertight integrity and the marking of load lines and associated marks, and
- (b) has been inspected by a surveyor appointed by RMS to ensure compliance with the requirements referred to in paragraph (a).

### **74 Condition of load line certificates**

It is a condition of a load line certificate that:

- (a) the vessel must be inspected by a surveyor appointed by RMS to ensure that the vessel complies with the requirements of Section 7 of the USLC in relation to weathertight and watertight integrity and the marking of load lines and associated marks, and
- (b) such an inspection must be carried out each time an inspection is carried out for the purpose of clause 29.

#### **Note—**

Clause 29 requires periodic survey inspections to be carried out for vessels requiring a survey certificate.

### **75 Submergence of hull**

- (1) An authorised officer may, by written notice served personally on the owner or master of a commercial vessel, direct that the vessel is to be loaded so as to leave unsubmerged not less than a specified extent of its hull.
- (2) The owner or operator of a vessel on whom a notice is served under subclause (1) must not cause or allow the vessel to be loaded in contravention of the notice.

Maximum penalty (subclause (2)): 50 penalty units.

## **Part 10 Safety management systems**

### **76 Requirement to have safety management system**

- (1) The owner of a vessel must ensure that the vessel is not operated unless the owner has, and has implemented, a safety management system for the vessel that complies with this clause.

Maximum penalty: 100 penalty units.

- (2) The safety management system must be in writing and must:

- (a) identify any significant risks that have arisen or may arise from the operation of the vessel for the business or commercial activity in which it is used, and
  - (b) specify the controls (including audits, expertise, resources and staff) that the owner of the vessel will use to manage the risks and to monitor safety outcomes in relation to the operation of the vessel for the business or commercial activity in which it is used.
- (3) The safety management system is to be varied in accordance with any direction issued by the Minister in writing to the owner of the vessel.
  - (4) This clause does not apply to a ferry used to provide a public passenger service for which a safety management system is required under the *Passenger Transport Act 1990*.

#### **77 Audit of safety management system**

- (1) The owner of a vessel that is required by clause 76 to have a safety management system for a vessel must have the system audited in accordance with this clause.  
Maximum penalty: 50 penalty units.
- (2) An audit is to be conducted once a year, or at such other frequency notified in writing to the owner of the vessel by RMS.
- (3) An audit is to be conducted by a person appointed by RMS to conduct audits under this clause.
- (4) RMS may charge the relevant fee for the auditing of a safety management system for the purposes of this clause.

**Note—**

Division 4 of Part 8 of the Act enables authorised officers within the meaning of the Act to conduct investigations (including random investigations) to determine whether the marine legislation has been or may be contravened.

### **Part 11 Conduct of persons on commercial vessels**

#### **78 Directions to ensure safety of vessel**

- (1) An authorised person for a vessel may give a direction to a person not to board, or remain on board, the vessel if the authorised person is of the opinion that the direction is necessary to ensure that the maximum number of persons that the vessel is authorised to carry is not exceeded.
- (2) An authorised person for a vessel may give a direction to a person not to enter, or remain in, a part of the vessel if the authorised person is of the opinion that the direction is necessary to ensure that the maximum number of persons authorised to be carried in that part of the vessel is not exceeded.

- (3) An authorised person for a vessel may give a direction to a person who is a passenger or special personnel on the vessel to move to or from a part of the vessel, or cease an activity in which the person is engaged on the vessel, if the authorised person is of the opinion that the direction is necessary to ensure the proper and orderly management, operation or navigation of the vessel.
- (4) A person must not fail to comply with any reasonable direction given to the person under this clause.  
  
Maximum penalty: 50 penalty units.
- (5) An authorised person may not give a direction under this clause to a relevant officer within the meaning of clause 81 who is exercising his or her functions as a relevant officer.
- (6) In this clause, **authorised person** for a vessel means a person on board the vessel who is concerned in the navigation, operation or management of the vessel and includes, for the purposes of subclauses (1) and (2), a person who is concerned in the conduct of operations at the berth of the vessel.

#### **79 Offences by passengers and others**

- (1) A passenger on a vessel must not:
  - (a) be in a part of the vessel if there is a notice displayed at each place on the vessel designed for entry to that part that prohibits the passenger's entry to that part, or
  - (b) be on any roof, awning or mast on the vessel.
- (2) A person on a vessel must not:
  - (a) obstruct a person engaged in the navigation or other operation of the vessel, or
  - (b) wilfully damage, or use for a purpose for which it was not intended, any part of the vessel or any equipment on the vessel, or
  - (c) remove, damage or deface any sign or notice on the vessel that relates to the vessel's safe and proper use or any survey plate.

Maximum penalty: 50 penalty units.

#### **80 Offences by crew of commercial vessel**

- (1) The master of a vessel must not leave his or her post unless the master has first made arrangements for another crew member to carry out the responsibilities of the master's position.
- (2) A crew member on a vessel, who is undertaking a duty that is necessary for the safe and proper operation or management of the vessel, must not:

- (a) leave an assigned station or position for an unreasonable length of time without the permission of the master of the vessel, or
- (b) fail to report to the master anything that affects the navigation of the vessel or the safety of persons onboard, or
- (c) fail to do anything that in the course of the crew member's duty should reasonably be done.

Maximum penalty: 50 penalty units.

### **81 Exemptions from this Part for certain officers**

- (1) In this clause, **relevant officer** means:
  - (a) a police officer, or
  - (b) an officer of a Department of the New South Wales Government or the Commonwealth Government, or
  - (c) an officer of a statutory authority created under the law of New South Wales or of the Commonwealth.
- (2) A relevant officer does not commit an offence against a provision of this Part (other than clause 80) while exercising his or her functions as a relevant officer.

