



Guidelines for the Granting of Exemptions to Operators of Commercial Waterski and Aquaplane Vessels

As amended on 6 November 2007

FOREWORD

The *Commercial Vessels Act 1979 (the Act)* specifies requirements for the design, construction and crewing of commercial vessels operating on New South Wales waters. Section 48 of the Act allows Exemptions to be granted from provisions of the Act and for alternative requirements to be imposed.

This document outlines the requirements to be met by certain Commercial Water Ski and Aquaplane Vessel operators to achieve an Exemption from compliance with provisions of the *Commercial Vessels Act 1979*.

In particular, compliance with conditions to reduce the hazards associated with the use of petrol engines will be required as conditions of any Exemption granted.

NSW Maritime has also developed a Restricted Certificate of Competency (Coxswain) which provides a suitable commercial qualification for Commercial Waterski and Aquaplane Vessel drivers.

These measures are designed to provide a suitable safety standard for the operation of Commercial Waterski and Wakeboard Vessels while at the same time facilitating such operations.

Chris Oxenbould AO
Chief Executive
NSW Maritime

1 DOCUMENT HISTORY

This document was first approved on 26 September 2007. Amendments to clauses A4.1(a)ii.2, and B4.1(a)ii.2, and the insertion of clauses A5 and B5, were approved on 6 November 2007.

2 PURPOSE

This document outlines the application of the *Commercial Vessels Act 1979* and the criteria for the granting of Exemptions under that Act with regard to certain Waterski and Aquaplane Vessels used for a commercial purpose.

3 DEFINITIONS

In this document the following definitions apply.

Aquaplaner—

Means a person who is being conveyed on, in or above any navigable waters by maintaining himself [herself] on flotation equipment which is attached to a towing apparatus connected to a vessel, whether or not such person or equipment is at the time in contact with or directly over such navigable waters.

It does not include a person being towed on a boat.

NOTE: The term Aquaplaner has the same meaning in this document as in the *Water Traffic Regulations – NSW* except that it does not extend to the use of aerial equipment.

Commercial Waterski and Aquaplane Vessel—

Means a Waterski and Aquaplane Vessel which is used for a commercial purpose.

Driver—

Means the Master as defined in the *Commercial Vessels Act 1979* of a vessel.

Exemption—

Means an Exemption under Section 48 of the *Commercial Vessels Act 1979*.

Operator—

Means the Owner and where applicable the Master as defined in the *Commercial Vessels Act 1979* of a Waterski and Aquaplane Vessel.

The Act—

means the *Commercial Vessels Act 1979* and, if applicable, the Regulations under that Act.

Used for a commercial purpose—

Has the same meaning as in Section 5(6) of the *Commercial Vessels Act 1979*.

Waterski and Aquaplane Vessel—

Means a power driven vessel used to tow waterskiers and / or aquaplaners.

Waterskier—

It means a person who is engaged in maintaining himself [herself] in motion on, in, or above any navigable waters by holding to, or attaching himself to a vessel or to towing apparatus connected to a vessel, whether or not such person makes use of any flotation equipment and whether or not such person or equipment is at the relevant time in contact with or directly over such navigable waters.

It does not include a person being towed on a boat.

NOTE: The term waterskier has the same meaning in this document as in the *Water Traffic Regulations – NSW* except that it does not extend to the use of aerial equipment.

4 APPLICATION

These Guidelines apply to operators of Commercial Waterski and Aquaplane Vessels which are not the subject of a Certificate of Survey issued under the *Commercial Vessels Act 1979*.

They cover, but are not limited to, the following operators of Waterski and Aquaplane Vessels used for a commercial purpose—

- (a) Ski Schools
- (b) University Ski Clubs
- (c) Recreational Ski Clubs
- (d) Church Missions
- (e) High Schools
- (f) NSW Water Ski Federation affiliated clubs and events
- (g) Waterskiing shows and stunt work

Use of Waterski and Aquaplane Vessels on a “not for profit basis” does not prevent the application of the *Commercial Vessels Act 1979*.

