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Australian Maritime Safety Authority

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Marine Order 504 (Certificates of operation — national law) 2024

I, Kaylene Dale, 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 2012*.

Dated 14 November 2024

Kaylene Dale
Chief Executive Officer

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Division 1 Preliminary

1 Name of Marine Order

This Marine Order is *Marine Order 504 (Certificates of operation — national law) 2024*.

1A Commencement

This Marine Order commences on 1 June 2025.

1B Repeal of *Marine Order 504 (Certificates of operation and operation requirements — national law) 2018*

Marine Order 504 (Certificates of operation and operation requirements — national law) 2018 is repealed.

2 Purpose

This Marine Order prescribes matters relating to the issue of certificates of operation under the national law for domestic commercial vessels including safety management system requirements.

3 Power

- (1) The following provisions of the national law provide for this Marine Order to be made:
 - (a) Division 5 of Part 4 which provides for a number of matters to be prescribed for certificates issued under the national law;
 - (b) subsection 159(2) which provides that the regulations may provide for the matters mentioned in that provision including:
 - (i) the operation of domestic commercial vessels; and
 - (ii) the crewing of domestic commercial vessels; and
 - (iii) safety of domestic commercial vessels;
 - (c) paragraph 159(3)(a) which provides for the keeping of records relating to the operation of domestic commercial vessel.
- (2) Subsection 159(1) of the national law provides for regulations to be made prescribing matters required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to the national law.
- (3) Subsection 163(1) of the national law provides that the National Regulator may make a Marine Order about matters that can be provided for by regulation.
- (4) Section 164 of the national law allows a Marine Order to provide for any matter by applying, adopting or incorporating any matter contained in any written instrument in force or existing from time to time.

4 Definitions

- (1) In this Marine Order:

briefeer means a person who gives a briefing to the hirer and participants of a Class 4 vessel.

cargo of a vessel does not include ballast for the vessel or goods intended for consumption or use on the vessel.

Class 1 vessel means a vessel that has the vessel use category 1 under section 2.1 of NSCV Part B.

Class 2 vessel means a vessel that has the vessel use category 2 under section 2.1 of NSCV Part B.

Class 3 vessel means a vessel that has the vessel use category 3 under section 2.1 of NSCV Part B.

Class 4 vessel means a vessel that has the vessel use category 4 under section 2.1 of NSCV Part B.

dangerous goods has the same meaning as in Section 4 of NSCV Part C.

day passenger means a passenger who is not provided with sleeping accommodation.

fast craft has the same meaning as in the dictionary in NSCV Part B.

guide means a person who:

- (a) is assigned by the owner of the vessel to give guidance on board to the hirer of the vessel and any participants about its designated cruising area; and
- (b) is not the hirer or a participant; and
- (c) does not generally take control of or have responsibility for the vessel.

hazardous occurrence means a circumstance that might have led to a marine incident if it had developed further.

hirer has the same meaning as **hirer** of a hire and drive vessel in section 6 of the national law.

ISM Code means the *International Safety Management (ISM) Code* as defined in Regulation 1 of Chapter IX of the International Convention for the Safety of Life at Sea, done at London on 1 November 1974, as amended and in force for Australia from time to time (**SOLAS**).

Note For information on how to download the ISM Code or SOLAS — see AMSA’s website at www.amsa.gov.au.

lower complexity vessel means a Class 2 vessel, Class 3 vessel, or Class 4 vessel that:

- (a) is <7.5 m in length; and
- (b) for a Class 2 vessel — carries no more than 4 day passengers; and
- (c) none of the following apply:
 - (i) carries dangerous goods as cargo;
 - (ii) has installed a net reel, crane, lifting device or deck load, the use of which is likely to adversely impact the stability or watertight integrity of the vessel;
 - (iii) operated primarily for towage;
 - (iv) has an inboard engine which operates on fuel that has a flashpoint of less than 60 degrees Celsius;
 - (v) has berthed accommodation;
 - (vi) has an operation of a kind that is determined by the National Regulator for this provision.

Note See subsection 4(2) for the National Regulator’s power to make the determination.

Marine Order 501 means *Marine Order 501 (Administration — national law) 2023*.

Marine Order 505 means *Marine Order 505 (Certificates of competency — national law) 2022*.

non-conformance means a circumstance in which a procedure or other requirement mentioned in this Marine Order has not been followed.

NSCV Part B means the latest version of *Part B — the General requirements* of the National Standard for Commercial Vessels.

Note The National Standard for Commercial Vessels is available on AMSA's website at www.amsa.gov.au.

NSCV Part C means the latest version of *Part C — Design and construction* of the National Standard for Commercial Vessels.

NSCV Part F1C means the latest version of *Subsection 1C — Category F2 Fast Craft* of Part F — *Special Vessels* of the National Standard for Commercial Vessels.

operational area means a vessel operational area mentioned in the table to subsection 2.2(1) of NSCV Part B.

operational area category means the vessel operational area category mentioned in the table to subsection 2.2(1) of NSCV Part B.

participant means a person, other than the hirer or a guide, who is or intends to be on board the vessel while it is underway during the period of time agreed between the owner and the hirer as the period when the vessel may be used.

passenger has the same meaning as in the dictionary of NSCV Part B.

pen, for a Class 4 vessel, means a designated cruising area surrounded by a set of markers.

Example

A line of buoys.

personal watercraft means a vessel that:

- (a) is less than 4 m long; and
- (b) has an internal combustion engine powering a water-jet pump as its primary source of propulsion; and
- (c) is designed to be operated by at least one person sitting, standing or kneeling on the hull of the vessel.

propulsion power has the same meaning as in 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.

service category, for a vessel, means the service category assigned to a vessel under section 2.4 of NSCV Part B.

takeaway vessel means a Class 4 vessel that is collected by the hirer and driven on a trailer elsewhere to be launched.

tour leader means a person on a Class 2 vessel that is overseeing a tour made up of more than one Class 4 vessels being operated by one or more hirers.

vessel use category means a vessel use category mentioned in the table to subsection 2.1(1) of NSCV Part B.

