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## TASMANIA

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### MARINE AND SAFETY (LICENSED COMMERCIAL OPERATIONS) BY-LAWS 2010

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## MARINE AND SAFETY (LICENSED COMMERCIAL OPERATIONS) BY-LAWS 2010

The Marine and Safety Authority makes the following by-laws under section 42 of the *Marine and Safety Authority Act 1997*.

### PART 1 – PRELIMINARY

#### 1. Short title

These by-laws may be cited as the *Marine and Safety (Licensed Commercial Operations) By-laws 2010*.

#### 2. Commencement

These by-laws take effect on 27 September 2010.

#### 3. Interpretation

(1) In these by-laws –

“**Act**” means the *Marine and Safety Authority Act 1997*;

“**approved**” means approved by MAST;

“**auditor**” means an authorised person who does a safety audit for MAST;

“**authorised person**” means a person who –

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- (a) is appointed under section 44 of the Act for the purposes of these by-laws; or
- (b) is a member of a class of persons appointed under section 44 of the Act for the purposes of these by-laws;

**“class”**, of vessel – see subclause (2);

**“commercial operation”** means, according to the context, a commercial leisure craft operation or commercial training vessel operation, or both;

**“contact particulars”** means a person’s postal address and, if applicable, fax and email address;

**“contravene”**, a licence, means to contravene any of its terms, conditions or limitations;

**“exempt”** means exempt under clause 33 and **“exemption”** has a corresponding meaning;

**“external licence”** means a licence, permit or other kind of authority (however described) that –

- (a) is issued, granted or conferred by an external regulator; and

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- (b) confers on its holder, in that external regulator's jurisdiction, the same or substantially the same authority as a licence under these by-laws;

**“external regulator”** means –

- (a) any agency of another State, a Territory or the Commonwealth having responsibilities similar to those of MAST; or
- (b) any agency in a foreign country that, under any laws in force in that country, or in any constituent part or dependency of that country, has responsibilities similar to those of MAST;

**“in survey”** means in survey within the meaning of the *Marine and Safety (Vessel Survey) By-laws 2010*;

**“leisure craft”** means a vessel that meets the requirements of Part F2 of the NSCV;

**“licence”** means, according to the context, a commercial leisure craft licence or commercial training vessel licence, or both;

**“licensee”** means the holder of a licence;

**“limitations”**, of a licence, includes limitations relating to –

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- (a) operational areas; and
- (b) weather conditions; and
- (c) operating times; and
- (d) vessel manning levels;

**“MAST”** means the Authority;

**“materiel”**, of a commercial operation, includes –

- (a) all of the vessels and equipment used in the commercial operation; and
- (b) the documentation for the commercial operation (including the licence and the SMP);

**“notify”** means notify in writing;

**“NSCV”** means the *National Standard for Commercial Vessels* published by the National Maritime Safety Committee, as from time to time amended;

**“operate”**, a vessel, includes navigate the vessel;

**“operational area”** means an area within the limits specified in the *Marine and Safety (Definition of Operational Areas) By-laws 2003*;

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**“prescribed fee”**, for any matter, means the fee prescribed in the *Marine and Safety (Fees) By-laws 2010* for that matter;

**“recognised external licence”** means an external licence recognised under clause 18(1);

**“register”** means the register kept under clause 16;

**“relevant commercial operation”**, in relation to a licence, means the commercial operation conducted, or to be conducted, under the authority of the licence;

**“relevant vessel”**, in relation to a commercial operation, means a vessel used in the commercial operation;

**“responsibilities”** includes powers, functions and duties;

**“right of review”** means a right of review under clause 37;

**“safety audit”** means a safety audit of a commercial operation under Division 3 of Part 2;

**“SMP”** – see clause 7;

**“survey inspection”** means a survey inspection under the *Marine and Safety (Vessel Survey) By-laws 2010*;

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**“training vessel”** means a sailing vessel, or motor boat, not exceeding 12 metres in length that is used for the sole commercial purpose of conducting training on the operation of the vessel (or vessels of its class);

**“vary”**, a licence, means to vary, add to or remove any of its terms, conditions or limitations.

- (2) A reference in these by-laws to a class of vessel by number is a reference to the class of vessel of that number within Chapter 3 of Part B of the NSCV.



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**PART 2 – LICENSED COMMERCIAL OPERATIONS**

***Division 1 – Licensing***

**4. Commercial leisure craft operations to be licensed**

- (1) Except as provided by clause 18, a person must not conduct a commercial leisure craft operation unless the person holds a commercial leisure craft licence for the commercial operation.

Penalty: Fine not exceeding 20 penalty units.

- (2) For the purpose of these by-laws, a person is taken to conduct a commercial leisure craft operation if the person operates leisure craft, or causes or allows leisure craft to be operated, for monetary or other reward.

**5. Commercial training vessel operations to be licensed**

- (1) Except as provided by clause 18, a person must not conduct a commercial training vessel operation unless the person holds a training vessel licence for the commercial operation.

Penalty: Fine not exceeding 20 penalty units.

- (2) For the purposes of these by-laws, a person is taken to conduct a commercial training vessel operation if the person operates training vessels,

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or causes or allows training vessels to be operated, for monetary or other reward.

**6. Applications for licences**

- (1) Licences are issued by MAST.
- (2) An application for a licence is to –
  - (a) be in accordance with clause 34; and
  - (b) specify the type of commercial operation the applicant intends to conduct; and
  - (c) specify how many vessels the applicant intends to operate under the licence; and
  - (d) specify the class and type of those vessels; and
  - (e) specify the intended operational area; and
  - (f) be accompanied by an SMP for the intended commercial operation.
- (3) MAST may require an applicant who intends to conduct a commercial operation in more than one operational area to apply for a separate licence for –
  - (a) each of those operational areas; or
  - (b) any grouping of those operational areas.

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**7. Safety management plans**

- (1) A safety management plan (“SMP”) is a document that sets out, for a commercial operation, strategies for –
- (a) promoting safe operating practices; and
  - (b) creating a safe environment on board the vessels used in the commercial operation; and
  - (c) identifying, managing and minimising operational hazards and risks; and
  - (d) developing the safety and emergency management skills of mariners and other persons who work in the commercial operation; and
  - (e) promoting awareness of and compliance with relevant maritime and industry codes, guidelines and standards.
- (2) For the purposes of clause 6(2)(f), MAST may assist applicants by providing advice or written guidelines on the preparation of an SMP.

**8. Determination of applications**

- (1) After considering an application for a licence, MAST may –
- (a) approve the application; or

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- (b) refuse to approve the application.
- (2) Without limiting the generality of subclause (1), MAST may refuse to approve an application if it reasonably considers that –
  - (a) the application is defective in a material respect; or
  - (b) the relevant SMP is defective in a material respect; or
  - (c) the relevant operational area is unsafe or unsuitable for the intended commercial operation; or
  - (d) any relevant vessels are unsafe or unsuitable for the intended commercial operation or, being vessels required to be in survey, are not in survey; or
  - (e) the applicant is not a fit and proper person to conduct a commercial operation.
- (3) If subclause (1)(a) applies, MAST is to –
  - (a) issue the applicant with a licence; and
  - (b) assign a number to the licence (“licence number”).
- (4) If subclause (1)(b) applies, MAST is to notify the applicant of –
  - (a) the refusal; and

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- (b) the reason for the refusal; and
- (c) the applicant's right of review.

**9. Form of licences**

(1) A licence –

- (a) is to be in an approved form; and
- (b) may be issued subject to such conditions and limitations as MAST determines, having regard to the particular commercial operation; and
- (c) may contain such information as MAST determines.

(2) However, a licence must at least specify –

- (a) the licence number; and
- (b) the name and contact particulars of the licensee; and
- (c) the type of commercial operation; and
- (d) the conditions and limitations, if any, determined under subclause (1)(b); and
- (e) the number of vessels that may be operated under the licence; and
- (f) the type and class of those vessels; and
- (g) the relevant operational area; and

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- (h) any exemptions granted in respect of the relevant commercial operation.

**10. Term of licences**

Except as these by-laws otherwise provide, a licence is valid for 5 years from its date of issue, subject to the payment of prescribed fees.

**11. Variation of licences**

- (1) MAST may vary a licence at any time on –
  - (a) its own initiative; or
  - (b) application by the licensee.
- (2) An application is to be in accordance with clause 34.
- (3) MAST may –
  - (a) approve an application; or
  - (b) refuse to approve an application.
- (4) If subclause (3)(b) applies, MAST is to notify the applicant of –
  - (a) the refusal; and
  - (b) the reasons for the refusal; and
  - (c) the applicant's right of review.

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- (5) Before varying a licence on its own initiative, MAST may consult the licensee but it is not obliged to do so if it reasonably considers that the variation should be effected urgently in the interests of safety.
  - (6) If MAST varies a licence on its own initiative, it is to –
    - (a) notify the licensee of the variation, when the variation takes effect and the reasons for the variation; and
    - (b) unless it reasonably considers that the variation makes the licence less restrictive, ensure that the notification specifies that there is a right of review.
  - (7) If MAST varies a licence, it may issue the licensee with a fresh licence document.

**12. Renewal of licences**

- (1) A licence is renewable on payment of a prescribed fee.
- (2) However, MAST may refuse to renew a licence if it is satisfied on reasonable grounds of any matter specified in clause 13(1).
- (3) If MAST refuses to renew a licence, it is to notify the licensee of –
  - (a) the refusal; and

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- (b) the reasons for the refusal; and
- (c) the applicant's right of review.

**13. Suspension and cancellation of licences**

- (1) MAST may suspend or cancel a licence if it is satisfied on reasonable grounds that –
  - (a) the licensee has contravened the licence in a material respect or caused or allowed it to be so contravened; or
  - (b) the relevant commercial operation has not passed a safety audit; or
  - (c) the relevant vessels, or any them –
    - (i) have not undergone a required survey inspection; or
    - (ii) have not passed a required survey inspection; or
    - (iii) being required to be in survey, have been withdrawn from survey or had their in-survey status suspended; or
  - (d) the relevant SMP has not been adhered to in a material respect; or
  - (e) the licensee or a key operative has contravened the Act or any regulations or by-laws under the Act, being a



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- contravention that, by its seriousness or nature, is highly relevant to the safe and proper conduct of the relevant commercial operation; or
- (f) the licensee or a key operative has given false or misleading information to MAST or an auditor about the relevant commercial operation; or
  - (g) the licensee or a key operative has obstructed an auditor in any way that throws doubt on the safety of the relevant commercial operation or of any vessels used in the relevant commercial operation; or
  - (h) the licensee or a key operative is not a fit and proper person to conduct or be involved with a commercial operation; or
  - (i) a prescribed fee for, or relating to, the licence has not been paid; or
  - (j) the relevant commercial operation has experienced a series of maritime incidents within the meaning of the *Marine and Safety (Maritime Incidents) Regulations 2007*; or
  - (k) the suspension is otherwise necessary in the interests of safety.
- (2) If MAST suspends or cancels a licence, it is to notify the licensee of –

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- (a) the suspension or cancellation; and
  - (b) the reasons for the suspension or cancellation; and
  - (c) the licensee's right of review.
- (3) The suspension or cancellation takes effect on such date as MAST specifies in the notice under subclause (2).
- (4) In the case of a suspension, the licence is invalid during the period of suspension.
- (5) MAST may, by notice and on payment of a prescribed fee, revoke the suspension at any time –
  - (a) if it is satisfied that the issues that triggered the suspension have been appropriately addressed, rectified, resolved or explained; or
  - (b) for any other reason it considers sufficient.
- (6) MAST may give such persons such notice of the suspension or cancellation as it considers necessary or expedient.
- (7) In this clause –
  - “key operative”**, of a commercial operation, means –
    - (a) the master of a relevant vessel; or

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- (b) a person who, whether under a contract of employment, contract for services or otherwise, is permitted by the relevant licensee to exercise any form of managerial control over all or part of the commercial operation.

**14. Transfer of licences**

- (1) The holder of a licence may apply to MAST for approval to transfer the licence.
- (2) An application is to in accordance with clause 34.
- (3) MAST may –
  - (a) approve an application; or
  - (b) refuse to approve an application.
- (4) MAST may –
  - (a) approve an application subject to any conditions and limitations it considers necessary or expedient; and
  - (b) refuse to approve an application for any reason that, under clause 8(2), would justify the refusal to approve of an application to issue a licence.
- (5) A transfer –

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- (a) is of no effect unless approved by MAST; and
  - (b) takes effect, if approved, on the date of the approval or on such other date as MAST and the applicant may agree.
- (6) If subclause (3)(a) applies, MAST –
  - (a) is to amend the register accordingly; and
  - (b) may issue the transferee with a fresh licence document.
- (7) If subclause (3)(b) or subclause (4)(a) applies, MAST is to notify the applicant of –
  - (a) the refusal or, as the case may be, the conditions and limitations; and
  - (b) the reasons for the refusal or, as the case may be, for imposing the conditions and limitations; and
  - (c) the applicant's right of review.

**15. Surrender of licences**

- (1) The holder of a licence may surrender it to MAST at any time.
- (2) A licence has no surrender value.

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**16. Register of licences**

- (1) MAST is to keep a register of licences.
- (2) The register –
  - (a) is to be in an approved form; and
  - (b) may be combined with any other register kept by MAST under the Act.
- (3) The register is to contain, for each licence, the following particulars:
  - (a) the name and contact particulars of the licensee;
  - (b) the licence number;
  - (c) the type of commercial operation;
  - (d) the number, type and class of vessels operated under the licence;
  - (e) the owners of those vessels;
  - (f) the relevant area of operation;
  - (g) the conditions, limitations and exemptions, if any, of the licence;
  - (h) any variations or transfers of the licence;
  - (i) such other particulars as MAST considers necessary or expedient.

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**17. Notification of changes in registered particulars**

- (1) This clause applies if there is any change to the name or contact particulars of the licensee that, under clause 16(3)(a), are required to be contained in the register in respect of a licence.
- (2) The holder of the licence must notify MAST of the change within 7 days after the date on which the change occurs.

Penalty: Fine not exceeding 5 penalty units.

***Division 2 – Recognition***

**18. Recognition of external licences**

- (1) For the purpose of these by-laws, MAST may recognise an external licence.
- (2) Notwithstanding clauses 4 and 5, a recognised external licence authorises its holder to conduct, in this State, a commercial leisure craft operation or, as the case may be, commercial training vessel operation in accordance with the conditions and limitations of that external licence.

