

NORTHERN TERRITORY OF AUSTRALIA

MARINE (EXAMINATIONS AND CERTIFICATES) REGULATIONS

As in force at 14 December 1994

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 14 December 1994

MARINE (EXAMINATIONS AND CERTIFICATES) REGULATIONS

Regulations under the *Marine Act*

Part I Introductory

1 Citation

These Regulations may be cited as the *Marine (Examinations and Certificates) Regulations*.

2 Commencement

These Regulations shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.

3 Interpretation

In these Regulations, unless the contrary intention appears:

Code means the Uniform Code and includes appendices thereto.

Schedule means a Schedule to these Regulations.

section, **clause** or **subclause** mean a section, clause or subclause of the Code.

vessel means a vessel other than a vessel that is:

- (a) a hire and drive vessel;
- (b) a pleasure craft;
- (c) a commercial vessel that is proceeding on an interstate or overseas voyage;
- (d) a fishing vessel that is proceeding on an overseas voyage;
- (e) an off-shore industry mobile unit; or

- (f) an off-shore industry vessel in respect of which a declaration under section 8A(5) of the Navigation Act is in force.

Part II General and particular requirements

4 Prescribed qualifications and forms

- (1) The prescribed qualifications required to be held by an applicant for the issue of a Certificate of Competency under Part III, Division 3 of the Act are those set out in sections 2 and 3.
- (2) For the purposes of Division 3 of Part III of the Act, a prescribed form is a form approved by the Minister or the Director and available from the office of the Authority.

6 Application of Code

Subject to these Regulations, sections 2 and 3 extend and apply to employment in all vessels.

7 Construction of Code

In construing sections 2 and 3:

- (a) the definitions contained in section 1 shall be read subject to the Act and these Regulations; and
- (b) references to ***an Authority, the Authority*** or ***that Authority*** shall, in relation to the Territory, be read as referring to the Department primarily responsible to the Minister for the administration of the Act.

8 Suspension, &c., of certificate

- (1) The Director shall, before suspending or cancelling a certificate issued under Part III of the Act or withdrawing recognition of a certificate issued by another authority and recognised for the purposes of that Part:
 - (a) notify the holder of the certificate of the Director's intention to cancel, suspend or withdraw recognition of the certificate; and
 - (b) specify a date by which the holder of the certificate may, by written submission, show cause why the cancellation, suspension or withdrawal of recognition should not take place.

- (2) The Director may, after considering any submissions made to him or her under subregulation (1), by notice in writing to the holder of the certificate, cancel or suspend, or withdraw recognition of, a certificate.

8A Service of notices

A notice for the purposes of regulation 8 may be given to or served on a person by:

- (a) delivering it personally to the person;
- (b) leaving it at the person's usual or last known place of residence with another person, apparently resident at the place;
- (c) leaving it at the person's usual or last known place of business with another person, apparently in a position of authority at the place; or
- (d) posting it in a prepaid letter addressed to the person at the person's usual or last known place of residence or business.

Part III Qualifying service

9 Approved qualifying service

For the purposes of the Code, ***approved qualifying service***, ***watchkeeping service*** and ***seagoing service*** mean service assessed in accordance with the principles set out in Schedule 3 and sections 2 and 3.

Part IV Examinations

11 Applications for examinations

- (1) An application to sit for an examination and for the issue of a certificate shall be lodged not less than 10 days before the date of the examination.
- (2) An application shall be accompanied by the prescribed fee.
- (3) Fees for examinations and the issue of certificates shall be as from time to time determined by the Minister by notice in the *Gazette*.

12 Powers of Minister and Director in relation to examinations

- (1) The Minister may, by notice in the *Gazette*:
 - (a) appoint a person to be an examiner; and
 - (b) nominate an institution or organisation to conduct examinations.
- (2) The Director may:
 - (a) determine the rules under which examinations shall be conducted; and
 - (b) determine the times and places at which examinations shall be conducted.

Part V Appeals against decision of Director under Part III of Act**13 Application**

In this Part, ***appellant*** means a person who may, under section 35 of the Act, appeal against a decision of the Director.

14 Notice of appeal

- (1) An appeal against a decision of the Director referred to in section 35 of the Act shall be commenced by filing, not later than 28 days after the decision is made, a notice of appeal at the proper venue of the Local Court.
- (2) A notice of appeal shall:
 - (a) be in Form 1 in Schedule 1; and
 - (b) set out:
 - (i) the decision in respect of which it is brought;
 - (ii) the date on which the decision was made; and
 - (iii) concisely the grounds of appeal.
- (3) As soon as practicable after filing a notice of appeal the appellant shall serve a copy on the Director.
- (4) The parties to an appeal shall be the Director and the appellant.

15 Amendment of grounds

The Tribunal may give leave to amend the grounds of appeal.

16 Date for hearing

At the time of filing a notice of appeal the Chief Magistrate within the meaning of the *Magistrates Act* shall fix a hearing date, insert it in the notice of appeal and return sufficient copies to the appellant.

17 Representation

A party to an appeal may appear in person or by an agent authorised in writing by the party.