Note 1 Some terms used in this Marine Order are defined in Marine Order 501, including:

- AMSA
- increased level of risk
- national law
- NSCV

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

- crew
- domestic commercial vessel
- marine incident
- master
- owner.

Note 3 For delegation of the National Regulator's powers under this Marine Order — see the AMSA website at www.amsa.gov.au.

- (2) The National Regulator may determine an operation of a kind for paragraph (c)(vi) of the definition of *lower complexity vessel*.

Note In making the determination, the National Regulator will have regard to known hazards or risks for the operation, and the degree of harm resulting, making it inappropriate to be subject to the definition of *lower complexity vessel*.

5 Existing vessel — meaning

- (1) For this Marine Order, a domestic commercial vessel is an existing vessel if:
- (a) a person was entitled to use the vessel in connection with a commercial, governmental or research activity at any time in the 2 years ending on 30 June 2013; and
 - (b) the vessel was not a foreign vessel at any time in the 2 years ending on 30 June 2013.
- (2) However, a vessel is not an existing vessel if there has been a break, in its use in connection with a commercial, governmental or research activity, of a period of more than 2 years after 30 June 2013.
- (3) Also, a vessel is not an existing vessel if the National Regulator considers that:
- (a) it has been altered or modified to the extent that it must be reassessed against the standards for construction, subdivision or stability that apply to the vessel; or
 - (b) the nature of its operations or its area of operation has changed so that there is an increased level of risk.

6 Applications

- (1) Division 3 of Marine Order 501 (other than section 13) applies to applications made to the National Regulator in relation to certificates of operation.
- (2) Division 3 of Marine Order 501 applies to applications mentioned in sections 15 and 16.

Division 2 Requirements for certificate of operation

7 Application for certificate to include statement in relation to safety management system

- (1) For subsection 47(1) of the national law, an application for a certificate of operation must be made in accordance with section 9 of Marine Order 501.

Note There is an approved form and prescribed fee for applying for the issue and reissue of a certificate of operation — see the AMSA website at www.amsa.gov.au.

- (2) An application must also include a written statement by the applicant that there is a safety management system in place that:
 - (a) is for each vessel to which the application relates; and
 - (b) complies with subsection 8(2).

Note Giving false or misleading information in an application is an offence — see subsection 136.1(1) of the Criminal Code.

8 Criteria for issue of certificate

- (1) For paragraph 48(1)(c) of the national law, the criteria for the issue or re-issue (renewal) of a certificate of operation by the National Regulator are:
 - (a) for any vessel for which a unique identifier is required — the vessel has a unique identifier; and
 - (b) the applicant has stated in writing that a safety management system is in place for each vessel that meets subsection (2).
- (2) A safety management system must:
 - (a) be recorded so that it is readily accessible; and
 - (b) comply with the requirements mentioned in the following:
 - (i) for a Class 1, Class 2 or Class 3 vessel — either:
 - (A) Schedule 1; or
 - (B) Part A of the ISM Code and paragraphs 2(3)(f) and 11(5)(e) and (f) of Schedule 1;
 - (ii) for a Class 4 vessel — both Schedule 1 and Schedule 2 to the extent applicable.

Note for paragraph (2)(a) The safety management system may include matters that are recorded either in writing or electronically provided that the method of recording is reliable for accessibility purposes.

Note 1 The applicant must also demonstrate appropriate competence and capacity for the safe operation of the vessel — see paragraph 48(1)(b) of the national law.

Note 2 There are approved forms for the application for the initial issue (first issue) and the subsequent issue (renewal) of a certification of operation — see AMSA website at www.amsa.gov.au. The renewal form is approved for circumstances where: (a) the vessel has had a certificate of operation in force within a 2 year period before the application for renewal is made; (b) if there is a change — it is limited to removing a vessel from the certificate, lowering the operational area category of a vessel (e.g. C to D) or removing a kind of operation (charter, research, dredging, towing etc) from the certificate. In other circumstances, see the AMSA website for information.

9 Conditions on certificate

For paragraph 48(4)(a) of the national law, a certificate of operation is subject to the following conditions:

- (a) the criteria for the issue or re-issue of the certificate mentioned in section 8 must continue to be met in relation to each vessel to which the certificate applies;
- (b) unless indicated otherwise, matters required to be recorded or kept in accordance with Schedule 1 or 2 must be kept both:
 - (i) on board the vessel if it is practicable to do so given the size and use of the vessel; and
 - (ii) onshore, with shore-based personnel;
- (c) each vessel must meet any conditions to which the vessel is subject under:
 - (i) a certificate of survey; or
 - (ii) any exemption from the requirement to hold a certificate of survey;
- (d) each vessel must comply with any limitations on each operational area mentioned in the certificate for the vessel;
- (e) the holder of the certificate must ensure compliance with the requirements set out in this Marine Order that apply for a safety management system;
- (f) the holder of the certificate must tell the National Regulator in writing:
 - (i) at least 14 days before changing the nature of the operations of a vessel to which the certificate applies; or
 - (ii) at least 14 days before any alteration or replacement affecting the electrical system, machinery or associated systems, stability, watertight integrity or subdivision or equipment type of a vessel to which the certificate applies; or
 - (iii) within 14 days if a matter recorded on the certificate is no longer accurate;
- (g) the certificate must not be transferred to another person.

Note for paragraph (b) Unless indicated otherwise, matters may be recorded either in writing or electronically provided that the method of recording is reliable for accessibility purposes. It is an offence under section 83 of the national law if a person fails to provide to a marine safety inspector or the National Regulator, when requested, a copy of a record required to be held for the vessel.

Note 1 The National Regulator may also impose other conditions on a certificate of operation — see paragraph 48(4)(b) of the national law.

Note 2 For offences related to a certificate of operation — see sections 53 to 57 of the national law.