## **Part 12**

### **82, 83 (Repealed)**

## **Part 13 Exemptions**

### **Division 1 Exemptions from Division 4 of Part 5 of the Act**

#### **84 Waterski vessels and certain Class 2C, Class 2D, Class 2E, Class 3D and Class 3E vessels**

Each of the following vessels is exempt from Division 4 of Part 5 of the Act subject to the condition that, if the vessel is operated at 10 knots or more, the master of the vessel holds a valid general boat driving licence or personal watercraft driving licence issued under the [Marine Safety \(General\) Regulation 2009](#):

- (a) a Class 2A, Class 2B, Class 2C, Class 2D or Class 2E vessel that is less than 7.5 metres in length and that is not carrying passengers,
- (b) a Class 2D or Class 2E vessel that does not require a survey certificate,
- (c) a Class 2D or Class 2E waterski vessel,
- (d) a Class 3C vessel that does not require a survey certificate,

- (e) a Class 3D or Class 3E vessel that does not require a survey certificate.

### **85 Personal watercraft**

A personal watercraft (within the meaning of the *Marine Safety (General) Regulation 2009*) is exempt from Division 4 of Part 5 of the Act on condition that the master of the vessel holds a valid personal watercraft driving licence issued under that Regulation.

### **86 Sail training vessels**

A sail training vessel is exempt from Division 4 of Part 5 of the Act subject to the following conditions:

- (a) the training for which the vessel is used must be a course approved by Yachting Australia,
- (b) the master of the vessel must hold whichever of the following certificates issued by Yachting Australia is appropriate for the size of the vessel concerned and its area of operations:
  - (i) Dinghy Instructor Certificate,
  - (ii) Keelboat Instructor Certificate,
  - (iii) Yachtmaster Offshore Certificate (endorsed as an instructor),
  - (iv) Yachtmaster Ocean (endorsed as an instructor).

### **87 Police vessels**

A police vessel is exempt from Division 4 of Part 5 of the Act subject to the following conditions:

- (a) the vessel is less than 12 metres in length,
- (b) the vessel operates within 15 nm of the coast,
- (c) the master of the vessel is a police officer who has satisfactorily completed a training course in the operation of a vessel conducted by the NSW Police Force.

## **Division 2 Other exemptions**

### **88 General exemption on safety or emergency grounds or for complying with directions**

A person is exempt from the operation of a provision of this Regulation in relation to:

- (a) action taken for the purpose of securing the safety of any person or avoiding significant risk to the environment, or
- (b) action taken in compliance with a direction given by a relevant officer (within the meaning of clause 81).

## **89 Exemptions by RMS**

- (1) RMS may exempt any person or class of persons, or any vessel or class of vessels, from any or all of the provisions of this Regulation.
- (2) An exemption is to be by order in writing:
  - (a) given to the person concerned or the owner or master of the vessel concerned, or
  - (b) if the exemption relates to a class of persons or vessels, published on the NSW legislation website.

### **Note—**

Section 139 of the Act contains further provisions relating to exemptions, including that exemptions may be made subject to conditions and do not apply during any period in which any such condition is not complied with.

## **Part 14 Miscellaneous**

### **90 Fees**

- (1) The fee payable to RMS in respect of a matter listed in Column 1 of Schedule 7 is the fee specified opposite that matter in Column 2 of that Schedule.
- (2) A fee is payable before the service to which the fee relates is provided or at such time, and in accordance with such conditions, as RMS may agree with the person paying the fee.
- (3) RMS may waive, reduce or postpone (whether wholly or in part) the payment of any fee or charge payable under this Regulation or refund any such fee or charge (whether wholly or in part) if, in the opinion of RMS, it is appropriate to do so.

### **91 Savings provisions in relation to standards and other requirements**

- (1) This clause applies to a vessel if this Regulation requires any aspect of the design or construction of the vessel to comply with a provision of the USLC or the NSCV or any other standard or code, as in force from time to time, and that provision is amended after the vessel has been built.
- (2) The vessel is taken to comply with the relevant provision of the USLC, NSCV or other code or standard if it complied with the provision as in force when the vessel was built.

## **Schedule 1 Partially smooth waters**

(Clause 3 (1))

### **Port Stephens**

On Port Stephens west of a line drawn across its entrance to the Tasman Sea from the north eastern extremity of Tomaree Head in a north easterly direction to the south eastern extremity of Yacabba

Head.

**Broken Bay**

On Broken Bay west of a line drawn across its entrance to the Tasman Sea from a point on the northern extremity of Barrenjoey Head in a north easterly direction to the southern extremity of Box Head.

**Port Jackson**

On Port Jackson west of a line drawn across its entrance to the Tasman Sea from the western extremity of Cannae Point in a southerly direction to the northern extremity of Inner South Head.

**Botany Bay**

On Botany Bay west of a line drawn across its entrance to the Tasman Sea from the southern extremity of Bare Island in a southerly direction to the northern extremity of Inscription Point.

**Jervis Bay**

On Jervis Bay west of a line drawn across its entrance to the Tasman Sea from the southern extremity of Dart Point in a southerly direction to the northern extremity of Governor Head.

**Twofold Bay**

On Twofold Bay west of a line drawn across its entrance to the Tasman Sea from the southern extremity of Worang Point in a southerly direction to the northern extremity of Honeysuckle Point.

**Schedule 2 Smooth waters**

(Clause 3 (1))

**Tweed Heads**

On the Tweed River south of a line drawn from the northernmost extremity of the Spur Wall in a north easterly direction to a point on the shore adjacent to the prolongation of Florence Street, Tweed Heads.

