

# Marine Safety Regulation 2016

[2016-308]



New South Wales

## Status Information

### Currency of version

Current version for 2 August 2024 to date (accessed 11 April 2025 at 20:04)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Staged repeal status**

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2025

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Marine Safety Regulation 2016



New South Wales

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# Marine Safety Regulation 2016



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the [Marine Safety Regulation 2016](#).

### 2 Commencement

This Regulation commences on 1 July 2016 and is required to be published on the NSW legislation website.

#### Note—

This Regulation repeals and replaces the [Marine Safety \(General\) Regulation 2009](#), which would otherwise be repealed on 1 September 2016 by section 10 (2) of the [Subordinate Legislation Act 1989](#).

### 3 Definitions

(1) In this Regulation—

**aerial equipment** means equipment by means of which a person is towed, whether by a vessel or otherwise, over water.

**alpine waters** means—

(a) the waters of any of the following—

- (i) Lake Burrinjuck,
- (ii) Lake Eucumbene,
- (iii) Lake Jindabyne,
- (iv) Khancoban Pondage,
- (v) the Swampy Plains River,
- (vi) Mannus Lake,
- (vii) Googong Reservoir,

(viii) Blowering Reservoir,

(ix) Pejar Dam,

(x) Yass River,

(xi) Lake Oberon, and

(b) all navigable waters within the boundaries of the Kosciuszko National Park.

**appropriate lifejacket**—see clause 120.

**aquatic activity** has the same meaning as in section 18 of the Act.

**aquatic licence** means an aquatic licence issued under Part 5 as either of the following—

(a) a licence for commercial aquatic activities,

(b) a licence for all other (non-commercial) aquatic activities.

**boat driving licence** means a marine safety licence referred to in section 29 (e) of the Act and issued under Part 5 as either of the following—

(a) a general boat driving licence,

(b) a personal watercraft driving licence.

**canoe** includes a kayak.

**channel** means an area of navigable waters that, whether or not indicated by navigation marks, provides a passage for vessels.

**coastal bar** means a bar named in Schedule 1, being a shallow area where sediment is deposited across a river mouth, lake, estuary or harbour entrance, and any channel through or around the shallow area, in the approximate location described opposite the name of the bar in that Schedule.

**current first aid certificate** means a first aid certificate of a type approved by Transport for NSW that is in force.

**diver** means a person using or carrying self-contained underwater breathing apparatus (scuba) or any other form of breathing apparatus either under or on the surface of the water.

**diverting** means making an abrupt or sudden change of direction at speed.

**dolphin** means a free standing pile or cluster of piles, acting as a fender or mooring point.

**dragon boat** means a row boat that consists of a single hull and a keel tunnel, and is propelled forward by a crew of paddlers using single bladed paddles.

**enclosed waters** means navigable waters within the land mass of New South Wales such as inland and coastal rivers, inland and coastal lakes and similar waters, and enclosed coastal bays and harbours and includes the waters specified in Schedules 2 and 3.

**EPIRB** means an emergency position indicating radio beacon.

**fairway** means that part of an area of navigable waters that is usually used by vessels for navigation through the area.

**ferry** and **ferry service** have the same meaning as in the [Passenger Transport Act 2014](#).

**Note—**

The [Passenger Transport Act 2014](#) defines **ferry** as a vessel which seats more than 8 adult persons, and includes a vessel of any class prescribed by the regulations under that Act for the purposes of that definition.

**floating object** includes any floating cargo, goods or things.

**fuel** means any solid, liquid or gaseous matter intended for use as a fuel in powering a vessel, or carrying out any function on a vessel.

**hull identification number** means a hull identification number referred to in clause 87.

**kiteboard** means any watercraft used for kitesurfing.

**kitesurfing** means an activity in which a person is situated on or over water on a board, a ski or skis or a vessel and the power of a controllable kite, or similar equipment, is used to propel the person across the surface of the water and includes kiteboarding, flysurfing, kitesailing and the like.

**label** includes a sticker or a plate.

**length** of a vessel means the centreline measurement of the hull of the vessel taken from a point at the top of the stern to the top of the bow (but excluding any extension that is not an integral part of the hull, such as a bowsprit, outboard motor bracket or outboard motor pod).

**marine legislation** means any of the following Acts (and the regulations and other instruments made under any of those Acts)—

- (a) the Act,
- (b) the [Ports and Maritime Administration Act 1995](#),

(c) the [Marine Pollution Act 2012](#),

(d) the [Maritime Services Act 1935](#).

