



Marine Safety (Commercial Vessels) Exemption Order 2011

under the

Marine Safety Act 1998

The Maritime Authority of NSW, in pursuance of clause 89 of the *Marine Safety (Commercial Vessels) Regulation 2010*, makes the following Order.

Dated, this 6th day of October 2011.

MICHAEL BUSHBY
Chief Executive
Maritime Authority of NSW

2011 No 544

Marine Safety (Commercial Vessels) Exemption Order 2011

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Marine Safety (Commercial Vessels) Exemption Order 2011

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Marine Safety Act 1998

Part 1 Preliminary

1 Name of Order

This Order is the *Marine Safety (Commercial Vessels) Exemption Order 2011*.

2 Commencement

This Order commences on the day on which it is published on the NSW legislation website.

3 Definitions

(1) In this Order:

cruise ship means a ship that:

- (a) has sleeping facilities for at least 100 passengers other than crew members, and
- (b) is used to transport passengers for a fee, whether within or outside State waters or in the course of overseas or interstate journeys.

cruise ship tender means a vessel that is carried as part of the equipment of a cruise ship and is used to transfer passengers or crew between the cruise ship and the shore.

declared port means a port described in Schedule 1 to the *Ports and Maritime Administration Regulation 2007*.

Note. When this Order was made, the declared ports were Botany Bay, Clarence River (Yamba), Eden, Newcastle Harbour, Port Kembla and Sydney Harbour.

SOLAS means the Safety Convention (as defined in the *Navigation Act 1912* of the Commonwealth).

the Act means the *Marine Safety Act 1998*.

the Regulation means the *Marine Safety (Commercial Vessels) Regulation 2010*.

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Clause 3 Marine Safety (Commercial Vessels) Exemption Order 2011

Part 1 Preliminary

- (2) A term that is used in this Order and is defined in the Act has the same meaning in this Order as it has in the Act.
- (3) Notes included in this Order do not form part of this Order.

Part 2 Exemptions relating to certain cruise ship tenders

4 Vessels to which Part applies

This Part applies to a cruise ship tender that is less than 24 metres in length.

5 Exemptions for certain cruise ship tenders

A cruise ship tender to which this Part applies is exempt from Division 3 of Part 3 and Parts 4, 5 and 10 of the Regulation while the conditions of the exemption set out in clause 6 are complied with.

6 Conditions of exemptions

- (1) An exemption referred to in clause 5 is subject to the conditions set out in this clause.
- (2) Any voyage made by the cruise ship tender:
 - (a) must be for the purpose of transporting passengers and crew of the cruise ship directly between the cruise ship and the shore, and
 - (b) must not include any detour for sightseeing or any other activity such as fishing.
- (3) The cruise ship tender must not be operated in a declared port without the written approval of the harbour master for the port.
- (4) The cruise ship tender must not be operated in any port other than a declared port without the written approval of the Maritime Authority.
- (5) If the cruise ship tender is certified as a lifeboat under the LSA Code (within the meaning of *Marine Orders Part 25 (Equipment—Life-saving)* of the Commonwealth), the tender must:
 - (a) have a master who is qualified to master the cruise ship lifeboats in accordance with the requirements of the cruise ship's safety management system as certified under the *International Safety Management (ISM) Code* (within the meaning of regulation 1 of Chapter IX of SOLAS), and
 - (b) comply with all lifeboat standards referred to in the LSA Code, and
 - (c) have a survey certificate issued by a recognised Classification Society (within the meaning of Part B of the *National Standard for Commercial Vessels* as defined by the Regulation) and comply with the conditions of that certificate.

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Clause 6 Marine Safety (Commercial Vessels) Exemption Order 2011

Part 2 Exemptions relating to certain cruise ship tenders

- (6) If the cruise ship tender is not certified as a lifeboat as referred to in subclause (5), the tender must:
- (a) have a master who is qualified to master the cruise ship tenders in accordance with the requirements of the cruise ship's safety management system as certified under the *International Safety Management (ISM) Code* (within the meaning of regulation 1 of Chapter IX of SOLAS), and
 - (b) carry safety equipment in accordance with the requirements of the flag state (being the jurisdiction under whose laws the ship is registered) and that safety management system, and
 - (c) have a survey certificate issued by a recognised Classification Society (within the meaning of Part B of the *National Standard for Commercial Vessels* as defined by the Regulation) and comply with the conditions of that certificate, and
 - (d) when carrying more than 30 persons, have on board at least one crew member in addition to the master of the tender to assist the master.

Note. The New South Wales *Boating Handbook* (available on www.maritime.nsw.gov.au) contains information on local navigation and environmental regulations and requirements for vessels.