This procedure will be generally applied in assessing applications for Exemptions from relevant parts of the *Commercial Vessels Act 1979* for Commercial Waterski and Aquaplane Vessels, unless the Chief Executive determines that circumstances exist which justify a departure from the procedure in the public interest.

5 GENERAL REQUIREMENTS

From 1 August 2006 all operators of Waterski and Aquaplane Vessels used for a commercial purpose have been required to comply fully with the requirements of the Act, including the need for the vessel to be the subject of a Certificate of Survey and be operated by a crew with appropriate commercial qualifications.

5.1 Vessel requirements

To comply with the Act, the vessel must be constructed to the standards for a Class 2D or 2E vessel in accordance with the Uniform Shipping Laws Code, or corresponding Classification Society Rules, including the installation of a diesel engine, and be the subject of a Certificate of Survey.

5.2 Crew requirements

The Driver of a Commercial Waterski and Aquaplane Vessel must have an appropriate commercial qualification in accordance with the Act.

The minimum qualification acceptable is a NSW Maritime issued *Restricted Certificate of Competency (Coxswain) for Operators of Waterski and Wakeboard Vessels on Smooth and Sheltered Waters*, (See Attachment D of these Guidelines).

6 REQUIREMENTS FOR THE GRANTING OF AN EXEMPTION

An Exemption to the requirements described in Clauses 5.1 and 5.2, which are in Parts 2, 3, 3A, 3B and 6 of the Act, may be given for a Commercial Waterski or Aquaplane Vessel in the following circumstances (provided compliance with the specified conditions are met).

6.1 New vessels

From 26 September 2007, the operator of a new commercial Waterski or Aquaplane Vessel will be granted an Exemption from specified sections of the Act provided there is full compliance with the conditions set out in Attachment A of these Guidelines.

Exemptions will be for a period of 12 months, and will generally be renewable subject to a Statutory Declaration from the vessel operator that the vessel continues to meet the conditions of the Exemption.

6.2 Existing vessels

The operator of any existing commercial Waterski or Aquaplane Vessel that was the subject of an Exemption prior to 26 September 2007 will be granted a further Exemption from specified sections of the Act provided there is full compliance with the conditions set out in Attachment B of these Guidelines.

Exemptions will be for a period of 12 months, and will generally be renewable subject to a Statutory Declaration from the vessel operator that the vessel continues to meet the conditions of the Exemption.

6.3 Other Exemptions

6.3.1 General Exemption for AWWF activities

A general gazetted Exemption applies to vessels operated by the Australian Waterski and Wakeboard Federation (AWWF) to the extent that any of their activities are for a commercial purpose.

A copy of the Exemption notice is provided as Attachment C of these Guidelines.

The AWWF, together with the NSW Water Ski Federation (NSW WSF), administer the competitive sport of Waterskiing in NSW. This is done in accordance with international rules using internationally accredited vessels. While the majority of the activities of this group are not undertaken for a commercial purpose, some, including training schools and provision of boats for tournaments, fall within the definition of use for a "commercial purpose" set out in Section 5(6) of the Act. The current Waterski Vessels in survey are not appropriate for competitive use, as they are not accredited internationally for the sport. NSW Maritime has agreed with the AWWF and NSW WSF that, to the extent that any AWWF and NSW WSF activity is for a commercial purpose, NSW Maritime will provide a general Exemption for AWWF and NSW WSF sanctioned events and training activities. This is done on the basis that the AWWF rules and procedures provide a range of safeguards to ensure the safe operation of the vessel.

NOTE: This Exemption was gazetted on 2 November 2007 in NSW Government Gazette No.160, effective from 26 September 2007.

6.3.2 Vessel specific Exemptions for one-off activities

Exemptions from provisions of the Act may be granted where a vessel normally used for recreational purposes is used for one-off commercial activities. Examples of such activities include:

- (a) Use of a private ski boat at a children's holiday camp, provided it is not used for such a purpose on a frequent or regular basis.
- (b) Use of ski boats to perform in a public display or show – these activities are normally subject to an aquatic licence.
- (c) Use of ski boats in film and television.
- (d) Any similar activity at the discretion of NSW Maritime

Any such Exemption will be granted on a case by case basis, with consideration being given to safety and risk.