**mooring** means an apparatus or structure to which a vessel or floating object may be secured.

**off-the-beach vessel** means an unballasted, sail-only vessel, including a centreboard dinghy, skiff or multihull vessel, but not including a vessel with a cabin or a fixed keel.

**open waters** means navigable waters that are not enclosed waters.

**outrigger canoe** means a single file canoe which possesses a float and lateral support on 1 or both sides of the main hull and which is designed to carry not more than 6 persons.

**parasailing vessel** means a power-driven vessel used to tow a person over water using aerial equipment.

**partially smooth waters** means waters specified in Schedule 2.

**passenger** means any person on board a vessel who is neither the operator nor a member of the crew or special personnel (within the meaning of clause 9).

**person authorised to approve information** means a person referred to in clause 67.

**personal watercraft** means a power-driven vessel that—

(a) has a fully enclosed hull, and

(b) does not retain water taken on if it capsizes, and

(c) is designed to be operated by a person lying, standing, sitting astride or kneeling on the vessel but not seated within the vessel,

and includes a jet powered surfboard.

**port** means any port (within the meaning of section 84 of the Act) for which the Minister has appointed a harbour master, or a person to exercise the functions of a harbour master, under the Act.

**power-driven vessel** means a vessel that is being powered by mechanical means.

**public wharf** means any wharf open to, or permitted to be used by, the public.

**registered vessel** means a vessel that is the subject of a vessel registration certificate in force under this Regulation.

**row boat** means a vessel that is manually propelled by oars or paddles and that is

not a canoe, surf ski or rowing shell.

**sailboard** means any craft (other than a kiteboard) used for sailboarding or windsurfing, which is fitted with an apparatus or mechanism that is required to be controlled or operated by the user in order to harness the power of the wind to move the craft.

**sailing vessel** means a vessel operating under sail only, and includes a vessel that is fitted with propelling machinery while that machinery is not being used.

**seagoing ship** means a vessel of more than 45.72 metres in length that is used or intended to be used to carry cargo or passengers for hire or reward and that normally operates on voyages between ports.

**shipping mooring** means a buoy, dolphin or other mooring provided for seagoing ships.

**smooth waters** means waters specified in Schedule 3.

**special event** has the same meaning as in section 12 of the Act.

**speed** means the speed of a vessel measured by reference to the actual distance travelled over the ground.

**structure** includes any object that is fixed to the earth or seabed, or to another object fixed to the earth or seabed, or any rubble or reclamation.

**tender** means a vessel that—

- (a) is used only to transport goods or persons between the shore and its parent vessel or between its parent vessel and another vessel, and
- (b) does not operate further from its parent vessel than 1 nautical mile, and
- (c) is less than 7.5 metres in length.

**the Act** means the [Marine Safety Act 1998](#).

**tow rope** means a rope or other thing that connects a person being towed, a towing device or a towed apparatus to a power-driven vessel.

**tow-in surfing** means an activity in which a personal watercraft is used to tow a person on a surfboard onto a wave.

**underway** means not at anchor, not made fast to the shore and not aground.

**vessel in chains** means a ferry, or similar vessel, operating in chains, ropes or cables across a waterway.

**wash** means the movement of water created by a vessel.

**wear**, in relation to a lifejacket, means wear with all closing or fastening devices such as zippers, buckles and tapes correctly secured as specified by the manufacturer.

**wharf** includes a pier, jetty, landing stage, dock, slip or platform.

**Note—**

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) For the purpose of this Regulation, a recreational vessel being transferred from 1 location to another is not a commercial vessel (regardless of whether or not money, or other consideration, is received for the transfer) if fare-paying passengers are not being carried on the vessel.
- (3) For the purposes of this Regulation, a reference to a specified class of vessel is a reference to that class of service category as described in Clause 3.5 of Chapter 3 of Part B of the document titled the *National Standard for Commercial Vessels* adopted by the former Australian Transport Council and as in force from time to time.
- (4) Notes included in this Regulation do not form part of this Regulation.

#### **4 Definition of “vessel” for purposes of Act**

- (1) Any craft used on water that is capable of being used underwater is declared to be a vessel.
- (2) Any pontoon, airdock, floating dock or similar apparatus, or any floating apparatus used as an accessory in surfing or bathing or used as flotation equipment by a person being towed by a vessel, is declared not to be a vessel unless it is a kiteboard or a sailboard.

