

2010-2011-2012-2013

The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

Marine Engineers Qualifications Bill 2013

No. , 2013

(Senator Williams)

**A Bill for an Act relating to maritime safety to
ensure the maintenance of standards of training
and certification of marine engineers**

Contents

Part 1—Preliminary	1
1 Short title	1
2 Commencement	2
3 Act binds the Crown	2
4 Object of Act.....	2
5 Constitutional reach of Act	3
6 Definitions	3
Part 2—Standards	6
7 Standard: arrangement of legislative instruments dealing with marine engineering certification matters	6
8 Standards for Marine Regulations	6
9 Standard: approvals	6
10 Standard: oral examinations.....	7
11 Standard: Engineer Class 1, 2 and 3	7
12 Standard: Engineer Watchkeeper.....	8
13 Standard: Marine Engineer Class 3 without a trade.....	10
14 Standard: alternative trades and post-trade acquisition of maintenance experience.....	10
15 Standard: recognition of foreign certificate	11
16 Standard: colleges and registered training authorities	11
17 Standard: duties permitted for grades of certificates.....	11
18 Standard: revalidation of certificates	15
19 Standard: Principal Examiner and Examiners	15
20 Standard: meaning of <i>propulsion power</i>	15
21 Standard: meaning of <i>qualifying sea service</i>	15
Part 3—Miscellaneous	16
22 Savings provision.....	16
23 Legislative instruments	16

1 **A Bill for an Act relating to maritime safety to**
2 **ensure the maintenance of standards of training**
3 **and certification of marine engineers**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**
6

7 **1 Short title**

8 This Act may be cited as the *Marine Engineers Qualifications Act*
9 2013.

Section 2

1 **2 Commencement**

2 (1) Each provision of this Act specified in column 1 of the table
3 commences, or is taken to have commenced, in accordance with
4 column 2 of the table. Any other statement in column 2 has effect
5 according to its terms.
6

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	
2. Sections 3 to 21	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 18 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

7 Note: This table relates only to the provisions of this Act as originally
8 enacted. It will not be amended to deal with any later amendments of
9 this Act.

10 (2) Any information in column 3 of the table is not part of this Act.
11 Information may be inserted in this column, or information in it
12 may be edited, in any published version of this Act.

13 **3 Act binds the Crown**

14 This Act binds the Crown in each of its capacities.

15 **4 Object of Act**

16 The object of this Act is to set minimum standards in relation to the
17 certification of marine engineering and electro-technical
18 competency in order to prevent any reduction in those standards.

5 Constitutional reach of Act

This Act applies in relation to a Marine Regulation to the extent that the Marine Regulation affects persons performing duties on:

- (a) a vessel regulated by the *Navigation Act 2012*;
- (b) a vessel engaged in trade and commerce:
 - (i) among the States; or
 - (ii) between a State and a Territory; or
 - (iii) between 2 Territories;
- (c) a vessel that is external to Australia;
- (d) a vessel of which the owner, or any of the owners, is a constitutional corporation;
- (e) a vessel, so far as the application of this Act to activities of, or in relation to, the vessel is reasonably appropriate and adapted to giving effect to Australia's obligations under an international agreement;
- (f) a vessel of which the owner, or any of the owners, is the Commonwealth or a Commonwealth authority;
- (g) a vessel that is within a participating Territory (within the meaning of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*).

6 Definitions

In this Act:

AMSA means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*.

approved means approved in accordance with a Marine Regulation and, if the standard in section 9 applies to the decision to approve, in a manner consistent with that standard.

Examiner means a suitably qualified marine engineer employed by AMSA and appointed by the Principal Examiner to conduct examinations.

Section 6

1 **First Engineer** means the engineer officer next in rank to the Chief
2 Engineer and is the same position as that referred to in the STCW
3 Convention as Second Engineer.

4 **kW** means kilowatts.

5 **marine engineering certification matters** means matters relating to
6 either or both of the following:

- 7 (a) certification of marine engineering competency;
8 (b) certification of electro-technical competency.

9 **Marine Regulation** means a legislative instrument made under:

- 10 (a) the *Navigation Act 2012*, to the extent that the legislative
11 instrument deals with marine engineering certification
12 matters; or
13 (b) the Marine Safety (Domestic Commercial Vessel) National
14 Law set out in Schedule 1 to the *Marine Safety (Domestic
15 Commercial Vessel) National Law Act 2012*, to the extent
16 that the legislative instrument deals with marine engineering
17 certification matters in relation to performance of engineering
18 functions on commercial vessels:
19 (i) of at least 500 gross registered tonnes; or
20 (ii) of at least 3,000 kW propulsion power.