**19. Withdrawal of recognition**

- (1) MAST may withdraw its recognition of an external licence if it reasonably considers that –

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- (a) the external licence no longer confers on its holder the same or substantially the same authority as a licence under these by-laws; or
  - (b) the relevant commercial operation has moved its base of operations to Tasmania or has been conducting most of its operations in or from Tasmania; or
  - (c) the relevant vessels (or a majority of them) are being permanently based in Tasmania or have been brought into survey in Tasmania; or
  - (d) the relevant commercial operation has not passed, in the relevant external regulator's jurisdiction, audits in the nature of safety audits; or
  - (e) the relevant commercial operation has a history of regulatory non-compliance in the relevant external regulator's jurisdiction; or
  - (f) the relevant commercial operation has experienced, in any jurisdiction, a series of maritime incidents within the meaning of the *Marine and Safety (Maritime Incidents) Regulations 2007*; or
  - (g) the relevant commercial operation has a defective SMP or is otherwise unsafe; or
  - (h) the withdrawal may be necessary on other grounds.

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- (2) If subclause (1) applies, MAST is to notify the holder of the external licence of –
- (a) the withdrawal of recognition; and
  - (b) the reasons for the withdrawal of recognition; and
  - (c) the holder's right of review.

***Division 3 – Safety audits***

**20. Auditing requirement**

It is a condition of a licence that –

- (a) the relevant commercial operation undergo safety audits in accordance with this Division; and
- (b) the licensee facilitate, participate in and co-operate fully with all such safety audits.

**21. What is a safety audit?**

- (1) A safety audit is an audit by MAST of a commercial operation to assess whether –
- (a) the terms, conditions and limitations of the relevant licence remain appropriate; and



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- (b) the commercial operation is being conducted in accordance with those terms, conditions and limitations; and
  - (c) the relevant SMP remains satisfactory and is being adhered to; and
  - (d) the conditions of any relevant exemptions are being complied with; and
  - (e) record-keeping is, in terms of MAST's responsibilities, adequate; and
  - (f) management and personnel are aware of, and are complying with –
    - (i) the SMP; and
    - (ii) relevant maritime and industry codes, guidelines and standards; and
    - (iii) relevant maritime safety laws; and
  - (g) there are no safety issue or concerns with regard to vessels, facilities, equipment, documentation or operating procedures; and
  - (h) deficiencies or matters requiring rectification, attention or explanation from previous safety audits have been adequately addressed.
- (2) A safety audit may be in respect of –

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- (a) the whole of a commercial operation (“full safety audit”); or
  - (b) any constituent part or element of a commercial operation (“partial safety audit”).
- (3) A safety audit is an audit of matters within MAST’s competence and responsibilities, and not a vehicle for assessing whether a particular commercial operation is –
  - (a) legally compliant, or meeting satisfactory standards, in other respects; or
  - (b) financially viable; or
  - (c) a desirable venture.
- (4) Safety audits, in so far as they encompass the vessels used in a commercial operation –
  - (a) are additional to, and not in substitution for, survey inspections; but
  - (b) are not a means of determining whether the vessels should or should not be in survey.

**22. Auditors**

- (1) Safety audits are done for MAST through the agency of an authorised person (“auditor”).

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- (2) An auditor has, in so far as safety audit may require the inspection of a vessel or other materiel, the same powers as a surveyor doing a survey inspection.
  - (3) Any commercial information, inspected as part of a safety audit, is to be treated in confidence.
  - (4) MAST may issue auditors generally with standard directions to assist and guide them in the exercise and performance of their responsibilities.
  - (5) However, MAST must not, by means of a general direction or otherwise, purport to direct any surveyor with regard to the outcome of a particular safety audit.

**23. Types of safety audit**

For the purposes of clause 20, a safety audit may be –

- (a) a routine safety audit; or
- (b) a random safety audit.

**24. Routine safety audits**

- (1) A routine safety audit is a safety audit done according to –
  - (a) an audit protocol agreed to by MAST and the relevant licensee when a licence

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- is issued, or within 60 days thereafter (“agreed audit protocol”); or
- (b) failing such agreement, an audit protocol determined by MAST (“imposed audit protocol”).
- (2) An agreed audit protocol or imposed audit protocol is to require a commercial operation to undergo, in any one calendar year –
- (a) at least one full routine safety audit; or
- (b) at least one partial safety audit.
- (3) For the purpose of subclause (1) –
- (a) MAST and a licensee may review and vary an agreed audit protocol whenever a licence is renewed; and
- (b) MAST may, at any time, vary an imposed audit protocol or replace it with an agreed audit protocol.
- (4) A licensee must, if MAST so requires, pay MAST a prescribed fee for doing a routine safety audit.
- (5) In this clause –
- “audit protocol”** means a document setting out –
- (a) an audit schedule; and

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- (b) the materiel and procedures to be audited; and
- (c) auditing arrangements and procedures; and
- (d) the responsibilities of the respective parties.

**25. Conduct of routine safety audits**

- (1) This clause applies to the conduct of a routine safety audit of a commercial operation.
- (2) The auditor charged with doing the safety audit, having regard to the relevant audit protocol, is to –
  - (a) arrange a time and place for the safety audit with the licensee; and
  - (b) tell the licensee which personnel are required to be on hand for the safety audit; and
  - (c) tell the licensee what materiel is required to be presented in connection with the safety audit.
- (3) The relevant licensee is to ensure that –
  - (a) the materiel required by the auditor is available at the time and place arranged; and

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- (b) the personnel required by the auditor are on hand at the time and place arranged; and
- (c) any equipment requiring discrete inspection (whether pursuant to the audit protocol or a requirement by the auditor) is –
  - (i) disassembled and cleaned ready for inspection before the time arranged; and
  - (ii) presented for audit in a safe condition.

**26. Random safety audits**

- (1) MAST may from time to time do random safety audits of a commercial operation.
- (2) A licensee may be given short notice of a random safety audit, or an auditor charged with doing a random safety audit may do the safety audit without warning.

**27. Option to decline certain random safety audits**

- (1) A licensee may opt to decline a particular random safety audit if the licensee considers that a safety audit at that time would adversely interfere with the conduct of the relevant

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commercial operation or, for another reason, be impracticable or inconvenient.

- (2) The option to decline a random safety audit is not exercisable, in aggregate, on more than 2 occasions in any 12-month period, or more than twice in succession, in respect of the same commercial operation.
- (3) An auditor must not proceed with a random safety audit if the option under subclause (1) is exercised in respect of that safety audit.
- (4) The option under subclause (1) is not exercisable in respect of –
  - (a) a random safety audit that has actually started; or
  - (b) a random safety audit where the auditor charged with doing the audit reasonably believes that the relevant commercial operation, or a vessel used in the relevant commercial operation, may be unsafe.

**28. Audit reports**

A safety auditor who does a safety audit of a commercial operation is to –

- (a) prepare a report on the outcome of the safety audit; and
- (b) give a copy of the report to MAST and the relevant licensee within 30 days after

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**c. 28**

Part 2 – Licensed Commercial Operations

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the day on which the safety audit was  
completed.



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Part 3 – Miscellaneous

c. 29

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**PART 3 – MISCELLANEOUS**

***Division 1 – Offences***

**29. Vessels not to be used in unlicensed commercial operations**

- (1) The owner of a vessel must not operate the vessel for or in connection with a commercial operation, or cause or allow the vessel to be so operated, if the vessel owner knows, or reasonably ought to know, that the person conducting the commercial operation does not hold a licence or recognised external licence for the commercial operation.

Penalty: Fine not exceeding 20 penalty units.

- (2) The master of a vessel must not operate the vessel for or in connection with a commercial operation if he or she knows, or reasonably ought to know, that the person conducting the commercial operation does not hold a licence or recognised external licence for the commercial operation.

Penalty: Fine not exceeding 20 penalty units.

**30. Contravention of licences**

- (1) The holder of a licence must not contravene, or cause or allow any other person to contravene, the licence.

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Penalty: Fine not exceeding 20 penalty units.

- (2) A person must not hire out a commercial leisure craft as part of a commercial leisure craft operation if the person knows, or reasonably ought to know, that the hiring contravenes the licence for the commercial leisure craft operation.

Penalty: Fine not exceeding 20 penalty units.

**31. Obstruction of auditors**

A person must not obstruct or hinder an auditor in the conduct of a safety audit.

Penalty: Fine not exceeding 20 penalty units.

**32. False or misleading statements**

A person must not, in giving any information under these by-laws –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

Penalty: Fine not exceeding 20 penalty units.

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**c. 33**

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***Division 2 – Administrative provisions***

**33. Exemptions**

- (1) MAST, by instrument in writing, may exempt from these by-laws or specified provisions of these by-laws –
  - (a) a person or class of persons; or
  - (b) all or part of a commercial operation or class of commercial operations; or
  - (c) a vessel or class (or other group) of vessels.
- (2) Without limiting the generality of subclause (1), MAST may –
  - (a) exempt a person from the requirement to hold a licence when conducting a commercial operation; or
  - (b) exempt a commercial operation from a safety audit requirement.
- (3) An exemption may be granted only if MAST is satisfied that –
  - (a) compliance with these by-laws or the specified provisions of these by-laws in relation to the exempted matter is unnecessary, impracticable or unreasonable; and

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**c. 33****Part 3 – Miscellaneous**

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- (b) the exemption will not compromise safety.
- (4) An exemption may be granted unconditionally or subject to such conditions and limitations as MAST determines.
- (5) MAST, by instrument in writing, may vary or revoke an exemption.
- (6) MAST may grant an exemption, or vary an exemption, on its own initiative or on application.
- (7) An application is to be in accordance with clause 34.
- (8) If MAST refuses an application for an exemption, or for the variation of an exemption, it is to notify the applicant of –
  - (a) the refusal; and
  - (b) the reasons for the refusal; and
  - (c) the applicant's right of review.
- (9) A person who has the benefit of an exemption must comply with the conditions and limitations, if any, of the exemption.

Penalty: Fine not exceeding 20 penalty units.

- (10) An exemption remains in force, subject to any notified variation, until –

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- (a) the day specified in the instrument of exemption as the day on which it expires; or
    - (b) MAST notifies the person or persons having the benefit of the exemption that it has been revoked.
  - (11) The granting of an exemption, or its revocation or variation, may, if the exemption is for a class of persons, class of commercial operations or class (or other group) of vessels, be publicly notified.
  - (12) Notification of the revocation of an exemption is to specify –
    - (a) the reasons for the revocation; and
    - (b) that there is a right of review.

**34. Applications procedure**

An application to MAST in respect of a matter under any of these by-laws is to be in an approved form and must –

- (a) be accompanied by the prescribed fee, if any; and
- (b) be supported by such evidence or information as MAST requires, either at the time of lodgement or subsequently; and

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2010*

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- (c) comply with such additional requirements, if any, as relate, under the relevant by-law, to the specific application.

**35. Replacement of licences**

- (1) MAST may, on application, give a licensee a replacement licence if satisfied that the original has been –
  - (a) stolen, lost or destroyed; or
  - (b) damaged to a degree that renders it unsuitable for use.
- (2) An application is to be in accordance with clause 34.

**36. Validity of MAST notifications**

- (1) MAST is taken to have validly notified a licensee of a matter under these by-laws if notification of the matter is sent to the licensee at the current address as shown on the register.
- (2) In this clause –
  - “**address**” means a person’s postal, fax or email address (or any combination thereof).

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**37. Review of decisions**

A person who is aggrieved by a decision taken by MAST or by a surveyor or authorised person under these by-laws may apply to the Magistrates Court (Administrative Appeals Division) for a review of that decision.

**38. Savings and transitional**

The savings and transitional provisions in Schedule 1 have effect.

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**SCHEDULE 1 – SAVINGS AND TRANSITIONAL  
PROVISIONS**

Clause 38

**1. Interpretation**

In this Schedule –

“**commencement day**” means the day on which these by-laws take effect;

“**old by-laws**” means the *Marine and Safety (Vessel Safety Standards) By-laws 2000*;

“**subsisting**” means subsisting, or in force and effect, under the old by-laws immediately before the commencement day;

“**subsisting terms**”, of a subsisting licence, includes –

- (a) its subsisting conditions, limitations and exemptions; and
- (b) its subsisting expiry date; and
- (c) if applicable, any uncompleted period of suspension.

**2. Subsisting licences**

- (1) A subsisting hire and drive licence continues in force according and subject to its subsisting



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2010*

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terms as a commercial leisure craft licence under and subject to these by-laws.

- (2) A subsisting training vessel licence continues in force according and subject to its subsisting terms as a commercial training vessel licence under and subject to these by-laws.

**3. Subsisting applications**

- (1) Any subsisting but undetermined application for a hire and drive licence under the old by-laws may, in MAST's discretion –
- (a) be processed and determined as if it were an application for a commercial leisure craft licence under these by-laws; or
  - (b) be taken to have lapsed.
- (2) Any subsisting but undetermined application for a training vessel licence under the old by-laws may, in MAST's discretion –
- (a) be processed and determined as if it were an application for a commercial training vessel licence under these by-laws; or
  - (b) be taken to have lapsed.

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The common seal of the Marine and Safety Authority was  
affixed in pursuance of a resolution of the Authority made at a  
meeting held on 23 September 2010 in the presence of –

.....  
Simon FitzGerald  
**Chairperson**

.....  
Colin Finch  
**Chief Executive**

## TASMANIA

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# MARINE AND SAFETY (FEES) BY-LAWS 2010

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## MARINE AND SAFETY (FEES) BY-LAWS 2010

The Marine and Safety Authority makes the following by-laws under section 42 of the *Marine and Safety Authority Act 1997*.

### 1. Short title

These by-laws may be cited as the *Marine and Safety (Fees) By-laws 2010*.

### 2. Commencement

These by-laws take effect on 27 September 2010.

### 3. Interpretation

(1) In these by-laws –

“**GST**” has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth;

“**invoice**” includes a renewal notice;

“**MAST**” means the Marine and Safety Authority established under section 4 of the *Marine and Safety Authority Act 1997*;

“**travel costs**” means travel costs calculated under Schedule 6 to these by-laws.

(2) In these by-laws, the length of a vessel is to be rounded up to the nearest whole centimetre.