Application for such exemptions must be made in writing to NSW Maritime prior to the event.

7 TRANSITIONAL MEASURES

As a transitional measure, current Exemptions granted for existing water ski and aquaplane vessels at the date of adoption of this policy will be extended to 1 July 2008.

ATTACHMENT A EXEMPTIONS FOR NEW COMMERCIAL WATERSKI AND AQUAPLANE VESSELS

A1 SCOPE

This Attachment specifies the requirements to be met by the owner and operator of a new commercial Waterski or Aquaplane Vessel for it to be granted an Exemption from parts of the Act.

A2 VALIDITY OF EXEMPTION

This Exemption applies to new commercial Waterski or Aquaplane Vessels not subject to an Exemption as at 26 September 2007.

Exemptions will be for a maximum period of 12 months, but will be renewable subject to a Statutory Declaration from the vessel owner being received by NSW Maritime indicating that the vessel continues to meet the conditions of the Exemption.

A3 EXEMPTION

The provisions of the Act which will not apply if an Exemption is granted under this Attachment are:

- Part 2 Permits for Motors and Vessels
- Part 3 Surveys and Checks
- Part 3A Safety Manning of Vessels
- Part 3B Qualifications of Crews of Vessels
- Part 6 Equipment

A4 CONDITIONS OF EXEMPTION

Any Exemption issued under these Guidelines will be subject to there being full compliance with each of the following conditions:

A4.1 VESSEL CONDITIONS

- (a) The vessel's bilge and engine compartment must be fitted with:
 - i. a petrol vapour detector and alarm system capable of transmitting an audio and a visual signal at the control station; and
 - ii. a bilge blower and extraction fan that purges the air in the bilge when the engine is turned on, and delays the start of the engine until the air is purged. The system must meet the following specifications:
 - 1. The bilge blower and extraction fan must be intrinsically safe for the purpose of removing flammable vapours and be of an appropriate capacity for the volume of air in the bilge.
 - 2. The fan must run automatically for at least 60 seconds before the engine can be started and must ensure a minimum of 4 air changes in the compartment during this time except where the engine is being restarted within 15 minutes of shut-down.

NOTE: A manual override of the automatic fan is not permitted. Electronic timers can be used to achieve the intent of 1 and 2 above

- (b) The engine's starting circuit is to be spark arrested, and maintained as such at all times. Spark arrested items required include:
 - i. Starter motor is to be spark arrested.
 - ii. Distributor is to be fully sealed / plastic shielded.
 - iii. Spark plug leads are to have sealed boots.
 - iv. Wiring is to have rubber boots, sealed lug ends and terminals encased in sheathed tubing to prevent rubbing/chaffing.
 - v. Electrical system is to be protected by a circuit breaker outside the fuel or engine compartment and batteries are to be located outside engine space.
 - vi. Carburettor is to be flame arrested.
 - vii. Fuel piping is to be of steel or braided fuel lines.
- (c) The owner of the vessel must supply NSW Maritime with a Statutory Declaration stating that the vessel complies with the conditions specified in Clause A4.1 (a) and (b).

A4.2 OPERATING CONDITIONS

- (a) Passengers must not be carried on board the vessel while the vessel is refuelling.
- (b) Passengers must not be carried on board the vessel when starting the engine where the engine has been shut down for more than 15 minutes.
- (c) Smoking is not permitted on the vessel at any time.
- (d) The Driver of the vessel must hold as a minimum a NSW Maritime "Restricted Certificate of Competency for Operators of Water-ski and Wakeboard Vessels on Smooth and Sheltered Waters".
- (e) The vessel must be registered under the *Water Traffic Regulations – NSW*.
- (f) The vessel must be maintained in good order and condition and be fit at all times for the purpose of use as a commercial Waterski or Aquaplane Vessel.
- (g) The vessel must carry the safety equipment specified in the *Boating (Safety Equipment) Regulation – NSW* for the vessel type.
- (h) All persons towed by the vessel must wear a suitable personal flotation device (PFD);
- (i) The vessel must display a Capacity Plate as specified in the *Water Traffic Regulations – NSW*.
- (j) The vessel must be operated in full compliance with the requirements of the *Water Traffic Regulations – NSW* generally applicable to towing waterskiers and aquaplaners.
- (k) The owner of the vessel must indemnify NSW Maritime against, and release NSW Maritime from, all liability associated with the issue of this Exemption.