**Brunswick Heads**

On the Brunswick River upstream of a line drawn directly across the river from a point on the southern training wall at the junction with the most easterly point of the entrance to Simpson's Creek and approximately 600 m upstream of its entrance to the Coral Sea in a generally northerly direction to a point opposite the shore.

**Ballina**

On the Richmond River upstream of a line drawn across the river from a point on the shore adjacent to the prolongation of Moon Street, Ballina in a south south westerly direction to a point on the opposite shore.

**Evans Head**

On the Evans River upstream of a line drawn directly across the river from the western extremity of an unnamed point on the eastern shore approximately 380 m upstream of its entrance with the Coral Sea in a north westerly direction to a point on the opposite shore.

### **Yamba and Iluka**

On the Clarence River upstream of a line drawn from the northern extremity of Hickey Island approximately 1,600 m upstream of its entrance to the Coral Sea in a northerly direction to a point on the opposite shore.

### **Wooli**

On the Wooli River upstream of a line drawn across the river from a point on the eastern shore approximately 1,400 m upstream of its entrance to the Coral Sea in a westerly point to a point on the opposite shore.

### **Urunga**

On the Bellinger and Kalang Rivers upstream of a line drawn from a point on the southern training wall approximately 1,100 m upstream of its entrance to the Coral Sea in an easterly direction to a point on the opposite shore.

### **Nambucca Heads**

On the Nambucca River upstream of lines drawn across the river entrance channels from a point on the northern shore adjacent to the prolongation of High Street, Nambucca Heads, in a southerly direction to a point on the eastern shore of Warrell Creek at its entrance to the Nambucca River and opposite Warrell Point.

### **South West Rocks and Stuart's Point**

On the Macleay River upstream of a line drawn across the river from a point on the southern training wall approximately 1,300 m upstream from its entrance with the Tasman Sea in a generally north westerly direction to a point on the opposite northern training wall.

### **Port Macquarie**

On the Hastings River upstream of a line drawn across the river from a point on the southern shore adjacent to the prolongation of Hay Street, Port Macquarie, in a northerly direction to a point on the opposite northern training wall.

### **Laurieton**

On the Camden Haven River upstream of a line drawn across the river from a point on the southern training wall at Klondyke Rocks approximately 1,000 m upstream of its entrance to the Tasman Sea.

### **Manning River**

On the Manning River upstream of a line drawn across the river from a point on the northern training wall approximately 3,100 m upstream of its entrance to the Tasman Sea in a south south westerly direction to the northern extremity of the southern training wall.

### **Wallis Lake**

On Wallis Lake upstream of the Forster-Tuncurry Bridge.

### **Port Stephens**

On Port Stephens upstream of a line drawn from the southern extremity of Corrie Island in a south easterly direction across the waterway to a point on the southern shore in line with the highest point of Tomaree Head.

### **Newcastle**

On the Hunter River upstream of a line drawn across the river from the western extremity of Stony Point in a westerly direction to a point on the opposite northern shore 500 m upstream from Pirate Point.

### **Lake Macquarie**

On Lake Macquarie upstream of a line drawn across Swansea Channel from a point on the northern extremity of Coon Island in an easterly direction to a point on the eastern shore adjacent to the prolongation of Soldiers Road, Pelican.

### **Tuggerah Lakes**

On Tuggerah Lakes west of the Entrance Bridge.

### **Brisbane Water**

On Brisbane Water upstream of a line drawn from the western extremity of Wagstaffe Point in a generally west north westerly direction to a point on the opposite shore adjacent to the prolongation of Kourung Street, Ettalong.

### **Pittwater**

On Pittwater south of a line drawn from a point on the shore at the western extremity of Shark Point, Barrenjoey Head in a westerly direction to the eastern extremity of First Head.

### **Hawkesbury River**

On the Hawkesbury River upstream of a line drawn from the southern extremity of Juno Point in an easterly direction to the northern extremity of Flint and Steel Point.

### **Pittwater to Hawkesbury River**

The area bounded by lines drawn between: the western extremity of Shark Point, Barrenjoey Head to the eastern extremity of First Head; Juno Point and Flint and Steel Point; except when the wave height in any part of that area exceeds 0.5 m from trough to crest.

### **Brisbane Waters to Pittwater or Hawkesbury River**

The area bounded by lines drawn between: the northern extremity of Barrenjoey Head and the southern extremity of Box Head; and the western extremity of Shark Point, Barrenjoey Head to the eastern extremity of First Head; except when the wave height in any part of that area exceeds 0.5 m from trough to crest.

### **Port Jackson**

On Port Jackson upstream of a line drawn from the western extremity of Laings Point in a west north westerly direction to the eastern extremity of George's Head.

### **Middle Harbour**

On Middle Harbour upstream of a line drawn from the southern extremity of Grotto Point in a southerly direction to the western extremity of an unnamed point at the south eastern end of Balmoral Beach.

### **Port Jackson to Middle Harbour**

The area bounded by lines drawn between: Dobroyd Point and Inner South Head; Laings Point and George's Head; and Grotto Point in a southerly direction to the western extremity of an unnamed point at the south eastern end of Balmoral Beach; except when the wave height in any part of that area exceeds 0.5 m from trough to crest.

### **Botany Bay**

On Botany Bay west of a line drawn from the southern extremity of Molineux Point in a south westerly direction to the north western extremity of Bonna Point.

### **Georges River**

On the Georges River upstream of the Captain Cook Bridge.

### **Port Hacking**

On Port Hacking upstream of a line drawn from the southern extremity of Hungry Point in a south south easterly direction to the north western extremity of an unnamed point at the south eastern end of Horderns Beach.