*Marine and Safety (Fees) By-laws 2010***c. 4**

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**4. Fees****(1) The fees in relation to –**

- (a) the *Marine and Safety (Certificates of Competency) By-laws 2002* are specified in Schedule 1 to these by-laws; and
- (b) the *Marine and Safety (Moorings) By-laws 2008* are specified in Schedule 2 to these by-laws; and
- (c) the *Marine and Safety (Motor Boats and Licences) By-laws 2008* are specified in Schedule 3 to these by-laws; and
- (d) the *Marine and Safety (Vessel Survey) By-laws 2010* are specified in Schedule 4 to these by-laws; and
- (e) the *Marine and Safety (Licensed Commercial Operations) By-laws 2010* are specified in Schedule 5 to these by-laws; and
- (f) inspections, audits and other matters under the following by-laws are specified in Schedule 6 to these by-laws:
  - (i) *Marine and Safety (Vessel Survey) By-laws 2010*;
  - (ii) *Marine and Safety (Licensed Commercial Operations) By-laws 2010*.

*Marine and Safety (Fees) By-laws 2010***c. 5**

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- (2) The fees specified in these by-laws are inclusive or exclusive of GST as specified in the Schedule relevant to the fee.

**5. Payment of fees**

- (1) Unless otherwise specified, a fee under these by-laws must be paid within 21 days after an invoice for the fee has been issued.
- (2) If a fee is paid more than 21 days after an invoice has been issued, MAST may charge an additional late fee of 20% of the invoice.
- (3) If more than one visit by a surveyor is made, a separate invoice may be sent for each visit.
- (4) For Part 2 of Schedule 6, if travel occurs on a day other than the day scheduled under the relevant by-laws, the travel rate charged –
- (a) is to be 1.5 fee units per kilometre travelled; and
  - (b) may be divided between vessel owners if more than one vessel is surveyed in that area on that day.

**6. Additional charges**

- (1) MAST may, by invoice, recover costs relating to transport, accommodation and sustenance provided for a person undertaking a survey, audit or inspection of a vessel.

*Marine and Safety (Fees) By-laws 2010*

**c. 6**

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- (2) The person who made the application for the survey, audit or inspection of a vessel is liable to pay any charge recovered under subclause (1).

*Marine and Safety (Fees) By-laws 2010***sch. 1**

**SCHEDULE 1 – MARINE AND SAFETY  
(CERTIFICATES OF COMPETENCY) BY-LAWS 2002**  
Clause 4(1)(a)

**PART 1 – FEES EXCLUSIVE OF GST**

	<b>Item</b>	<b>Fee units</b>
1.	Application for certificate of competency	113
2.	Issue of certificate of competency	76
3.	Application for, and issue of, duplicate certificate of competency	76

**PART 2 – FEES INCLUSIVE OF GST**

	<b>Item</b>	<b>Fee units</b>
1.	Oral examination for Master Class 3 certificate of competency	250
2.	Oral examination for Master Class 4 certificate of competency	250
3.	Oral examination for Mate Class 4 certificate of competency	250
4.	Oral examination for Master Class 5/Skipper Grade 3 certificate of competency	250
5.	Oral examination for Skipper Grade 1 certificate of competency	250



*Marine and Safety (Fees) By-laws 2010***sch. 1**

	<b>Item</b>	<b>Fee units</b>
6.	Oral examination for Skipper Grade 2 certificate of competency	250
7.	Oral examination for Coxwain certificate of competency	84
8.	Oral examination for Marine Engineer Class 3 certificate of competency	250
9.	Oral examination for Marine Engine Driver Grade 1 certificate of competency	250
10.	Oral examination for Marine Engine Driver Grade 2 certificate of competency	167
11.	Oral examination for Marine Engine Driver Grade 3 certificate of competency	125
12.	Fee per candidate for examiner to attend oral examination at Australian Maritime College	84
13.	Per kilometre fee for examiner to attend oral examination at a location other than the Australian Maritime College	1.5
14.	Revalidation of certificate of competency	84
15.	Renewal of certificate of competency	84
16.	Amendment or removal of restriction on certificate of competency	84
17.	Assessment of ROPES book	167

*Marine and Safety (Fees) By-laws 2010***sch. 1**

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	<b>Item</b>	<b>Fee units</b>
18.	Written statement relating to candidate meeting STCW 1995 Convention requirements	84
19.	Endorsement of certificate of competency	84
20.	Recognition of certificate of competency	84
21.	Temporary service permit	84

*Marine and Safety (Fees) By-laws 2010***sch. 2****SCHEDULE 2 – MARINE AND SAFETY (MOORINGS)  
BY-LAWS 2008**

		Clause 4(1)(b)
	<b>Item</b>	<b>Fee units</b>
1.	Application for permit	34
2.	Issue of permit	50
3.	Renewal of permit	50
4.	Notice of transfer of permit	17

*Marine and Safety (Fees) By-laws 2010***sch. 3****SCHEDULE 3 – MARINE AND SAFETY (MOTOR BOATS  
AND LICENCES) BY-LAWS 2008**

Clause 4(1)(c)

**PART 1 – FEES EXCLUSIVE OF GST**

	<b>Item</b>	<b>Fee units</b>
1.	Application for registration of motor boat	10
2.	Issue of certificate of registration for motor boat	50
3.	Renewal of registration of motor boat	50
4.	Notice of transfer of registration	17
5.	Motor boat licence	30
6.	Provisional licence	0
7.	Issue of endorsement for PWC on licence	30
8.	Replacement registration certificate, licence or provisional licence	5
9.	Reissued registration certificate, licence or provisional licence with altered details	5

**PART 2 – FEES INCLUSIVE OF GST**

	<b>Item</b>	<b>Fee unit</b>
1.	Examination for licence to drive motor boat	11

*Marine and Safety (Fees) By-laws 2010***sch. 3**

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	<b>Item</b>	<b>Fee unit</b>
2.	Examination for provisional licence to drive motor boat	11
3.	Examination for endorsement for PWC	11
4.	Replacement registration label for motor boat	5.5

*Marine and Safety (Fees) By-laws 2010***sch. 4****SCHEDULE 4 – MARINE AND SAFETY (VESSEL  
SURVEY) BY-LAWS 2010**

Clause 4(1)(d)

**PART 1 – CERTIFICATE OF SURVEY FEES  
INCLUSIVE OF GST**

	<b>Item</b>	<b>Fee units (per hour or part hour)</b>
1.	Application for a certificate of survey for a new vessel –	
	(a) for design approval of plans if vessel is to be classified by a classification society;	84
	(b) for design approval of plans in any other case;	84
	(c) for each construction inspection of the vessel;	84
	(d) for assessment of dangerous cargo requirements of the vessel;	84
	(e) for stability test witnessing, and assessment of stability presentation, of the vessel;	84
	(f) for operational trials of the vessel	84
2.	Application for a certificate of survey for an existing vessel –	

*Marine and Safety (Fees) By-laws 2010***sch. 4**

	<b>Item</b>	<b>Fee units (per hour or part hour)</b>
	(a) for design approval of plans if vessel is classified by a classification society;	84
	(b) for design approval of plans in any other case;	84
	(c) for each construction inspection of the vessel;	84
	(d) for assessment of dangerous cargo requirements of the vessel;	84
	(e) for stability test witnessing, and assessment of stability presentation, of the vessel;	84
	(f) for operational trials of the vessel	84
3.	Application for a certificate of survey for a vessel that is being significantly modified –	
	(a) for design approval of plans if vessel is classified by a classification society;	84
	(b) for design approval of plans in any other case;	84
	(c) for each construction inspection of the vessel;	84

*Marine and Safety (Fees) By-laws 2010***sch. 4**

	<b>Item</b>	<b>Fee units (per hour or part hour)</b>
	(d) for assessment of dangerous cargo requirements of the vessel;	84
	(e) for assessment of loading requirements of the vessel;	84
	(f) for stability test witnessing, and assessment of stability presentation, of the vessel;	84
	(g) for operational trials of the vessel.	84
4.	Variation of design submitted for design approval	84
5.	Construction inspection of significant repair that is not a significant modification	84
6.	Issue of International Oil Pollution Prevention certificate	51
7.	Issue of Load Line certificate	51



*Marine and Safety (Fees) By-laws 2010*

sch. 4

**PART 2 – PERIODIC INSPECTION FEES INCLUSIVE  
OF GST*****Division 1 – Vessels 0 – 7.49 metres in length***

	<b>Item being inspected as part of periodic inspection of vessel 0 – 7.49 metres in length</b>	<b>Fee units (per item)</b>
1.	Equipment, hull internal and external inspection and machinery trial	45
2.	Shipshape valves inspection	12
3.	Propeller shaft and associated running gear inspection	12
4.	Rudder and stock and associated components	12
5.	Tank inspection – fuel or oil	17
6.	Ballast tank	12
7.	Void space or tank inspection	12
8.	Working gear test	17

***Division 2 – Vessels 7.5 – 11.99 metres in length***

	<b>Item being inspected as part of periodic inspection of vessel 7.5 – 11.99 metres in length</b>	<b>Fee units (per item)</b>
1.	Equipment and hull internal and external inspection	62

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	<b>Item being inspected as part of periodic inspection of vessel 7.5 – 11.99 metres in length</b>	<b>Fee units (per item)</b>
2.	Out of water hull and shipside valve inspection	45
3.	Machinery trial	17
4.	Propeller shaft and associated running gear inspection	17
5.	Rudder and stock and associated components inspection	12
6.	Tank inspection – water	17
7.	Tank inspection – fuel or oil	17
8.	Pressure vessel inspection	12
9.	Void space or tank inspection	17
10.	Safety or relief valve inspection and witness testing of valve	15
11.	Anchor, cable and cable locker inspection	17
12.	Steering gear inspection	17
13.	Working gear test	17

***Division 3 – Vessels 12– 23.99 metres in length***

	<b>Item being inspected as part of periodic inspection of vessel 12 – 23.99 metres in length</b>	<b>Fee units (per item)</b>
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*Marine and Safety (Fees) By-laws 2010***sch. 4**

	<b>Item being inspected as part of periodic inspection of vessel 12 – 23.99 metres in length</b>	<b>Fee units (per item)</b>
1.	Equipment and hull internal and external inspection	78
2.	Out of water hull and shipside valve inspection	50
3.	Machinery trial	18
4.	Propeller shaft and associated running gear inspection	22
5.	Rudder and stock and associated components inspection	22
6.	Tank inspection – water	17
7.	Tank inspection – fuel or oil	17
8.	Pressure vessel inspection	17
9.	Void space or tank inspection	22
10.	Safety or relief valve inspection and witness testing of valve	22
11.	Anchor, cable and cable locker inspection	22
12.	Steering gear inspection	17
13.	Working gear test	22

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<b><i>Division 4 – Vessels 24 – 29.99 metres in length</i></b>		
	<b>Item being inspected as part of periodic inspection of vessel 24 – 29.99 metres in length</b>	<b>Fee units (per item)</b>
1.	Equipment and hull internal and external inspection	111
2.	Out of water hull and shipside valve inspection	94
3.	Machinery trial	34
4.	Propeller shaft and associated running gear inspection	39
5.	Rudder and stock and associated components inspection	29
6.	Tank inspection – water	29
7.	Tank inspection – fuel or oil	29
8.	Pressure vessel inspection	29
9.	Void space or tank inspection	29
10.	Safety or relief valve inspection and witness testing of valve	29
11.	Anchor, cable and cable locker inspection	50
12.	Steering gear inspection	34
13.	Working gear test	34

*Marine and Safety (Fees) By-laws 2010***sch. 4**


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<i><b>Division 5 – Vessels 30 metres or more</b></i>		
	<b>Item being inspected as part of periodic inspection of vessel 30 metres or more</b>	<b>Fee units (per item)</b>
1.	Equipment and hull internal and external inspection	134
2.	Out of water hull and shipside valve inspection	100
3.	Machinery trial	34
4.	Propeller shaft and associated running gear inspection	39
5.	Rudder and stock and associated components inspection	29
6.	Tank inspection – water	39
7.	Tank inspection – fuel or oil	39
8.	Pressure vessel inspection	29
9.	Void space or tank inspection	39
10.	Safety or relief valve inspection and witness testing of valve	29
11.	Anchor, cable and cable locker inspection	50
12.	Steering gear inspection	34
13.	Working gear test	34

*Marine and Safety (Fees) By-laws 2010***sch. 4*****Division 6 – Miscellaneous periodic inspection fees***

	<b>Miscellaneous periodic inspection fees</b>	<b>Fee units</b>
1.	Additional fee for inspection past standard inspection time	1.5 per additional minute
2.	Inspection of other machinery or component not otherwise covered under this Part	1.5 per minute
3.	Periodic inspection of a vessel holding classification society certification	25% of registration fee shown in Part 3 of this Schedule plus inspection fees shown in Part 2 of this Schedule plus travel costs

**PART 3 – REGISTRATION FEES, EXCLUSIVE OF GST**

	<b>Vessel length (metres)</b>	<b>Class 1, 2 or 3 (fee units per annum)</b>	<b>Class 4 (fee units per annum)</b>
1.	0 – 3.99	194	58
2.	4 – 4.99	230	75
3.	5 – 5.99	273	138
4.	6 – 7.99	291	150
5.	8 – 8.99	828	173

*Marine and Safety (Fees) By-laws 2010***sch. 4**

	<b>Vessel length (metres)</b>	<b>Class 1, 2 or 3 (fee units per annum)</b>	<b>Class 4 (fee units per annum)</b>
6.	9 – 9.99	364	208
7.	10 – 11.99	419	276
8.	12 – 14.99	425	288
9.	15 – 17.99	545	329
10.	18 – 20.99	697	345
11.	21 – 23.99	909	460
12.	24 – 26.99	1091	-
13.	27 – 29.99	1212	-
14.	30 or more	1454	-

**PART 4 – MISCELLANEOUS FEES*****Division 1 – Miscellaneous fees inclusive of GST***

	<b>Item</b>	<b>Fee units</b>
1.	Inspection of vessel to validate an external certificate of survey	84 per hour plus travel costs
2.	Issue of towage permit	84 per hour plus travel costs
3.	Duplicate certificate of survey or registration label	49

*Marine and Safety (Fees) By-laws 2010***sch. 4**

	<b>Item</b>	<b>Fee units</b>
4.	Reissue of certificate of survey	49
5.	Variation of certificate of survey	84 per hour of inspection plus reissue of certificate of survey specified in item 4 plus travel costs
6.	Application to retrieve information from MAST records	24
7.	Copy of information from MAST records	84 per hour or part hour

***Division 2 – Miscellaneous fees exclusive of GST***

	<b>Item</b>	<b>Fee units</b>
1.	Issue of exemption	76 per hour or part hour plus travel costs
2.	Issue of extended operations permit	76 per hour or part hour plus travel costs
3.	Removal of suspension from certificate of survey, certificate of registration or commercial leisure craft licence	44



