



Australian Government
Australian Maritime Safety Authority

AMSA MO 2023/[number]

Marine Order 504 (Certificates of operation and operation requirements — national law) Amendment Order 2023

I, Michael Kinley, Chief Executive Officer of the Australian Maritime Safety Authority, (the National Marine Safety Regulator under section 9 of the *Marine Safety (Domestic Commercial Vessel) National Law*), make this Marine Order under subsection 163(1) of the *Marine Safety (Domestic Commercial Vessel) National Law*.

2023

[DRAFT ONLY — NOT FOR SIGNATURE]

Chief Executive Officer

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1 Name of Marine Order

This Marine Order is *Marine Order 504 (Certificates of operation and operation requirements — national law) Amendment Order 2023* .

2 Commencement

This Marine Order commences on 1 August 2023.

3 Amendment of *Marine Order*

Marine Order 504 (Certificates of operation and operation requirements — national law) 2018 is amended in accordance with Schedule 1.

Schedule 1 Amendments to operational requirements

[1] Paragraph 4(3)(e) and the Note

substitute

(e) is kept both:

- (i) on board the vessel if it is reasonably practicable to do so given the size and use of the vessel; and
- (ii) onshore, with shore based personnel.

Note for paragraph (b) and subparagraph (e)(i) For the meaning of **reasonably practicable** — see section 27 of the national law.

[2] Subsection 4(5)

substitute

- (5) For a Class 1, Class 2 or Class 3 vessel, the requirements of this Marine Order for a safety management system are taken to be met if the owner complies with:
 - (a) Part A of the ISM Code; and
 - (b) the following provisions of Schedule 1:
 - (i) paragraph 2(3)(d);
 - (ii) paragraph 7(6)(b);
 - (iii) paragraph 7(6)(baa).

[3] Subsection 4(5), Note 2, second occurring

omit

[4] Paragraph 7(1)(b)

substitute

- (b) the operation of each vessel to which the certificate applies must continue to comply with:
 - (i) the operation requirements in Schedules 1 and 2 that apply to the vessel; or
 - (ii) for a vessel other than a Class 4 vessel — Part A of the ISM Code;

[5] Subsection 7(1), Note 3

omit

[6] Section 15, after definition of *personal watercraft*

insert

propulsion power has the meaning given by section 5 of Marine Order 505.

rest means a period of time when a person is, except in the case of emergency, free of all duties and functions.

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[7] Schedule 1, Note under Schedule heading

omit

see paragraph 5(b) and subparagraph 7(1)(b)(i)

insert

see subsection 4(5) and subparagraphs 5(b)(i) and 7(1)(b)(ii)

[8] Schedule 1, clause 1, after the Note

insert

(3) The information must be kept both:

(a) on board the vessel if it is reasonably practicable to do so given the size and use of the vessel; and

(b) onshore, with shore based personnel.

Note for paragraph (a) For the meaning of **reasonably practicable** — see section 27 of the national law.

[9] Schedule 1, after paragraph 2(2)(a)

insert

(aa) that the risk assessment is prepared in consultation with the master and crew of the vessel;

[10] Schedule 1, subparagraph 2(2)(c)(iii)

omit

incident.

insert

incident;

[11] Schedule 1, after subparagraph 2(2)(c)(iii)

insert

(d) that the risk assessment, including the determination of appropriate crewing, is:

(i) readily accessible to the master and crew; and

(ii) given, on request, to the National Regulator or a marine safety inspector.

[12] Schedule 1, paragraph 2(3)(d)

substitute

(d) when a lifejacket must be worn by any person on board;

(e) a person to be responsible for ensuring that actions needed to eliminate or minimise any risk are carried out.

[13] Schedule 1, subclause 2(3), before *Note for paragraph (c)*

omit

Examples of potential risks for paragraph (b)

1 Vessel collision or grounding.

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- 2 Fire.
 - 3 Drowning.

insert

Examples of potential risks for paragraph (b):

- vessel collision or grounding
- fire
- drowning
- hazardous gases, including those arising from onboard sewage systems.

[14] Schedule 1, subclause 4(2)

substitute

- (2) The owner of the vessel must designate a person, or more than one person, to be responsible for:
 - (a) monitoring the safety of the vessel, the environment and all persons on or near the vessel; and
 - (b) ensuring appropriate resources and shore support are provided to the vessel.
- (3) A designated person must:
 - (a) have direct access to the highest levels of the entity responsible for the operation; and
 - (b) be contactable by the master and crew of the vessel.