21 **near-coastal waters** means the waters landward of the outer
22 boundary of the Australian Exclusive Economic Zone (EEZ).

23 **Principal Examiner** means the Principal Examiner of Engineers in
24 AMSA.

25 **propulsion power**, of a vessel, means the total maximum
26 continuous rated output power, in kilowatts, of all of the propulsion
27 machinery appearing on the vessel's certificate of registry or other
28 official document. For this purpose, the practice of using
29 mechanical or electronic means to limit or use only part of the
30 speed or power (or both) of an engine (known as "de-rating") does
31 not reduce the defined propulsion power of a vessel.

32 **qualifying sea service** means sea service performed as an engineer,
33 trainee engineer, engineer cadet, or in an equivalent engineering
34 capacity, regularly engaged in engine-room watchkeeping (which

1 includes service “on call” via UMS alarms in periodically
2 unattended machinery spaces).

3 *standard*: see subsection 8(3).

4 **STCW Code** means the Seafarers’ Training, Certification and
5 Watchkeeping (STCW) Code as adopted by a resolution of the
6 2010 Conference of Parties to the STCW Convention.

7 **STCW Convention** means the International Convention on
8 Standards of Training, Certification and Watchkeeping for
9 Seafarers, 1978, done at London by the International Maritime
10 Organization on 7 July 1978, as amended, including the Final Act
11 of the 2010 Conference of Parties to the International Convention
12 on Standards of Training and Watchkeeping for Seafarers 1978.

13 Note: The text of the Convention is set out in Australian Treaty Series 1984
14 No. 7 ([1984] ATS 7). In 2013, the text of a Convention in the
15 Australian Treaty Series was accessible through the Australian
16 Treaties Library on the AustLII website (www.austlii.edu.au).
17

1 **Part 2—Standards**
2

3 **7 Standard: arrangement of legislative instruments dealing with**
4 **marine engineering certification matters**

- 5 (1) A legislative instrument:
6 (a) that is made under the *Navigation Act 2012* or the Marine
7 Safety (Domestic Commercial Vessel) National Law set out
8 in Schedule 1 to the *Marine Safety (Domestic Commercial*
9 *Vessel) National Law Act 2012*; and
10 (b) that deals with marine engineering certification matters;
11 must not contain provisions dealing with matters other than marine
12 engineering certification matters and matters incidental to those
13 matters.
14 (2) A legislative instrument that is inconsistent with subsection (1) is
15 invalid.

16 **8 Standards for Marine Regulations**

- 17 (1) A Marine Regulation must not be inconsistent with a standard in
18 this Part. To the extent that any Marine Regulation is inconsistent
19 with a standard in this Part:
20 (a) the Marine Regulation is invalid; and
21 (b) (except for the standard in section 7) the standard in this Part
22 applies instead.
23 (2) A Marine Regulation is not inconsistent with a standard in this Part
24 only because the Marine Regulation imposes conditions or
25 requirements, or contains other matters, in addition to conditions,
26 requirements or matters in a standard.
27 (3) Each section in this Part, other than this section, is a *standard*.

28 **9 Standard: approvals**

- 29 (1) A decision of a kind listed in subsection (2) must only be made:
30 (a) in the first instance—by an Examiner or the Principal
31 Examiner; or
-

- 1 (b) on review—by the Principal Examiner.
- 2 (2) For the purposes of subsection (1), these are the kinds of decisions:
- 3 (a) a decision to approve any of the following in connection with
- 4 a certificate of marine engineering competency or
- 5 electro-technical competency:
- 6 (i) an educational requirement;
- 7 (ii) an engineering trade requirement;
- 8 (iii) maintenance experience;
- 9 (iv) training;
- 10 (v) sea service;
- 11 (b) a decision to treat something else as equivalent to something
- 12 approved for the purposes of paragraph (a);
- 13 (c) a decision to issue a certificate of marine engineering or
- 14 electro-technical competency;
- 15 (d) a decision to revoke a certificate of marine engineering or
- 16 electro-technical competency;
- 17 (e) a decision to vary or suspend, or impose conditions on, or
- 18 deal with in any other way, a certificate of marine
- 19 engineering or electro-technical competency.