### **Port Kembla**

On Port Kembla Outer Harbour west of a line drawn from the north western extremity of the southern breakwall in a northerly direction to the south eastern extremity of the northern breakwall.

### **Lake Illawarra**

On Lake Illawarra upstream of Windang Bridge.

### **Crookhaven Heads**

On the Crookhaven River upstream of a line drawn from the north western extremity of an unnamed point adjacent to Crookhaven Heads Regional Boat Ramp in a northerly direction to mid point of the northern training wall.

### **Sussex Inlet and St George's Basin**

On Sussex Inlet and St George's Basin upstream of a line drawn across the waterway from an unnamed point at the south westerly end of Bherwerre Beach at the junction with the Tasman Sea in a westerly direction to a point on the opposite shore.

### **Lake Conjola**

On Lake Conjola west of a line drawn across the waterway from a point adjacent the eastern side of the Boat Ramp at Lakes Entrance Caravan Park in a northerly direction to a point on the opposite shore.

### **Burrill Lake**

On Burrill Lake upstream of a line drawn directly across the waterway from a point on the western shore adjacent to the north eastern boundary of Rotary Park.

**Tabourie Lake**

On Tabourie Lake westward of a line drawn in a northerly direction from the picnic area on the southern shore to the caravan park on the northern shore.

**Clyde River**

On the Clyde River at Batemans Bay upstream of a line drawn between the eastern side of the entrance to the boat harbour and Pinnacle Point.

**Tomaga River**

On the Tomaga River upstream of a line drawn across the river from a point adjacent to the Tomakin Boat Ramp at the end of Kingston Place, Tomakin to a point on the opposite shore.

**Moruya River**

On the Moruya River upstream of a line drawn across the waterway from a point on the southern training wall approximately 750 m from its entrance to the Tasman Sea in a generally northerly direction to a point on the opposite shore.

**Durras Lake**

On Durras Lake west of a line drawn due south from the natural spring well at North Durras.

**Coila Lake**

On Coila Lake west of a line drawn from the Boat Ramp at the end of Foam Street, Tuross Heads in a north easterly direction to a point on the opposite northern shore.

**Tuross Lake**

On Tuross Lake upstream of a line drawn from the Boat Ramp off Nelson Parade, Tuross Heads in a south south westerly direction to an unnamed point on the shore of the Eurobodalla National Park.

**Narooma**

On the Wagonga Inlet at Narooma upstream of a line drawn from a point on the southern shore adjacent to the northern boundary of Rotary Park, Narooma in a north westerly direction to the southernmost extremity of the northern training wall.

**Corunna Lake**

On Corunna Lake upstream of the Princes Highway Bridge.

**Wallaga Lake**

On Wallaga Lake upstream of the Tilba Road Bridge.

**Bermagui**

On the Bermagui River upstream of a line drawn from the northern extremity of the eastern training

wall in a westerly direction to a point midway along the eastern training wall.

### **Merimbula Lake**

On Merimbula Lake upstream of a line drawn across its entrance with the Tasman Sea from an unnamed point at the junction of Mitchies Beach and Merimbula Beach in an easterly direction to a point on the opposite shore at Bar Beach.

### **Pambula**

On the Pambula River upstream of a line drawn between Black Gin Point and the seaward end of Mosquito Bight Point.

### **Eden**

On Twofold Bay west of a line drawn from the western extremity of the Eden Breakwall in a south easterly direction to the northern extremity of Munganoa Point.

### **Wonboyn**

On Wonboyn River upstream of a line drawn from the north western extremity of Dollys Island in a south easterly direction to a point on the opposite northern shore.

### **Murray River**

On the Murray River and its New South Wales tributaries and in the **transferred Victorian area** as defined in the *Marine Safety Legislation (Lakes Hume and Mulwala) Act 2001*.

### **Other New South Wales waters**

All other coastal navigable waters (such as rivers, creeks, lakes and lagoons) except those listed in Schedule 1.

All inland navigable waters (such as rivers, lakes and dam waters).

## **Schedule 3 Requirements for vessels with inboard petrol engines**

(Clauses 18 and 19)

### **1 Compliance with standards**

The vessel should comply with the requirements of the following standards, as in force from time to time:

- (a) ISO 11105:1997 *Small craft—Ventilation of petrol engine and/or petrol tank compartments,*
- (b) ISO 10088:2009 *Small craft—Permanently installed fuel systems,*
- (c) ISO 7840:2004 *Small craft—Fire resistant fuel hoses,*
- (d) ISO 8846:1990 *Small craft—Electrical devices—Protection against ignition of surrounding flammable gases,*

- (e) ISO 21487:2006 *Small craft—Permanently installed petrol and diesel fuel tanks,*
- (f) ISO 10133:2000 *Small craft—Electrical systems—Extra-low-voltage d.c. installations,*
- (g) ISO 9094—1:2003 *Small craft—Fire Protection—Part 1: Craft with a hull length of up to and including 15 m,*
- (h) ISO 9094—2:2002 *Small craft—Fire Protection—Part 2: Craft with a hull length of over 15 m.*

**2 Additional requirements**

- (1) The vessel must not be fitted so as to allow a manual override of the purge start up cycle.
- (2) The vessel must be fitted with a powered ventilation system only.