10 Form of certificate

- (1) A certificate of operation must:
 - (a) be in writing; and
 - (b) include the following:
 - (i) the name of the holder of the certificate;
 - (ii) if the certificate comes into force on a day other than the date of issue of the certificate — the date it comes into force;
 - (iii) the date of expiry of the certificate;

- (iv) the kinds of operation;
 - (v) the vessel use category and operational area for each kind of operation.
- (2) A certificate of operation may include anything else the National Regulator considers relevant.

Division 3 Variation, suspension and revocation of certificates of operation

11 Application for variation, suspension or revocation of certificate

An application for variation, suspension or revocation of a certificate of operation must:

- (a) be made in accordance with section 9 of Marine Order 501; and
- (b) include a copy of the certificate of operation; and
- (c) for an application for suspension — the period of suspension sought.

Note There is an approved form and prescribed fee for applying for a variation, suspension or revocation of a certificate — see the AMSA website at www.amsa.gov.au.

12 Criteria for variation of certificate

- (1) For paragraph 50(1)(b) of the national law, the criteria for variation of a certificate of operation by the National Regulator on application are that:
- (a) a vessel to which the certificate applies has been altered, damaged or sold and the applicant has requested the removal of the vessel from the certificate; or
 - (b) the applicant has requested that a kind of operation be removed from the certificate; or
 - (c) the applicant has requested that another vessel be added to the certificate that:
 - (i) has the same service category as another vessel to which the certificate applies; and
 - (ii) the National Regulator considers meets the criteria mentioned in section 8 for issue of a certificate; or
 - (d) the applicant has applied for the certificate to no longer apply to a vessel; or
 - (e) there has been a change to the name of the owner of the vessel (other than transfer of ownership); or
 - (f) there has been a change to the name of a vessel to which the certificate applies; or
 - (g) information in the certificate is no longer accurate.
- (2) For paragraph 50(2)(a) of the national law, the criteria for variation of a certificate of operation by the National Regulator on its initiative are:
- (a) the National Regulator becomes aware that a vessel to which the certificate applies has been sold or damaged; or
 - (b) the National Regulator becomes aware that a vessel to which the certificate applies has ceased an operation type; or
 - (c) the National Regulator becomes aware that a certificate specifies a service category that no longer applies to any vessels to which the certificate applies; or

- (d) the National Regulator considers that a condition imposed on the certificate is no longer required; or
- (e) there has been a change to the name of the owner (other than transfer of ownership); or
- (f) there has been a change to the name of a vessel to which the certificate applies; or
- (g) the National Regulator considers that information in the certificate is no longer accurate.

Note The variation of a certificate of operation does not change the expiry date of the certificate.

13 Suspension of certificate

- (1) For paragraph 51(1)(b) of the national law, the criteria for the National Regulator to suspend a certificate of operation on application are:
 - (a) the holder of the certificate has stated in writing that all the vessels mentioned in the certificate will no longer perform the operations mentioned in the certificate in the period for which the suspension is sought; and
 - (b) any fees owed to the National Regulator have been paid.
- (2) For subsection 51(2A) of the national law, the purpose for the suspension of a certificate of operation on the National Regulator's initiative is any of the following:
 - (a) ensuring any unpaid fees are recovered;
 - (b) investigating whether the holder of a certificate has given the National Regulator information in its application for the issue of the certificate of operation that is false or misleading;
 - (c) investigating whether any condition on the certificate has been, or is likely to be, breached;
 - (d) ensuring necessary repairs are made to the vessel;
 - (e) ensuring that the vessel is not operated in contravention of a detention notice, a direction, an improvement notice or a prohibition notice.

Note The National Regulator must suspend a certificate if satisfied the suspension is necessary for other purposes (eg protecting human life) — see subsection 51(2) of the national law.

- (3) For subparagraph 51(3)(b) of the national law, the period of suspension is:
 - (a) for a suspension on application mentioned in subsection 51(1) of the national law — 18 months; and
 - (b) for a suspension on the National Regulator's initiative mentioned in subsections 51(2) and (2A) of the national law — 24 months.

Note 1 Under paragraph 72(2)(a) of the national law the National Regulator must, before suspending a certificate under subsection 51(2A), give the holder of the certificate a notice inviting the holder to show cause, within a reasonable period specified in the notice, why the certificate should not be suspended.

Note 2 The prescribed period is the maximum period a suspension may remain in force. The National Regulator may specify in writing an earlier period — see paragraph 51(3)(b) of the national law.

14 Criteria for revocation of certificate

- (1) For paragraph 52(1)(b) of the national law, the criteria for revocation of a certificate of operation on application are that:
- (a) the holder of the certificate has stated in writing that all the vessels to which the certificate applies are no longer performing the operations mentioned in the certificate; and
 - (b) any fees owed to the National Regulator have been paid.

Note for paragraph (a) An example of a vessel no longer performing the operations mentioned in the certificate is a vessel that has been scrapped or sunk.

- (2) For paragraph 52(2)(a) of the national law, the criteria for revocation of a certificate of operation by the National Regulator on the National Regulator's initiative are that:
- (a) the National Regulator considers it to be necessary in the interest of marine safety or protecting the environment; or
 - (b) the certificate was issued in error; or
 - (c) a detention notice, a direction, an improvement notice or a prohibition notice has not been complied with; or
 - (d) the National Regulator considers that information that is false or misleading has been provided in the application for the issue of the certificate; or
 - (e) a condition on the certificate has been breached, or is likely to be breached.

Note The National Regulator may also revoke a certificate of operation if satisfied that the holder is not a fit and proper person to hold the certificate — see subsection 52(3) of the national law.

- (3) A certificate of operation may only be revoked by the National Regulator under subsection (2) if:
- (a) the National Regulator has given a show cause notice; and
 - (b) within 30 days after the notice is given, the certificate holder has not given the National Regulator reasons that the National Regulator considers acceptable for not revoking the certificate.

Division 4 Other matters**15 Appropriate crewing determination for vessels ≥ 80 m or ≥ 3000 GT or ≥ 3000 kW**

- (1) For a vessel that is ≥ 80 m or ≥ 3000 GT or ≥ 3000 kW — the owner of the vessel must apply to the National Regulator at least every 5 years for a determination 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 must determine the appropriate crewing having regard to 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 conditions imposed on the vessel's certificate of operation; and
 - (ii) this Marine Order; and
 - (iii) the national law.
- (3) A decision to determine appropriate crewing for the vessel is a reviewable decision for sections 16 and 17 of Marine Order 501.