*Marine and Safety (Fees) By-laws 2010***sch. 5****SCHEDULE 5 – MARINE AND SAFETY (LICENSED  
COMMERCIAL OPERATIONS) BY-LAWS 2010**

Clause 4(1)(e)

	<b>Item</b>	<b>Fee Units (inclusive of GST)</b>
1.	Licence fee where the length of the largest vessel in the operation is –	
	(a) 0 – 5.99 metres; or	167
	(b) 6 – 7.99 metres; or	250
	(c) 8 – 17.99 metres; or	334
	(d) 18 – 23.99 metres; or	443
	(e) 24 metres or more	443
2.	Fee for each additional vessel over 12 recorded on the licence where the length of the additional vessel is –	
	(a) 0 – 5.99 metres; or	14
	(b) 6 – 7.99 metres; or	21
	(c) 8 – 17.99 metres; or	28
	(d) 18 – 23.99 metres; or	40
	(e) 24 metres or more	40

*Marine and Safety (Fees) By-laws 2010***sch. 6****SCHEDULE 6 – AUDIT AND INSPECTION FEES**

Clause 4(1)(f)

**PART 1 – AUDIT AND INSPECTION FEES,  
INCLUSIVE OF GST**

	<b>Item</b>	<b>Fee units</b>
1.	Audits or inspections conducted on –	
	(a) Monday to Friday; or	84 per hour or part hour plus travel costs
	(b) Saturday; or	167 per hour or part hour plus travel costs
	(c) Sunday or a statutory holiday under the <i>Statutory Holidays Act 2000</i>	250 per hour or part hour plus travel costs
2.	Fee for keeping surveyor waiting at prescribed time	64 per hour or part hour
3.	Failure to attend audit or inspection at prescribed time	64 per hour, or part hour, that the audit or inspection was scheduled to take plus travel costs
4.	Late cancellation of audit or inspection	64 per hour, or part hour, that the audit or inspection was scheduled to take plus travel costs

*Marine and Safety (Fees) By-laws 2010***sch. 6**


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<b>PART 2 – TRAVEL FEES, INCLUSIVE OF GST</b>		
	<b>Scheduled travel area</b>	<b>Fee units</b>
		<b>(per boat per scheduled day)</b>
1.	Hobart/Bridgewater/South Arm/Kingston	33
2.	Margate/Kettering/Gordon	54
3.	Burnie/Wynyard	49
4.	Stanley/Smithton/Port Latta	65
5.	Marrawah/Couta Rocks/Temma/Corinna	108
6.	Ulverstone/Devonport/Port Sorell	44
7.	Launceston/Bell Bay/Bridport	54
8.	Orford/Triabunna	54
9.	Dunalley/Port Arthur/Nubeena	57
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The common seal of the Marine and Safety Authority was affixed in pursuance of a resolution of the Authority made at a meeting held on 23 September 2010 in the presence of –

.....  
Simon FitzGerald  
**Chairperson**

.....  
Colin Finch  
**Chief Executive**

## TASMANIA

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# MARINE AND SAFETY (VESSEL SURVEY) BY-LAWS 2010

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## MARINE AND SAFETY (VESSEL SURVEY) BY-LAWS 2010

The Marine and Safety Authority makes the following by-laws under section 42 of the *Marine and Safety Authority Act 1997*.

### PART 1 – PRELIMINARY

#### 1. Short title

These by-laws may be cited as the *Marine and Safety (Vessel Survey) By-laws 2010*.

#### 2. Commencement

These by-laws take effect on 27 September 2010.

#### 3. Interpretation

(1) In these by-laws –

“**Act**” means the *Marine and Safety Authority Act 1997*;

“**approved**” means approved by MAST;

“**approved passenger-carrying capacity**” means the maximum number of passengers that a vessel is permitted to carry, as specified in its certificate of survey;

“**authorised navigation limits**” means the navigation limits within which a vessel

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may be lawfully operated, as specified on its certificate of survey;

**“authorised person”** means a person who –

- (a) is appointed under section 44 of the Act for the purposes of these by-laws; or
- (b) is a member of a class of persons appointed under section 44 of the Act for the purposes of these by-laws;

**“authorised society”** means a society or body authorised or approved by MAST;

**“certificate”** means a certificate of survey;

**“certificate of survey”** – see clause 10;

**“class”**, of vessel – see subclause (3);

**“classification society”** means a society that is a member of the International Association of Classification Societies (IACS);

**“construction inspection”** means an inspection under Division 1 of Part 4;

**“crew”** means all of the persons carried on a vessel for the purposes of –

- (a) commanding the vessel; and
- (b) operating and maintaining the vessel; and

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- 
- (c) providing services to other persons on the vessel;

**“deficiency”** means a defect or omission that a surveyor finds with a vessel or procedure during a survey inspection;

**“design approval”** means the approval of a vessel design by MAST after the assessment of vessel plans, specifications and data sheets in accordance with Part 3;

**“equivalent design standard”**, in relation to any matter, means a standard, code, guideline or rule that, in MAST’s estimation, provides an equivalent means of achieving the outcomes required for that matter under these by-laws;

**“equivalent solution”** has the same meaning as in clause 2.7.2 of Part B of the NSCV;

**“exempt”** means exempt under clause 93 and “exemption” has a corresponding meaning;

**“external certificate of survey”** means a certificate of survey (however described) that –

- (a) is issued, granted or conferred by an external regulator; and
- (b) confers on its holder or the relevant vessel, in that external regulator’s jurisdiction, the same

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or substantially the same status as a certificate of survey under these by-laws;

**“external regulator”** means –

- (a) any agency of another State, a Territory or the Commonwealth having responsibilities similar to those of MAST; or
- (b) any agency in a foreign country that, under any laws in force in that country or in any constituent part or dependency of that country, has responsibilities similar to those of MAST;

**“IMO”** means the International Maritime Organization;

**“inspection”** means an inspection of a vessel done by MAST, through the agency of a surveyor;

**“in survey”** – see clause 6;

**“length”**, of a vessel, means its measured length within the meaning of the NSCV;

**“Load Lines Convention”** mean the International Convention on Load Lines 1966 of the IMO, as from time to time amended;

**“machinery”**, of a vessel, means its mechanical and electrical equipment

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(including the boilers, pressure vessels, hydraulics, refrigeration equipment, engines, pumps, and electrical and ancillary equipment used in the operation of the vessel);

“**MAST**” means the Authority;

“**minimum manning level**” means the minimum number of crew members that a vessel is required to have on board to operate safely;

“**National Marine Safety Committee**” means the intergovernmental committee of that name established and formalised by an intergovernmental agreement between the Commonwealth, the various States and the Northern Territory signed on 7 November 1997;

“**nominal survey date**”, for a vessel – see clause 64(4)(b);

“**notify**” means notify in writing;

“**NSAMS**” means the *National Standard for Administration of Marine Safety* published by the National Maritime Safety Committee, as from time to time amended;

“**NSCV**” means the *National Standard for Commercial Vessels* published by the National Maritime Safety Committee, as from time to time amended;

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**“operate”**, a vessel, includes navigate the vessel;

**“operation”** includes intended operation;

**“operational trial”** – see clause 62;

**“passengers”** means all of the persons on a vessel other than –

- (a) its master or other crew members; and
- (b) special personnel within the meaning of the *Marine and Safety (Safe Operation) Regulations 2003*; and
- (c) children who have not attained the age of one year;

**“periodic inspection”** means an inspection under Division 2 of Part 4;

**“personal particulars”** means a person’s –

- (a) name and postal address; and
- (b) telephone and fax numbers; and
- (c) email address;

**“prescribed fee”**, for any matter, means the fee prescribed in the *Marine and Safety (Fees) By-laws 2010* for that matter;

**“random inspection”** means an inspection under Division 3 of Part 4;

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**“Register”** means the register kept under clause 78;

**“registration label”**, for a vessel, means the label issued to its owner under clause 19(1);

**“registration number”**, of a vessel, means the number assigned to it under clause 19(1);

**“relevant vessel”**, in relation to a certificate of survey, label or registration, means the vessel to which the certificate, label or registration relates;

**“right of review”** means a right of review under clause 97;

**“significant modification”**, of a vessel, means any change to the hull, superstructure, rig or machinery that alters the dimensions, shape, strength, stability or performance of the vessel;

**“significant repair”**, of a vessel, means any repair that, whilst being carried out, renders the vessel unsafe to operate;

**“special craft”** means a vessel that meets the requirements of Part F of the NSCV;

**“State government vessel”** means a vessel used by the State Crown or any agency or instrumentality of the State Crown for or in connection with the exercise or



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performance of a lawful power, function or duty;

**“survey anniversary date”**, in relation to a vessel, means the nominal annual date on which its next periodic inspection falls due;

**“survey compliance report”** – see clause 63;

**“survey inspection”** means –

- (a) a construction inspection; or
- (b) a periodic inspection; or
- (c) a random inspection;

**“surveyor”**, in relation to a survey inspection, means a marine surveyor approved by MAST;

**“survey program”**, in relation to a vessel, means a planned routine of periodic inspections of the vessel;

**“Tasmanian survey requirements”** means the design approval requirements, design requirements, personnel safety requirements, loading requirements, stability requirements and equipment requirements set out in Part 3;

**“USL Code”** means the Uniform Shipping Law Code 1984 as promulgated by the Australian Transport Council;

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## c. 3

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**“vessel construction representative”**, for a vessel, means the person nominated by the vessel owner, designer, builder or contract manager as the person with whom MAST and its surveyors should liaise in relation to construction inspections and operational trials of the vessel;

**“vessel design representative”** means the person nominated in an application for design approval as the person with whom MAST should liaise in relation to the design approval;

**“vessel stability booklet”** means a booklet that sets out a vessel’s stability information;

**“vessel survey record book”** means a book, provided by MAST, that is placed on board a vessel so as to –

- (a) provide the vessel owner with information relevant to these by-laws; and
- (b) provide a historical record of the vessel’s survey inspections and operational trials; and
- (c) provide a record of declarations relating to the vessel’s survey status and operational use.

(2) In these by-laws –

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**“coastal and middle waters”** means the coastal waters specified in item 4 of Schedule 3 to the *Marine and Safety (Definition of Operational Areas) By-laws 2003*;

**“inland waters”** means –

- (a) estuarine waters; or
- (b) any waters not directly connected to the ocean;

**“operational area”** means an area within the limits specified in the *Marine and Safety (Definition of Operational Areas) By-laws 2003*;

**“prescribed port”** means a port whose limits are specified in Schedule 1 to the *Marine and Safety (Definition of Operational Areas) By-laws 2003*;

**“sheltered waters”** means the waters whose limits are specified in Schedule 2 to the *Marine and Safety (Definition of Operational Areas) By-laws 2003*.

- (3) A reference in these by-laws to a class of vessels by number is a reference to the class of vessels of that number within Chapter 3 of Part B of the NSCV.

#### 4. Application of by-laws

These by-laws apply to –

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**c. 4**

- 
- (a) vessels operated for commercial purposes connected to the State; and
  - (b) vessels operated in conjunction with a commercial purpose; and
  - (c) State government vessels.

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Part 2 – Vessel Survey

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**PART 2 – VESSEL SURVEY*****Division 1 – General survey requirements*****5. Vessels operating for commercial purposes to be in survey**

- (1) The owner of a vessel must not operate the vessel for a commercial purpose, or cause or allow the vessel to be operated for a commercial purpose, unless the vessel is in survey.

Penalty: Fine not exceeding 20 penalty units.

- (2) The master of a vessel must not operate the vessel for a commercial purpose if he or she knows that the vessel is not in survey.

Penalty: Fine not exceeding 20 penalty units.

- (3) The owner of a State government vessel is not to operate the vessel, or cause or allow the vessel to be operated, unless the vessel is in survey.

**6. Meaning of “in survey”**

For the purposes of these by-laws, a vessel is taken to be in survey if its owner holds, for the vessel, a valid certificate of survey issued by MAST.

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## c. 7

**7. Bringing new vessels into survey**

- (1) This clause applies to newly constructed vessels.
- (2) MAST may, on application, issue to the owner of a vessel a certificate of survey for the vessel if –
  - (a) the application is in accordance with clause 94; and
  - (b) MAST is satisfied that the vessel complies with Tasmanian survey requirements; and
  - (c) MAST is satisfied, on the basis of a survey compliance report, that the vessel has –
    - (i) undergone and passed the required construction inspections; and
    - (ii) undergone and passed any required operational trials.

**8. Bringing existing vessels into or back into survey**

- (1) This clause applies to existing vessels that –
  - (a) have, for whatever reason, never been in survey in Tasmania; or
  - (b) are not in survey in Tasmania but have been so at some time.

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- (2) MAST may, on application, issue to the owner of a vessel a certificate of survey for the vessel if –
- (a) the application is in accordance with clause 94; and
  - (b) MAST is satisfied that the vessel complies with Tasmanian survey requirements; and
  - (c) MAST is satisfied, on the basis of a survey compliance report, that the vessel has –
    - (i) undergone and passed the required construction inspections; and
    - (ii) undergone and passed any required operational trials.

**9. Keeping vessels in survey**

- (1) This clause applies to vessels that are in survey.
- (2) To remain in survey –
  - (a) a vessel must –
    - (i) continue to comply with Tasmanian survey requirements; and

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## Part 2 – Vessel Survey

## c. 9

- 
- (ii) undergo and pass the required periodic inspections according to an approved survey program; and
    - (iii) undergo and pass any random inspections; and
  - (b) if any significant modification is made to the vessel –
    - (i) MAST must be satisfied that the significant modification complies with Tasmanian survey requirements; and
    - (ii) MAST must be satisfied, on the basis of a survey compliance report, that the vessel has –
      - (A) undergone and passed the required construction inspections in respect of the significant modification; and
      - (B) undergone and passed any required operational trials; and
  - (c) if any significant repair (not being a significant modification) is made to the vessel, MAST must be satisfied, on the basis of a survey compliance report, that the vessel has –
    - (i) undergone and passed the required construction inspections



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in respect of the significant repair; and

- (ii) undergone and passed any required operational trials.

***Division 2 – Certificates of survey*****10. Form, &c, of certificates of survey**

- (1) A certificate of survey –

- (a) is to be in an approved form; and
- (b) may be issued subject to such conditions and limitations as MAST determines; and
- (c) may contain such information as MAST determines.

