

MA302*

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.

- (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 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.