



DCV-A-008

Date: 17 June 2016

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

Issue: This advisory contains information about the limitations and conditions of Exemption 38 – *Marine Safety (Low complexity duties) Exemption 2016* and the requirements for operating under this exemption.

Note: Exemption 38 (Low complexity duties) will expire on the implementation date of the revised Marine Order 505, or 30 June 2018, whichever is the earlier date.

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:
 - marina operations and mooring areas in sight of the marina;
 - inland waters;
 - 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;
 - any other waters approved by the National Regulator.
4. Without carrying passengers operate only in the following places or areas:
 - places and areas in Point 3 above;
 - smooth waters, including inland waters;
 - any waters within 1nm from each point of departure and within 1nm of the coast
 - 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;
 - any waters within 250 metres of a structure fixed to the shore
 - sheltered waters within 2nm from the coast.
5. Command a vessel <12m long and operate propulsion power for an inboard and outboard engine, <500kW:
 - when the vessel is used only for towing persons; and
 - only in waters that are waterski areas approved by a State or Territory authority.

Note: If the normal operation of a vessel 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.



The following legislative instruments apply to this exemption:

1. NSCV Part E, including:
 - crew member commitment to safety;
 - ensuring sufficient competent and trained crew are carried on a vessel;
 - crew training including familiarisation with the vessel, assigned duties, safety of persons on board and the vessel, and emergency procedures; and
 - appropriate crew determined for each type of operation by risk assessment.
2. 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, towing, transferring and carrying passengers, lifting operations (stability), launching and recovering tenders/auxiliaries at sea; and
- 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 of age 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 operational radio equipment is on board the vessel, hold at least a Short Range Operator Certificate of Proficiency issued by the Australian Communications and Media Authority or an equivalent qualification approved by the National Regulator; and
4. meet the medical and eyesight requirements for a Coxswain Grade 2 NC certificate of competency specified in Chapter 4 of NSCV Part D, other than the requirements in Division 4.4 of Part D;
5. complete training and assessment in accordance with AMSA 508 Training and Assessment Criteria and AMSA536 Final Practical Assessment Record.

Notes on training and assessment

- A list of AMSA approved Exemption 38 course providers is available at: <http://www.amsa.gov.au/domestic/domestic-quals/approved-training-organisations/>
- 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)
- Once participants have successfully met the conditions of Exemption 38, trainer assessors will forward participant details to AMSA and these will 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

1. Once you have successfully completed the Final Practical Assessment Record (AMSA536) you can commence operations under Exemption 38 (Low complexity duties).
2. You need to keep the following completed records and make them readily available if requested:
 - Final Practical Assessment Record (AMSA536)
 - Statement of Attainment/document demonstrating completion of 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)

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 Coxswain 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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