



**Australian Government**  
**Australian Maritime Safety Authority**

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AMSA MO 2016/1

**Marine Order 52 (Yachts and training vessels) 2016**

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I, Michael Kinley, Chief Executive Officer of the Australian Maritime Safety Authority, make this Order under subsection 342(1) of the *Navigation Act 2012*.

22 February 2016

**Michael Kinley**  
Chief Executive Officer

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## Division 1 Preliminary

### 1 Name of Order

This Order is *Marine Order 52 (Yachts and training vessels) 2016*.

### 1A Commencement

This Order commences on 1 March 2016.

### 1B Repeal of *Marine Order 52 (Sailing vessels) 1999*

*Marine Order 52 (Sailing vessels) 1999* is repealed.

### 2 Purpose

This Order:

- (a) provides for the survey, maintenance and certification of yachts and training vessels; and
- (b) adopts the LY3 Code as modified for Australia for regulated Australian vessels that are large yachts.

*Note for paragraph (a)* A yacht need not be designed to carry sail — see definition of **yacht** in section 4. A training vessel may be either a sailing or a motor vessel — see definition of **training vessel** in section 4.

*Note for paragraph (b)* The LY3 Code is the UK Large Commercial Yacht Code — see definition of **LY3 Code** in section 4. A large yacht is at least 24 m in load line length and may be a training vessel — see definition of **large yacht** in section 4.

### 3 Power

- (1) The following provisions of the Navigation Act provide for this Order to be made:
  - (a) subsection 98(1) which provides that the regulations may provide for safety certificates;
  - (b) paragraph 98(3)(a) which provides that the regulations may provide that vessels in a particular class must have safety certificates of specified kinds, either generally or in specified circumstances, including certificates relating to survey;
  - (c) section 314 which provides for regulations to be made prescribing matters for the application for certificates and, among other things, criteria to be satisfied for their issue by issuing bodies;
  - (d) subsection 341(1) which provides that the regulations may provide for the imposition of penalties for a contravention of a provision of the regulations;
  - (e) subsection 342(4) which provides that a Marine Order may provide for a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other document as in force or existing at a particular time or from time to time.
- (2) Subsection 339(1) of the Navigation Act provides for regulations to be made prescribing matters required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act.
- (3) Subsection 342(1) of the Navigation Act provides that AMSA may make orders about matters that can be provided for by regulation.

## 4 Definitions

(1) In this Order:

***certificate of survey appropriate to the voyage*** means a certificate of survey appropriate to the voyage that was issued for a sailing vessel under *Marine Order 52 (Sailing vessels) 1999*.

***certificate of compliance (large yacht)*** — see section 10.

***certificate of survey for a yacht or training vessel*** — see section 18.

***GT***, for a vessel, means the gross tonnage of the vessel.

***large yacht*** means a vessel that:

- (a) is at least 24 metres long; and
- (b) is:
  - (i) for commercial use for sport or pleasure; or
  - (ii) a training vessel; and
- (c) does not carry cargo; and
- (d) does not carry more than 12 passengers.

*Note for paragraph (a)* This means a vessel that is at least 24 m in load line length — see definition of ***length*** in *Marine Order 1 (Administration) 2013*.

*Note 1* A large yacht need not be designed to carry sail.

*Note 2* AMSA may determine that a vessel is for commercial use for sport or pleasure — see section 9.

***LY3 Australian National Annex*** means the Australian National Annex to the Large Commercial Yacht Code (LY3) published by AMSA, as in force from time to time.

***LY3 Code*** means *LY3 The Large Commercial Yacht Code* published by the Maritime and Coastguard Agency of the United Kingdom in August 2012, as in force from time to time.

*Note* The LY3 Code was available in February 2016 from the publications page of the Government of the United Kingdom's website at <http://www.gov.uk/government/publications>.

***LY3 Code as modified for Australia*** means the LY3 Code other than the UK National Annex, as modified by the LY3 Australian National Annex.

*Note* The LY3 Code together with the LY3 Australian National Annex is available on the AMSA website at <http://www.amsa.gov.au>.

***non-SOLAS certificate*** has the same meaning as in *Marine Order 31 (Vessel surveys and certification) 2015*.

***trainee*** means a person who:

- (a) meets the definition of ***trainee*** in the LY3 Code; and
- (b) is certified by a qualified medical practitioner as being medically fit to be a trainee; and
- (c) has signed an agreement with a vessel's owner or master to travel on the vessel as a trainee.

***yacht*** means a vessel that:

- (a) is for commercial use for sport or pleasure; and
- (b) does not carry cargo; and

(c) does not carry more than 12 passengers.