20 **10 Standard: oral examinations**

- 21 (1) An oral examination of a person required by a Marine Regulation
- 22 must:
- 23 (a) be a thorough examination and cross-examination of the
- 24 person's knowledge of the matters that are the subject of the
- 25 examination; and
- 26 (b) be conducted by an Examiner or the Principal Examiner.
- 27 (2) The Examiner or Principal Examiner must give the person a report
- 28 of the examination which includes any matters on which the
- 29 person's knowledge does not pass the examination.

30 **11 Standard: Engineer Class 1, 2 and 3**

- 31 A certificate of competency as an Engineer Class 1, Engineer Class
- 32 2 or Engineer Class 3 must not be issued to a person unless the

Section 12

1 person has passed an oral examination that relates to knowledge of
2 operational marine engineering matters, and of Australian maritime
3 legislation, appropriate for a certificate of competency as an
4 Engineer of that class.

5 **12 Standard: Engineer Watchkeeper**

- 6 (1) To be eligible for a certificate of competency as Engineer
7 Watchkeeper, a person must satisfy:
8 (a) subsection (2) or subsection (3) or both; and
9 (b) subsection (7).
- 10 (2) The person satisfies this subsection if:
11 (a) the person holds an approved trade certification or approved
12 trade-equivalent certification; and
13 (b) the person has completed approved education and training:
14 (i) that is relevant to the duties of a marine engineer; and
15 (ii) that meets or exceeds the standards specified in the
16 STCW Code; and
17 (c) the person has completed at least 36 weeks' qualifying sea
18 service on vessels of at least 750kW propulsion power.
- 19 (3) The person satisfies this subsection if:
20 (a) the person has Year 12 passes, or equivalent, in English, in at
21 least one mathematics subject and in at least one science
22 subject; and
23 (b) the person has completed an Engineer Cadetship of at least
24 the duration required by subsection (4); and
25 (c) the Engineer Cadetship included approved education and
26 training:
27 (i) that is relevant to the duties of a marine engineer; and
28 (ii) that included approved practical training ashore of at
29 least the duration required by subsection (6); and
30 (iii) that meets or exceeds the standards specified in the
31 STCW Code; and
32 (d) the Engineer Cadetship included at least 36 weeks'
33 qualifying sea service on vessels of at least 750 kW
34 propulsion power.
-

Section 12

- 1 (4) The required duration of an Engineer Cadetship is:
2 (a) 36 months; or
3 (b) 36 months reduced in accordance with subsection (5) or (6)
4 or both, as applicable.
- 5 (5) If:
6 (a) a person holds a diploma, degree or higher qualification in an
7 engineering field; and
8 (b) the person's prior learning in that field is recognised by a
9 college or a registered training authority approved to provide
10 marine engineer training;
11 the 36 months is reduced by the duration of the person's
12 recognised prior learning.
- 13 (6) The required duration of approved practical training ashore is:
14 (a) 36 weeks; or
15 (b) for a person whose prior practical training ashore has been
16 recognised by AMSA—36 weeks reduced by the duration of
17 the person's recognised prior practical training ashore.
- 18 (7) The person satisfies this subsection if:
19 (b) unless subsection (8) applies—at least 16 weeks of the
20 qualifying sea service referred to in paragraph (2)(c) or (3)(d)
21 was on vessels using the kind of propulsion to which the
22 certificate of competency as Engineer Watchkeeper will
23 relate; and
24 (c) the qualifying sea service included on-board training that was
25 documented in an approved training record book; and
26 (d) the person has completed any engineer training program
27 short courses required by the Marine Regulation; and
28 (e) the person has passed an oral examination that relates to
29 knowledge of operational marine engineering matters, and of
30 Australian maritime legislation, appropriate for a certificate
31 of competency as Engineer Watchkeeper.
- 32 (8) The person does not have to satisfy paragraph (7)(b) if the person
33 is the holder of a certificate of competency as Engineer Class 1,
34 Engineer Class 2, Engineer Watchkeeper in relation to the other
35 kind of propulsion or Engineer Class 3.
-