NSW Maritime may attach other conditions to the issue of the Exemption, subject to the specific written approval of the Chief Executive and notification to the Minister.

Non-compliance with any condition specified in the Exemption issued in relation to the vessel will result in the vessel being required to meet all the requirements contained in the *Commercial Vessels Act 1979* including those relating to survey, crewing and equipment.

A5 VARIATION FOR VESSELS WITH AN OUTBOARD ENGINE

New Commercial waterski and aquaplane vessels with an outboard engine will need to comply with all conditions of this Exemption with the exception of the conditions set out in Clauses A4.1, A4.2 (a), (b), (c)

A6 APPLICATION FOR EXEMPTION

It is essential for the owner of the vessel to apply in writing to NSW Maritime for an Exemption from the provisions of the *Commercial Vessels Act 1979* under this Attachment.

ATTACHMENT B EXTENSION OF EXEMPTIONS APPLICABLE TO EXISTING COMMERCIAL WATERSKI AND AQUAPLANE VESSELS CURRENTLY OPERATING UNDER AN EXEMPTION

B1 SCOPE

This Attachment specifies the requirements to be met by the owner and operator of a commercial Waterski or Aquaplane vessel for their existing Exemption from parts of the *Commercial Vessels Act 1979* to be continued.

B2 VALIDITY OF EXEMPTION

Exemptions will be granted for existing commercial Waterski and Aquaplane Vessels that are the subject of an Exemption as at 26 September 2007.

Exemptions will be for a maximum period of 12 months, but will be renewable subject to a Statutory Declaration from the vessel owner being received by NSW Maritime indicating that the vessel continues to meet the conditions of the Exemption.

B3 EXEMPTION

The provisions of the *Commercial Vessels Act 1979* which will not apply if an Exemption is granted under this Attachment are:

- Part 2 Permits for Motors and Vessels
- Part 3 Surveys and Checks
- Part 3A Safety Manning of Vessels
- Part 3B Qualifications of Crews of Vessels
- Part 6 Equipment

B4 CONDITIONS OF EXEMPTION

Any Exemption issued under these Guidelines will be subject to there being full compliance with each of the following conditions:

B4.1 VESSEL CONDITIONS

- (a) The vessel's bilge and engine compartment must be fitted with:
 - i. a petrol vapour detector and alarm system capable of transmitting an audio and a visual signal at the control station; and
 - ii. a bilge blower and extraction fan that purges the air in the bilge when the engine is turned on, and delays the start of the engine until the air is purged. The system must meet the following specifications:
 - 1. The bilge blower and extraction fan must be intrinsically safe for the purpose of removing flammable vapours and be of an appropriate capacity for the volume of air in the bilge.
 - 2. The fan must run automatically for at least 60 seconds before the engine can be started and must ensure a

minimum of 4 air changes in the compartment during this time except where the engine is being restarted within 15 minutes of shut-down.

NOTE: A manual override of the automatic fan is not permitted. Electronic timers can be used to achieve the intent of 1 and 2 above

- (b) The owner of the vessel must supply NSW Maritime with a Statutory Declaration stating that the vessel complies with the conditions specified in Clause B4.1 (a).

B4.2 OPERATING CONDITIONS

- (a) Passengers must not be carried on board the vessel while the vessel is refuelling.
- (b) Passengers must not be carried on board the vessel when starting the engine where the engine has been shut down for more than 15 minutes.
- (c) Smoking is not permitted on the vessel at any time.
- (d) The Driver of the vessel must hold as a minimum a NSW Maritime "Restricted Certificate of Competency for Operators of Water-ski and Wakeboard Vessels on Smooth and Sheltered Waters".
- (e) The vessel must be registered under the *Water Traffic Regulations – NSW*.
- (f) The vessel must be maintained in good order and condition and be fit at all times for the purpose of use as a commercial Waterski or Aquaplane Vessel.
- (g) The vessel must carry the safety equipment specified in the *Boating (Safety Equipment) Regulation – NSW* for the vessel type.
- (h) All persons towed by the vessel must wear a suitable personal flotation device (PFD);
- (i) The vessel must display a Capacity Plate as specified in the *Water Traffic Regulations – NSW*.
- (j) The vessel must be operated in full compliance with the requirements of the *Water Traffic Regulations – NSW* generally applicable to towing waterskiers and aquaplaners.
- (k) The owner of the vessel must indemnify NSW Maritime against, and release NSW Maritime from, all liability associated with the issue of this Exemption.