- (2) However, a certificate of survey must specify at least the following:

- (a) the class of the vessel;
- (b) the conditions and limitations, if any, determined under subclause (1);
- (c) the minimum manning level of the relevant vessel;
- (d) if applicable, the approved passenger-carrying capacity of the relevant vessel;
- (e) the authorised navigation limits of the relevant vessel;

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- 
- (f) any exemptions granted in respect of the relevant vessel;
  - (g) any equivalent solution relied on for the vessel to comply with the Tasmanian survey requirements.

**11. Validity of certificates of survey**

Except as these by-laws otherwise provide, and subject to the payment of any prescribed fees, a certificate of survey remains valid until MAST notifies the owner otherwise.

**12. Refusal of applications for certificates of survey**

If MAST refuses an application for a certificate of survey, it is to notify the applicant of –

- (a) the refusal; and
- (b) the reasons for the refusal; and
- (c) the right of review.

***Division 3 – Withdrawal from survey*****13. Power of MAST to withdraw vessels from survey**

- (1) MAST may withdraw a vessel from survey, either temporarily or permanently.
- (2) MAST withdraws a vessel from survey temporarily by suspending the relevant

*Marine and Safety (Vessel Survey) By-laws 2010***c. 14****Part 2 – Vessel Survey**

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certificate of survey in accordance with clause 14.

- (3) MAST withdraws a vessel from survey permanently by cancelling the relevant certificate of survey in accordance with clause 14.

**14. Suspension and cancellation of certificates of survey**

- (1) MAST may suspend or cancel a vessel's certificate of survey if it is satisfied on reasonable grounds that –
- (a) the vessel owner has failed to arrange a required survey inspection for the vessel; or
  - (b) the vessel has not undergone a required survey inspection; or
  - (c) the vessel has not passed a required survey inspection; or
  - (d) a prescribed fee for or relating to a certificate of survey or survey inspection for the vessel has not been paid; or
  - (e) the vessel owner or any agent of the vessel owner has obstructed a surveyor or authorised person in any way that throws doubt on the condition of the vessel or the nature or safety of its operations; or

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## Part 2 – Vessel Survey

## c. 14

- 
- (f) a condition, limitation or exemption of the certificate of survey has been contravened in a material way; or
  - (g) the vessel owner or any other person has given false or misleading information to MAST or a surveyor or authorised person concerning any matter relevant to the vessel's survey status; or
  - (h) the vessel has been involved in an incident that has rendered it unsafe to operate; or
  - (i) the vessel has been destroyed or irreparably damaged; or
  - (j) the vessel has left the State, either permanently or for an extended period; or
  - (k) the suspension is otherwise necessary in the interests of safety.
- (2) If MAST suspends or cancels a certificate of survey, it is to notify the relevant vessel owner of –
- (a) the suspension or cancellation; and
  - (b) the reasons for the suspension or cancellation; and
  - (c) the vessel owner's right of review.
- (3) The suspension or cancellation takes effect on such date as MAST specifies in the notice under subclause (2).

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- (4) MAST may consult the relevant vessel owner before suspending or cancelling a certificate of survey but is not obliged to do so if it reasonably considers that the suspension or cancellation should be effected urgently in the interests of safety.
- (5) MAST may, by notice and on payment of the prescribed fee, revoke the suspension at any time –
  - (a) if it is satisfied that the issues that triggered the suspension have been appropriately addressed, rectified or resolved; or
  - (b) for any other reason it considers sufficient.
- (6) A suspended certificate of survey is invalid during the period of suspension, and the relevant vessel is taken not to be in survey.
- (7) MAST may give such persons such notice of the suspension or cancellation of a certificate of survey as it thinks necessary or expedient.

**15. Suspension of in-survey status by owners**

- (1) The owner of a vessel in survey may suspend its in-survey status for any period not exceeding 2 years by –
  - (a) making a signed and dated declaration to that effect in the vessel survey record book; and

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## Part 2 – Vessel Survey

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- 
- (b) notifying MAST of the suspension.
  - (2) The owner of a vessel that has had its in-survey status temporarily suspended under subclause (1) may revoke that suspension at any time by –
    - (a) making a signed and dated declaration to that effect in the vessel survey record book; and
    - (b) notifying MAST of the revocation.
  - (3) While a vessel's in-survey status is suspended under subclause (1) –
    - (a) the vessel is taken not to be in survey; and
    - (b) the relevant certificate of survey is taken to be invalid; and
    - (c) no fees are payable in respect of the certificate of survey in respect of the period of suspension.
  - (4) When the suspension of a vessel's in-survey status under subclause (1) expires or is sooner revoked –
    - (a) the vessel, if still in existence, is taken to have been brought back into survey subject to these by-laws; and
    - (b) the validity of the relevant certificate of survey is taken to have been restored subject to these by-laws.

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- (5) A period of suspension under subclause (1) is not capable of being extended.
- (6) Once a period of suspension under subclause (1) has ended, the in-survey status of the relevant vessel is not capable of being suspended again under that subclause until a period of 6 months has passed.

**16. Withdrawal of vessels from survey by owners**

- (1) The owner of a vessel may withdraw it from survey by –
  - (a) making a signed and dated declaration to that effect in the vessel survey record book; and
  - (b) notifying MAST of the withdrawal from survey; and
  - (c) surrendering to MAST (in conjunction with the notification) –
    - (i) the relevant vessel survey book; and
    - (ii) the relevant certificate of survey.
- (2) The withdrawal of the vessel from survey does not preclude it being subsequently brought back into survey subject to and in accordance with these by-laws.

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## Part 2 – Vessel Survey

c. 17

***Division 4 – Recognition*****17. Recognition of external certificates of survey**

- (1) For the purposes of these-by-laws, MAST may recognise an external certificate of survey.
- (2) Notwithstanding clause 5, a recognised external certificate of survey has the same force and effect in this State, according to its terms, as a certificate of survey under these by-laws.

**18. Withdrawal of recognition**

- (1) MAST may withdraw its recognition of an external certificate of survey if it reasonably considers that –
  - (a) the external certificate of survey no longer confers on its holder or the relevant vessel the same or substantially the same status as a certificate of survey under these by-laws; or
  - (b) the base of operations of the relevant vessel has moved to Tasmania or most of its operations are being conducted in or from Tasmania; or
  - (c) the relevant vessel has not passed, in the relevant external regulator's jurisdiction, an inspection in the nature of a survey inspection; or



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- (d) the requirements for obtaining or retaining the external certificate of survey no longer match or substantially match Tasmanian survey requirements; or
  - (e) the withdrawal may be necessary on other grounds.
- (2) If subclause (1) applies, MAST is to notify the holder of the external certificate of survey of –
  - (a) the withdrawal of recognition; and
  - (b) the reason for the withdrawal of recognition; and
  - (c) the right of review.

***Division 5 – Vessel registration*****19. Registration numbers and labels**

- (1) On issuing a certificate of survey, MAST is to –
  - (a) assign a number to the relevant vessel (“registration number”); and
  - (b) issue to the vessel owner a label for the relevant vessel (“registration label”).
- (2) The registration label –
  - (a) is to be in an approved form; and
  - (b) is valid for 12 months from its date of issue but, subject to the vessel remaining

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## Part 2 – Vessel Survey

## c. 19

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in survey, is from time to time replaceable on payment of a prescribed fee to MAST.

- (3) The owner of a vessel must not operate the vessel, or cause or allow it to be operated, unless the registration label is prominently displayed on –
- (a) the superstructure of the vessel; or
  - (b) the hull of the vessel, above the waterline.

Penalty: Fine not exceeding 5 penalty units.

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**PART 3 – TASMANIAN SURVEY REQUIREMENTS*****Division 1 – Design approval requirements******Subdivision 1 – Vessels requiring design approval*****20. Design approval – new vessels**

Unless MAST grants an exemption, a new vessel requires design approval for it to be brought into survey if it is –

- (a) a vessel of or exceeding 6 metres in length; or
- (b) a vessel not exceeding 6 metres in length of unique design.

**21. Design approval – existing vessels**

- (1) Unless MAST grants an exemption, an existing vessel requires design approval for it to be brought into survey.
- (2) MAST is not to grant an exemption from subclause (1) if it not satisfied that a visual assessment of the vessel could reasonably satisfy a surveyor that the design of the vessel is sound.

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## Part 3 – Tasmanian Survey Requirements

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**22. Design approval – significant modifications to vessels**

Unless MAST grants an exemption, a significant modification to a vessel in survey requires design approval for the vessel to remain in survey.

*Subdivision 2 – Applying for design approval***23. Applications for design approval**

- (1) An application for design approval is to –
  - (a) be made to MAST; and
  - (b) be in accordance with clause 94; and
  - (c) nominate a vessel design representative; and
  - (d) specify, for the relevant vessel –
    - (i) the proposed class of the relevant vessel; and
    - (ii) the proposed area of operation; and
    - (iii) the minimum manning level; and
    - (iv) if applicable, the planned passenger-carrying capacity.
- (2) An applicant is to submit at least 4 copies of the attachments to an application (so as to enable MAST to retain at least one copy of the

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attachments, and for approved copies of the attachments to be made available to the owner and the builder or repairer, as applicable).

(3) In this clause –

“**attachments**”, to an application, means the plans, specifications and data sheets.

**24. Further information – vessels constructed under class**

(1) This clause applies to an application for design approval for –

- (a) a new vessel that is to be (or is being) constructed under class; or
- (b) an existing vessel that is classed.

(2) The application is to –

- (a) nominate the certifying classification society; and
- (b) be accompanied by a copy of a general arrangement approved by the nominated certifying classification society; and
- (c) be accompanied by documentation stating the scope and limitations of the design approval by the nominated certifying classification society.

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- (1) This clause applies to an application for design approval for –
  - (a) a new vessel that is proposed to be (or is being) constructed in compliance with the NSCV; or
  - (b) an existing vessel that has been constructed in compliance with the NSCV.
- (2) The application is to identify –
  - (a) any areas where the design or equipment varies from the NSCV; and
  - (b) the design rules used in relation to those areas.

**26. Variation of proposed designs**

- (1) If a design for which design approval has been applied for is varied before the application is determined, the nominated vessel design representative is to ensure that –
  - (a) the date of the variation is recorded; and
  - (b) each plan and specification affected by the variation is amended accordingly; and

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- (c) a copy of each plan and specification so amended is submitted to MAST for consideration as part of the design approval process.
- (2) An applicant for design approval must, if MAST so requires, pay MAST a prescribed fee for considering any variation of that design.

***Subdivision 3 – Processing of applications*****27. Determination of applications**

- (1) On receipt of an application for design approval MAST is to –
  - (a) consider the application; and
  - (b) have the design assessed by an authorised person.
- (2) Following the assessment, MAST may –
  - (a) grant the design approval unconditionally; or
  - (b) grant the design approval subject to conditions; or
  - (c) refuse to grant the design approval.
- (3) For the purposes of subclause (2)(a) and (b), MAST may recognise the design approval of an authorised society or external regulator.
- (4) If subclause (2)(a) applies, MAST is to –

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- (a) notify the applicant of the design approval; and
    - (b) return all plans and specifications to the applicant or the nominated vessel design representative (except for one complete set for retention in MAST's records).
  - (5) If subclause (2)(b) or (c) applies, MAST is to –
    - (a) notify the applicant of –
      - (i) the refusal or conditional approval; and
      - (ii) the reasons for the refusal or conditional approval; and
      - (iii) the right of review; and
    - (b) return all plans and specifications to the applicant or the nominated vessel design representative (except for one complete set for retention in MAST's records).
  - (6) A returned plan is to be marked either “approved”, “approved subject to conditions” or “not approved”, as appropriate.

**28. Confidentiality of vessel plans and specifications**

- (1) The plans and specifications regarding a vessel design that are provided to MAST with an application for design approval are to be treated in confidence.



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- (2) MAST may only release the plans and specifications to –
- (a) an authorised person, for the purposes of assessing the design; or
  - (b) a surveyor, for the purposes of a construction inspection; or
  - (c) an external regulator or authorised society that has agreed to be bound by these confidentiality requirements; or
  - (d) the vessel owner; or
  - (e) a person nominated by the vessel owner or nominated vessel design representative.
- (3) A person who, pursuant to subclause (2), asks to be provided with a copy of the plans and specifications, or for a third party to be provided with a copy of the plans and specifications, must, if MAST so requires, pay MAST a prescribed fee.

**29. Design approval – identical and similar vessels**

MAST may determine that a vessel does not require design approval if –

- (a) the vessel is or, in the case of a new vessel, will be identical or similar to another vessel that already has design approval; and

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- (b) the Tasmanian survey requirements have not changed since the design of that other vessel was approved.

*Division 2 – Design requirements***30. Design requirements**

- (1) The design is to comply with the requirements of the relevant provisions of Part C of the NSCV.
- (2) Subclause (1) does not apply to a special craft.

**31. Special crafts**

The design and construction of a special craft is taken to meet the Tasmanian survey requirements if the special craft meets the requirements of –

- (a) the relevant provisions of Part C, Section 3 of the NSCV; and
- (b) in the case of –
  - (i) a special craft to which Part F, Subsection 1 of the NSCV applies, the relevant provisions of that subsection; or
  - (ii) a special craft to which Part F, Subsection 2 of the NSCV applies, the relevant provisions of that subsection.

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**32. Lifting gear and fishing apparatus requirements**

- (1) Any fixed or permanent lifting device and associated apparatus (including blocks, sheaves, wires, warps, hooks and strops) are to –
  - (a) be designed to a standard published by MAST for the purpose; and
  - (b) account for both the static and dynamic loads likely to be encountered on the vessel.
- (2) The foundation of any lifting appliance is to be integrated into the vessel structure so that lifting loads are adequately supported.
- (3) The largest heeling movement exerted on a vessel by means of any lifting appliance whilst the vessel is loaded in the most unfavourable loading conditions is part of the stability calculation shown in Division 5.
- (4) Any lifting apparatus is to be –
  - (a) fitted with safety devices to prevent damage to the lifting apparatus, or to any equipment or structures in the adjacent areas; and
  - (b) designed to be failsafe; and
  - (c) permanently affixed with a safe working load plate, after taking into account the circumstances in subclauses (1), (2) and (3).

