



# GUIDANCE NOTICE

## Certificate of Operation

Under the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (the National Law Act), it is an offence for owners (and masters) to operate a domestic commercial vessel (DCV), or cause or permit the vessel to be operated by another person, without a certificate of operation, unless the vessel is exempt from that requirement.

### End of transitional arrangements

Since 1 July 2013 transitional arrangements have enabled many existing vessels to comply with National Law Act certificate of operation obligations by continuing the effect of previously held authorisations or certifications.

However, from 1 July 2016, provided such an authorisation or certificate has not already expired, the transitional arrangements will cease to have effect. This means that a new National Law Act certificate of operation must be obtained and in force for all domestic commercial vessels (DCVs) by that date.

### Issue of a Certificate of Operation

Under the National Law Act, the National Regulator must issue a certificate of operation for one or more DCVs if:

- an application for the certificate has been made in accordance with the National Law;
- the National Regulator is satisfied that the applicant has demonstrated appropriate competency and capacity in relation to the safe operation of the vessel/s; and
- the National Regulator is satisfied that the criteria prescribed by the regulations are met in relation to the issue of the certificate.

A certificate of operation is issued for the period specified on the certificate by the National Regulator.

The National Regulator may require further information in order to be satisfied as to the applicant's competency and capacity.

This may include:

- whether the applicant has complied with, or is capable of complying with, the safety rules that will apply to the proposed operation;
- whether the applicant's organisation has the capacity to ensure that the proposed operations can be conducted safely, having regard to the nature of the proposed operations;
- whether the applicant's organisation's chain of command is appropriate to ensure that the proposed operations can be conducted or carried out safely;
- whether the applicant's organisation has a sufficient number of suitably qualified and competent employees to conduct or carry out the proposed operations safely;
- whether key personnel in the applicant's organisation have appropriate experience in marine operations to conduct or to carry out the proposed operations safely;
- that the facilities of the applicant's organisation are sufficient to enable the proposed operations to be conducted or carried out safely; and
- that the applicant has a safety management system (SMS) in place, as required under Part 3 of Schedule 1 of the National Law Act.

The National Regulator may refuse to issue a certificate of operation if the National Regulator is satisfied that the applicant is not a fit and proper person to hold the certificate. 'Fit and proper' considerations may take into account relevant previous convictions of the applicant, actions taken against the applicant (such as suspension, revocation or cancellation of a similar certificate) including under the National Law Act, non-payment of court-imposed fines, bankruptcy, insolvency or disqualifications under the *Corporations Act 2001 – see Marine Order 501 (Administration – national law) 2013 (MO 501)* for more information on the fit and proper person criteria.

### Conditions on a certificate of operation

The owner (and master) must comply with any conditions imposed on a vessel's certificate of operation by regulations or by the National Regulator.

Similarly, owners and masters are required to comply with the conditions set out in section 11 of *Marine Order 504 (Certificates of operation – national law) 2013* (MO 504), unless otherwise exempted. This includes a requirement for operators of certain types of vessels to comply with Parts E and F of the National Standard for Commercial Vessels (NSCV Parts E and F).

Additionally, the National Regulator may impose further conditions in relation to matters including, but not limited to:

- the number of crew required to be on board while the relevant vessel/s are being operated;
- qualifications of the master and crew;
- the number of people that may be on board;
- the condition of physical parts of the relevant vessel/s;
- safety management systems;
- limitations on use by reference to geographical and meteorological factors and time of day;
- operating hours; and
- compliance with prescribed standards.

### Refusing to issue, or imposing a condition on, a certificate of operation

On receiving an application for a certificate of operation, the National Regulator must either issue a certificate of operation, with or without conditions, or refuse to issue a certificate of operation.

A decision to refuse to issue a certificate of operation is a reviewable decision, as is a decision to impose a condition on a certificate of operation. Not dealing with an application for a certificate of operation in the period for consideration results in the National Regulator deciding to not approve the application and this is a reviewable decision (see sections 13 and 15 of MO 501).

### Revoking, varying and suspending certificates of operation

A certificate of operation may be revoked, varied or suspended either on the application of the certificate holder, or on the initiative of the National Regulator.

In most cases the National Regulator must give certificate holders sufficient opportunity to 'show cause' as to why their certificate should not be revoked, varied or suspended.

#### Exemptions

Certain types of vessels may be subject to an exemption from the requirement to hold a certificate of operation on the basis that they meet specific criteria and comply with certain conditions. Additionally, it may be possible to apply to the National Regulator for a permit under the 'Temporary Operations Exemption' that will allow vessels that meet specified criteria to continue operating in the period of time between being surveyed and having a certificate of operation issued.

### Applying for a Certificate of Operation

To apply for a National System certificate of operation you need to:

1. Complete the Application for Certificate of Operation for a Domestic Commercial Vessel (AMSA form 504) and associated documentation available from your local marine safety agency or online;
2. Provide the documents required as evidence to support the application, including any further information requested by the National Regulator (or local marine safety agencies as its delegate);
3. Lodge the application either in person or by mail at your local marine safety agency; and
4. Pay the required fees at the time of lodgment.

Details of your local marine safety agency and access to the application form are available at [www.amsa.gov.au](http://www.amsa.gov.au).