NSW Maritime may attach other conditions to the issue of the Exemption, subject to the specific written approval of the Chief Executive and notification to the Minister.

Non-compliance with any condition specified in the Exemption issued in relation to the vessel will result in the vessel being required to meet all the requirements contained in the *Commercial Vessels Act 1979* including those relating to survey, crewing and equipment.

B5 VARIATION FOR VESSELS WITH AN OUTBOARD ENGINE

Existing Commercial waterski and aquaplane vessels with an outboard engine that are the subject of an Exemption as at 26 September will need to comply with all conditions of this Exemption with the exception of the conditions set out in Clauses B4.1 and B4.2 (a), (b) and (c)

B6 APPLICATION FOR EXEMPTION

It is essential for the owner of the vessel to apply in writing for an Exemption under this section.

ATTACHMENT C EXEMPTION NOTICE FOR AWWF ACCREDITED VESSELS

Commercial Vessels Act 1979 **Exemption of AWWF Accredited Vessels from Compliance with the Requirements of the Act for AWWF Activities**

The Chief Executive of the Maritime Authority of NSW (NSW Maritime) does, pursuant to Section 48 of the *Commercial Vessels Act 1979 (the Act)*, declare by this Notice, that the provisions of this Act **DO NOT** apply to the owner and master of the vessels identified in **Schedule 1**, provided there is full compliance with **EACH** condition specified in **Schedule 2**.

SCHEDULE 1 **Description Of Exempt Vessels**

AWWF accredited vessels are Exempt from being operated in compliance with the Act when used for the following purposes;

- (a) in any event sanctioned by the AWWF;
- (b) in any training camps, training programs, regular training or coaching provided by Waterski clubs affiliated with AWWF or NSW WSF for the purposes of training for AWWF or NSW WSF sanctioned events;
- (c) in any training camps, training programs, regular training or coaching provided by the Divisions of the AWWF for the purposes of training for AWWF sanctioned events; or
- (d) in any training and development programs conducted by NSW WSF in association with SRA for the purposes of training for SRA sanctioned events.

SCHEDULE 2 **Conditions to which the Exemption is subject**

In order to be operated in accordance with this Exemption there must be full compliance with **EACH** of the following conditions:

- (a) The vessel must be registered under the *Water Traffic Regulations – NSW*;
- (b) The Master of the vessel must hold as a minimum qualification a General Boat Licence under the *Water Traffic Regulations – NSW*;
- (c) All vessels must be currently accredited by the AWWF under the IWSF technical rules for each Division;

- (d) Both the master of the vessel and the skier must be members of the AWWF or the NSW WSF, and where a Club or Division is providing training, then the participant must also be a member of that Club or Division;
- (e) The vessel must be maintained in good order and condition and be fit at all times for the purpose for which it is being used;
- (f) The vessel must carry the safety equipment specified in *the Boating (Safety Equipment) Regulation*; or, if participating in an event that is being held under an Aquatic licence, any alternative or additional equipment requirements specified in that licence;
- (g) The vessel must display a Capacity Plate as specified in *the Water Traffic Regulations – NSW*;
- (h) The AWWF and any vessel owner and operator must indemnify NSW Maritime against and release NSW Maritime from all liability associated with the issue of this Exemption.

It is noted that this Exemption is invalidated if there is non-compliance with any condition specified above with the result being the vessel must then be operated in full compliance with the *Commercial Vessels Act 1979*, when used for a commercial purpose.

It is also noted that this Exemption may be revoked at any time by the Minister for Ports and Waterways, the Chief Executive of NSW Maritime, or his delegate.