**Schedule 4 Safety equipment for sail training vessels**

(Clause 22)

**Part 1 Safety equipment for sail training vessels of 10 metres or more in length**

**Table**

<b>Column 1</b>	<b>Column 2</b>
<b>Item of equipment</b>	<b>Quantity</b>
Pin point red flares	6
Red parachute flares	4
Harness	1 for each crew member
Searchlight with morse capability	1 if operating at night
Wire cutters sized for standard rigging	1
Fire blanket	1 if vessel is fitted with galley
Lifebuoys with drogue and light	2
Lifebuoy with dan buoy attached	1
Emergency tiller or other emergency steering	1
First aid kit	1

**Part 2 Safety equipment for sail training vessels less than 10 metres in length**

**Table**

<b>Column 1</b>	<b>Column 2</b>
<b>Item of equipment</b>	<b>Quantity</b>
Boathook	1
Sharp knife	1
Fire blanket	1 if vessel is fitted with galley
Lifebuoy fitted on transom with drogue	1
First aid kit	1

## Schedule 5 Minimum crewing requirements

(Clauses 35 and 37)

### Part 1 Class 1 and Class 2 Vessels

**Table 1—Class 1 and Class 2 Vessels—minimum deck crewing requirements (excluding engineers and general purpose hands)**

<b>Vessel length</b>	<b>Operational area of vessel</b>	<b>Master</b>	<b>Chief mate (required for voyages over 12 hours' duration)</b>	<b>Deck watchkeeper (required for voyages over 48 hours' duration)</b>
80 m or more	All areas	Determined by Minister	Determined by Minister	Determined by Minister
35 m or more but less than 80 m	All areas	Determined by Minister	Determined by Minister	Determined by Minister
24 m or more but less than 35 m	Beyond 600 nm	Determined by Minister	Determined by Minister	Determined by Minister
	Up to 600 nm	Master Class 4	Master Class 5	—
	Up to 200 nm	Master Class 4	Master Class 5	—
	Up to 15 nm	Master Class 4	Master Class 5	—
12 m or more but less than 24 m	Beyond 600 nm	Determined by Minister	Determined by Minister	Determined by Minister
	Up to 600 nm	Master Class 4	Master Class 5	—
	Up to 200 nm	Master Class 5 (with an endorsement to at least 200 nm)	Master Class 5 (with endorsement to at least 200 nm)	—
	Up to 100 nm	Master Class 5	—	—
	Up to 15 nm	Master Class 5	—	—
Less than 12 m	Beyond 600 nm	Determined by Minister	Determined by Minister	Determined by Minister

Up to 600 nm	Master Class 4	Master Class 5	—
Up to 200 nm	Master Class 5 (with endorsement to at least 200 nm)	Master Class 5 (with endorsement to at least 200 nm)	—
Up to 100 nm	Master Class 5	—	—
Up to 15 nm	Coxswain	—	—

**Note—**

For requirements for minimum engineering crew for Class 1 and 2 vessels see Table 2. For requirements for minimum general purpose hand crew see Table 3 for Class 1 vessels and Table 4 for Class 2 vessels.

**Table 2—Class 1 and Class 2 Vessels—Minimum engineering crewing requirements**

Engine propulsion power of vessel	Operational area of vessel	Chief engineer	Other engineers (if required)
1500 kW or more	All areas	Determined by Minister	Determined by Minister
750 kW or more but less than 1500 kW	Beyond 600 nm	Determined by Minister	Determined by Minister
	Up to 600 nm	Class 3	Marine engine driver Grade 1
	Up to 200 nm	Class 3	Marine engine driver Grade 2
	Up to 30 nm	Marine engine driver Grade 1	—
500 kW or more but less than 750 kW	Beyond 600 nm	Determined by Minister	Determined by Minister
	Up to 600 nm	Marine engine driver Grade 1	Marine engine driver Grade 2
	Up to 200 nm	Marine engine driver Grade 1	—
	Up to 15 nm	Marine engine driver Grade 2	—
250 kW and over but less than 500 kW	Beyond 600 nm	Determined by Minister	Determined by Minister
	Up to 600 nm	Marine engine driver Grade 1	—
	Up to 200 nm	Marine engine driver Grade 2	—
	Up to 30 nm	Marine engine driver Grade 3	—
Less than 250 kW	Beyond 600 nm	Determined by Minister	Determined by Minister

Up to 600 nm	Marine engine driver Grade 2	—
Up to 100 nm	Marine engine driver Grade 3	—
Up to 15 nm	Marine engine driver Grade 3 or Coxswain	—

**Note—**

A person may carry out the duties of both the master and an engineering crew position requiring a marine engine driver Grade 3 or marine engine driver Grade 2 qualification, but only on voyages of not more than 12 hours.

**Table 3—Class 1 vessels—Minimum crewing requirements for general purpose hands**

Number of passengers	Number of crew required by Tables 1 and 2	Voyages in sheltered waters	Number of general purpose hands required		
			Voyages not more than 30 nm	Voyages not more than 100 nm	
				Not more than 12 hours	More than 12 hours but not more than 24 hours
Up to 30	1				
	2			2	3
	3			1	3
	4			1	2
	5			1	2
	6			1	1
31 to 150	1	1	2		
	2		1	3	4
	3			2	4
	4			2	3
	5			2	3
	6			1	2
151 to 550	1	2	3		
	2	1	2	4	5
	3			3	5
	4			3	4
	5			3	4

	6			2	3
551 to 700	1	2			
	2	2	3	4	6
	3			3	6
	4			3	5
	5			3	5
	6			2	4

**Table 4—Class 2 vessels—Minimum crewing requirements for general purpose hands**

Vessel length	Not more than 30 nm and not more than 12 hours' duration		Not more than 100 nm and more than 12 hours' but not more than 48 hours' duration		More than 100 nm
35 m or more	Determined by Minister		Determined by Minister		Determined by Minister
24 m or more but less than 35 m	2		3		Determined by Minister
12 m or more but less than 24 m	1		2		Determined by Minister
Less than 12 m	1 (if towing)		1 (if towing)		Determined by Minister