*Note 1* A yacht need not be designed to carry sail.

*Note 2* AMSA may determine that a vessel is for commercial use for sport or pleasure — see section 9.

- (2) For paragraph (d) of the definition of **large yacht**, a trainee of a training vessel is not a passenger of the vessel.
- (3) In this Order, the following terms have the same meaning as in the LY3 Code:
- (a) sailing vessel;
  - (b) training vessel.

*Note 1* The LY3 Code definition of **training vessel** provides that a training vessel may be either a sailing or motor vessel. The LY3 Code defines a **sailing vessel** as a vessel designed to carry sail, whether as a sole means of propulsion or as a supplementary means.

*Note 2* Some terms used in this Order are defined in *Marine Order 1 (Administration) 2013*, including:

- equivalent
- length
- National Standard for Commercial Vessels (or NSCV)
- SOLAS
- USL Code.

*Note 3* Other terms used in this Order are defined in the Navigation Act, including:

- inspector
- regulated Australian vessel.

*Note 4* For delegation of AMSA's powers under this Order — see the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

*Note 5* Information on obtaining copies of any IMO Resolution, IMO document or other document that is mentioned in this Order is available from the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

## 5 Interpretation

In applying the LY3 Code as modified for Australia under this Order, each occurrence of **should** in the LY3 Code as modified for Australia is taken to mean **must**.

## 6 Application

- (1) This Order applies to a regulated Australian vessel that is a yacht, a training vessel or a large yacht.

*Note 1* A yacht need not be designed to carry sail — see definition of **yacht** in section 4. A large yacht is at least 24 m in load line length and may be a training vessel — see definition of **large yacht** in section 4.

*Note 2* A training vessel may be either a sailing or motor vessel — see definition of **training vessel** in section 4.

- (2) This Order applies to a foreign vessel that is a yacht, a training vessel or a large yacht as set out in Division 4.

## 7 Exemptions

- (1) The owner of a regulated Australian vessel may apply for an exemption of the vessel from a requirement of this Order in accordance with the application process set out in Division 3 of *Marine Order 1 (Administration) 2013*.

- (2) AMSA may give an exemption only if satisfied that:
- (a) compliance with the requirement would be unnecessary or unreasonable having regard to the vessel, its equipment and its intended voyage; and
  - (b) giving the exemption would not contravene any of the following if it applies to the vessel:
    - (i) SOLAS;
    - (ii) the LY3 Code as modified for Australia;
    - (iii) the USL Code;
    - (iv) the National Standard for Commercial Vessels.

*Note* *Marine Order 1 (Administration) 2013* deals with the following matters about exemptions and equivalents:

- making an application
  - seeking further information about an application
  - the time allowed for consideration of an application
  - imposing conditions on approval of an application
  - notification of a decision on an application
  - review of decisions.
- (3) An exemption is subject to any conditions AMSA imposes to ensure the safety of the vessel.
- (4) The owner of the vessel must comply with any conditions mentioned in subsection (3).

## 8 Equivalents

- (1) A person may apply, in accordance with the application process set out in Division 3 of *Marine Order 1 (Administration) 2013*, for approval to use an equivalent.

*Note* For definitions of **equivalent** and **use** — see section 6 of *Marine Order 1 (Administration) 2013*.

- (2) AMSA may approve use of an equivalent only if satisfied that use of the equivalent would be at least as effective as compliance with the requirement to which the equivalent is an alternative.

## 9 Determination that a vessel is for commercial use for sport or pleasure

- (1) AMSA may determine that a vessel is for commercial use for sport or pleasure if AMSA considers that the vessel is for that kind of use.
- (2) For subparagraph (b)(i) of the definition of **large yacht** or for paragraph (a) of the definition of **yacht**, a vessel determined by AMSA to be for commercial use for sport or pleasure is taken to be for commercial use for sport or pleasure.
- (3) A determination under subsection (1) is a reviewable decision for section 17 of *Marine Order 1 (Administration) 2013*.

## Division 2 Certificate of compliance (large yacht)

### 10 Certificate of compliance (large yacht) required

For subsection 98(3) of the Navigation Act (which enables the regulations to provide that specified kinds of vessels are required to have specified safety

certificates), a regulated Australian vessel that is a large yacht must have a certificate of compliance (large yacht).

*Note 1* It is an offence under sections 103 and 104 of the Navigation Act if a vessel is taken to sea without a required safety certificate in force for the vessel.

*Note 2* A training vessel at least 24 m in load line length may be a large yacht — see definition of *large yacht* in section 4.