18 Hearing of an appeal

- (1) The Tribunal may give such directions as to the hearing of an appeal as it thinks fit.
- (2) If the person to whom an appeal is addressed fails to attend, the Tribunal may hear the appeal if it is satisfied that the notice was duly served.
- (3) If an appellant fails to attend, the Tribunal may dismiss the appeal or make such other orders as it thinks fit.
- (4) If neither party attends, the Tribunal may make such orders as it thinks fit.

Schedule 1

FORM 1

NOTICE OF APPEAL

regulation 14(2)

In the matter of an appeal
pursuant to section 35
of the *Marine Act*

TO: The Tribunal

APPLICANT: *Name and Address*)

RESPONDENT: The Director

The appellant appeals against the Director's decision to (*set out briefly the substance of the decision of the Director appealed against*).

Date of decision:

Grounds of appeal: (*set out specifically the grounds of appeal*)

Dated: (*e.g. 5 September, 19*)

(*Signed by appellant*)

Schedule 3 Guidelines for the assessment of approved services

regulation 9

- A. In determining the qualifying service for a certificate of competency as a Coxswain the following guidelines shall be used:
1. Except as provided by paragraph 2, qualifying service may be performed on any vessel, commercial or non-commercial.
 2. Not less than 3 months shall be served on vessels of less than 20 metres in length.
 3. Not less than 3 months shall be served on vessels operating within the geographical area for which the certificate will be valid.
- B. In determining the qualifying service for the issue or revalidation of a certificate of competency as a Master Class V and Mate Class IV the following principles shall be followed:
1. Service shall be on a commercial vessel (i.e. fishing or trading). Commercial vessels include government vessels which employ a suitably qualified master or coxswain.
 2. Service on non-commercial vessels (i.e. yachts and naval vessels) may be counted at a rate determined by the Examiner but not more than one-half rate and such that not more than 15 months approved service shall be credited.
 3. Notwithstanding the provisions of paragraphs 1 and 2 when a "limited" certificate is to be issued, any service on non-commercial vessels may be accepted at any rate and for whatever proportion of the required service that the Director, on the recommendation of the Examiner, determines.
 4. Services shall be performed in a deck capacity (i.e. deck boy, ordinary seaman, seaman or general purpose deckhand).
 5. Service in any capacity other than on deck on vessels of less than 35 metres may be counted in full to a maximum of 12 months.
 6. Service in any capacity other than on deck on vessels of 35 metres and over may be counted in full to a maximum of 6 months.

7. Service in a vessel which operates outside of sheltered water limits may be counted as sea-going irrespective of time actually spent outside the sheltered water limits.
 8. Service for a certificate of competency for sea-going limits must include not less than 15 months service on a vessel engaged in sea-going operations. The other 15 months may be on vessels operating in any sheltered waters excepting inland waters.
 9. Service for a certificate of competency restricted to sheltered waters only shall include not less than 6 months' service on a vessel or vessels operating within the particular sheltered waters for which the certificate will be endorsed.
 10. Where a vessel does not operate continuously at sea or there are long periods when the vessel is idle or unemployed in normal duties, any qualifying service claimed for such periods will not be counted.
- C. In determining approved watchkeeping service for Master Class III and IV the following rules shall apply:
1. Watchkeeping service means that during the whole of the period claimed the candidate must have been in full charge of a navigation watch for not less than 8 hours per day.
 2. Where a navigation watch is maintained by 2 officers, the junior officer may count the watchkeeping service performed at two-thirds rate to a maximum of one-half of the qualifying watchkeeping service required for any certificate.
 3. Watchkeeping service shall be performed in its entirety on sea-going vessels.
 4. Watchkeeping service on non-sea-going vessels will count only towards a certificate of competency restricted to non-sea-going limits only.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION

Marine (Examinations and Certificates) Regulations (SL No. 16, 1982)

Notified	12 March 1982
Commenced	31 March 1982 (<i>Gaz</i> G12, 26 March 1982, p 4)

Amendment of the Marine (Examinations and Certificates) Regulations (SL No. 9, 1984)

Notified	7 March 1984
Commenced	7 March 1984

Amendments of the Marine (Examinations and Certificates) Regulations (SL No. 34, 1991)

Notified	10 July 1991
Commenced	28 August 1991 (<i>Gaz</i> G34, 28 August 1991, p 2)

Amendments of the Marine (Examinations and Certificates) Regulations (SL No. 48, 1994)

Notified	14 December 1994
Commenced	14 December 1994

3 LIST OF AMENDMENTS

r 3	amd No. 34, 1991, r 3
r 4	amd No. 34, 1991, r 4
r 5	rep No. 34, 1991, r 5
r 6	amd No. 34, 1991, r 6
r 7	amd No. 34, 1991, r 7
r 8	amd No. 9, 1984, r 1
	rep No. 34, 1991, r 8
	ins No. 48, 1994, r 2
r 8A	ins No. 48, 1994, r 2
r 9	sub No. 34, 1991, r 8
r 10	rep No. 34, 1991, r 8
pt V hdg	ins No. 48, 1994, r 3
rr 13 – 18	ins No. 48, 1994, r 3

ENDNOTES

sch 1	rep No. 34, 1991, r 9
	ins No. 48, 1994, r 4
sch 2	rep No. 34, 1991, r 9