## Part 2 Class 3 Vessels

**Table 1—Class 3 Vessels—Minimum deck crewing requirements**

Vessel length	Operational area of vessel	Total minimum complement	Master	Chief mate	General purpose hands and engineers
80 m or more	All areas	Determined by Minister	Determined by Minister	Determined by Minister	Determined by Minister
35 m or more but less than 80 m	All areas	Determined by Minister	Determined by Minister	Determined by Minister	Determined by Minister
24 m or more but less than 35 m	Beyond 600 nm	Determined by Minister	Determined by Minister	Determined by Minister	Determined by Minister
	Up to 600 nm	5	Skipper Grade 2	Skipper Grade 3	3
	Up to 200 nm	4	Skipper Grade 2	Skipper Grade 3	2
	Up to 100 nm	4	Skipper Grade 2	—	3

	Up to 30 nm	3		Skipper Grade 2	—	2
12 m or more but less than 24 m	Beyond 600 nm	Determined by Minister		Determined by Minister	Determined by Minister	Determined by Minister
	Up to 600 nm	3-4		Skipper Grade 2	Skipper Grade 3	1-2
	Up to 200 nm	3-4		Skipper Grade 3 endorsed (with endorsement to at least 200 nm)	Skipper Grade 3	1-2
	Up to 100 nm	2-3		Skipper Grade 3	—	1-2
	Up to 20 nm	2		Skipper Grade 3	—	1
Less than 12 m	Beyond 600 nm	Determined by Minister		Determined by Minister	Determined by Minister	Determined by Minister
	Up to 600 nm	Determined by Minister		Determined by Minister	Determined by Minister	Determined by Minister
	Up to 200 nm	2-3		Skipper Grade 3 endorsed (with endorsement to at least 200 nm)	Skipper Grade 3	0-1
	Up to 100 nm	1 for voyages of up to 12 hours' duration and 2 for voyages of more than 12 hours' duration		Skipper Grade 3	—	1-2
	Up to 15 nm	1		Coxswain	—	—

**Note—**

The number of engineering crew and general purpose hands required is included in Table 1 in the total minimum complement. The number of general purpose hands and engineers indicated in the last column of Table 1 is subject to the requirements for engineering crew contained in Table 2.

A person may carry out the duties of both the master and an engineering crew position requiring a marine engine driver Grade 3 or marine engine driver Grade 2 qualification, but only on voyages of not more than 12 hours. (see Table 2). Accordingly, entries such as "1-2" in Table 1 take account of the possibility of one person filling 2 positions.

**Table 2—Class 3 Vessels—Minimum engineering crewing requirements**

Engine propulsion power	Operational area	Chief engineer	Other engineers
1500 kW or more	All areas	Determined by Minister	Determined by Minister
750 kW or more but less than 1500 kW	Beyond 600 nm	Determined by Minister	Determined by Minister

	Up to 600 nm	Class 3	Marine engine driver Grade 1
	Up to 200 nm	Class 3	Marine engine driver Grade 2
	Up to 30 nm	Marine engine driver Grade 1	—
500 kW or more but less than 750 kW	Beyond 600 nm	Determined by Minister	
	Up to 600 nm	Marine engine driver Grade 1	Marine engine driver Grade 2
	Up to 200 nm	Marine engine driver Grade 1	—
	Up to 15 nm	Marine engine driver Grade 2	—
250 kW or more but less than 500 kW	Beyond 600 nm	Determined by Minister	
	Up to 600 nm	Marine engine driver Grade 1	—
	Up to 200 nm	Marine engine driver Grade 2	—
	Up to 15 nm	Marine engine driver Grade 3	—
Less than 250 kW	Beyond 600 nm	Determined by Minister	
	Up to 600 nm	Marine engine driver Grade 2	—
	Up to 100 nm	Marine engine driver Grade 3	—
	Up to 15 nm	Coxswain	—

**Note—**

A person may carry out the duties of both the master and an engineering crew position requiring a marine engine driver Grade 3 or marine engine driver Grade 2 qualification, but only on voyages of not more than 12 hours.

## Schedule 6 Certificates of competency

(Clause 38)

### Column 1

#### Duties of member of crew

Master or engineer, or both, on a trading or fishing vessel less than 12 m in length and with engines up to 250 kW and operating not more than 15 nm from the coast.

### Column 2

#### Appropriate certificate of competency

Coxswain

Master on a trading vessel less than 24 m in length and operating not more than 100 nm from the coast. (Certificates may be endorsed to operate up to 200 nm from the coast.)	Master Class 5
Watchkeeper on a trading vessel less than 80 m in length and operating not more than 600 nm from the coast.	Mate Class 4
Master on a trading vessel less than 80 m in length and operating not more than 15 nm from the coast or less than 35 m in length and operating no more than 200 nm from the coast. (Certificates may be endorsed to operate up to 600 nm from the coast.)	Master Class 4
Master on a trading vessel less than 80 m in length and operating not more than 600 nm from the coast.	Master Class 3
Engineer on a vessel with propulsion machinery of maximum continuous power of less than 500 kW and operating not more than 30 nm from the coast or maximum continuous power of less than 250 kW and operating not more than 100 nm from the coast.	Marine Engine Driver Grade 3
Engineer on a vessel with propulsion machinery of maximum continuous power of less than 750 kW and operating not more than 30 nm from the coast or maximum continuous power of less than 500 kW and operating not more than 200 nm from the coast.	Marine Engine Driver Grade 2
Engineer on a vessel with propulsion machinery of maximum continuous power of less than 1,500 kW and operating not more than 30 nm from the coast or maximum continuous power of less than 750 kW and operating not more than 600 nm from the coast.	Marine Engine Driver Grade 1
Chief engineer on a vessel with propulsion machinery of maximum continuous power less than 1,500 kW and operating not more than 600 nm from the coast.	Engineer Class 3
Master on a fishing vessel less than 24 m in length and operating not more than 100 nm from the coast. (Certificates may be endorsed to operate up to 200 nm from the coast.)	Skipper Grade 3
Master on a fishing vessel less than 80 m in length and operating not more than 15 nm from the coast or less than 35 m in length and operating not more than 200 nm from the coast. (Certificates may be endorsed to operate up to 600 nm from the coast.)	Skipper Grade 2
Master of a fishing vessel less than 80 m in length and operating not more than 600 nm from the coast.	Skipper Grade 1
Master of a vessel designed to carry vehicles across a waterway and that is winched across by a system of cables or chains permanently fixed to each side of the shore.	Master of a vehicular ferry in chains
Person assisting the master or engineer in the carrying out of duties relating to the operation of a vessel.	General Purpose Hand or any other certificate of competency (except Master of a vehicular ferry in chains)