## **Part 2 Safety of navigation**

### **Division 1 Regulations for prevention of collisions at sea or in other navigable waters**

#### **5 Adoption of international regulations**

- (1) For the purposes of section 10 (2) of the Act, the Prevention of Collisions Convention is adopted with the modifications set out in Schedule 4.
- (2) In this clause—

**Prevention of Collisions Convention** means the Convention on the *International Regulations for Preventing Collisions at Sea*, done at London on 20 October 1972, as amended and in force for Australia from time to time.

**Note—**

The text of the Convention is set out in Australian Treaty Series 1980 No. 5 ([1980] ATS 5) and is also accessible through the Australian Treaties Library on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

## **Division 2 Other provisions relating to signals and lights on vessels**

### **6 Restrictions on making distress signals**

- (1) A person on board a vessel, or in the vicinity of any navigable waters, must not use distress signalling equipment or make any distress signal, except for the purpose of indicating distress.
- (2) A person must not, without proper cause, display or make any light or other visual signal, or any sound signal, that is used as a warning or guide to vessels.
- (3) The operator of a vessel must ensure that each person on board the vessel complies with this clause.

Maximum penalty—50 penalty units.

### **7 Display of emergency patrol signal**

- (1) A person must not operate a vessel that displays an emergency patrol signal unless—
  - (a) the display has been authorised in writing by Transport for NSW for the purpose of enabling the carrying out of emergency patrol duty, or
  - (b) the vessel is operated on behalf of Transport for NSW, the NSW Police Force, the Port Authority of New South Wales, the Ambulance Service of NSW or a fire service for the purpose of carrying out an emergency patrol duty, or
  - (c) the vessel is operated on behalf of Volunteer Marine Rescue NSW (ABN 98 138 078 092) for the purpose of carrying out any emergency patrol duty.
- (2) An operator of a vessel carrying out an emergency patrol duty must ensure that an emergency patrol signal is displayed in a clearly visible position if directed to do so by Transport for NSW.
- (3) An operator of a vessel must comply with any direction concerning the manner of navigation of the vessel given by the operator or any crew member of another vessel displaying an emergency patrol signal in accordance with this clause.
- (4) In this clause—

**emergency patrol duty** means an urgent patrol or duty arising from an accident, hazard or other emergency or authorised by Transport for NSW.

**emergency patrol signal** means an all-round flashing blue light, or flashing blue and red lights.



Maximum penalty—50 penalty units.

### **Division 3 Conduct of persons on board vessels**

#### **8 Requirements for keeping all parts of the body within a vessel when underway**

- (1) This clause does not apply to—
  - (a) commercial vessels that are not hire and drive vessels within the meaning of the National Law, or
  - (b) a regulated Australian vessel or vessel regulated under the [Navigation Act 2012](#) of the Commonwealth.
- (2) The operator of a power-driven vessel must not allow any person on board the vessel to extend any part of that person's body outside the perimeter of the vessel while the vessel is making way.
- (3) A person on board a power-driven vessel must not extend any part of the person's body outside the perimeter of the vessel while the vessel is making way.
- (4) The operator of a power-driven vessel must not allow a person to be on the bow of the vessel, in a position that puts the person at increased risk of falling overboard, while the vessel is making way.
- (5) A person must not be on the bow of a power-driven vessel, in a position that puts the person at increased risk of falling overboard, while the vessel is making way.
- (6) The operator of a power-driven vessel that is making way must not allow any person to sit on, ride on or hang onto a swim ladder, swim platform or transom attached to the vessel.
- (7) A person on board a power-driven vessel that is making way must not sit on, ride on or hang onto a swim ladder, swim platform or transom attached to the vessel.
- (8) This clause does not apply to a person who is—
  - (a) conducting an activity related to the operation of the vessel including, but not limited to, hoisting or lowering sails, anchoring, mooring or casting off, or
  - (b) fishing while the vessel is anchored, moored or drifting, or
  - (c) involved in any activity relating to securing the safety of any person or property, or
  - (d) the operator of, or a passenger on, a personal watercraft.
- (9) In this clause, a reference to a vessel making way is a reference to the vessel being underway and propelled by the vessel's machinery.

Maximum penalty—50 penalty units.

## **9 Directions to ensure safety of commercial vessel**

- (1) An authorised person for a commercial vessel may give a direction to a person not to board or remain on board the vessel if the authorised person is of the opinion that the direction is necessary to ensure that the maximum number of persons that the vessel is authorised to carry is not exceeded.
- (2) An authorised person for a commercial vessel may give a direction to a person not to enter or remain in a part of the vessel if the authorised person is of the opinion that the direction is necessary to ensure that the maximum number of persons authorised to be carried in that part of the vessel is not exceeded.
- (3) An authorised person for a commercial vessel may give a direction to a person who is a passenger or special personnel on the vessel to move to or from a part of the vessel, or cease an activity in which the person is engaged on the vessel, if the authorised person is of the opinion that the direction is necessary to ensure the proper and orderly management, operation or navigation of the vessel.
- (4) A person must not fail to comply with any reasonable direction given to the person under this clause.

