



Australian Government
Australian Maritime Safety Authority

AMSA EX31

Marine Safety (Expired pre-USL Code certificates) Exemption 2017

I, Gary Prosser, Acting 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 instrument under subsection 143(1) of the *Marine Safety (Domestic Commercial Vessel) National Law*.

12 December 2017

Gary Prosser
Acting Chief Executive Officer

1 Name of instrument

This instrument is *Marine Safety (Expired pre-USL Code certificates) Exemption 2017*.

2 Duration

This instrument:

- (a) commences on 1 February 2018; and
- (b) ceases to have effect at the end of 30 June 2020.

3 Repeal and transitional matters

- (1) *Marine safety (Expired pre-USL Code certificates) Exemption 2014* made on 26 June 2014 is repealed.
- (2) However, a written approval that was issued under that instrument and in effect on 31 January 2018 continues in effect until the end of 30 June 2020 as if the instrument under which it was issued had not been repealed.

4 Definitions — the dictionary

A definition in the dictionary applies to each use of the word or expression in this instrument.

Note The dictionary is located at the end of the instrument.

5 Exemption

- (1) A person who held a pre-USL Code certificate is exempt from:
 - (a) the requirement to hold a certificate of competency that would be required for the specified operation, if:
 - (i) the person performed the operation in the 5 years ending on 30 June 2013; and
 - (ii) the person has continued to perform the operation in the same capacity, and within the same limitations, provided on the pre-USL Code certificate of competency; and
 - (iii) if the pre-USL Code certificate expired before 30 December 2013 — the person has accrued qualifying sea service, as defined in NSCV Part D, as master, engineer or coxswain of commercial fishing vessels for 120 days in the 5 years before the application for approval; and
 - (iv) the National Regulator approves in writing the specified operation; and
 - (b) the requirement to meet the criteria mentioned in Schedule 1 of NSCV Part D for an application for a certificate of competency that would be required for the specified operation, if the person meets the eligibility criteria that applied to the pre-USL Code certificate of competency on 31 December 2008.

Note 1 The National Regulator may grant an exemption, or impose conditions on an exemption, only if satisfied that the exemption and its conditions will not jeopardise the safety of the vessel or a person on board the vessel — see subsection 143(6) of the *Marine Safety (Domestic Commercial Vessel) National Law*.

Note 2 A fee may be charged — see s 9 of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*.

- (2) For paragraph (1)(b), if Chapter 4 of NSCV Part D would require the person to hold a certificate of medical fitness, the person is exempt from that requirement if the person makes a declaration of medical fitness in accordance with subsection 4.5(2) of NSCV Part D.

6 Conditions

The person must tell the National Regulator in writing if he or she becomes aware of a medical condition that may affect the person's ability to operate a vessel.

Dictionary

(section 4)

Marine Safety (Domestic Commercial Vessel) National Law — see Schedule 1 to the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*.

pre-USL Code certificate means a certificate of competency (however described) that:

- (a) was issued by the maritime safety authority of a State or the Northern Territory before 1 July 2013; and
- (b) was based on competencies recognised in a certificate (however described) issued before the USL Code commenced; and

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- (c) entitled the holder to be the master, engineer or coxswain of a domestic commercial vessel that is a fishing vessel; and
- (d) ceased to have effect before 1 January 2014.

specified operation means an operation, as master, engineer or coxswain of a domestic commercial vessel that is a fishing vessel.

USL Code means the Uniform Shipping Laws Code adopted by the Australian Transport Council established by the Council of Australian Governments as in force from time to time.

Note The following terms are defined in the *Marine Safety (Domestic Commercial Vessel) National Law*:

- domestic commercial vessel
- National Regulator.