



Boating Industry Association

Submission

ISSUE: MARINE ORDER 505

SUBJECT: Consultation 2021

INTRODUCTION:

On behalf of the Boating Industry Association and its members, thank you for the opportunity to comment on the draft Marine Order 505, and specifically proposals for the new Coxswain Grade 3 NC. We note that there are other elements of MO 505 that are being amended in this consultation, but they are of no direct relevance to BIA members and we have no comments on such at this time.

On the matter of Coxswain 3, BIA endorses the approach to develop such a qualification which recognises and supports a significant segment of the boating industry who may use a boat as an incidental part of their work, particularly in low-risk settings on protected waters. Such an approach minimises unnecessary red tape and supports maritime/boating business, tourism and jobs which deliver social and economic benefits.

BIA has consulted a range of industry members operating low-complexity and low-risk vessels in commercial activities, plus training establishments, to review the proposed criteria and to form this response. In this consultation it was clear that the range of duties and areas of operation within which such duties may be performed proved to be a challenge to reach a consensus on a single set of eligibility criteria; the operation of a 12m vessel up to 1nm offshore with 6 persons on board is vastly different to the operation of a 5m vessel within a marina mooring field operating as concierge boat.

Consequently, the detailed eligibility criteria of obtaining a Coxswain 3 using Option (d), with a declaration witnessed and signed off by a suitably qualified person, is considered onerous. This is related to the requirement to observe and assess many activities and functions that simply do not occur in most operations of vessels in which BIA considers its members using Coxswain 3 qualification will be undertaking.

SUMBISSION

Eligibility requirements

In line with the principal concern of BIA to provide for a qualification to support member businesses operating small vessels in an inland and smooth water setting, or within 1 n mile of shore, with limited requirement to carry passengers and mostly operating in daylight hours, Option (d) is considered the most suitable and most likely route by which our members and their employees will seek to obtain a Coxswain 3 qualification, along with the availability of Option (c). The comments that follow are therefore related to this option only, notwithstanding our further comments on the grandfathering of existing EX38 holders.

Requirement to hold a general recreational boat licence

The acceptance of a base eligibility criteria of holding a recreational vessel licence is welcomed. While it is acknowledged that the processes and requirements for obtaining such a licence do vary from state to state, in all instances where a new employee joins a business, an assessment is made of their practical capabilities; this is good business practice and part of the SMS of businesses operating vessels as DCV, whether in formal survey or not. In addition, the national boating regulators that apply boat driver licensing agreed more than a decade ago to apply core competencies which were established under the former National Marine Safety Committee (NMSC); BIA understands the Australian Recreational Boating Safety Committee (which has taken on recreational responsibilities of the former NMSC) has discussed the need to review and update the national core competencies which is something the BIA strongly supports.

The requirement to complete one day of sea service

The requirement for a Coxswain 3 to have completed one day (8 hours) of sea service, particularly under the observation of a single individual, does raise some complexities. For a person to seek to gain such experience, he or she would usually be required to be engaged in a role on board a vessel, and therefore employed by a business. It would be unlikely that someone would be able to gain such experience as a 'passenger' in the sense of just being present on a vessel and not performing a duty. It is noted that MO505 Schedule 4, which provides for calculation of qualifying service, does not really consider the environment in which a Coxswain 3 candidate is likely to be working.



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For many businesses operating DCV in the settings to which BIA would see the new qualification most readily being applied, training new staff is of course standard practice, but there is limited scope for such staff to simply be being observed while they clock up hours. Where a marina, for instance, operates a small tender to guide and assist vessels berthing within the marina, the tender will be operating in an ad hoc fashion across a standard day, likely with different skippers, for short periods of time and with limited opportunity for a crew member to be in training or being observed. Similarly, where a bare boat charter yacht business needs to move vessels around between charters, the opportunity to amass a day of sea service in such an operation will be difficult and drawn out.

When the requirement to undertake such sea-service is that it be in the presence of an observer holding a commercial vessel qualification, the opportunity in most business settings that BIA members represent would be almost impossible. With an historic lack of requirement – or enforcement – under previous state-based regulations of commercial vessel qualifications for the likes of marina tenders, hire and drive chase boats and similar vessel/operations, the industry is generally devoid of such qualified persons to be available to undertake such observer duties. Where such do exist, they are generally fully engaged in their own activities for the business and requiring them to undertake observer duties is a burden that is hard to support.

Completion of a declaration

The requirement to complete a declaration on an approved form (AMSA 1882) in accordance with MO 505 Guidelines (AMSA 1883) Schedule 1 is considered perhaps the most onerous requirement of Option (d). It is acknowledged that, given the scope of operations which a Coxswain 3 may perform, the specification of tasks to be witnessed by the observer is appropriately very broad, all encompassing, and in some instances quite in-depth. However, as noted earlier, by way of example, a 5m vessel operating within a marina basin, as opposed to a 12m vessel with four passengers on board operating up to one mile offshore, is a very much lower risk scenario, and the tasks to be witnessed are not in keeping with this level of risk, or indeed type of equipment or operational circumstances which such a vessel would ever be operating.



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Given the option in Schedule 1 for the declaration to be witnessed by an observer who does not currently hold a commercial ticket, but then limiting the candidate for Coxswain 3 to operating only within a marina environment, it would seem appropriate that there is a similar scaling back of specification of tasks to be assessed as is applied to the qualification of the observer. This would provide for an outcome which would ensure a significant number of persons working within the marine industry are able to obtain a formal qualification requirements set out in MO 505, without the considerable burden and impost of the industry attempting to find the required number of observers to assess a range of skills that will very rarely ever be used.

