

## **The Law related to Learn to Sail and Power Boat courses**

All sailing and boating activity is conducted under both State and Federal laws. Most club activities are recreational. Recreational boating falls within State Laws and Regulations, so clubs need to ensure they comply with these, in regard to operator licencing, registration, boat operation, and the equipment boats carry. In some States there are particular treatments of sailing boats that clubs should check with their State Association.

Since July 1 2013, Federal Laws, called the National System for Commercial Vessels, (NSCV) govern all commercial boating activity. The NSCV is the responsibility of the Australian Maritime Safety Authority (AMSA) and is for Domestic Vessels, being those that operate within 200 miles of the coast. The NSCV captures all vessels including sailing dinghies, but not windsurfers or kiteboards. Commercial activity is anything that involves payment or fees. The NSCV recognises that most activity at community clubs is recreational and therefore governed by State Laws, as above.

However the NSCV does treat any fee for service activity, conducted by a Club, for a non-member as Commercial. So if your club is charging a fee to a member of the public, who is not a member, for any on water activity it is undertaking a commercial activity. This includes learn to sail and power boat courses. A club can make all such participants temporary members, but this would need to be validated by an appropriate membership category in the Club constitution and a set of membership records, such as entry in myClub, to evidence this. If your club does not charge a fee, this remains recreational, and is covered by State Law.

If your club charges a fee for any learn to sail courses, to non-members, for a fee, then you are a commercial operator and need to comply with the NSCV with regard to:-

- Boats, but learn to sail boats generally do not need to be in survey.
- Crew, Part D outlines the requirements for the qualifications of people conducting the activity.
- Operations, Part E outlines the requirements of your Safety Systems in order for AMSA to issue a Certificate of Operations.

Full details of these requirements appear at [www.amsa.gov.au/domestic/](http://www.amsa.gov.au/domestic/). It is recommended you talk to your State Maritime Department if you wish to operate this way, or conduct any commercial activity, as they manage the system locally on behalf of AMSA.

Importantly AMSA recognise that Australian Sailing and State Associations and their member clubs, and accredited centres meet the above requirements of the NSCV. AMSA have issued a Guidance Note, which is attached, that explains this. This means that an accredited, and fully compliant Discover Sailing Centre, can charge a non-member a fee for a learn to sail or power boat course. Critical to this recognition is requirement to comply with following requirements:

- Discover Sailing Centre Operating Standards and Guidelines, effectively our safety system
- Qualification of Instructor under the Australian Sailing system and appropriate Instructor ratios
- The Special Regulations (Blue Book) with regard to boats and equipment.

Effectively these Discover Sailing Centre Operating Standards and Guidelines are now the standard that all clubs and centres should adopt for either recreational or commercial learn to sail and power boat courses in order to fulfil their duty of care to both their Instructors and Customers.