16 Temporary crewing permit

- (1) For a vessel that is not a Class 4 vessel — the owner of the vessel may apply to the National Regulator for a temporary crewing permit.
- (2) Subject to subsection (3), the National Regulator may issue a temporary crewing permit for up to 3 months if satisfied that:
 - (a) the appropriate crewing for the vessel is less than the minimum crewing that would otherwise apply to the vessel under clause 8 of Schedule 1; and
 - (b) the minimum crewing that would otherwise apply to the vessel under clause 8 of Schedule 1 is impracticable or would cause unreasonable or unnecessary expense; and
 - (c) the vessel is able to continue to be operated safely with the temporary crewing arrangement.
- (3) For a vessel ≥ 24 m in length — the role of the master may not be subject to a temporary crewing permit unless the vessel is subject to a force majeure event.
- (4) A decision to refuse to issue the temporary crewing permit is a reviewable decision for sections 16 and 17 of Marine Order 501.

17 Prescribed period for notice of vessel sold, modified or sunk

For paragraph 57(1)(b) of the national law, the holder of a certificate of operation must notify the National Regulator within 14 days after the sale, modification, sinking or scrapping of a vessel to which the certificate of operation applies.

Schedule 1 Operation requirements

(Sections 8, 9 and 16)

1 Vessel details and contact information

- (1) The owner of the vessel must ensure the following is recorded so that it is readily accessible:
 - (a) name, address, phone number and email address (if any) of the owner of the vessel;
 - (b) unique identification number for the vessel;
 - (c) kind of vessel and operation;
 - (d) areas of operation of the vessel;
 - (e) contact details of a person who may be contacted at any time about the operation of the vessel.

Note The owner may be the operator of the vessel and not the company or other person that owns the vessel if the operator is the person with overall general control and management of the vessel — see national law, section 6, definition of *owner*.

2 Risk assessment

Note For additional risk assessment requirements for Class 4 vessels — see clause 1 of Schedule 2.

- (1) Paragraphs (2)(a) and (c)(iii) and 3(a), (d) and (e) do not apply to a Class 4 vessel and paragraphs (3)(a), (b)(ii) and (c) do not apply to a lower complexity vessel.
- (2) The owner of the vessel must ensure a risk assessment of the operation of the vessel is:
 - (a) prepared in consultation with the master and crew of the vessel; and
 - (b) recorded so that it is readily accessible and kept up to date; and
 - (c) reviewed if:
 - (i) the vessel undertakes an operation that differs from that normally undertaken by the vessel; or
 - (ii) the vessel is involved in a marine incident; or
 - (iii) the master of the vessel considers that the risks have changed; and
 - (d) given, on request, to the National Regulator or a marine safety inspector.
- (3) The risk assessment must identify the following:
 - (a) key daily tasks to be performed by the master and all crew;
 - (b) unacceptable risks including those arising from operations of the vessel that jeopardise:
 - (i) the vessel; or
 - (ii) the vessel's stability; or
 - (iii) the operational environment of the vessel; or
 - (iv) persons on or near the vessel; and

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- (c) the person to be responsible for ensuring that actions needed to eliminate or minimise any risk are carried out;
 - (d) the appropriate crewing and any crewing determination for the vessel in accordance with clauses 6 and 8;
 - (e) risk of fatigue for master and crew and how this is to be managed;
 - (f) when a lifejacket must be worn by any person on board.

Examples of potential risks for paragraph (b):

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

Note An owner of a domestic commercial vessel may be required to manage the risk of fatigue under State and Territory work health and safety laws.

3 Owner's responsibility and authority statement

- (1) This clause does not apply to a Class 4 vessel.
- (2) The owner of the vessel must ensure the following is recorded in a statement so that it is readily accessible:
 - (a) name and contact details of the owner of the vessel;
 - (b) name and responsibilities of any person to whom the owner has given the authority to act on behalf of the owner;
 - (c) the relationship and the lines of communication between the master, crew and onshore staff who are responsible for implementation of the operation requirements.

Note There may be more than 1 owner of a vessel. A person with overall general control and management of the vessel may be an owner — see s 6 of the national law, definition of *owner*.

4 Designated person

- (1) Paragraph 3(b) does not apply to a Class 4 vessel and subclause 4(4) does not apply to a lower complexity vessel if the owner is the designated person.
- (2) The owner of the vessel must ensure that at least 1 person is 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 any individual with responsibility for the vessel's operation; and
 - (b) be contactable by the master or crew of the vessel.

Note for paragraph (a) Any individual with responsibility for the vessel's operation includes the highest levels of the entity responsible for vessel operation.

- (4) The owner must ensure that the following is recorded so that it is readily accessible:
 - (a) name and contact information for each person who holds the position of designated person including the current email and phone number of that person;

- (b) roles and responsibilities of the designated person that relate to the safe operation of the vessel.

5 Master's responsibility and authority statement

- (1) This clause does not apply to a Class 4 vessel and subclause (2) does not apply to a lower complexity vessel if the owner is the master.
- (2) The owner of the vessel must ensure that the following is recorded in a statement so that it is readily accessible:
 - (a) master's responsibility for verifying that the operation requirements are complied with;
 - (b) master's authority to make decisions for the safety of the vessel, the environment, and persons on or near the vessel; and
 - (c) master's authority to request the owner's assistance to ensure the safety of the vessel, the environment, and persons on or near the vessel.

6 Appropriate crewing

- (1) This clause does not apply to the following:
 - (a) a vessel ≥ 80 m or ≥ 3000 GT or ≥ 3000 kW;
 - (b) a Class 4 vessel.