Proposal for consideration

In the previous consultation on MO 505, BIA proposed an alternate solution for consideration to satisfy the requirements of what is now Option (d). Acknowledging the requirement, which is not disputed, to ensure the competence of the candidate in terms of boat handling and other aspects of the role foreseen in MO 505 Guidelines (AMSA 1883) Schedule 1 Table 9, BIA would propose that the following model provides for the same outcome and would ask that consideration be given to adopting this proposal.

It is acknowledged that guidelines do provide for the observer to have characteristics and qualifications similar to this proposal, however there is a potential circular reference in this, in that the observer is also required to be eligible to hold Coxswain 3. The issue that the industry that is seeking to comply with Coxswain 3 is faced with, is the lack of suitably qualified commercial ticket holders to undertake all the required observations.

BIA would therefore propose the following alternate requirement for completion of a Declaration under Option (d):

1)

The applicant is to have obtained a general boat driver licence during which practical skills identified in the Declaration have been taught and assessed by a recognised boat training provider over a period of time. Where training is in groups of 4 or less, the period of time is 8 hours; for groups up to 8, the period of time is 16 hours.

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- 2)
- a) The applicant is to have held a general boat driver licence for a period of time and have demonstrated use of small vessels (up to 12m) during this period by way of a logbook; the period of time is one year.

AND

- b) The applicant is to have undertaken a practical demonstration of skills identified as suitable to meet the operational requirements of the role, in accordance with the operators SMS, in the presence of a suitably experienced or qualified person; such a person would have two years of regular use of small vessels, or hold a formal commercial vessel qualification recognised by AMSA.

Grandfathering of EX38

Since the introduction of EX38 in 2015, and the adoption in 2016 of the BIA Marine Card as a suitable additional qualification to support an EX38 application, albeit with a limitation on duties that can be performed, a significant number of marine industry personnel who have a limited need to use vessels from time to time as part of their business, have taken up this option in recognition of the need, as noted above, to have at least some form of suitably recognised qualification.

MO 505 Guidelines Part 2 provides an explanation of the impact of the new Marine Order on existing exemptions, including EX38. In the table setting out the impacts, under column 5 "*What individuals will need to do before the expiry date*" it is clear that a person "*operating under the EX38 satisfies the criteria for the Coxswain 3 and can continue to operate without applying for the Coxswain 3 certificate of competency*". Notwithstanding the need for an EX38 'holder' to additionally obtain a current medical and first aid certificate (where relevant in case of latter in terms of marina-based operations), this statement is taken to confirm the grandfathering of EX38 holders into the new Coxswain 3 program: this is welcomed.

However, MO 505 Guidelines Part 1 Table 1 Option (c) refers to the need to have completed (before a date to be confirmed) training and final practical assessment requirements of EX38. It is unclear whether this is a particular reference to EX38



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Schedule 2 item 2 (MAR Maritime Training Package) units of competency, or all items in Schedule 2 for which training is required, therefore to include the BIA Marine Card. Clarification of this would be welcomed as this will significantly impact the scope and benefit of the EX38 grandfathering provision with MO 505.

Applying for a Coxswain 3 certificate

As presented in MO 505 Guidelines Part 1.1, it is understood that obtaining a Coxswain 3 qualification is not specifically subject to application to AMSA, or issuance of a certificate. On one hand this does reduce the regulatory burden and impost on industry, which is welcomed, however it is questioned whether this will add further complexities in confirming the eligibility of a Coxswain 3 holder in the circumstance of the holder being subject to an inspection while carrying out their duties on a vessel. It is acknowledged that if no certificate is requested, the holder is required to have suitable verification of their eligibility to hold a Coxswain 3 certificate, however past and recent experience shows that where there is no formal document that is recognised by maritime inspectors available, confusion as to the suitability of other evidence can cause misunderstanding and unnecessary complication.

BIA would recommend a simple online process for applying for a Coxswain 3 based upon submission of required evidence of eligibility and by return an automated issuance of a suitable certificate to confirm receipt of such by AMSA. Given the current draft MO 505 does not required an application to be made or a certificate to be specifically issued, there would be no requirement to validate such documentation, simply an acknowledgement of receipt by AMSA. This would provide a reference that can be investigated, as required, by relevant maritime authorities should there be any concern raised about eligibility during an on-water inspection.

Duties a Coxswain 3 holder may perform

BIA recognises the duties and obligations AMSA has to fulfill in designing qualifications for operating commercial vessels to ensure such are appropriate and relevant to the roles being undertaken by persons holding such qualifications. BIA also recognises there is a balance between the risks involved with operating a vessel and the fact the Coxswain 3 qualification is relevant to very specific, limited operations.



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In previous submissions on earlier MO 505 consultations, BIA made suggestions about how to vary/limit the duties a Coxswain 3 may perform based on the degree of examination of the candidate for the qualification. These suggested changes appear to have been accommodated within this current draft of MO 505, and while acknowledging the matter raised above regarding the Declaration under Option (d), the duties and functions that a Coxswain 3 may perform, as identified in MO 505 Guidelines Part 1.1 item 1 generally and sub-item (e) specifically, are considered appropriate for the industry which BIA represents.

Conclusion

BIA is willing to work with AMSA and the industry reference group to define a suitable solution for Coxswain 3, however this needs to ensure the outcome is one which supports the ongoing operations of many hundreds of boating-related businesses, thousands of jobs, boat-based tourism and the associated social and economic benefits achieved where vessels are used in an element of the business, but where such are not the principal business undertaking.

BIA is available to discuss this submission as required by contacting Nik Parker at nik@bia.org.au or 0488 097 274.

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