## Schedule 7 Fees

(Clauses 3 and 90)

<b>Column 1</b>	<b>Column 2</b>
<b>Matter</b>	<b>Fee</b>
Issue of new Certificate of Competency Master Class 3, Skipper Grade 1	\$480
Issue of new Certificate of Competency Master Class 4, Skipper Grade 2, Mate Class 4	\$439
Issue of new Certificate of Competency Master Class 5, Skipper Grade 3	\$331
Issue of new Certificate of Competency Coxswain, Master of Vehicular Ferry in Chains	\$167
Issue of new Certificate of Competency Engineer Class 3	\$331
Issue of new Certificate of Competency Marine Engine Driver Grade 1	\$331
Issue of new Certificate of Competency Marine Engine Driver Grade 2	\$216
Issue of new Certificate of Competency Marine Engine Driver Grade 3	\$114
Supplementary exam (oral or written) for a certificate of competency—all classes	\$46
Additional oral examination for a certificate of competency	\$114
Assessment of sea service	\$43
Endorsement of a certificate of competency	\$114
Grant of recognition of certificate under section 65 of the Act	\$38
NSW certificate of competency issued pursuant to mutual recognition	\$114
Issue of certificate of competency where the applicant has passed examinations conducted by another marine authority	\$88
Revalidation of certificate of competency	\$114
Issue of duplicate or replacement certificate of competency	\$114
Issue of record of service book	\$31
Search of records fee (per item)	\$46
Attending an examination for a certificate of competency, at the request of an applicant, at a place or time other than that at which the examiner is normally engaged in official duties (whether or not the applicant attends for the examination)	Such reasonable travel and accommodation expenses incurred
Survey inspection during construction phase to undertake prototype plan assessment—all classes of vessels not more than 7.5 m in length	\$143 per metre or part of a metre

Survey inspection during construction phase to undertake prototype plan assessment—all classes of vessels more than 7.5 m in length	\$296 per metre or part of a metre
Initial survey inspection where prototype plan approval has been given—all classes of vessels not more than 7.5 m in length	\$74 per metre or part of a metre
Initial survey inspection where prototype plan approval has been given—all classes of vessels more than 7.5 m in length	\$140 per metre or part of a metre
Initial survey inspection where prototype plan approval has not been given—all classes of vessels not more than 7.5 m in length	\$143 per metre or part of a metre
Initial survey inspection where prototype plan approval has not been given—all classes of vessels more than 7.5 m in length	\$296 per metre or part of a metre
Initial survey inspection where the vessel has a class certificate from a recognised Classification Society (within the meaning of Part B of the NSCV)—all classes of vessels not more than 7.5 m in length	\$74 per metre or part of a metre
Initial survey inspection where the vessel has a class certificate from a recognised Classification Society (within the meaning of Part B of the NSCV)—all classes of vessels more than 7.5 m in length	\$140 per metre or part of a metre
Investigation of conditions to be applied to recognise a survey certificate issued by another jurisdiction	\$276
Periodic survey inspection—all classes of vessels not more than 7.5 m in length	\$49 per metre or part of a metre
Periodic survey inspection—all classes of vessels more than 7.5 m in length but not more than 15 m in length	\$72 per metre or part of a metre
Periodic survey inspection—all classes of vessels more than 15 m in length	\$86 per metre or part of a metre
Other inspections and assessments carried out in connection with a survey certificate such as inspection to check that a deficiency has been rectified, inspection following an accident, examination of survey plans, factory inspection, inspection of a vessel with interstate survey certificate, structure and stability inspections for sail training vessel operating offshore, assessment of equivalent solutions for vessel design and construction	\$140 per hour or part of an hour
Survey inspection services carried out outside of normal working hours	\$69 per hour or part of an hour (including travel time) subject to a minimum fee of \$270 where the hours are not merely an extension of normal working hours in addition to the usual fee for the service
Attending for an inspection of a vessel, at the request of an applicant, for a survey certificate or other inspection relating to a survey certificate at a place other than that at which the surveyor is normally engaged in official duties (whether or not the applicant attends)	Such reasonable travel and accommodation expenses incurred
Issue of replacement survey record book	\$186

Issue of replacement survey plate	\$78
Issue of duplicate survey certificate	\$39
Issue of new towage licence or further licence	\$78
Attending for an inspection of a vessel, at the request of an applicant, for a towage licence at a place or time other than that at which the surveyor is normally engaged in official duties (whether or not the applicant attends)	Such reasonable travel and accommodation expenses incurred
Issue of new load line certificate or further certificate	\$323
Periodical inspection for load line certificate	\$108
Issue of new hire and drive licence	\$200
Issue of further hire and drive licence	\$120
Annual licence fee for hire and drive licence	\$27 for each vessel authorised by the licence that is not a power-driven vessel \$80 for each power-driven vessel authorised by the licence
Audit of safety management system	\$22 per metre (or part of a metre) of vessel

