Western Australian Marine Act 1982

W.A. Marine (Certificates of Competency and Safety Manning) Amendment Regulations 2011

Made by the Governor in Executive Council.

1. Citation

These regulations are the W.A. Marine (Certificates of Competency and Safety Manning) Amendment Regulations 2011.

2. Commencement

These regulations come into operation as follows —
(a) regulations 1 and 2 — on the day on which these regulations are published in the Gazette;
(b) the rest of the regulations — on the day after that day.
3. Regulations amended

These regulations amend the *W.A. Marine (Certificates of Competency and Safety Manning) Regulations 1983*.

4. Regulation 3 amended

(1) In regulation 3 delete the definition of *endorsement*.

(2) In regulation 3 insert in alphabetical order:

- *Annex C* means Annex C to NSCV Part D;
- *endorsement* means any annotation made by the chief executive officer on a certificate of competency indicating the chief executive officer’s approval or acceptance under regulation 9 of any extension of the authority conferred by the certificate;
- *NSCV Part D* means the provisions of Part D of the NSCV declared under the *Navigation Act 1912* (Commonwealth) section 427(3)(a) as in existence by order published in the *Commonwealth of Australia Gazette* on 27 September 2006;
- *restriction* means any annotation made by the chief executive officer on a certificate of competency indicating the chief executive officer’s approval or acceptance under regulation 9 of any limitation on the authority conferred by the certificate;

5. Regulation 6 amended

Delete regulation 6(2) and (3).

6. Regulation 7 replaced

Delete regulation 7 and insert:

7. Functions of certificates of competency

(1) The chief executive officer must annotate a certificate of competency to show the functions to which the certificate relates, which are to be in accordance with Schedule 2.

(2) Without limiting subregulation (1), the chief executive officer must annotate a certificate of competency to which this subregulation applies to show whether the certificate is valid for sea service on a trading vessel or on a fishing vessel.

(3) Subregulation (2) applies to the following certificates of competency —

(a) Master Class III;
(b) Master Class IV;
(c) Mate Class IV;
(d) Master Class V.

7. **Regulation 9 amended**

(1) In regulation 9(1) after “purposes may be” insert:

restricted or

(2) After regulation 9(1) insert:

(2A) Without limiting subregulation (1), the limitations that may be approved under that subregulation include limitations relating to —

(a) the duties, operations, area, vessel or class of vessel for which a certificate of competency is valid; and

(b) the period during which a certificate of competency is valid.

(3) In regulation 9(2) delete “an endorsement” and insert:

a restriction or endorsement

Note: The heading to amended regulation 9 is to read:

Restriction or endorsement of certificate of competency

8. **Regulation 10 amended**

(1) Delete regulation 10(1) and insert:

(1) This regulation does not apply to a certificate of competency for sea service on a fishing vessel if the certificate was valid immediately before the commencement of the *W.A. Marine (Certificates of Competency and Safety Manning) Amendment Regulations 2011* regulation 8.

(1AA) If, because of a limitation referred to in regulation 9(2A)(b), the period for which a certificate of competency is valid is less than 5 years, a reference in subregulation (1a) to the period of 5 years is to be read as a reference to that lesser period.

(2) In regulation 10(1a) delete “for sea service on a trading ship”.
(3) After regulation 10(1b) insert:

(2A) If a person —

(a) is the holder of —

(i) a certificate of competency referred to in regulation 7(3) for sea service on a trading vessel; and

(ii) the same class of certificate of competency for sea service on a fishing vessel;

and

(b) applies for revalidation of both certificates at the same time,

only one fee is payable under regulation 31A for the revalidation of both certificates.

(4) In regulation 10(2):

(a) in paragraph (a) delete “competency to satisfy him as to the certificate —” and insert:

competency —

(b) in paragraph (a)(i) delete “Annex C to NSCV Part D; and” and insert:

Annex C; and

(c) after paragraph (a)(ii)(A) insert:

(BA) for a certificate of competency for sea service on a fishing vessel — by continuous employment in each fishing season during the preceding 5 years; or

(d) after each of paragraph (a)(ii)(A), (B) and (C) insert:

or

(5) After regulation 10(3) insert:

(4A) If, when considering the revalidation of a certificate of competency, the chief executive officer —

(a) is not satisfied as to a person’s professional competency in relation to one or more of the matters referred to in subregulation (2)(a)(ii); and
(b) is satisfied as to the person's professional competency for the purposes of a certificate of competency that is of a lower class or subject to restrictions,

the chief executive officer may revalidate the certificate accordingly.

(6) In regulation 10(4)(a):

(a) in subparagraph (i) delete “Annex C to NSCV Part D; and” and insert:

Annex C; and

(b) in subparagraph (ii) delete “clause C4 to NSCV Part D; and” and insert:

clause C4; and

Note: The heading to amended regulation 10 is to read:

Revalidation of certificates of competency

9. Regulation 11 amended

(1) In regulation 11(1):

(a) after “competency, or for the” insert:

restriction,

(b) after “certificate or to” insert:

restrict,

(2) In regulation 11(2) after “refuses to” insert:

restrict,

10. Regulation 15A inserted

After regulation 14 insert:

15A. Requirement to maintain medical fitness

A person who holds a certificate of competency must maintain a level of medical fitness —

(a) that enables the person to perform safely the functions to which the certificate relates; and
(b) that complies with the requirements set out in Annex C clause C6.

11. Regulation 17 amended

(1) Delete regulation 17(1)(c) and insert:

(c) evidence of medical fitness in accordance with regulation 18A; and

(2) Delete regulation 17(2), (3), (4), (5) and (6).