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- (5) Controls for lifting appliances and fishing apparatus are to be –
- (a) so located as to afford the operator clear visual observation; and
  - (b) so protected, or so placed in a protected position, that the operator is not placed at risk; and
  - (c) so designed as to return to the neutral position when released; and
  - (d) provided with locking arrangements; and
  - (e) so designed that, if a lifting appliance or fishing apparatus is to have multiple controls, the control stations are interlocked or arranged in a manner satisfactory to MAST.
- (6) Any powered lifting apparatus is to be so designed that, if the power is interrupted, the load is locked in position but capable of being manually lowered by special arrangement.
- (7) Any winch drums are to –
- (a) be fitted with brakes that will arrest and hold static the movement of the proof test load; and
  - (b) contain satisfactory arrangements for securing wire ends; and
  - (c) be so designed as to allow wire to be evenly laid on the drum without kinking or burying a turn.

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**33. Dangerous cargo requirements**

A vessel designed to carry dangerous cargoes, including oil, is to be assessed against –

- (a) the *International Maritime Dangerous Goods Code* published by the IMO; or
- (b) Marine Orders, Part 41 (Carriage of dangerous goods) in force under the *Navigation Act 1912* of the Commonwealth; or
- (c) the *Pollution of Waters by Oil and Noxious Substances Act 1987*; or
- (d) an equivalent design standard.

**34. Watertight integrity**

- (1) The watertight integrity of a Class 1 vessel is to comply with the requirements of Section 5C of the USL Code.
- (2) The watertight integrity of a Class 2 vessel or Class 3 vessel is to comply with the requirements of Section 5D of the USL Code

***Division 3 – Personnel safety requirements*****35. Sufficiency of certain USL Code design requirements**

A vessel design is taken to comply with the Tasmanian survey requirements relating to the

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safety of crew and passenger areas if the design complies with Section 5E or Section 6 of the USL Code, whichever is applicable.

**36. Passenger, &c, seating and accommodation requirements**

- (1) If passengers are to be carried, adequate seating is to be provided for each passenger taking into account –
  - (a) the nature and length of expected voyages; and
  - (b) the speed of the vessel; and
  - (c) the safety management plan requirements of the *Marine and Safety (Safe Operation) Regulations 2003*.
- (2) If passengers or crew members are to be carried on overnight or extended voyages, suitable accommodation arrangements are to be provided that take into account –
  - (a) privacy; and
  - (b) comfort; and
  - (c) security; and
  - (d) hygiene; and
  - (e) safety; and

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- (f) the safety management plan requirements of the *Marine and Safety (Safe Operation) Regulations 2003*.

**37. Toilet and washroom requirements**

- (1) Adequate toilets and washrooms are to be provided, according to –
  - (a) the minimum manning level; and
  - (b) if applicable, the approved passenger-carrying capacity.
- (2) A toilet or washroom is to be designed hygienically with –
  - (a) independent ventilation; and
  - (b) impervious floor and lower wall materials; and
  - (c) adequate flush water; and
  - (d) adequately sized and routed pipe work; and
  - (e) fresh running water and hand basins.
- (3) A toilet or wash room is to have adequate privacy and security.
- (4) The location of toilets is not to pose a health risk due to the proximity of passenger berths, galleys or food preparation areas.

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**38. Galley and food area requirements**

Areas that are to be used for the purposes of cooking, food preparation or a related activity are to be clean and hygienic.

**39. Guard rail, hand rail and bulwark requirements**

- (1) If a vessel is subject to the Load Lines Convention, the vessel guard rails are to comply with Part 7 of the USL Code.
- (2) Guard rails or bulwarks are to –
  - (a) enclose every exposed deck to which a person has regular access; and
  - (b) be designed to take into account –
    - (i) the need to prevent persons falling overboard or onto lower decks; and
    - (ii) the worst operating conditions likely to be encountered; and
    - (iii) the protection of children.
- (3) Hand rails are to be designed to give crew members and passengers adequate hand holds to move safely around the vessel in unfavourable conditions.
- (4) If crew members will or may be required to work on open decks in potentially dangerous



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operating conditions, arrangements are to be provided for safety harnesses and lifelines.

- (5) Guard rails, bulwarks and attachment points are to be provided to secure cargo adequately.

**40. Stairwell and ladder requirements**

- (1) The design of stairwells and ladders is to take into account –
- (a) the worst operating conditions likely to be encountered; and
  - (b) the physical capabilities of all persons who are likely to use the stairwells or ladders.
- (2) All stairwells are to –
- (a) be fitted with handrails; and
  - (b) have tread and riser dimensions and ratios in compliance with an equivalent design standard; and
  - (c) have non-slip treads.
- (3) All emergency ladders that are not to be fixed in position are to be located adjacent to the area of intended use and be capable of safe and rapid deployment.

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**41. Gangway and embarkation requirements**

- (1) Adequate arrangements are to be provided for passengers and crew members to safely embark and disembark.
- (2) The design of embarkation and disembarkation equipment is to take into account –
  - (a) stowage; and
  - (b) vessel surge against the wharf; and
  - (c) the rise and fall of the tide; and
  - (d) the capabilities of persons likely to be using the equipment.

**42. Stowage requirements**

All goods, supplies, stores and cargoes are to be capable of being so stowed that they cannot break free and compromise vessel stability or endanger any person.

**43. Labelling and signage requirements**

- (1) All machinery systems are to be labelled according to subclause (2) in a manner that –
  - (a) coincides with the vessel plans and specifications; and
  - (b) will enable the machinery systems to be managed safely.

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- (2) Labelling is to include –
  - (a) valve labelling; and
  - (b) pipe colour coding; and
  - (c) machinery labelling; and
  - (d) labelling of electrical switchboard, cable and terminal cabling; and
  - (e) safety device labelling; and
  - (f) relevant warning signs.
- (3) MAST may waive the labelling requirements of subclause (1) if it reasonably considers the machinery systems are simple in design and the labelling would be superfluous.

***Division 4 – Loading requirements*****44. Loading requirements – vessels up to 7.5 metres in length**

- (1) This clause applies to vessels up to 7.5 metres in length.
- (2) The maximum loading condition is to be determined in accordance with –
  - (a) AS1799; or
  - (b) the calculations and recommendations submitted to MAST by a qualified naval architect; or

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- (c) the requirements of the standards of an external regulator or authorised society.
  - (3) A vessel owner is to submit the maximum loading condition calculations to MAST for approval.
  - (4) A vessel owner must, if MAST so requires, pay MAST a prescribed fee for considering a submission under subclause (3).

**45. Loading requirements – fishing vessels and commercial leisure craft of or exceeding 7.5 metres in length**

- (1) This clause applies to –
  - (a) class 3 vessels of or exceeding 7.5 metres in length; and
  - (b) class 4 vessels of or exceeding 7.5 metres in length.
- (2) The maximum loading condition is to be determined in accordance with –
  - (a) Section 7 of the USL Code, as applicable; or
  - (b) the requirements of the standards of an external regulator or authorised society; or
  - (c) the calculations and recommendations submitted to MAST by a qualified naval architect.

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- (3) A vessel owner is to submit the maximum loading condition calculations to MAST for approval.
- (4) A vessel owner must, if MAST so requires, pay MAST a prescribed fee for considering a submission under subclause (3).

**46. Loading requirements – passenger and trading vessels of or exceeding 7.5 metres, but less than 24 metres, in length**

- (1) This clause applies to –
  - (a) class 1 vessels of or exceeding 7.5 metres, but less than 24 metres, in length; and
  - (b) class 2 vessels of or exceeding 7.5 metres, but less than 24 metres, in length.
- (2) The maximum loading condition is to be determined in accordance with –
  - (a) Section 7 of the USL Code, as applicable; or
  - (b) the requirements of the standards of an external regulator or authorised society; or
  - (c) the calculations and recommendations submitted to MAST by a qualified naval architect.

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- (3) A vessel owner is to submit the maximum loading condition calculations to MAST for approval.
  - (4) A vessel owner must, if MAST so requires, pay MAST a prescribed fee for considering a submission under subclause (3).

**47. Loading requirements – passenger and trading vessels of or exceeding 24 metres in length**

- (1) This clause applies to –
  - (a) class 1 vessels of or exceeding 24 metres in length; and
  - (b) class 2 vessels of or exceeding 24 metres in length.
- (2) The maximum loading condition is to be determined in accordance with Section 7 of the USL Code.
- (3) A vessel owner is to submit the maximum loading condition calculations to MAST for approval.
- (4) A vessel owner must, if MAST so requires, pay MAST a prescribed fee for considering a submission under subclause (3).
- (5) MAST, if it approves any loading condition calculations, is to issue a relevant vessel owner with a Load Lines Certificate for the vessel.
- (6) In this clause –

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**“Load Lines Certificate”** means a certificate issued under the provisions of the Load Lines Convention in accordance with IMO Assembly resolution A883(21) relating to the global implementation of the harmonised system of survey and certification.

*Division 5 – Stability requirements***48. Stability requirements – vessels not exceeding 7.5 metres in length**

- (1) This clause applies to vessels not exceeding 7.5 metres in length.
- (2) MAST is to determine the stability requirements according to one of the following:
  - (a) Part C6 of the NSCV;
  - (b) Part C, Subsection 6A of the NSCV;
  - (c) a standard adopted by an external regulator or authorised society;
  - (d) the calculations and recommendations submitted to MAST by a qualified naval architect.
- (3) The vessel owner must, if MAST so requires, submit a vessel stability booklet to MAST for its approval.

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- (4) If MAST approves the vessel stability booklet, it may require the vessel owner to do either or both of the following:
    - (a) affix to the vessel a plate or sign specifying any loading constraints that need to be observed to ensure the vessel's stability;
    - (b) keep the vessel stability booklet on board the vessel for the use of the master.
  - (5) The vessel owner must, if MAST so requires, pay MAST a prescribed fee for approving the vessel stability booklet.

**49. Stability requirements – vessels exceeding 7.5 metres in length**

- (1) This clause applies to vessels exceeding 7.5 metres in length.
- (2) MAST is to determine the stability requirements according to one of the following:
  - (a) Part C, Subsection 6A of the NSCV;
  - (b) a standard adopted by an external regulator or authorised society;
  - (c) the calculations and recommendations submitted to MAST by a qualified naval architect.



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- (3) If the standard used for stability assessment requires the production of a vessel stability booklet, a vessel owner is to ensure that –
  - (a) a vessel stability booklet is submitted to MAST for its approval; and
  - (b) if approved, the vessel stability booklet is kept on board the vessel for the use of the master; and
  - (c) if MAST so requires, a plate or sign is affixed to the vessel specifying any loading constraints that need to be observed to ensure the vessel's stability.
- (4) The vessel owner must, if MAST so requires, pay MAST a prescribed fee for approving a vessel stability booklet.

**50. Stability requirements – vessels undergoing significant modification**

- (1) This clause applies to a vessel that is –
  - (a) in survey; and
  - (b) undergoing significant modification.
- (2) The vessel owner is to ensure that –
  - (a) further stability testing of the vessel is done; and

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- (b) MAST is notified in advance of where and when the further stability testing will be done; and
  - (c) after the stability testing is done –
    - (i) the vessel stability booklet for the vessel is revised and submitted to MAST for its approval; or
    - (ii) if the vessel does not have a vessel stability booklet, such a booklet is supplied and submitted to MAST for its approval.
  - (3) MAST may, through an authorised person, surveyor or other representative, observe the further stability testing.
  - (4) The vessel owner must, if MAST so requires, pay MAST a prescribed fee for either or both of the following:
    - (a) observing further stability testing;
    - (b) approving a vessel stability booklet or revision of a vessel stability booklet.

**51. Stability requirements – identical and similar vessels**

MAST may determine that a vessel does not require stability testing if –

- (a) the vessel is or, in the case of a new vessel, will be identical or similar to

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another vessel that already has design approval; and

- (b) the Tasmanian survey requirements have not changed since the design of that other vessel was approved.

*Division 6 – Equipment requirements***52. Basic equipment requirements – sufficiency of NSCV standard**

A vessel is taken to be suitably equipped if it is equipped in compliance with Part C, Subsection 7A of the NSCV.

**53. Communication installation requirements**

Any communication installation is to comply with Part C, Subsection 7B of the NSCV.

**54. Navigation installation requirements**

Any navigation installation is to comply with Part C, Subsection 7C of the NSCV.

**55. Anchors and mooring requirements**

Any anchorage installation is to comply with Part C, Subsection 7D of the NSCV.

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**56. Auxiliary vessels**

- (1) This clause applies to a vessel (“parent vessel”) that has an auxiliary vessel.
- (2) The owner of the parent vessel must ensure that the auxiliary vessel –
  - (a) complies with Part C, Subsection 7A of the NSCV; and
  - (b) is marked with the same vessel markings as the parent vessel, and in the same manner.

Penalty: Fine not exceeding 10 penalty units.

- (3) The owner of the parent vessel must ensure that the auxiliary vessel is –
  - (a) included in the vessel survey record book of the parent vessel; and
  - (b) inspected in conjunction with the parent vessel whenever the latter undergoes a periodic inspection or random inspection under these by-laws.

Penalty: Fine not exceeding 10 penalty units.

- (4) A person must not, except at the request or with the approval of MAST, operate the auxiliary vessel except within –
  - (a) a radius not exceeding 2 nautical miles of the parent vessel while the parent vessel is operating beyond sheltered waters; or

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- (b) a radius not exceeding 5 nautical miles of the parent vessel while the parent vessel is operating within sheltered waters.

Penalty: Fine not exceeding 20 penalty units.

- (5) The master of the parent vessel must not operate the auxiliary vessel from the parent vessel for a recreational purpose, or cause or allow the auxiliary vessel to be so operated, if the parent vessel would thereby be rendered deficient in safety equipment.

Penalty: Fine not exceeding 20 penalty units.

- (6) If the auxiliary vessel is operated from the parent vessel for a recreational purpose, the master of the parent vessel must record full particulars of the operation in the vessel survey record book before the auxiliary vessel casts off.

Penalty: Fine not exceeding 10 penalty units.

- (7) In this clause –

**“auxiliary vessel”** means a dinghy, tender or other small craft that –

- (a) forms part of the equipment of the parent vessel; and
- (b) is transported with, and operated solely from, the parent vessel;

**“vessel markings”** means vessel markings under Part 6.

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**PART 4 – SURVEY INSPECTIONS*****Division 1 – Construction inspections*****57. Construction inspections – general provisions**

- (1) MAST may, through a surveyor, do as many construction inspections of a vessel as MAST reasonably considers necessary, or expedient, to ensure that the vessel complies with the Tasmanian survey requirements.
- (2) A vessel owner must, if MAST so requires, pay MAST a prescribed fee for a construction inspection.