## Schedule 8 Savings and transitional provisions

### 1 Definitions

In this Schedule:

**former Act** means the *Commercial Vessels Act 1979* as in force before its repeal by the *Marine Safety Act 1998*.

**new Act** means the *Marine Safety Act 1998*.

### 2 Transitional and savings provisions relating to survey certificates

- (1) This clause applies to a vessel that immediately before the commencement of this Regulation was not required to have a permit under the former Act but that from that commencement is required to have a survey certificate.
- (2) During the period of 12 months from the commencement of this Regulation, the owner of a vessel to which this clause applies is not guilty of an offence against section 53A (1) of the new Act by reason only of there not being a survey certificate in force in relation to the vessel.
- (3) During the period of 12 months from the commencement of this Regulation, the master of a vessel to which this clause applies is not guilty of an offence against section 53A (2) of the new Act by reason only of there not being a survey certificate in

force in relation to the vessel.

- (4) A survey schedule for a vessel issued under section 15 of the former Act and in force immediately before the commencement of this Regulation is taken to be the survey schedule issued for the vessel under section 54 of the new Act.

### **3 Transitional and savings provisions relating to design, construction and equipment of vessels for which survey certificate required**

- (1) This clause applies to a vessel that was built before the commencement of this Regulation and was subject to a permit in force under the former Act immediately before that commencement.
- (2) The requirements that were in force under the former Act in relation to the design, construction and equipment of a vessel to which this clause applies when that vessel was last surveyed before the commencement of this Regulation are prescribed as the requirements relating to the design, construction and equipment of the vessel for the purposes of section 53A (1) (a) and (2) (a) of the new Act.
- (3) Subclause (2) ceases to apply to a vessel if the vessel is surveyed for the purposes of an application for a survey certificate under the new Act that will authorise the vessel to operate in an operational area that is further from the coast than the operational area authorised by the permit under the former Act.
- (4) This clause has effect despite any other provision of this Regulation.

### **4 Design, construction and equipment of certain vessels for which survey certificate not required**

- (1) This clause applies to vessels to which clauses 17, 19 and 20 apply.
- (2) During the period of 12 months from the commencement of this Regulation, a vessel to which this clause applies is not required to comply with clause 17 (3), 19 (4) or 20 (3) if the vessel complies with the design, construction and equipment requirements that applied to the vessel under the former Act immediately before that commencement.

### **5 Certain existing certificates of competency to continue for limited period**

- (1) This clause applies to the following certificates of competency that were in force under the former Act immediately before its repeal:
  - (a) a certificate of competency for a Skipper Grade 1, Skipper Grade 2, Skipper Grade 3, Master 3 (Fishing), Master 4 (Fishing), Master 5 (Fishing), Marine Engine Driver Grade 1 (Fishing), Marine Engine Driver Grade 2 (Fishing), Marine Engine Driver Grade 3 (Fishing), Engineer Class 3 (Fishing) or Coxswain (Fishing),
  - (b) a certificate or licence deemed to be a certificate of competency by clause 3 of

Schedule 4 to the *Commercial Vessels (Amendment) Act 1983*,

- (c) a certificate of competency issued under section 30K of the former Act before the repeal of that section.
- (2) Despite clause 4 of Schedule 4 to the new Act, a certificate of competency to which this clause applies:
  - (a) is taken to expire at the end of the period of 2 years from the commencement of this Regulation, and
  - (b) is subject to the same conditions and restrictions to which it was subject immediately before that commencement.
- (3) Nothing in subclause (2) prevents:
  - (a) a certificate of competency to which this clause applies being suspended or cancelled in accordance with the new Act before the end of that 2-year period, or
  - (b) any condition or restriction on any such certificate being varied or removed in accordance with the new Act or any further condition or restriction being imposed on the certificate in accordance with the new Act.
- (4) Despite clause 42, a restricted certificate of competency may be issued under that clause to a person who was the holder of a certificate of competency to which this clause applies on the expiry of that certificate without the need for the person to comply with the requirements of clause 39 (1) (c) and (d). However, the person must comply with those requirements in relation to the issue of any further certificate.
- (5) A restricted certificate issued as referred to in subclause (4) must be of the same type as the certificate which it replaces.

## **6 Transitional and savings provisions relating to certificates of competency and crewing**

- (1) If an application for a certificate of competency was made under the former Act before its repeal but not determined before that repeal:
  - (a) the application is taken to have been made for the equivalent certificate of competency under the new Act, and
  - (b) that application is to be determined in accordance with the requirements in force for that certificate of competency when the application was made.
- (2) During the period of 12 months from the commencement of this Regulation, the holder of a certificate of competency that was in force immediately before that commencement and is taken to be a certificate of competency under the new Act is exempt from any requirement or condition imposed by this Regulation to hold a current certificate of medical fitness or a current first aid certificate.

- (3) A person who immediately before the commencement of this Regulation was qualified to be a general purpose hand on a vessel under the former Act is taken to hold a certificate of competency as a general purpose hand under the new Act until the end of the period of 2 years from the commencement of this Regulation.
- (4) A determination made by the Minister under the former Act in relation to the safety manning of a vessel and in force immediately before the repeal of the former Act is taken to be a determination under Part 4 of this Regulation of the minimum crew to be carried on the vessel and may be replaced by a further determination of the Minister in accordance with that Part.

## **7 Safety management systems**

During the period of 12 months from the commencement of this Regulation, the owner of a vessel does not commit an offence against a provision of Part 10.