Note For crewing requirements relating to a vessel ≥ 80 m or ≥ 3000 GT or ≥ 3000 kW, see clause 7. For crewing 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) the environment;
 - (c) any person on or near the vessel.
- (4) The determination of appropriate crewing must take account of the following:
 - (a) the kind of operation of the vessel and the requirements of key vessel operations;
 - (b) the 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 of kinds of operation for paragraph (a):

- carriage of passengers
- fishing
- tourism.

Examples of technological aids to safety and navigation for paragraph (g):

- fire safety systems
- remote engineering monitoring and diagnostics
- electronic communication and navigation equipment
- closed circuit TV.

- (5) The determination for each kind of operation of the vessel must be recorded in the vessel's safety management system together with information that address the matters mentioned in subclause (4).

7 Appropriate crewing determination for vessels ≥ 80 m or ≥ 3000 GT or ≥ 3000 kW

- (1) This clause does not apply to a Class 4 vessel.
- (2) The owner of a vessel that is ≥ 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.

Note The owner of a vessel ≥ 80 m or ≥ 3000 GT or ≥ 3000 kW must apply to the National Regulator at least every 5 years for a determination of appropriate crewing for the vessel. 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. See section 15.

8 Minimum crewing

- (1) This clause does not apply to a Class 4 vessel.
- (2) The determination of appropriate crewing under clause 6 must be at least the numbers set out in the following table for the vessel mentioned:

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
< 12 m	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.

- (3) However, the table does not apply to:
- (a) a vessel subject to a temporary crewing permit if the conditions for the permit are met; and
 - (b) the following vessels:
 - (i) an existing vessel that complied with a crewing requirement on 30 June 2013 that permitted the vessel to have less numbers than those specified in the table;
 - (ii) an unpowered barge;
 - (iii) a Class 2 vessel that is:
 - (A) a personal watercraft, a human powered vessel or a sailing vessel <7.5 m; and
 - (B) not carrying passengers; and
 - (C) operated by a tour leader who the owner is satisfied complies with the requirements mentioned in clause 5 of Schedule 2; and
 - (c) a vessel with no passengers on board that is for use as a Class 4 houseboat ≤ 24 m during the following operations:
 - (i) relocation of the vessel within a marina;
 - (ii) maintenance or survey;
 - (iii) pump out;
 - (iv) refuelling;
 - (v) delivery or retrieval operations.

Note for paragraph (b)(i) For the meaning of *existing vessel*, see section 5.

- (4) The vessel's appropriate crewing must not be determined under clause 6 to be the same as the minimum crewing set out in the table if provision is not made for the master and each crew member to have at least 10 hours rest in each 24 hour period.

9 Vessel induction, familiarisation, drills and training

- (1) This clause does not apply to a Class 4 vessel.
- (2) The owner of the 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 vessel 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.

Note When a change is made to the key vessel operations or emergency procedures, operators should ensure induction, familiarisation and training of the master and crew occurs in accordance with the new safety management system.

- (3) Training in emergency procedures must cover:
- (a) the procedures set out in the emergency plan for responding to the situations mentioned in subclause 12(3) of this Schedule; and
 - (b) use of the vessel's life-saving equipment.
- (4) The owner of the vessel must ensure 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.
- (5) The owner of the vessel must ensure that any other person engaged in key vessel operations for the vessel also receives training mentioned in subclause (2).
- Example:* An onshore staff member involved in berthing the vessel.
- (6) The master, or a crew member that the master considers has the appropriate skills and knowledge, must give the training.
- (7) The owner of the vessel must ensure that a record of the following is retained for 5 years:
- (a) a description of any training, induction or familiarisation undertaken in accordance with subclause (2);
 - (b) a description of any emergency drills conducted in accordance with subclause (4);
 - (c) the name and signature of any person participating;
 - (d) the date it occurred.

10 First aid and radio communication requirements

- (1) This clause does not apply to a Class 4 vessel.
- (2) The owner of the vessel must ensure that the vessel operates with:
- (a) 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 person qualified to operate the radio or other communication equipment fitted to the vessel being either the master or deck watchkeeper.

11 Procedures and policies for vessel operations

- (1) Subclauses (4) and (5) do not apply to a Class 4 vessel and paragraphs (5)(b), (c), (h) to (n) do not apply to a lower complexity vessel.

Note For additional requirements regarding procedures for vessel operations for Class 4 vessels — see clause 2 of Schedule 2.

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- (2) The owner of the vessel must ensure that a procedure related to the safety of the vessel, the environment and persons on or near the vessel is recorded so that it is readily accessible.
 - (3) The procedure must:
 - (a) be developed for key vessel operations including the matters mentioned at subclause (5); and
 - (b) address any risks identified by the risk assessment; and
 - (c) if an increased risk is identified by a review of the risk assessment — identify how changes are to be implemented to reduce or eliminate that risk so far as is reasonably practicable.
 - (4) The owner of the vessel must ensure that each task involved in the procedure must be assigned to crew with the skills and knowledge to perform the task.
 - (5) The owner of the vessel must also ensure that there is a procedure related to at least each of the following if applicable:
 - (a) pre-operating checks;
 - (b) vessel start up and shut down;
 - (c) vessel mooring and berthing;
 - (d) the means of access to and from the vessel;
 - (e) wearing of lifejackets 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 accessible at all times;
 - (f) for a vessel that carries passengers — giving of safety inductions for each passenger about relevant operational and emergency procedures, including the wearing of lifejackets, as soon as practicable after the passenger boards the vessel;
 - (g) passenger monitoring at all times that is an effective and verifiable method to ensure that the master of the vessel is able to find out the number of passengers on board the vessel at any time in relation to the following:
 - (i) a Class 1 vessel;
 - (ii) a Class 2 vessel that is permitted to carry passengers.
 - (h) the conduct of a passenger count at or around the time of embarkation and disembarkation that ensures an accurate record of the number of passengers embarking and disembarking a vessel that:
 - (i) is a Class 2 vessel permitted to carry passengers or a Class 1 vessel that is permitted to carry no more than 75 passengers; and
 - (ii) is engaged on a voyage of at least 30 minutes scheduled duration and no more than 12 hours scheduled duration, and the vessel is not scheduled to stop for embarkation or disembarkation in the first 30 minutes; and
 - (iii) is operating in:
 - (A) B, C or D waters; or
 - (B) E waters outside of daylight hours;
 - (i) for a vessel mentioned in paragraph (h) that is used to transport passengers to a water based activity — the passenger count:

- (i) must include an additional count before the vessel departs from the site of the water based activity; and
- (ii) is not required to be conducted when a vessel is stopped for a water based activity and a passenger enters or leaves:
 - (A) the water; or
 - (B) another vessel used in conjunction with the activity;
- (j) having a radio watch unless:
 - (i) the equipment is being used on another frequency for the business or safe navigation of the vessel; or
 - (ii) a radio watch is being maintained on another frequency required by a local pilotage or port authority; or
 - (iii) communications are being exchanged with another shore based or ship station; or
 - (iv) the master considers that, because of sea or weather conditions, maintaining the watch would interfere with the safe navigation or safe working of the vessel; or
 - (v) the vessel is not required to carry a radio;
- (k) vessel bunkering and refuelling;
- (l) preparation and use of passage plans;
- (m) for a vessel that has any confined space — confined space entry;
- (n) for a vessel that carries cargo – conduct of cargo operations including the carriage of dangerous goods as cargo.

- (6) The owner of the vessel must ensure that there is a drug and alcohol policy addressing how the risks of drug and alcohol use is managed.

Note for paragraph (f) This requirement does not prevent group inductions. The timing and format of the induction will depend upon the nature of the vessel's operations.

Note for paragraph (g) Examples of passenger monitoring systems: counting; monitored or recorded closed circuit television; crew stationed as sentries to visually monitor; configuration of the vessel that allows the master of the vessel to see passengers.

Note for paragraph (h) A number of methods could be used for a passenger count. Examples: a head count; a clicker count; a roll call; a count conducted by electronic sensor; a count involving the distribution and return of items such as lanyards or wristbands.

Note for paragraph (i) Examples of water based activities: snorkelling; scuba diving.

- (7) For a vessel to which NSCV Part F1C applies — the requirements mentioned in subclause (5) are met if the vessel has the following manuals from NSCV Part F1C:

- (a) a craft operating manual mentioned in clause 3.10.1; and
- (b) a maintenance and servicing manual mentioned in clause 3.10.2; and
- (c) a route operational manual mentioned in clause 5.5.

12 Emergency preparedness

- (1) Subclauses (4) to (6) do not apply to a Class 4 vessel and paragraphs (4)(a) to (c) and subclause (5) do not apply to a lower complexity vessel.

Note For additional emergency preparedness requirements for Class 4 vessels — see clause 4 of Schedule 2.

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- (2) The owner of the vessel must ensure that an emergency plan is:
- (a) recorded in writing; and
 - (b) kept on board the vessel so that it is readily accessible; and
 - (c) if an increased risk is identified by a review of the risk assessment — changed to eliminate or minimise that risk so far as is reasonably practicable.
- (3) The emergency plan must include a procedure for responding to each of the following situations if relevant to the vessel and its operation:
- (a) fire;
 - (b) a person overboard or unaccountably missing;
 - (c) a personal injury or other medical emergency;
 - (d) master incapacitated;
 - (e) loss of steering;
 - (f) loss of propulsion;
 - (g) vessel collision;
 - (h) vessel grounding;
 - (i) vessel flooding;
 - (j) oil or fuel spill;
 - (k) adverse weather or water conditions;
 - (l) any other circumstance identified by the risk assessment that might require an emergency response.
- Example* The risk of fire is unlikely to apply to an unpowered kayak.
- (4) The emergency plan must identify the following:
- (a) at least one assembly station (***primary assembly station***) for all persons on board;
 - (b) if stated as practicable in the vessel's risk assessment — an alternative to any primary assembly station that becomes unusable or inaccessible during an emergency;
 - (c) arrangements for the assigning of each crew member to an emergency station;
 - (d) a system, for use in an emergency, for the crew to record and confirm the presence of all persons on board.
- (5) If the vessel is carrying passengers — the owner of the vessel must ensure that the emergency plan provides that the following emergency information is to be placed in each assembly station, each passenger cabin and other areas frequented by passengers:
- (a) the location of each assembly station;
 - (b) what passengers must do in an emergency;
 - (c) how passengers are to find, put on and secure lifejackets.
- (6) If the vessel is carrying passengers and operating with a master only — the owner of the vessel must ensure that the emergency plan provides for a laminated written or diagrammatic emergency safety procedure to be clearly displayed in a prominent position on board the vessel if practical.

13 Hazardous occurrences and non-conformances

- (1) The owner of the vessel must ensure that any hazardous occurrence or non-conformance is investigated.
- (2) The owner of the vessel must ensure that records are kept of the following for each hazardous occurrence or non-conformance including:
 - (a) the result of an investigation into a hazardous occurrence or non-conformance; and
 - (b) any corrective action taken to prevent it happening again.

Note The record may include a description of any customer complaint or feedback about the hazardous occurrence or non-conformance.

14 Maintenance of vessel and equipment

- (1) The owner of a vessel must ensure that a system of regular programmed inspection and maintenance appropriate for the vessel, its machinery and its equipment is developed, maintained and implemented in accordance with this clause.
- (2) The system must include arrangements for recording details of each inspection and correcting each deficiency identified by an inspection.

Note This record may be kept in the logbook.

- (3) The vessel must be inspected sufficiently to determine if the vessel, its machinery and its equipment complies with the maintenance and operation requirements that apply to it.

Note This requirement does not prevent inspections being made for compliance with voluntary maintenance guidelines.

- (4) Each inspection must be conducted by the person who has overall general control and management of the vessel or by a person who has sufficient experience and knowledge to conduct the inspection on behalf of the owner.
- (5) The vessel must be serviced taking into account the manufacturer's specifications and requirements.

15 Logbooks and other documents

- (1) This clause does not apply to a Class 4 vessel and subclauses (7) and (8) and paragraphs (10)(a) to (d), (i) and (j) do not apply to a lower complexity vessel.