*Note 3* A large yacht  $\geq 500$  GT must also have any SOLAS certificate it is required to have under *Marine Order 31 (Vessel surveys and certification) 2015*. It may also be required to have other certificates under other Marine Orders — see Table 1 to the Australian National Annex.

## 11 Applying for certificate of compliance (large yacht)

- (1) For subsection 99(1) of the Navigation Act (which enables a person to apply to an issuing body for a safety certificate specified in the regulations), a certificate of compliance (large yacht) is a safety certificate.
- (2) Division 3 of *Marine Order 1 (Administration) 2013* (other than section 17) applies to an application to AMSA for a certificate of compliance (large yacht).

*Note* Division 3 of *Marine Order 1 (Administration) 2013* prescribes some general rules about the making and determination of various kinds of applications. Section 17 of that Order provides for internal review of decisions about applications. That section does not apply to safety certificates because those decisions are reviewable under subsection 313(1) of the Navigation Act.

## 12 Criterion for issue of certificate of compliance (large yacht)

For paragraph 100(1)(b) of the Navigation Act, the criterion for the issue of a certificate of compliance (large yacht) for a large yacht is that the vessel and its equipment comply with the LY3 Code as modified for Australia.

*Note* The LY3 Code sets out requirements for construction, survey, certification, inspection and maintenance — see section 28 of the LY3 Code for survey and certification requirements. For survey requirements for existing vessels (as defined in the Code) — see subsection 3.3.3.4 of the LY3 Code as modified for Australia.

## 13 Conditions on certificate of compliance (large yacht)

For paragraph 100(2)(a) of the Navigation Act, a certificate of compliance (large yacht) for a large yacht is subject to the condition that the vessel and its equipment and appliances are maintained to comply with the LY3 Code as modified for Australia.

*Note* An issuing body may impose other conditions on a safety certificate — see paragraph 100(2)(b) of the Act.

## 14 Endorsement of certificate of compliance (large yacht)

Each intermediate and annual survey and inspection of the outside of the bottom of a vessel must be endorsed on a certificate of compliance (large yacht) for a large yacht by an issuing body.

*Note* It is practice for an issuing body endorsing a certificate to be the same as the issuing body that originally issued the certificate.

## 15 Duration of certificate of compliance (large yacht)

A certificate of compliance (large yacht) comes into force, and ceases to be in force, in accordance with Regulation 14 of Chapter I of SOLAS as if it were a SOLAS certificate other than a Passenger Ship Safety Certificate.

**16      Variation of certificate of compliance (large yacht)**

For subsection 101(1) of the Navigation Act, the criteria for variation of the certificate of compliance (large yacht) are that:

- (a) the vessel complies with any requirements that apply to it under Marine Orders; and
- (b) if the variation is to be to the duration of the certificate, the variation complies with the requirements of Regulation 14 of Chapter I of SOLAS for the duration of the certificate including for the extension of the expiry date of the certificate as if it were a SOLAS certificate other than a Passenger Ship Safety Certificate.

**17      Criteria for revocation of certificate of compliance (large yacht)**

For subsection 102 of the Navigation Act, the criteria for revocation of a certificate of compliance (large yacht) are that:

- (a) the vessel does not comply with the LY3 Code as modified for Australia; or
- (b) a condition of the certificate has been, or AMSA reasonably suspects will be, breached; or
- (c) an endorsement required to be made to the certificate under section 14 has not been made; or
- (d) the vessel to which the certificate applies ceases to be registered in Australia; or
- (e) the owner of the vessel to which the certificate applies has requested the revocation; or
- (f) the certificate contains incorrect information.

**Division 3      Certificate of survey for a yacht or training vessel**

**18      Certificate of survey for a yacht or training vessel required**

For subsection 98(3) of the Navigation Act (which enables the regulations to provide that specified kinds of vessels are required to have specified safety certificates), a regulated Australian vessel that is any of the following must have a certificate of survey for a yacht or training vessel:

- (a) a large yacht less than 500 GT;
- (b) a yacht or training vessel less than 24 m long and less than 500 GT.

*Note for paragraph (a)* A large yacht is a commercial yacht at least 24 m in load line length and may be a training vessel — see definition of **large yacht** in section 4.

*Note 1* It is an offence under sections 103 and 104 of the Navigation Act if a vessel is taken to sea without a required safety certificate in force for the vessel.

*Note 2* A vessel that has a certificate of survey for a yacht or training vessel may also be required to have other certificates under other Marine Orders — see Table 1 to the Australian National Annex for the certificate requirements for large yachts.