[15] Schedule 1, clause 6

substitute

6 Appropriate Crewing for vessels other than Class 4 and larger vessels

- (1) This clause applies to a domestic commercial vessel other than the following:
 - (a) a Class 4 vessel;
 - (b) a vessel ≥ 80 m or ≥ 3000 GT or ≥ 3000 kW.

Note For requirements relating to a Class 4 vessel, see clause 3 of Schedule 2.
- (2) The owner of the vessel must ensure that the vessel operates with the appropriate crewing determined in accordance with this clause.
- (3) The owner of the vessel must determine the appropriate crewing for each kind of operation of the vessel by evaluating the risks to the following:
 - (a) the vessel;
 - (b) areas in the vicinity of the vessel's operation;
 - (c) any person on or near the vessel.
- (4) The requirement to determine appropriate crewing does not apply to a Class 2 vessel that is:
 - (i) a personal watercraft, a human powered vessel or a sailing vessel < 7.5 m; and

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- (ii) not carrying passengers; and
 - (iii) operated by a tour leader who the owner is satisfied complies with the requirements of paragraphs (a) to (c) of clause 5 of Schedule 2.
- (5) The determination of appropriate crewing must take account of the following:
- (a) the kind of operation of the vessel and the requirements of key onboard operations;
 - (b) tasks and activities performed in addition to safe navigation of the vessel, and the demands they impose on the master and crew;
 - (c) the risk of fatigue of the master and crew;
 - (d) the number of persons to be carried on the vessel and the effectiveness and timeliness of arrangements for passenger monitoring, taking into account that the master of the vessel must be able to find out the number of passengers on board the vessel at any time;
 - (e) the design characteristics of the vessel, including its general arrangements, machinery and equipment;
 - (f) the qualifications and competencies of the master and crew, including circumstances where only the master holds mandated engineering qualifications;
 - (g) the competency required for the use of technological aids to safety and navigation fitted in addition to the mandatory requirements;
 - (h) the area of operation of the vessel and expected conditions, for example weather, climate and water temperatures;
 - (i) the duration of the voyage;
 - (j) the requirements for the vessel's emergency preparedness, including the vessel's emergency plan and evacuation arrangements;
 - (k) the maintenance requirements of the vessel, and its machinery and equipment.
 - (l) the external support available to the vessel.

Examples for paragraph (a) of kinds of operation carriage of passengers, fishing, tourism.

Examples for paragraph (g) of technological aids to safety and navigation fire safety systems, remote engineering monitoring and diagnostics, electronic communication and navigation equipment, closed circuit TV.

- (6) The determination for each kind of operation of the vessel must be recorded in the vessel's safety management system together with information and responses that address the matters mentioned in subclause (5).

6A Minimum crewing

- (1) The determination of appropriate crewing must be no less than the numbers set out in the following table for the vessel mentioned:

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Vessel	Total minimum figure for master and crew (including engineer)	Master	Engineer
≥55 m and <80 m [#]	4	1	1
≥35 m and <55 m [#]	3	1	1
≥12 m and <35 m [#]	2*	1	1
<12m	1**	1	

provided the vessel is <3000 GT and <3000 kW

*In the case of a vessel ≤750 kW propulsion power, the master and engineer roles may be combined in the one person if the master holds a certificate which permits the holder to operate the engines of the vessel. In that case, there must still be another crew member on board to make up the total of 2. In the case of a vessel >750 kW propulsion power, the master and engineer roles cannot be combined in the one person.

**If the master of the vessel does not hold a certificate which permits the holder to operate the engines of the vessel, there must be an additional crew member on board who holds an engineering certificate.

- (2) However,
- (a) the table does not apply to a vessel subject to a temporary crewing permit, which must rely on the terms of the temporary crewing permit; and
 - (b) the table does not apply to the following vessels, which must rely only on a determination of appropriate crewing:
 - (i) an existing vessel;
 - (ii) an unpowered barge;
 - (iii) an autonomous or remotely operated vessel ≤3 m; and
 - (c) the table applies to a vessel only if provision is made for the master and each crew member on the vessel to have at least 10 hours rest in each 24 hour period.

Note for Paragraph (b)(i) for the meaning of **existing vessel**, see section 16.

- (3) For the avoidance of doubt, if the minimum crewing table does not apply to a vessel because the periods of rest mentioned in paragraph (2)(c) are not provided, the owner of the vessel must ensure that the vessel operates with appropriate crewing, determined in accordance with clause 6.

6B Temporary crewing permit

- (1) A person may apply to the National Regulator for a temporary crewing permit for a vessel.

Note Section 3 of this Marine Order provides that an application made under this Marine Order must be made in accordance with Marine Order 501. Marine Order 501 provides for review of decisions made following applications under that Marine Order.