12. Regulation 18A inserted

After regulation 17 insert:

18A. Evidence of medical fitness

(1) An applicant for examination for a certificate of competency to which this subregulation applies must provide —

(a) a current certificate of medical fitness in accordance with the requirements set out in Annex C; and

(b) if required to do so by the chief executive officer, further evidence as to medical fitness.

(2) Subregulation (1) applies to the following certificates of competency —

(a) Master Class III;
(b) Master Class IV;
(c) Mate Class IV;
(d) Marine Engineer Class III;
(e) Marine Engine Driver Grade I.

(3) An applicant for examination for a certificate of competency to which this subregulation applies must provide —

(a) a declaration of medical fitness in accordance with the requirements set out in Annex C; and

(b) evidence of passing an eyesight test in accordance with the requirements set out in Annex C clauses C4 and C5; and

(c) if required to do so by the chief executive officer, further evidence as to medical fitness.

(4) Subregulation (3) applies to the following certificates of competency —

(a) Master Class V;
(b) Coxswain;
(c) Marine Engine Driver Grade II.

(5) For the purposes of subregulation (1)(b) or (3)(c), the chief executive officer may require the applicant to be examined by a medical practitioner specified by the chief executive officer.

13. **Regulation 18 amended**

In regulation 18(2) delete “by endorsement of” and insert:

with

14. **Schedule 2 amended**

(1) In Schedule 2 after the heading “**MASTER CLASS IV**”:

(a) in notes 1, 2 and 4 delete “endorsed” (each occurrence) and insert:

restricted

(b) in notes 1, 2 and 4 delete “unendorsed” and insert:

unrestricted

(2) In Schedule 2 after the heading “**MATE CLASS IV**”:

(a) in notes 1, 2 and 4 delete “endorsed” (each occurrence) and insert:

restricted

(b) in notes 1, 2 and 4 delete “unendorsed” and insert:

unrestricted

(3) In Schedule 2 after the heading “**MASTER CLASS V**”:

(a) in notes 1 and 2 delete “endorsed” (each occurrence) and insert:

restricted

(b) in notes 1 and 2 delete “unendorsed” and insert:

unrestricted
(4) In Schedule 2 after the heading “COXSWAIN”:
   (a) in paragraph (b) delete “endorsed” (each occurrence) and insert:
       restricted
   (b) in paragraph (b) delete “unendorsed” and insert:
       unrestricted

15. **Schedule 3 amended**

In Schedule 3 item 4 after “deletion of” insert:

restriction or

16. **Schedule 4 amended**

(1) In Schedule 4 after the heading “MASTER CLASS III”:
   (a) in paragraph (b) delete “endorsement” (first occurrence)
       and insert:
       annotation
   (b) in paragraph (b) delete “Fishing” endorsement” and insert:
       “Fishing” —
   (c) in paragraph (b) delete “to the endorsement.” and insert:
       to the annotation,
   (d) in paragraph (d)(ii)(a) delete “for use within State
       jurisdiction;” and insert:
       by the chief executive officer;
   (e) in paragraph (d)(ii)(b) delete “anticollision exercises” and insert:
       anticollision exercises.
   (f) in paragraph (d)(ii) delete “produce an acceptable
       certificate indicating a specified minimum standard of
       physical fitness.”.
(2) In Schedule 4 after the heading “MASTER CLASS IV”:
   (a) in paragraph (b) delete “endorsement” (first occurrence) and insert:

   annotation

   (b) in paragraph (b) delete “ “Fishing” endorsements —” and insert:

   “Fishing” —

   (c) in paragraph (b) delete “to the endorsement,” and insert:

   to the annotation,

   (d) in paragraph (d)(ii) delete “injured;” and insert:

   injured.

   (e) in paragraph (d)(ii) delete “produce an acceptable certificate indicating a specified minimum standard of physical fitness.”.

   (f) after the heading “Examination Subjects” in note 3 delete “endorsed” and insert:

   restricted

(3) In Schedule 4 after the heading “MATE CLASS IV”:
   (a) in paragraph (b) delete “endorsement” (first occurrence) and insert:

   annotation

   (b) in paragraph (b) delete “ “Fishing” endorsements —” and insert:

   “Fishing” —

   (c) in paragraph (b) delete “to the endorsement,” and insert:

   to the annotation,

   (d) in paragraph (d)(ii) delete “injured;” and insert:

   injured.
(c) in paragraph (d)(ii) delete “produce an acceptable certificate indicating a specified minimum standard of physical fitness.”

(f) after the heading “Examination Subjects” in the notes delete “endorsed” and insert:

restricted

(4) In Schedule 4 after the heading “MASTER CLASS V”:

(a) in paragraph (b) delete “endorsement” (each occurrence) and insert:

annotation

(b) in paragraph (b) delete “Fishing endorsements —” and insert:

“Fishing” —

(c) in paragraph (d)(ii) delete “radiotelephony; and” and insert:

radiotelephony.

(d) in paragraph (d)(ii) delete “produce an acceptable certificate indicating a specified minimum standard of physical fitness.”.

(5) In Schedule 4 after the heading “COXSWAIN — INSTRUCTOR OF COMMERCIAL SKI BOAT”:

(a) in paragraph (e)(iii) delete “craft; and” and insert:

craft.

(b) delete paragraph (e)(iv);

(c) after each of paragraphs (a), (b) and (c) and (e)(i) and (ii) insert:

and

(6) In Schedule 4 after the heading “MARINE ENGINEER CLASS III”:

(a) in paragraph (b) delete “sea;” and insert:

sea.
(b) in paragraph (b) delete “produce evidence of a satisfactory minimum standard of medical fitness.”.

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.