**19      Applying for certificate of survey for a yacht or training vessel**

- (1) For subsection 99(1) of the Navigation Act (which enables a person to apply to an issuing body for a safety certificate specified in the regulations), a certificate of survey for a yacht or training vessel is a safety certificate.



- (2) Division 3 of *Marine Order 1 (Administration) 2013*, other than section 17, applies to an application to AMSA for a certificate of survey for a yacht.

*Note* Division 3 of *Marine Order 1 (Administration) 2013* prescribes some general rules about the making and determination of various kinds of applications. Section 17 of that Order provides for internal review of decisions about applications. That section does not apply to safety certificates because those decisions are reviewable under subsection 313(1) of the Navigation Act.

## 20 Criteria for issue of certificate of survey for a yacht or training vessel

- (1) For paragraph 100(1)(b) of the Navigation Act, the criteria for the issue of a certificate of survey for a yacht or training vessel are as follows:
- (a) for a large yacht less than 500 GT — that the vessel complies with the requirements for the vessel that are mentioned in the LY3 Code as modified for Australia;
  - (b) for a yacht or training vessel less than 24 m long — that the vessel and its equipment and appliances comply with:
    - (i) the criteria for issue of a Certificate of Survey for a Cargo Vessel other than a Fishing Vessel under *Marine Order 31 (Vessel surveys and certification) 2015*, and any requirements of the USL Code or the NSCV that apply to the vessel; and
    - (ii) if the vessel does not comply with regulation 11 of Part B, and Part B1, of Chapter II-1 of SOLAS — the requirements of the USL Code for watertight subdivision of Class 2 vessels;
    - (iii) if the vessel is a sailing vessel — the intact stability of the vessel has been assessed using the intact stability criteria mentioned in the following clauses of section 8C of the USL Code:
      - (A) for monohulls — clause C.12;
      - (B) for catamarans and trimarans — clause C.14;
  - (c) the issuing body has approved arrangements for damage stability and trim of the vessel during intermediate stages of flooding;
  - (d) for a sailing vessel other than a large yacht — the vessel is fitted with an auxiliary means of propulsion capable of propelling the vessel at least 6 knots in still water and calm air.

*Note for paragraph (c)* AMSA may impose on an approval the requirement for the vessel to carry specified damage control equipment such as collision mats, softwood wedges, quick drying cement and diving gear.

- (2) For subparagraph (1)(b)(ii), the issuing body must check damage stability calculations that take into account the design characteristics of the vessel and the arrangements, configuration and contents of the compartments that may be damaged.

## 21 Conditions on a certificate of survey for a yacht or training vessel

For paragraph 100(2)(a) of the Navigation Act, a certificate of survey for a yacht or training vessel is subject to the following conditions:

- (a) for a large yacht less than 500 GT — that the vessel complies with the requirements for the vessel that are mentioned in the LY3 Code as modified for Australia;

- (b) for a yacht or training vessel less than 24 metres long:
  - (i) that the vessel and its equipment and appliances are maintained to comply with the requirements mentioned in section 20 for issue of the certificate; and
  - (ii) if the vessel is carrying sail:
    - (A) for a vessel that is of Class A or B of the USL Code — the vessel carries the intact stability information mentioned in section 8.2 of *Marine Order 12 (Ship construction and stability 2009)*; and
    - (B) for a vessel that is in Class C or D of the USL Code — the vessel carries the intact stability information mentioned in section 8A of the USL Code; and
- (c) after any required survey of the vessel has been completed — any change to the structure, equipment, systems, fittings, arrangements or material covered by the survey, other than the direct replacement of equipment or fittings, is approved by AMSA.

*Note* An issuing body may impose other conditions on a safety certificate — see paragraph 100(2)(b) of the Act.

## **22      Endorsement of certificate of survey for a yacht or training vessel**

Each intermediate and annual survey and inspection of the outside of the bottom of a vessel must be endorsed on a certificate of survey for a yacht or training vessel by an issuing body.

*Note* It is practice for an issuing body endorsing a certificate to be the same as the issuing body that originally issued the certificate.

## **23      Duration of certificate of survey for a yacht or training vessel**

A certificate of survey for a yacht or training vessel comes into force, and ceases to be in force, in accordance with Regulation 14 of Chapter I of SOLAS as if it were a SOLAS certificate for a cargo vessel.

## **24      Variation of certificate of survey for a yacht or training vessel**

For subsection 101(1) of the Navigation Act, the criteria for variation of a certificate of survey for a yacht or training vessel are that:

- (a) the vessel complies with any requirements that apply to it under Marine Orders; and
- (b) if the variation is to be to the duration of the certificate, the variation complies with section 23.