**58. Further construction inspections – new vessels**

Construction inspections of a new vessel are to include –

- (a) every void space and keel space prior to closing off; and
- (b) every tank containing petroleum products, or integral to the vessel structure at completion, followed by a pressure test; and
- (c) approximately 20% of hull completion; and
- (d) approximately 80% of hull completion; and

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- (e) shafting and associated components; and
- (f) rudder stock and associated components; and
- (g) accommodation spaces prior to lining out; and
- (h) pipe work, machinery and electrical systems; and
- (i) engine and gearbox bedplate structure; and
- (j) structural fire protection and fixed fire installations; and
- (k) pressure vessels.

**59. Construction inspections – approval of design variations during construction**

- (1) The owner of a new vessel that is under construction is to ensure that a surveyor approves any variation from the approved design of the vessel before any work relating to the variation is commenced.
- (2) The owner of an existing vessel that is undergoing significant modification is to ensure that a surveyor approves any variation from the approved design of the significant modification before any work relating to the variation is commenced.

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- (3) For the purposes of subclauses (1) and (2), a surveyor may –
    - (a) give immediate approval of the relevant variation; and
    - (b) direct that design plan variations be submitted to MAST for design approval.
  - (4) If subclause (3)(a) applies, a surveyor is to note the variation on the approved design.
  - (5) The owner of a vessel must, if MAST so requires, pay MAST a prescribed fee for obtaining an immediate approval under subclause (3)(a).

**60. Construction inspections – significant repairs**

- (1) The owner of a vessel is to ensure that, before any significant repair is made to the vessel, MAST is notified of –
  - (a) the repair; and
  - (b) the nature of the repair.

Penalty: Fine not exceeding 10 penalty units.

- (2) MAST may, through a surveyor, do as many construction inspections as it reasonably considers necessary or expedient to ensure that the repair complies with Tasmanian survey requirements.



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**61. Construction inspection reports**

- (1) A surveyor who does a construction inspection is to prepare a report on the outcome of the inspection.
- (2) The report is to state –
  - (a) the time spent doing the inspection; and
  - (b) the distance travelled by the surveyor to and from the place of inspection; and
  - (c) the status of the vessel and, if applicable, progress made since the last inspection; and
  - (d) the sections of vessel, if any, that are complete and found to be satisfactory; and
  - (e) the deficiencies, if any, found in the inspection and the required rectification measures; and
  - (f) whether the deficiencies, if any, found in the last inspection have been rectified; and
  - (g) the expected date of the next inspection; and
  - (h) whether the next inspection is to be arranged by the vessel construction representative or the surveyor.
- (3) The surveyor is to give a copy of the construction report to –

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- (a) MAST; and
  - (b) the vessel construction representative.
- (4) The copy under subclause (3)(b) is to be given within 7 clear days after the day on which the inspection is completed.

**62. Operational trials**

- (1) MAST, by notice to the vessel owner or vessel construction representative, may require that a vessel undergo an operational trial if –
  - (a) the vessel is being brought into or back into survey; or
  - (b) the vessel has undergone significant modification; or
  - (c) the vessel has undergone significant repair.
- (2) The operational trial is to be monitored by a surveyor.
- (3) MAST, or the monitoring surveyor, may require that the operational trial include such of the following as may be relevant in the circumstances:
  - (a) the operation of electrical generation and shore power supply equipment to full load;

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- (b) the operation of emergency electrical systems;
- (c) the operation of ventilation systems, dampers and emergency stops;
- (d) the operation of navigation equipment;
- (e) the operation of navigation lights, being the steaming lights, anchor lights and “not-under-command lights”;
- (f) the operation of steering systems in all modes;
- (g) the operation of engines over the entire power range, both ahead and astern, from all control positions;
- (h) the operation of vessel instrumentation;
- (i) the operation of an anchor windlass;
- (j) proof load testing of lifting gear and fishing apparatus;
- (k) the operation of bilge pumping systems and alarms;
- (l) the operation of fire-main pumping systems;
- (m) the operation of remote emergency fuel shutdown devices;
- (n) the simulated operation of fire detection and fire extinguishing systems and safeguards;

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- (o) verification of the watertight integrity of opening devices.
  - (4) The monitoring surveyor is to –
    - (a) prepare a report on the outcome of the operational trial; and
    - (b) give a copy of the report to –
      - (i) MAST; and
      - (ii) the vessel construction representative.
  - (5) The copy under subclause (4)(b)(ii) is to be given within 7 days after the day on which the operational trial is conducted or, if applicable, completed.
  - (6) The vessel owner must, if MAST so requires, pay MAST a prescribed fee for the monitoring of the operational trial.
  - (7) In this clause –
    - “steaming lights” means –
      - (a) any light required to be shown by a vessel when underway; and
      - (b) any optional manoeuvring lights and special purpose lights.

**63. Survey compliance reports**

- (1) This clause applies to a vessel if –

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- (a) its construction inspections have been completed; and
  - (b) any required operational trials have been completed.
- (2) The relevant surveyor is to give MAST a report (“survey compliance report”) declaring whether or not –
  - (a) the vessel complies with the Tasmanian survey requirements; and
  - (b) the vessel passed its operational trials.
- (3) The relevant surveyor may include such other information in the survey compliance report as he or she considers necessary or expedient for the purposes of these by-laws.
- (4) The survey compliance report is to be in an approved form.

***Division 2 – Periodic inspections*****64. Survey programs**

- (1) The owner of a vessel in survey is required to ensure that the vessel is periodically inspected according to an approved survey program, to demonstrate to MAST that the vessel continues to comply with Tasmanian survey requirements.
- (2) A survey program is to be in accordance with –
  - (a) NSAMS; or

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- (b) the requirements of an external regulator or authorised society.
  - (3) For the purposes of this clause, MAST may –
    - (a) approve a proposed survey program; or
    - (b) refuse to approve a proposed survey program; or
    - (c) amend and approve a proposed survey program.
  - (4) A survey program is to nominate –
    - (a) an inspection interval; and
    - (b) when, in such an inspection interval, an inspection nominally falls due (“nominal survey date”).
  - (5) Unless MAST approves otherwise, the inspection interval is to be 12 months.
  - (6) MAST may, by notice to a vessel owner –
    - (a) vary, defer or cancel an approved survey program; or
    - (b) direct that an approved survey program be departed from in special circumstances.

**65. Timing of periodic inspections**

Subject to clause 64(6) and clause 66, the owner of a vessel is to ensure that a periodic inspection

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under a survey program is done within one calendar month either side of the nominal survey date.

**66. Deferment of periodic inspections**

- (1) MAST may defer a periodic inspection of a vessel on –
  - (a) its own initiative; or
  - (b) application by the vessel owner (or vessel owner's representative).
- (2) However, subclause (1) only applies if MAST is satisfied on reasonable grounds that –
  - (a) the relevant periodic inspection would cause unreasonable expense or inconvenience to the vessel owner; and
  - (b) the deferment would pose no danger to the vessel, or to its passengers, crew members or cargo.
- (3) An application is invalid unless it is –
  - (a) in accordance with clause 94; and
  - (b) made by or before the nominal survey date.
- (4) MAST may –
  - (a) approve an application, with or without variation; or

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- (b) refuse to approve an application.

**67. Periodic inspections may include additional items**

- (1) A surveyor who is doing a periodic inspection of a vessel may do additional inspections if –
  - (a) the vessel owner (or vessel owner's representative) requests that additional items be inspected because it is opportune; or
  - (b) the surveyor reasonably believes that the condition of other parts of the vessel or its equipment may have rendered the vessel unsafe to operate.
- (2) The owner of the vessel must, if MAST so requires, pay MAST a prescribed fee for the additional inspections.

**68. Variation of survey programs for reasons of expediency**

If, at any time, an owner of a vessel in survey has an item disassembled for maintenance, MAST in its absolute discretion may allow a periodic inspection of the vessel to be done at that time rather than at the nominal survey date.



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**69. Periodic inspection arrangements**

- (1) A vessel owner (or vessel owner's representative) is to contact MAST to arrange a time and place for a periodic inspection of a vessel.
- (2) The vessel owner (or vessel owner's representative) is to ensure that –
  - (a) the vessel is ready for the periodic inspection at the time and place arranged; and
  - (b) the vessel owner (or vessel owner's representative) is available at the time and place arranged.
- (3) If MAST so requires, the vessel owner must pay MAST a prescribed penalty fee if –
  - (a) excessive time has to be spent on the periodic inspection because of a failure to comply with subclause (2); or
  - (b) the relevant surveyor has to wait or do extra travelling because the vessel owner (or vessel owner's representative), or the vessel, is not available at the time arranged for the periodic inspection.

**70. Deficiencies disclosed by periodic inspections**

- (1) A surveyor, on doing a periodic inspection, is to make a list of any deficiencies that need to be

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rectified to make the vessel compliant with Tasmanian survey requirements.

- (2) The listed deficiencies are to be categorised as –
  - (a) those that –
    - (i) must be repaired or rectified by a suitably qualified person; or
    - (ii) may be repaired or rectified by the vessel owner; and
  - (b) those that –
    - (i) must be repaired or rectified before the vessel can proceed to sea or within a specified time; or
    - (ii) may be repaired or rectified less urgently.
- (3) The surveyor is to explain the deficiencies to the vessel owner (or vessel owner's representative).

**71. Periodic inspection reports**

- (1) A surveyor who does a periodic inspection is to prepare a written report on whether the vessel has passed the inspection.
- (2) The report is to include –
  - (a) if applicable, the list of deficiencies referred to in clause 70; and
  - (b) the time taken to do the inspection; and

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- (c) any other problems encountered with the inspection including, if applicable, any waiting or extra travelling time; and
  - (d) any other information the surveyor considers necessary or expedient.
- (3) The report is to be signed by –
  - (a) the surveyor; and
  - (b) the vessel owner (or vessel owner's representative).
- (4) The surveyor is to give a copy of the report to –
  - (a) MAST; and
  - (b) the vessel owner (or vessel owner's representative).

***Division 3 – Random inspections*****72. Power to do random inspections**

- (1) MAST may, through a surveyor, do random inspections of vessels from time to time, including vessels that are exempt from periodic inspection.
- (2) A random inspection may be done –
  - (a) at short notice; or
  - (b) without warning.

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**73. Option to decline random inspections**

- (1) The owner or master of a vessel may opt to decline a particular random inspection if he or she considers that a random inspection at that time would adversely interfere with the vessel's operations or maintenance or, for another reason, be impracticable or inconvenient.
- (2) The option to decline a random inspection is not exercisable, in aggregate, on more than 2 occasions in any 12-month period, or more than twice in succession, in respect of the same vessel.
- (3) A surveyor must not proceed with a random inspection if the option under subclause (1) is exercised in respect of that inspection.
- (4) The option under subclause (1) is not exercisable in respect of—
  - (a) a random inspection that has actually started; or
  - (b) a random inspection where the surveyor who proposes to conduct the inspection reasonably believes that the relevant vessel may be unsafe to operate.
- (5) In conducting a random inspection, a surveyor is to prepare and provide, with any necessary modification, survey declarations, forms, reports and deficiency notices as required for a periodic inspection as detailed in Division 2 of Part 4.

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*Division 4 – Inspection arrangements***74. Powers and duties of surveyors**

- (1) A surveyor may, to do a survey inspection of a vessel –
  - (a) require any part of, or any thing on, the vessel to be opened up for examination; and
  - (b) require the removal of linings, tanks and permanent ballast; and
  - (c) request the owner of the vessel to state the owner's name and address and, if the owner is a natural person, his or her age; and
  - (d) request the master or any crew member of the vessel to state his or her name, address and age.
- (2) A surveyor may refuse to do a survey inspection of a vessel if –
  - (a) the vessel is slipped or positioned in such a way as to prevent a thorough inspection of the hull or any part of the hull; or
  - (b) any person obstructs or hinders the surveyor in such a manner as to prevent the surveyor doing a satisfactory survey inspection; or

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- (c) the surveyor reasonably considers that the vessel or any relevant equipment is unsafe to inspect; or
  - (d) the surveyor reasonably considers that the vessel or any relevant equipment is in such a state of disarray or uncleanliness that the survey inspection could not be done effectively or without undue difficulty.
- (3) A surveyor who for any reason is unable to do an arranged construction inspection or periodic inspection of a vessel is to notify the vessel owner of the surveyor's inability to do so at least 2 days before the date arranged for the inspection.
  - (4) MAST may issue surveyors generally with standard directions to assist and guide them in the exercise and performance of their powers and functions under these by-laws.
  - (5) However, MAST must not, by means of a general direction or otherwise, purport to direct any surveyor with regard to the outcome of a particular survey inspection or operational trial.

**75. Recognition of survey inspections from elsewhere**

- (1) In determining at any stage whether a vessel complies with Tasmanian survey requirements, MAST may –

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- (a) recognise any survey inspection done by a surveyor of an external regulator or authorised society; or
  - (b) recognise the certification of a product or equipment by an accredited organisation.
- (2) For the purposes of these by-laws, MAST may accept documentation from an accredited organisation, authorised society or external regulator that an inspection has taken place.
- (3) In this clause –
  - “accredited organisation”** means an organisation that MAST has approved to undertake certain works and repairs.

**76. Presentation of vessels for survey inspections**

- (1) This clause applies to –
  - (a) a construction inspection; and
  - (b) a periodic inspection; and
  - (c) a random inspection for which more than 4 days’ warning has been given; and
  - (d) an inspection done before an operational trial.
- (2) The vessel owner is to ensure that –
  - (a) the vessel is presented for inspection at the time and place arranged with MAST or its surveyor; and

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- (b) the vessel is presented for inspection in a safe condition; and
  - (c) the vessel's equipment is presented for inspection in a safe condition; and
  - (d) any equipment requiring discrete inspection is cleaned and, if applicable, disassembled.

**77. Vessel survey record books**

- (1) MAST is to give the owner of a vessel in survey –
  - (a) a vessel survey record book for the vessel; and
  - (b) written instructions on how to maintain the vessel survey record book.
- (2) The vessel survey record book –
  - (a) is to be in an approved form; and
  - (b) remains the property of MAST.
- (3) The owner of the vessel must ensure that the vessel survey record book is available for a surveyor to review during any survey inspection.

Penalty: Fine not exceeding 5 penalty units.
- (4) The owner of the vessel must ensure that the vessel survey record book is maintained in accordance with the instructions given under subclause (1)(b).



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Penalty: Fine not exceeding 5 penalty units.

- (5) The owner of the vessel must return the vessel survey record book to MAST within 7 days after the vessel is withdrawn from survey.

Penalty: Fine not exceeding 5 penalty units.