Definitions

In this notice the following words have these meanings:

AWWF means the Australian Waterski and Wakeboard Federation Incorporated

Club means a Waterski club affiliated with the AWWF or NSW WSF

Division means a committee of the AWWF exercising delegated authority for control of a Discipline

Discipline means a type of water skiing recognised by AWWF from time to time and governed by rules determined by the AWWF. Disciplines include but are not limited to Tournament, Barefoot and Wakeboard.

Event means any championship, tournament or competition (national or otherwise) organised or conducted by, or on behalf of the AWWF

IWSF means the International Water Ski Federation.

SRA means Ski Racing Australia Incorporated

NSW WSF means the NSW Water Ski Federation Limited

Dated this 26 day of September 2007

**Chris Oxenbould AO
Chief Executive
NSW Maritime**

NOTE: This Exemption was gazetted in the NSW Government Gazette No.160 on 2 November 2007

ATTACHMENT D RESTRICTED CERTIFICATE OF COMPETENCY (COXSWAIN) FOR OPERATORS OF WATERSKI AND AQUAPLANE VESSELS ON SMOOTH AND SHELTERED WATERS

D1 REQUIREMENTS

To gain a restricted certificate of competency (Coxswain) for operating a commercial Waterski or Aquaplane Vessel a candidate must—

- (a) possess a NSW General Boating Licence, or PWC Licence;
- (b) hold a current Senior First Aid Certificate;
- (c) pass a medical and eyesight examination to meet the level of medical fitness required for a Certificate of Competency; and
- (d) pass a practical examination, demonstrating possession of on water knowledge and skills to competently handle a Waterski or Aquaplane Vessel.

D2 EXAMINATION SYLLABUS

D2.1 Section 1 - Vessel Handling

Demonstrate by practical examination that the candidate can handle the proposed type or types of vessels in all conditions that may be expected within the proposed limits sought.

D2.2 Section 2 - Emergency and Safety

Demonstrate by practical, oral and/or written examination knowledge of;

- (a) Action to be taken in any emergency.
- (b) Steps to be taken if capsized or holed.
- (c) Rendering assistance - man overboard.
- (d) Seating, entering or leaving the boat by passengers.
- (e) Trim, stability and buoyancy.
- (f) Fuelling precautions and use of fuels including fuel with a flashpoint below 60°C. (Petrol)

D2.3 Section 3 - Safety Equipment

Demonstrate by practical, oral and/or written examination a knowledge of;

- (a) Use of safety equipment.
- (b) Use of fire extinguishers.
- (c) Statutory requirements for equipment.
- (d) Care and Maintenance of equipment.
- (e) Use of distress signals.

D2.4 Section 4 - Meteorology

Demonstrate an understanding of local weather conditions and seasonal changes in local weather and of stable and unstable weather patterns, strong wind and flood warnings.

D2.5 Section 5 - Engineering Knowledge

Demonstrate by practical, oral and/or written examination knowledge of;

- (a) Working knowledge of the propelling machinery.
- (b) The care and maintenance of engines and batteries.
- (c) Working knowledge of fuel filter systems.
- (d) Pumping and venting systems.
- (e) Precautions against fire associated with fuelling, battery leads, LP gas, etc.

D2.6 Section 6 - Seamanship and Local Knowledge

Demonstrate by practical, oral and/or written examination knowledge of;

- (a) Appropriate Regulations.
- (b) Lights, shapes and channel markers.
- (c) Lock or local signals.
- (d) Statutory requirements regarding registration of vessels and licensing of drivers and carriage of equipment clear understanding of limitations of certificates.
- (e) Regulations for private boating and obligatory assistance, reporting accidents, etc.
- (f) Requirements for survey and maintenance of vessels and equipment.
- (g) Notices to Shipping.
- (h) Regulations made by any authority concerning the use of the waterway.

D2.7 Section 7- The rule that apply for a vessel travelling at a speed of ten knots or more.

D2.8 Section 8 - Local Knowledge of the specific enclosed waterway or lake for which the candidate is examined.

D3 FURTHER INFORMATION

For further information on this Certificate of Competency contact NSW Maritime's Manager Certification on 9563 8516