Note See Schedule 2 for documentation requirements for Class 4 vessels.

Logbooks

- (2) The owner or the master of a vessel must ensure that a logbook is kept for a vessel and that the logbook is readily accessible on board the vessel or on shore, legible and does not contain false or misleading information.

Note 1 A format for logbooks is not specified.

Note 2 It is an offence under section 83 of the national law if a person fails to provide to a marine safety inspector or the National Regulator the logbook for examination as the logbook is required to be held for the vessel.

- (3) A back-up arrangement must be in place for any logbook recorded electronically to prevent the loss of the information included in the logbook.

Note A back-up arrangement may be electronically stored information.

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- (4) The master of the vessel must ensure that a logbook records details about the following:
- (a) illness or injury of a person onboard;
 - (b) marine incident, other incident or accident involving the vessel or its machinery and equipment;
 - (c) assistance rendered to another vessel;
 - (d) unusual occurrence or incident;
 - (e) communication message sent or received for an emergency;
 - (f) each passenger count conducted for the vessel if carrying passengers;
 - (g) any operation of the vessel for recreational purposes.

Note for paragraph (b) It is an offence under the national law for the owner or master of a vessel not to report a marine incident — see sections 88 and 89 of the national law.

Note The logbook may record any details that the master considers relevant for the vessel including: key operations, vessel position, navigation track and weather experienced.

- (5) The master must ensure that information about an unusual occurrence or incident is recorded in the logbook as soon as practicable after it occurs.
- (6) The owner of a vessel must ensure that an entry in a logbook is retained for at least 5 years after it is made.

Passenger documents

- (7) For a vessel carrying passengers — the owner of a vessel must ensure that a passenger manifest is kept on board the vessel, and it is readily accessible, for any voyage that is at least 12 hours long.
- (8) The passenger manifest must include the following:
- (a) name of the vessel;
 - (b) identification number for the vessel;
 - (c) voyage;
 - (d) if required in an emergency — details of any medical or safety requirements of particular passengers;
 - (e) for each person on board the vessel — name, address (local and home if a person has both), email address (if any) and phone number.

Crew documents

- (9) The owner of a vessel must ensure that an up to date crew list is kept on board the vessel and it is readily accessible.
- (10) The crew list must include the following:
- (a) name of the vessel;
 - (b) identification number of the vessel;
 - (c) name, address, phone number and email address (if any) of the owner of the vessel;
 - (d) name, address, phone number and email address (if any) of the employer of the crew;
 - (e) name, home address, phone number and email address (if any) of each crew member;
 - (f) name, address and phone number of each crew member's next of kin;

- (g) capacity in which each crew member is employed;
- (h) certificates held by each crew member, including certificates of competency required under the national law and other relevant certificates or qualifications;
- (i) date each crew member joined the vessel;
- (j) date each crew member left the vessel.

Record of vessel modifications

- (11) The owner of the vessel must ensure that any modification to the vessel that affects stability is recorded.
- (12) The record must include the description of the modification and the date that the modification is made.

16 Review and revision

- (1) Paragraphs (4)(a) and (b) do not apply to lower complexity vessels.

Reviews

- (2) The owner of a vessel must ensure that:
 - (a) a review system to verify compliance with operation requirements is developed; and
 - (b) a review of each procedure that applies to the vessel is conducted every 12 months to evaluate effectiveness.

Record of revisions

- (3) The owner of the vessel must ensure that a record of any revisions is made following each change to a procedure, document or other record that is required under this Schedule.
- (4) The record of revisions must be in writing and include the following:
 - (a) reference number;
 - (b) reference to the part of the document or record changed;
 - (c) date of the change;
 - (d) signature or initials of the person making the record of the change.

Note A record of revisions may be a 'revisions page' at the end of the relevant document such as an emergency plan, the record of key operations procedures or the master's responsibility statement.

Schedule 2 Additional operation requirements for Class 4 vessels

(Sections 8 and 9)

Note The operation of a Class 4 vessel must comply with this Schedule and the applicable provisions in Schedule 1 that apply to Class 4 vessels.

1 Risk assessment

- (1) The risk assessment of the operation of a Class 4 vessel must include or identify the following:
- (a) the boundaries of each designated cruising area of the vessel;
 - (b) any navigation hazards where the vessel activity is to occur and ways to manage the hazards, including for vessel operation during the night;
 - (c) the weather patterns in each operating area of the vessel and ways to deal with adverse weather or water conditions;
 - (d) potential interactions with other persons using the designated cruising area and ways to manage them;
 - (e) the minimum separation distances between vessels;
 - (f) any restrictions on speed and direction to be observed by the hirer;
 - (g) any additional safety precautions to be observed appropriate for the operations of the vessel;
 - (h) the kind of marine safety equipment to be provided on the vessel taking into account its suitability for the waters in which the vessel will operate and the skill levels of the hirer and participants;
 - (i) a pollution mitigation strategy;
 - (j) if the vessel is to be used for a tour — the maximum ratio of hirers and participants to tour leaders and arrangements for communication between the tour leader and the hirer and participants;
 - (k) arrangements to be followed to ensure that each hirer, participant and any other person operating the vessel is not impaired by drugs or alcohol;
 - (l) if the vessel is to be used to tow skiers or persons using a towing apparatus — an assessment of the additional risks that may arise due to this activity and ways to manage those risks;
 - (m) if the vessel is a takeaway vessel — an assessment of the operational procedures specific to takeaway activities including the risks and hazards associated with:
 - (i) multiple designated cruising areas; and
 - (ii) transporting the vessel on a trailer; and
 - (iii) loading and unloading the vessel onto a trailer; and
 - (iv) the hirer and participants' competence to deal with the matters mentioned in subparagraphs (i) to (iii).

Note for paragraph (i) A pollution mitigation strategy may include, for example, preventing or cleaning up fuel spills, or waste management.

2 Procedures for vessel operations

Note For other requirements for vessel operation procedures for Class 4 vessels — see clause 11 of Schedule 1.