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**PART 5 – REGISTER OF VESSELS****78. Register of vessels in survey**

- (1) MAST is to keep a Register of vessels in survey.
- (2) The Register –
  - (a) is to be in an approved form; and
  - (b) may be combined with any other register kept by MAST under the Act.
- (3) The Register is to contain the following particulars for a vessel in survey:
  - (a) the personal particulars of the owner;
  - (b) the registration number assigned to the vessel under clause 19;
  - (c) the class and type of the vessel;
  - (d) a description of the vessel (including length, beam, depth, name, engine details and construction materials);
  - (e) the name of the builder;
  - (f) when the vessel was built;
  - (g) the minimum manning level;
  - (h) if applicable, the approved passenger-carrying capacity;

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(i) the conditions, limitations and exemptions, if any, relating to the relevant certificate of survey.

(4) The Register may contain such other information as MAST considers necessary or expedient.

**79. Notification of changes in registered particulars**

(1) This clause applies if there is any change in the personal particulars that, under clause 78, are required to be contained in the Register in respect of a vessel in survey.

(2) The owner of the vessel must notify MAST of the change within 7 days after the date on which the change occurs.

Penalty: Fine not exceeding 5 penalty units.

**80. Change in vessel ownership, &c.**

(1) This clause applies if a vessel in survey is sold or transferred from one person (“former owner”) to another (“new owner”).

(2) The former owner must, within 7 days after the day on which the sale or transfer is completed –

(a) notify MAST of the sale or transfer and the name and address of the new owner; and

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- (b) return the relevant certificate of survey to MAST or give that certificate to the new owner.

Penalty: Fine not exceeding 5 penalty units.

- (3) On receipt of the notification under subclause (2)(a), MAST is to –
  - (a) issue the new owner with an amended certificate of survey for the vessel; and
  - (b) amend the Register accordingly.
- (4) MAST may at any time, by notice, require the former owner or new owner to provide any further information about the sale or transfer as it considers necessary or expedient.

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**PART 6 – VESSEL MARKINGS****81. Vessel markings – passenger and trading vessels**

- (1) The owner of a class 1 or class 2 vessel must ensure that the vessel is marked in the approved manner.

Penalty: Fine not exceeding 10 penalty units.

- (2) For the purpose of subclause (1), the approved manner is –
- (a) for any class 1 or class 2 vessel (irrespective of length) –
    - (i) the name of the vessel on each side of the bow; and
    - (ii) the name of the vessel and its port of registration on the stern; or
  - (b) for a class 1 or class 2 vessel not exceeding 15 metres in length –
    - (i) markings in accordance with paragraph (a); or
    - (ii) the following markings:
      - (A) the registration number of the vessel, in a conspicuous position, on each side of the hull;

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- (B) the name of the vessel and its port of registration on the stern; or
  - (c) for a class 1 or class 2 vessel not exceeding 7.5 metres in length –
    - (i) markings in accordance with paragraph (a) or (b); or
    - (ii) the registration number of the vessel, in a conspicuous position, on each side of the hull.

**82. Vessel markings – fishing vessels**

- (1) The owner of a class 3 vessel must ensure that it is marked in the approved manner.

Penalty: Fine not exceeding 10 penalty units.

- (2) For the purposes of subclause (1), the approved manner is –
  - (a) for any class 3 vessel (irrespective of length) –
    - (i) the name of the vessel and its port of registration on the stern; and
    - (ii) the fishing distinguishing marks appropriate to the vessel, in a conspicuous position, on each side of the bow; or

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- (b) for a class 3 vessel not exceeding 7.5 metres in length, the fishing distinguishing marks appropriate to the vessel, in a conspicuous position, on each side of the hull.

**83. Vessel markings generally – size and colour**

The owner of a class 1, class 2 or class 3 vessel must ensure that each letter or number marking the registration number on the vessel in accordance with clause 81 or 82 is –

- (a) not less than 150 millimetres high and of proportionate breadth; and
- (b) in a colour that is in sharp contrast to the background colour.

Penalty: Fine not exceeding 5 penalty units.

**84. Load Lines markings**

The owner of a vessel must ensure that the vessel displays Load Lines markings in accordance with Section 5C, or Section 5D if applicable, of the USL Code.

Penalty: Fine not exceeding 20 penalty units.

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## Part 7 – Miscellaneous

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**PART 7 – MISCELLANEOUS*****Division 1 – Miscellaneous*****85. Navigation limits and extended operation permits**

- (1) A certificate of survey may authorise the vessel to which it relates to be operated only within one or more of the following navigation limits:
  - (a) the limits of prescribed ports;
  - (b) the limits of sheltered waters;
  - (c) the limits of inland waters;
  - (d) the limits of coastal and middle waters;
  - (e) lesser limits determined by MAST.
- (2) The owner of a vessel in survey must not operate the vessel, or cause or allow the vessel to be operated, beyond its authorised navigation limits unless the owner holds a permit authorising the voyage (“extended operation permit”).

Penalty: Fine not exceeding 20 penalty units.
- (3) Extended operation permits are issued by MAST.
- (4) An application for an extended operation permit is to be in accordance with clause 94.
- (5) MAST may approve or refuse an application.
- (6) An extended operation permit –



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- (a) is to be in an approved form; and
  - (b) may be issued on such conditions as MAST considers necessary or expedient; and
  - (c) may be issued for a single voyage or, if the arrangements are similar in each instance, for multiple voyages; and
  - (d) may be surrendered but is not capable of being varied, renewed or transferred.
- (7) If MAST refuses an application it is to notify the applicant of –
  - (a) the refusal; and
  - (b) the reasons for the refusal; and
  - (c) the right of review.
- (8) The holder of an extended operation permit must not contravene, or cause or allow any other person to contravene, the conditions, if any, of the permit.

Penalty: Fine not exceeding 20 penalty units.

**86. Towage permits**

- (1) Except as provided by subclause (10), the owner of a vessel must not cause or allow it to tow, or be towed, by any other vessel unless a responsible person holds a permit for the tow (“towage permit”).

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- (2) Towage permits are issued by MAST.
  - (3) An application for a towage permit is to be in accordance with clause 94.
  - (4) MAST may approve, or refuse to approve, an application.
  - (5) For the purposes of subclause (4), MAST may carry out such inquiries and vessel inspections in relation to the vessels and towing arrangements as it considers necessary or expedient.
  - (6) A towage permit –
    - (a) is to be in an approved form; and
    - (b) may be issued on such conditions as MAST considers necessary or expedient; and
    - (c) may be issued for a single tow or, if the towing arrangements are similar in each instance, for multiple tows; and
    - (d) may be surrendered but is not capable of being varied, renewed or transferred.
  - (7) If MAST refuses an application it is to notify the applicant of –
    - (a) the refusal; and
    - (b) the reasons for the refusal; and
    - (c) the right of review.

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- (8) The right of review may be exercised by the applicant or by any other responsible person.
- (9) The holder of a towage permit must not contravene, or cause or allow any other person to contravene, the conditions, if any, of the permit.

Penalty: Fine not exceeding 20 penalty units.

- (10) This clause does not apply to, or prevent –
- (a) the towage of vessels within the limits of prescribed ports; or
  - (b) the regular towage of cargo barges on a commercial basis; or
  - (c) the towage or assistance of oil exploration structures, semisubmersible oil platforms or similar vessels that are self-propelled; or
  - (d) the towage of stranded vessels or vessels in distress, where immediate towage is vital to the saving of life or property.

- (11) In this clause –

**“cargo barge”** includes a fish pen;

**“responsible person”**, for a tow, means –

- (a) the owner of the towing vessel;  
and
- (b) the master of the towing vessel;  
and

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- (c) the owner of the towed vessel;  
and
- (d) the master of the towed vessel.

**87. Use of vessels for recreational purposes**

- (1) The owner of a vessel in survey must ensure that, before the vessel is used for a recreational purpose, a prescribed declaration is made in the vessel survey record book.

Penalty: Fine not exceeding 20 penalty units.

- (2) In this clause –

“**prescribed declaration**”, in relation to the recreational use of a vessel, means a declaration made by its owner or master specifying –

- (a) the nature of the recreational use;  
and
- (b) the intended time, date and duration of the recreational use.

***Division 2 – Offences*****88. Vessels not be operated contrary to conditions of survey**

The owner of a vessel in survey must not operate the vessel, or cause or allow the vessel to be operated, in contravention of the conditions,

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limitations and exemptions, if any, specified in the certificate of survey held for the vessel.

Penalty: Fine not exceeding 20 penalty units.

**89. Unauthorised alteration of certificates and labels**

A person must not, except with the approval of MAST, make any alteration to a certificate of survey or registration label.

Penalty: Fine not exceeding 20 penalty units.

**90. Obstruction of surveyors and authorised persons**

A person must not obstruct or hinder a surveyor or authorised person in the exercise or performance of a power or function under these by-laws.

Penalty: Fine not exceeding 20 penalty units.

**91. False or misleading statements**

A person must not, in giving any information under these by-laws –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

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Penalty: Fine not exceeding 20 penalty units.

**92. Failure by owners to assist surveyors, &c, in identifying alleged offenders**

If any person is alleged to have committed an offence under these by-laws as the person acting as master or crew member of a vessel, the owner of the vessel, on demand of a surveyor or authorised person, must –

- (a) give any information relating to the identity and whereabouts of the master or crew member; or
- (b) take steps to determine the identity and whereabouts of the master or crew member and report the information to the surveyor or authorised person within 7 clear days after the date of the demand.

Penalty: Fine not exceeding 5 penalty units.

***Division 3 – Administrative provisions***

**93. Exemptions**

- (1) MAST, by instrument in writing, may exempt from these by-laws or specified provisions of these by-laws –
  - (a) a person or class of persons; or
  - (b) a vessel or class (or other group) of vessels.

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- (2) Without limiting the generality of subclause (1), MAST may –
  - (a) exempt a vessel from the requirement to have design approval; or
  - (b) exempt a vessel from the requirement to undergo particular survey inspections.
- (3) An exemption may be granted only if MAST is satisfied that –
  - (a) compliance with these by-laws or the specified provisions of these by-laws in relation to the exempted matter is unnecessary, impracticable or unreasonable; and
  - (b) the exemption will not compromise safety.
- (4) An exemption may be granted unconditionally or subject to such conditions and limitations as MAST determines.
- (5) MAST, by instrument in writing, may vary or revoke an exemption.
- (6) MAST may grant an exemption, or vary an exemption, on its own initiative or on application.
- (7) An application is to be in accordance with clause 94.
- (8) If MAST refuses an application for an exemption or the variation of an exemption, it is to notify the applicant of –

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- 
- (a) the refusal; and
    - (b) the reasons for the refusal; and
    - (c) the right of review.
  - (9) A person who has the benefit of an exemption must comply with the conditions and limitations, if any, of the exemption.  
  
Penalty: Fine not exceeding 20 penalty units.
  - (10) An exemption remains in force, subject to any notified variation, until –
    - (a) the day specified in the instrument of exemption as the day on which it expires; or
    - (b) MAST notifies the person or persons having the benefit of the exemption that it has been revoked.
  - (11) The granting of an exemption, or its revocation or variation, may, if the exemption is for a class of persons or class (or other group) of vessels, be publicly notified.
  - (12) Notification of the revocation of an exemption is to specify –
    - (a) the reasons for the revocation; and
    - (b) that there is a right of review.



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**94. Applications procedure**

An application to MAST in respect of any matter under these by-laws is to be in an approved form and must –

- (a) be accompanied by the prescribed fee, if any; and
- (b) be supported by such evidence or information as MAST requires, either at the time of lodgement or subsequently; and
- (c) comply with such additional requirements, if any, as relate, under the relevant by-law, to the specific application.

**95. Replacement of certificates, labels, &c.**

- (1) MAST may, on application, give the holder of a certificate of survey, registration label or vessel survey record book a replacement for that certificate, label or book if satisfied that the original has been –
  - (a) stolen, lost or destroyed; or
  - (b) damaged to a degree that renders it unsuitable for use.
- (2) An application is to be in accordance with clause 94.

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**96. Validity of MAST notifications**

(1) MAST is taken to have validly notified the owner of a vessel of a matter under these by-laws if notification of the matter is sent to the owner's current address as shown in the Register.

(2) In this clause –

“**address**” means a person's postal, fax or email address (or any combination thereof).

**97. Review of decisions**

A person who is aggrieved by a decision taken by MAST or by a surveyor or authorised person under these by-laws may apply to the Magistrates Court (Administrative Appeals Division) for a review of that decision.

**98. Savings and transitional**

The savings and transitional provisions in Schedule 1 have effect.

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**SCHEDULE 1 – SAVINGS AND TRANSITIONAL PROVISIONS**

Clause 98

**1. Interpretation**

In this Schedule –

**“commencement day”** means the day on which these by-laws take effect;

**“old by-laws”** means the *Marine and Safety (Vessel Safety Standards) By-laws 2000*;

**“subsisting”** means validly subsisting, or in force and effect, under the old by-laws immediately before the commencement day;

**“subsisting terms”** includes –

- (a) subsisting conditions, limitations and exemptions; and
- (b) subsisting expiry date.

**2. Subsisting certificates**

- (1) A subsisting certificate of survey continues in force according to its subsisting terms as a certificate of survey under and subject to these by-laws.
- (2) To avoid doubt, the subsisting certificate of survey so continued may be suspended,

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cancelled or withdrawn under and in accordance with these by-laws.

**3. Subsisting recognitions**

- (1) A subsisting recognition under clause 13 of the old by-laws continues in force according to its subsisting terms as a recognition under and subject to these by-laws.
- (2) To avoid doubt, the subsisting recognition so continued may be withdrawn under and in accordance with these by-laws.

**4. Subsisting exemptions**

- (1) A subsisting exemption under clause 182 of the old by-laws continues in force according to its subsisting terms as an exemption under and subject to these by-laws.
- (2) To avoid doubt, the subsisting exemption so continued may be varied or revoked under and in accordance with these by-laws.

**5. Registration labels**

A subsisting registration label issued under clause 20 of the old by-laws continues in force according to its subsisting terms as a registration label under and subject to these by-laws, until the first of the following occurs:

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- (a) the relevant vessel is no longer in survey;
- (b) a 12-month period, commencing on the day the subsisting registration label was issued, expires.

The common seal of the Marine and Safety Authority was affixed in pursuance of a resolution of the Authority made at a meeting held on 23 September 2010 in the presence of –

.....  
Simon FitzGerald  
**Chairperson**

.....  
Colin Finch  
**Chief Executive**



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