

Domestic Commercial Vessel (DCV)

ADVISORY NOTE



DCV-A-008

Date: 27 February 2015

Topic: Limitations and conditions for Exemption 38 (Recognition of Low Complexity Duties)

Issue: This advisory contains information about the limitations and conditions of Ex38 – Marine Safety (Low complexity duties) Exemption 2015 and the requirements to operate under this exemption.

Advice: **Exemption 38 is for limited maritime operations that undertake low complexity duties with operators having the following restrictions:**

1. Operate during daylight hours only
2. Command a vessel <12m long and operate propulsion power for an inboard engine <100kW or outboard engine <250kW
3. Carry passengers only in the following places and areas:
 - o marina operations and a mooring areas in sight of the marina;
 - o inland waters;
 - o any waters in a tender or auxiliary that are within 1nm from a parent vessel and in sight of and in communication with the parent vessel;
 - o any other waters approved by the National Regulator.
4. Without carrying passengers only in the following places or areas:
 - o places and kinds of water in Point 3 above;
 - o smooth waters, including inland waters;
 - o any waters within 1nm from each point of departure and within 1nm of the coast
 - o any waters of an aquaculture lease approved by a State or Territory authority, and any approved waters used for the daily transit to and from the aquaculture lease for operation under this exemption;
 - o any waters within 250 metres of a structure fixed to the shore
 - o sheltered waters within 2nm from the coast.
5. Tow persons only in the following area and situation:
 - o any waters that are waterski areas approved by a State or Territory authority, with or without passengers; and
 - o the vessel has propulsion power, for an inboard and outboard engine, <500kW.

Note:

- *If the normal operation of a vessel's voyage involves departing from several points, each of which are within a nautical mile such as delivering supplies along a shore, then multiple points of departure are permissible*
- *For definitions of smooth and sheltered waters refer to NSCV Part B*



Safety obligations

The following legislative instruments apply to this exemption:

- NSCV Part E, including:
 - Crew member commitment to safety
 - Ensuring sufficient competent and trained crew are carried on vessel
 - Crew training in familiarisation of the vessel, safety issues and emergency procedures
 - Appropriate crew determined for each type of operation by risk assessment.
- National Law, including:
 - The duty of **owners** and **masters** of domestic commercial vessels to ensure safety of vessels, marine safety equipment and operations;
 - The duty of masters to take reasonable care for safety of persons; and
 - Determining what is reasonably practicable to ensure safety by assessing risks.

While operating under Ex38 seafarers must ensure they:

- Are familiar with, follow and contribute to their organisation's Safety Management Systems
- Can identify risks and the treatment of risks associated with a particular vessel operation such as fishing, workboats, transferring and carrying passengers, lifting gear arrangements and stability, launching and recovering tenders/auxiliaries at sea
- Are given a workplace induction and are provided with on-the-job training specific to the vessel and vessel operation.

Eligibility criteria - Exemption 38 (Low complexity duties)

1. Be at least 16 years when the exemption is obtained; and
2. If carrying passengers hold a first aid certificate of at least HLT Health Training Package unit of competency *Provide first aid*; and
3. If operating radio equipment is on board the vessel, hold at least a Marine Radio Operators VHF Certificate of Proficiency issued by the Australian Communications and Media Authority or an equivalent qualification approved by the National Regulator; and
4. Meet the same medical and eyesight requirements in Chapter 4 (Medical and eyesight requirements) of Part D of the NSCV that apply for a Coxswain Grade 2 Near Coastal certificate of competency, except for Division 4.4 Eyesight (colour- vision); and
5. Successfully achieve one of the two options below:

Option 1	OR	Option 2
a) Complete the following 3 units from the MAR Maritime Training Package with an approved training organisation: <ul style="list-style-type: none"> • MARI001 Comply with regulations to ensure safe operation of a vessel up to 12 metres • MARK001 Handle a vessel up to 12 metres • MARN002 Apply seamanship skills aboard a vessel up to 12 metres; <p style="text-align: center;"><u>AND</u></p> b) Complete a Final Practical Assessment Record (AMSA536) with an AMSA approved trainer assessor.	a) Complete an AMSA approved course; <p style="text-align: center;"><u>AND</u></p> b) Complete a Final Practical Assessment Record (AMSA536) with an AMSA approved trainer assessor.	

Notes on training and assessment

- A list of Exemption 38 AMSA approved courses is available at:
<http://www.amsa.gov.au/domestic/>
- Participants need to become familiar with the following documents, which outline the skills and knowledge criteria that must be met in order to operate under Exemption 38:
 - ✓ Training and Assessment Criteria: Final Practical Assessment (AMSA508), and
 - ✓ Final Practical Assessment Record (AMSA536)
- On successfully meeting the conditions of Exemption 38, trainer assessors will forward participant details to AMSA and be entered into the Holders of Exemption 38 database (NRIP00078)
- AMSA may contact participants for feedback on training and practical assessment for continuous improvement.

When can I start operating

- Once you have successfully completed the Final Practical Assessment Record (AMSA536) you can commence operations under Exemption 38 (Low complexity duties)
- You need to keep the following completed records and make them readily available if requested:
 - Final Practical Assessment Record (AMSA536) and Statement of Attainment/Participation in an AMSA approved course
 - Self-Declaration of Medical Fitness (AMSA558)
 - Eyesight Test Certificate (AMSA542)
 - Current First Aid Certificate (if applicable)
 - Marine Radio Operators VHF Certificate of Proficiency (if applicable)

Expiry of Exemption 38 (Low complexity duties)

Exemption 38 (Low complexity duties) will expire 30 June 2016.

Important note:

To operate as certified crew outside of the limits of Exemption 38, you need to have an appropriate Certificate of Competency; for example, General Purpose Hand or Coxswains 2 or 1.

If participating as part of an emergency response team on board a vessel or passenger vessel, it is recommended on board training is supported by formal emergency response training, such as Elements of Shipboard Safety.

Note: If there is an inconsistency between this document and previously issued documents about the subject matter, this document supersedes information found in previous documents dealing with these matters. Previous documents found to be in conflict with this document (or parts thereof) will be updated or withdrawn at the earliest opportunity.

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Contact: For more information please contact your local [State of Territory Marine Safety Agency](#) or the AMSA Contact Centre on (02) 6279 5000.