Maximum penalty—50 penalty units.

- (5) An authorised person may not give a direction under this clause to a relevant officer who is exercising his or her functions as a relevant officer.
- (6) In this clause—

**authorised person** for a commercial vessel means a person on board the vessel who is concerned in the navigation, operation or management of the vessel and includes, for the purposes of subclauses (1) and (2), a person who is concerned in the conduct of operations at the berth of the vessel.

**relevant officer** means—

- (a) a police officer, or
- (b) a person employed in the NSW Public Service or the Commonwealth Public Service, or
- (c) an officer of a statutory authority created under the law of New South Wales or of the Commonwealth.

**special personnel**, in relation to a vessel, means—

- (a) a person who is not the master, a pilot, a member of the crew or a passenger of a vessel and who is on the vessel to perform, or assist the performance of, the

special work being carried out on board the vessel, or

- (b) an observer, trainee or person being coached or a coach, or
- (c) a person employed by, or a volunteer for, an emergency services organisation.

#### **10 Offences by passengers and others on commercial vessels**

- (1) A passenger on a commercial vessel must not—
  - (a) be in a part of the vessel if there is a notice displayed at each place on the vessel designed for entry to that part that prohibits the passenger's entry to that part, or
  - (b) be on any roof, awning or mast on the vessel.
- (2) A person on a commercial vessel must not—
  - (a) obstruct a person engaged in the navigation or other operation of the vessel, or
  - (b) wilfully damage, or use for a purpose for which it was not intended, any part of the vessel or any equipment on the vessel, or
  - (c) remove, damage or deface any sign or notice on the vessel that relates to the vessel's safe and proper use.

Maximum penalty—50 penalty units.

### **Division 4 Provisions relating to operation and securing of vessels**

#### **11 General provisions that apply to operation of vessels**

- (1) The operator of a vessel must not drive the vessel through the space provided by the lifting or lateral movement of the opening span of a bridge unless the vessel is a power-driven vessel or is being towed or pushed by a power-driven vessel.
- (2) The operator of a vessel must not cause wash that damages or impacts unreasonably on—
  - (a) any dredge or floating plant, or
  - (b) any construction or other works in progress, or
  - (c) any bank, shore or waterside structure, or
  - (d) any other vessel, including a vessel that is moored.

Maximum penalty—50 penalty units.

#### **12 Speed restriction where persons under 18 years on vessel**

- (1) The operator of a vessel must not operate the vessel at a speed of more than 60

knots if any person under the age of 18 years is on board the vessel.

Maximum penalty—50 penalty units.

(2) This clause does not apply to a vessel operated in accordance with an aquatic licence.

### **13 Requirements in relation to engine power rating**

The owner and master of a vessel are each guilty of an offence if the vessel is operated while having a motor that exceeds—

- (a) the power rating specified for the vessel by the manufacturer, or
- (b) if there is no power rating specified for the vessel by the manufacturer or the power rating is not apparent—
  - (i) in the case of a vessel with an outboard motor, the maximum power capacity as calculated in accordance with section 2.6 of AS 1799.1—2009 *Small craft—General requirements for power boats*, or
  - (ii) in any other case, the power rating (if any) approved by Transport for NSW for vessels of that kind.

Maximum penalty—50 penalty units.

### **14 Requirements when towing or pushing a vessel or object**

The operator of a vessel engaged in towing or pushing another vessel or object must ensure that the vessel or object being towed or pushed is—

- (a) in the case of a vessel that is attached to the other vessel—safely secured to the towing or pushing vessel during the period of the tow or push, and
- (b) positioned so that the vessel or object, or anything on the vessel or object, does not obscure visibility from the towing or pushing vessel unless a person appropriately positioned is providing safety instructions to the operator.

Maximum penalty—50 penalty units.

### **15 Waters in which kitesurfing and sailboarding prohibited**

- (1) A person must not engage in kitesurfing in any waters specified in Part 1 of Schedule 5.
- (2) A person must not engage in sailboarding—
  - (a) in any waters shown on the map set out in Part 2 of Schedule 5, or
  - (b) within the fifth and sixth spans from the northern end of the bridge known as the Ryde Road Bridge located approximately 140 metres upstream from Mortlake

Point, or

- (c) within the third and fourth spans from the northern end of the bridge known as the Ryde Rail Bridge located approximately 210 metres upstream from Mortlake Point, or
- (d) within 50 metres of any public wharf.