Section 13

1 **13 Standard: Marine Engineer Class 3 without a trade**

- 2 (1) An Examiner or the Principal Examiner may approve, as a
3 trade-equivalent certification for the purposes of paragraph
4 12(2)(a) (Engineer Watchkeeper), maintenance experience gained
5 by a person if:
6 (a) the person gained the maintenance experience while
7 performing sea service:
8 (i) as an engineer on a vessel of at least 750 kW propulsion
9 power; and
10 (ii) while holding a certificate of competency as a Marine
11 Engineer Class 3; and
12 (b) the duration of the sea service was at least:
13 (i) 24 months, for a person who completed workshop
14 competencies at the level of Engineer Watchkeeper
15 Cadet before starting the sea service; or
16 (ii) 30 months, for a person who completed workshop
17 competencies at the level of Engineer Class 3 before
18 starting the sea service.
- 19 (2) In deciding whether to give an approval referred to in this section,
20 an Examiner or the Principal Examiner must have regard to:
21 (a) if AMSA establishes a system for recording maintenance
22 experience and relevant sea service—the records of that
23 system; and
24 (b) for maintenance experience and qualifying sea service
25 occurring before the start of any such system—affidavits in
26 relation to the person’s maintenance experience and relevant
27 sea service.

28 **14 Standard: alternative trades and post-trade acquisition of**
29 **maintenance experience**

- 30 If an applicant for a certificate of competency as Engineer
31 Watchkeeper:
32 (a) does not hold an approved trade certification or approved
33 trade-equivalent certification; but

1 (b) holds another kind of trade certification or has post-trade
2 maintenance experience;
3 an Examiner must assess, by considering the applicant's particular
4 circumstances, whether to approve the other kind of trade, or the
5 post-trade maintenance experience, as a trade-equivalent
6 certification for the purposes of paragraph 12(2)(a) (Engineer
7 Watchkeeper).

8 **15 Standard: recognition of foreign certificate**

9 A person who holds a certificate of marine engineering or
10 electro-technical competency issued outside Australia must not be
11 issued a certificate of recognition for that certificate unless the
12 person has passed an oral examination that relates to knowledge of
13 operational marine engineering or electro-technical matters, and of
14 Australian maritime legislation, appropriate for the certificate that
15 is to be recognised.

16 **16 Standard: colleges and registered training authorities**

- 17 (1) The Principal Examiner must, at least once each year, audit each
18 college and registered training authority approved to provide
19 marine engineering training and decide whether to continue the
20 approval.
- 21 (2) The Principal Examiner cannot delegate this function.

22 **17 Standard: duties permitted for grades of certificates**

- 23 (1) A certificate of competency or certificate of recognition of a grade
24 specified for an item in column 1 of the table permits the holder to
25 carry out the duties listed for that item in column 2, subject to
26 subsections (4) and (5).
27

Section 17

Table: Duties permitted for grades of certificates

Item	Column 1 Grade of certificate	Column 2 Duties permitted
1	Engineer Class 1	<p>Chief Engineer, First Engineer or Watchkeeping Engineer on vessels of any propulsion power in any operating area</p> <p>Any duties permitted for the holder of a qualification as:</p> <ul style="list-style-type: none"> (a) Engineer Class 2; (b) Engineer Watchkeeper; (c) AMSA Engineer Class 3 near-coastal; (d) Engineer Class 3; (e) Marine Engine Driver Grade 1; (f) Marine Engine Driver Grade 2; (g) Marine Engine Driver Grade 3; (h) Engine rating (however described)
2	Engineer Class 2	<p>First Engineer or Watchkeeping Engineer on vessels of any propulsion power in any operating area</p> <p>Chief Engineer on vessels of less than 3,000 kW propulsion power in any operating area</p> <p>Any duties permitted for the holder of a qualification as:</p> <ul style="list-style-type: none"> (a) Engineer Watchkeeper; (b) AMSA Engineer Class 3 near-coastal; (c) Engineer Class 3; (d) Marine Engine Driver Grade 1; (e) Marine Engine Driver Grade 2; (f) Marine Engine Driver Grade 3; (g) Engine rating (however described)