- (1) The owner of the vessel must ensure that key tasks to be performed by the owner, or persons on board the vessel, are recorded as a procedure including pre-operating checks so that it is readily accessible.
- (2) The owner of the vessel must ensure that pre-operating checks are carried out before the hirer or participant takes control of the vessel.

3 Participant numbers, competency, age and health

- (1) The owner of the vessel must assess the special skills, abilities and level of medical fitness required by the hirer and any participant to undertake the activity for which the vessel is to be used.
- (2) The owner of the vessel must determine the maximum number, minimum competency, minimum age and minimum medical requirements of the hirer or any participant.
- (3) For subclause (2), the following matters must be taken into consideration by the owner when making the determination:
 - (a) the minimum number of persons required to safely operate the vessel;
 - (b) the amount of space available for persons on board the vessel;
 - (c) the kind of safety equipment on board the vessel;
 - (d) the load and stability limitations of the vessel;
 - (e) the area in which the vessel operates;
 - (f) the operational risk.
- (4) The maximum number of persons on board that may be determined by the owner must not be more than:
 - (a) 12 persons; or
 - (b) the maximum number of persons the vessel is permitted under the national law to carry.
- (5) The owner of the vessel must ensure that the person with primary responsibility for the operation of the vessel, whether or not the hirer of the vessel, is competent to operate the vessel.

Note Additional competency requirements relating to the supervision etc of the operation of personal watercraft apply — see clause 9.

- (6) The owner of the vessel must be satisfied that the hirer and any participant have the skills and abilities necessary to operate the vessel safely, over the term of the agreement, having regard to the vessel's size, type, propulsion power and intended areas of operation.

Note The owner might consider, for example, relevant boating experience, evidence of successful crossing of a bar, observation of the hirer's and any participants' skills, documents relating to the hirer and participants' medical conditions, certificates of competency.

- (7) The owner of a vessel that operates in a State or Territory that has recreational boating operator licencing requirements for equivalent recreational boats must comply with subclause (8) if the vessel:
 - (a) is capable of operating at a speed of greater than 10 knots; or
 - (b) operates in operational area category C.

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- (8) The owner of the vessel must ensure that the hirer and any participant meet the recreational boating operator licencing requirements unless an exemption for the operation applies under State or Territory law.

4 Emergency preparedness

- (1) Subclause 4(2) does not apply to a Class 4 vessel if it is a lower complexity vessel.
- (2) The owner of the vessel must ensure that the emergency plan includes at least 1 assembly station on the vessel for all persons on board if it is practicable for an assembly station to be provided.
- (3) The owner of the vessel must ensure that a laminated written or diagrammatic emergency safety procedure for use by persons on the vessel is prepared and displayed on the vessel if practical.

Note For example, it may not be practical to display the emergency safety procedure on a canoe, kayak or personal watercraft.

5 Competencies of tour leader, guide and briefer

The owner of the vessel must ensure that:

- (a) each tour leader, guide and briefer for a vessel is competent to perform their duties; and
- (b) if the vessel operates in a State or Territory that has recreational boating operator licencing requirements — the owner ensures that each tour leader, guide and briefer meets the requirements; and
- (c) each tour leader has a current first aid certificate equivalent to at least HLTAID011 *Provide first aid*.

6 Provision of information to hirer and participants

The owner of the vessel must ensure that:

- (a) a briefing that includes the matters identified by the risk assessment for the operation is given to each hirer and participant before the person takes control of a vessel; or
- (b) if not each hirer or participant is present when a hirer or participant takes control of a vessel — a hirer or participant present at the briefing agrees to brief all other hirers and participants who may operate the vessel about the matters mentioned in paragraph (a).

7 Provision of safety equipment to hirer and participants

The owner of the vessel must ensure that:

- (a) a vessel has all safety equipment on board when the hirer or a representative of the hirer takes control of the vessel; and
- (b) each hirer and any participant is made aware of any requirements for the wearing of lifejackets that apply in the areas of operation of the vessel under State or Territory law.

Note Additional requirements regarding lifejackets apply for personal watercraft — see clause 9.

8 Documentation

The owner of the vessel must ensure that written records about the operation of the vessel are maintained to allow for investigation of marine incidents required to be reported to the National Regulator.

Note It is an offence under the national law for the owner or master of a vessel not to report a marine incident — see sections 88 and 89 of the national law.

9 Additional requirements for personal watercraft

The owner of a personal watercraft must ensure the following:

- (a) that no hirer or participant takes the personal watercraft outside its designated cruising area or pen;
- (b) that each hirer and participant operating a personal watercraft in a pen is supervised by the owner or, if they are on a tour, by the tour leader;
- (c) that each hirer and participant has the skills and abilities necessary to operate the personal watercraft safely, over the term of the agreement, having regard to the personal watercraft's size, type, propulsion power and intended operating areas;
- (d) that each hirer and participant declares any medical condition of which they are aware is likely to affect their ability to safely undertake the activity;
- (e) if the personal watercraft is used in a pen or tour that is being supervised by a tour leader — that the hirer and each operator of the vessel is:
 - (i) at least 16 years old; and
 - (ii) capable of taking immediate control of the personal watercraft if required;
- (f) that any pillion passenger who is under 16 years is on board with a hirer who is at least 16;
- (g) if the personal watercraft is to be used outside of a pen or tour and the State or Territory where the vessel is operating has recreational licencing requirements for an equivalent recreational vessel operation — that each hirer and participant meets those requirements, unless an exemption for the operation applies under the State or Territory law or the State or Territory law provides that the recreational licencing requirements do not apply to personal watercraft operations;
- (h) that an appropriately sized lifejacket is supplied to each hirer and participant that fits properly.

Note for paragraph (c) The owner might consider, for example, relevant boating experience, evidence of successful crossing of a bar, observation of the hirer's and any participants' skills, documents relating to the medical conditions of the hirer and participants and certificates of competency.

Note

1. Legislative instruments and compilations of legislative instruments are registered on the Federal Register of Legislation under the *Legislation Act 2003*. See www.legislation.gov.au.