- (2) The National Regulator may issue a temporary crewing permit for up to 3 months if satisfied that:

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- (a) the appropriate crewing for the vessel is less than the minimum crewing that would otherwise apply to the vessel under clause 6A; and
 - (b) the minimum crewing that would otherwise apply to the vessel under clause 6A is impracticable or would cause unreasonable or unnecessary expense.
- (3) A temporary crewing permit is subject to the conditions mentioned in the permit.

6C Appropriate crewing for vessels ≥ 80 m or ≥ 3000 GT or ≥ 3000 kW

- (1) The owner of a vessel ≥ 80 m or ≥ 3000 GT or ≥ 3000 kW must apply to the National Regulator every 5 years for an assessment of appropriate crewing for the vessel.
- Note* The application can be made at the same time as the application for the issue or reissue (renewal) of a certificate of operation for the vessel.
- (2) The National Regulator may decide the appropriate crewing requirements for the vessel to ensure the following:
- (a) safety and security of the vessel;
 - (b) safety of navigation;
 - (c) safety of crew, passengers, cargo and property;
 - (d) protection of the environment;
 - (e) compliance with:
 - (i) the vessel's certificate of operation; and
 - (ii) this Marine Order; and
 - (iii) the national law.
- (3) A decision on the appropriate crewing for the vessel is a reviewable decision for section 16 of Marine Order 501.
- (4) The owner of a vessel ≥ 80 m or ≥ 3000 GT or ≥ 3000 kW must ensure that the vessel operates in accordance with the appropriate crewing determined by the National Regulator.

6D Onboard induction, familiarisation and training

- (1) The owner of a vessel must ensure that the master and crew, as soon as practicable after joining the vessel and before commencing duties, receive the following:
- (a) safety training that familiarises the person with safety matters about the person's presence and duties on board the vessel;
 - (b) induction in and familiarisation with key onboard operations to establish, maintain and verify the competence and capacity of the person to safely carry out assigned duties;
 - (c) training in emergency procedures to establish, maintain and verify the ability of the person to respond rapidly and effectively in an emergency and to follow the emergency plan.

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- (2) Training in emergency procedures must cover:
 - (a) the procedures set out in the emergency plan for responding to the situations mentioned in subclause 8(3) of this Schedule; and
 - (b) use of the vessel's life-saving equipment.
 - (3) The owner of the vessel must ensure that emergency drills are conducted:
 - (a) with a frequency determined by the risk assessment for the vessel; and
 - (b) to test procedures and confirm the competence and ability of the master and crew to respond rapidly and effectively in an emergency.
 - (4) The owner must ensure that any other person engaged in key onboard operations for the vessel also receives the training mentioned in subclause (1).

Example an onshore staff member involved in berthing the vessel.
 - (5) The master, or a crew member that the master considers has the appropriate skills and knowledge, must give the training.
 - (6) The owner must ensure that a record of the following is kept for 5 years:
 - (a) any training, induction or familiarisation undertaken in accordance with subclause (1);
 - (b) any emergency drills conducted in accordance with subclause (3).
 - (7) The record must include the following for each training or drill:
 - (a) the name and signature of any person participating;
 - (b) a description;
 - (c) the date it occurred.

6E First aid and radio communication requirements

The owner must ensure that the vessel operates with:

- (a) access to at least 1 person who:
 - (i) has a current first aid certificate equivalent to at least HLTAID011 *Provide first aid*; and
 - (ii) is available at all times to provide first aid; and
- (b) a master or deck watchkeeper qualified to operate the radio or other communication equipment fitted to the vessel.

[16] Schedule 1, paragraph 7(6)(b)

substitute

- (b) for a vessel that carries passengers — a safety induction for each passenger about relevant operational and emergency procedures, including the wearing of lifejackets, as soon as practicable after the passenger boards the vessel;
- (baa) lifejacket wear, taking account of:
 - (i) the risks identified in the vessel's risk assessment; and
 - (ii) the management of lifejackets to ensure that they are readily available if needed;

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[17] Schedule 1, paragraph 11(13)(h)

substitute

- (h) the certificates held by each crew member, including certificates of competency required by Marine Order 505 and other relevant certificates or qualifications;

[18] Schedule 2, Note under Schedule heading

omit

Alternatively, the operation of the vessel may comply with Part A of the ISM Code — see subparagraphs 5(b)(ii) and 7(1)(b)(i).

[19] Schedule 2, paragraph 5(c)

substitute

- (c) each tour leader has a current first aid certificate equivalent to at least HLTAID011 *Provide first aid.*

Note

1. All legislative instruments and compilations of legislative instruments are registered on the Federal Register of Legislation under the *Legislation Act 2003*. See <https://www.legislation.gov.au>.

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