Table: Duties permitted for grades of certificates

Item	Column 1 Grade of certificate	Column 2 Duties permitted
3	Engineer Watchkeeper	<p>Watchkeeping Engineer on seagoing vessels of any propulsion power in any operating area</p> <p>Any duties permitted for the holder of a qualification as:</p> <p>(a) Marine Engine Driver Grade 1;</p> <p>(b) Marine Engine Driver Grade 2;</p> <p>(c) Marine Engine Driver Grade 3;</p> <p>(d) Engine rating (however described)</p> <p>If endorsed (see subsection (2))—First Engineer on vessels of less than 3,000 kW propulsion power in any operating area</p>
4	AMSA Engineer Class 3 near-coastal	<p>First Engineer or Watchkeeping Engineer on vessels of less than 3,000 kW propulsion power in near-coastal waters</p> <p>Any duties permitted for the holder of a qualification as:</p> <p>(a) Marine Engine Driver Grade 1;</p> <p>(b) Marine Engine Driver Grade 2;</p> <p>(c) Marine Engine Driver Grade 3;</p> <p>(d) Engine rating (however described)</p> <p>If endorsed (see subsection (3))—Chief Engineer on trading vessels of less than 3,000 kW propulsion power in near-coastal waters</p>
5	Marine Engine Driver Grade 1	<p>Engineering duties permitted by a Marine Regulation and not inconsistent with a standard in this Act</p> <p>Any duties permitted for the holder of a qualification as:</p> <p>(a) Marine Engine Driver Grade 2;</p> <p>(b) Marine Engine Driver Grade 3;</p> <p>(c) Engine rating (however described)</p>

Section 17

Table: Duties permitted for grades of certificates

Item	Column 1	Column 2
	Grade of certificate	Duties permitted
6	Marine Engine Driver Grade 2	Engineering duties permitted by a Marine Regulation and not inconsistent with a standard in this Act Any duties permitted for the holder of a qualification as: (a) Marine Engine Driver Grade 3; (b) Engine rating (however described)
7	Marine Engine Driver Grade 3 or Master Class 5 or Coxswain	Engineering duties permitted by a Marine Regulation and not inconsistent with a standard in this Act Any duties permitted for the holder of a qualification as Engine rating (however described)

1

2

(2) For the purposes of table item 3, the holder of a certificate of competency as Engineer Watchkeeper may be **endorsed** to perform duties as First Engineer on vessels of less than 3,000 kW propulsion power if the holder has completed at least 12 months' sea service on vessels of at least 750 kW propulsion power.

3

4

5

6

7

(3) For the purposes of table item 4, the holder of a certificate of competency as AMSA Engineer Class 3 near-coastal may be **endorsed** to perform duties as Chief Engineer on trading vessels of less than 3,000 kW propulsion power if the holder has completed at least 12 months' sea service on vessels of at least 750 kW propulsion power.

8

9

10

11

12

13

(4) A person must not perform duties as an engineer officer on a steamship unless the person holds a certificate that specifically applies to steamships.

14

15

16

(5) A person must not perform duties as an engineer officer on a motorship unless the person holds a certificate that specifically applies to motorships.

17

18

18 Standard: revalidation of certificates

- 1
- 2 (1) A certificate of marine engineering competency of any grade or
3 class may be revalidated if the holder has, since the certificate was
4 issued or last revalidated, completed sea service, on a vessel of at
5 least 750 kW propulsion power, in a position as:
6 (a) an engineer (including electrical engineer); or
7 (b) a supernumerary engineer.
- 8 (2) If the holder holds certificates applying both to steamships and to
9 motorships, both kinds of certificates may be revalidated if the
10 holder has completed sea service as referred to in subsection (1) on
11 either a steamship or a motorship.

19 Standard: Principal Examiner and Examiners

- 12
- 13 (1) The expression *Principal Examiner*, wherever used in a Marine
14 Regulation, is to be given the same meaning that it has in this Act.
- 15 (2) The Principal Examiner must hold, at least, a certificate of
16 competency as Engineer Class 1.
- 17 (3) The expression *Examiner*, wherever used in a Marine Regulation,
18 is to be given the same meaning that it has in this Act.

20 Standard: meaning of propulsion power

19

20 The expression *propulsion power*, wherever used in a Marine
21 Regulation, is to be given the same meaning that it has in this Act.

21 Standard: meaning of qualifying sea service

22

23 The expression *qualifying sea service*, wherever used in a Marine
24 Regulation, is to be given the same meaning that it has in this Act.
25

1
2

Part 3—Miscellaneous

3

22 Savings provision

4
5
6
7

If a Marine Regulation is invalidated because it does not comply with a provision of this Act, the invalidation of that Regulation does not affect the validity of any certificate issued, or other act done, under the Regulation before the invalidation.

8

23 Legislative instruments

9
10
11
12
13
14
15
16
17
18
19

- (1) The Minister may make legislative instruments prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the Minister may make legislative instruments prescribing matters of a savings, transitional or application nature:
 - (a) arising from the operation of this Act; or
 - (b) arising from the making or amendment of a Marine Regulation in order to comply with this Act.