## **25      Criteria for revocation of certificate of survey for a yacht or training vessel**

For subsection 102 of the Navigation Act, the criteria for revocation of a certificate of survey for a yacht or training vessel are that:

- (a) a condition of the certificate has been, or AMSA reasonably suspects will be, breached; or
- (b) an endorsement required to be made to the certificate under section 22 has not been made; or
- (c) the vessel to which the certificate applies ceases to be registered in Australia; or

- (d) the owner of the vessel to which the certificate applies has requested the revocation; or
- (e) the certificate contains incorrect information.

## Division 4 Requirements for foreign vessels

### 26 Application of this Division

This Division applies to a foreign vessel that is a yacht, a training vessel or a large yacht.

*Note 1* A yacht need not be designed to carry sail — see definition of **yacht** in section 4. A large yacht is at least 24 m in load line length and may be a training vessel — see definition of **large yacht** in section 4.

*Note 2* A training vessel may be either a sailing or motor vessel — see definition of **training vessel** in section 4.

### 27 Certification requirements

- (1) The foreign vessel must have and comply with any certificate that a Marine Order requires the vessel to have and comply with any other requirement of a Marine Order that applies to the vessel.

*Note* See *Marine Order 31 (Vessel surveys and certification) 2015* for survey and certification of SOLAS and non-SOLAS foreign vessels. Section 9 of that Order requires non-SOLAS foreign vessels to have at least 1 certificate or other documentary evidence issued by or behalf of the country in which it is registered that attests to the vessel's seaworthiness.

- (2) The foreign vessel must have and comply with the certificates or other documentation issued for the vessel by the Administration of the country in which it is registered.
- (3) A foreign vessel that is a large yacht must have and comply with any certificate mentioned in Annex 4 of the LY3 Code.

*Note 1* It is an offence for the owner or master to take an unseaworthy vessel to sea — see sections 109 and 110 of the Navigation Act. An inspector may have regard to the LY3 Code when inspecting a foreign vessel that has been certified as complying with the LY3 Code.

## Division 5 Transitional arrangements

### 28 Recognition of certificates issued under previous Order

- (1) A certificate of survey appropriate to the voyage for a vessel is taken to be in force under this Order if the certificate:
  - (a) was issued for the vessel under a previous issue of this Order; and
  - (b) was in force for the vessel on the day before commencement of this Order.
- (2) A vessel that has a certificate under subsection (1) must:
  - (a) comply with *Marine Order 52 (Sailing vessels) 1999* as in force immediately before the commencement of this Order; and
  - (b) be surveyed against the requirements of *Marine Order 52 (Sailing vessels) 1999* as in force immediately before the commencement of this Order, in accordance with Regulation 8 and 9 of Chapter I of SOLAS as if it were a cargo vessel.

*Note* *Marine Order 52 (Sailing vessels) 1999* is available on the Comlaw website at [www.comlaw.gov.au](http://www.comlaw.gov.au).

## 29 Variation or revocation of certificates issued under previous Order

A certificate of survey appropriate to the voyage that is taken to be in force under this Order may be:

- (a) varied or revoked in accordance with *Marine Order 52 (Sailing vessels) 1999* as in force immediately before the commencement of this Order and as if paragraph 6.2D(b) of that Order referred to *Marine Order 31 (Vessel surveys and certification) 2015*; or
- (b) revoked in accordance with this Order if, after the completion of any required survey of the vessel, AMSA has not approved any change to the structure, equipment, systems, fittings, arrangements or material covered by the survey, other than the direct replacement of equipment or fittings.

## Division 6 Other matters

### 30 Training vessels — trainee induction

- (1) The master of a training vessel carrying trainees must ensure that each trainee of the vessel before the vessel sails:
  - (a) within 24 hours after joining the vessel for the first time — is given instruction designed to make the trainee familiar with the layout of the vessel; and
  - (b) within 24 hours after joining the vessel and at least each following week on the vessel — is given training in safety procedures, including the use of the fire-fighting and life-saving appliances of the vessel.

Penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

*Note* In this Order, **training vessel** has the same meaning as in the LY3 Code. The LY3 Code defines **training vessel** as meaning either a sailing or motor vessel which is operated to provide:

- (a) instruction in the principles of responsibility, resourcefulness, loyalty and team endeavour; and/or
- (b) instruction in navigation and seamanship marine engineering or other shipboard related skills.

### Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.