Maximum penalty—50 penalty units.

## **16 Exemptions from notices prohibiting or regulating operation of vessels**

- (1) The following vessels are exempt from compliance with a notice displayed under section 11 of the Act—
  - (a) a vessel operated by a police officer, or a member of staff of Transport for NSW, acting in the exercise of his or her functions,
  - (b) a vessel operated in waters or in a manner that does not comply with the notice in order to avoid an immediate risk of injuring persons or damaging property.
- (2) A vessel that is not a power-driven vessel is exempt from compliance with a notice displayed under section 11 of the Act to the extent that the notice contains restrictions on the speed of vessels.

## **17 Restrictions on wake boats**

A person must not operate a power-driven vessel at low speed, that is ballasted, or that uses some other method, so as to generate a large wave or wake for the purposes of wake boarding or wake surfing activities in any area of navigable waters where such operation is prohibited by the display of notices erected by Transport for NSW.

Maximum penalty—50 penalty units.

## **17A Restrictions on time at anchor**

- (1) The operator of a vessel must not allow a vessel to be at anchor in NSW waters for more than 90 days in any calendar year.
- (2) The operator of a vessel must not allow a vessel to be at anchor in any one place in NSW waters for more than 28 days in any calendar year.

Maximum penalty—50 penalty units.

## **Division 5 Provisions relating to obstruction of navigation**

### **18 Obstruction of fairways and channels**

The operator of a vessel must not obstruct, or restrict or impede access to, any fairway or channel.

Maximum penalty—50 penalty units.

### **18A Blocking of channel**

- (1) If a vessel is blocking a channel or part of a channel in a port (other than a pilotage port), the master of that vessel is to warn all approaching vessels that the channel or part is blocked—
  - (a) between sunrise and sunset—by displaying or causing to be displayed the day signal, and
  - (b) between sunset and sunrise—by displaying or causing to be displayed the night signal, and
  - (c) if the vessel is in or near an area of restricted visibility, whether by day or night—
    - (i) by displaying or causing to be displayed the night signal, and
    - (ii) by sounding or causing to be sounded the sound signal.
- (2) Subclause (1) does not apply in respect of a dredger.
- (3) If a day or night signal is being displayed or a sound signal made by the master of a vessel or by any other person (whether in a channel or port or from a position on the shore of a channel or port), the master of any other vessel must not proceed or attempt to proceed along the channel or enter or attempt to enter the port without ensuring that it is safe to do so.
- (4) In this clause—

**day signal** means a black triangle or cone, point up, between 2 black balls in a vertical line.

**dredger** means any vessel used for the purpose of removing any material or article from the bed of waters, whether for the purpose of deepening such waters or otherwise, and includes any vessel secured in any navigable waters for the purposes of carrying out such work.

**night signal** means a green light between 2 red lights in a vertical line.

**sound signal** means 3 short distinct rapid rings of a bell, each ring being of approximately 5 seconds duration, at intervals of not more than 2 minutes duration.

Maximum penalty (subsections (1) and (3)): 50 penalty units.

### **19 Obstruction of wharves and certain other fixtures**

The operator of a vessel must not obstruct the approach to, or restrict or impede the proper use of, any wharf or other landing place, or any boatshed, launching ramp or

courtesy or emergency mooring, otherwise than when launching or removing the vessel from the water in the usual manner.

Maximum penalty—50 penalty units.

## **20 Restrictions on obstructing vessels**

- (1) A person must not obstruct or in any way impede the launching, removal from the water or securing of a vessel otherwise than when launching or removing another vessel from the water in the usual manner.
- (2) A person must not obstruct or in any way impede—
  - (a) the handling of cargo or the embarking or disembarking of passengers in respect of a vessel, or
  - (b) the safe navigation of a vessel.

Maximum penalty—50 penalty units.

## **21 Restrictions on causing an obstruction, danger or nuisance with objects**

- (1) A person must not cause any object or apparatus to float on, extend over or be in any navigable waters if it—
  - (a) obstructs, or is likely to obstruct, navigation, or
  - (b) causes, or is likely to cause, nuisance or danger to any person, or
  - (c) causes, or is likely to cause, damage to any property.
- (2) A person must not throw or otherwise project into, or cause to extend over or into, any navigable waters any object or apparatus that—
  - (a) obstructs, or is likely to obstruct, navigation, or
  - (b) causes, or is likely to cause, any nuisance or danger to any person, or
  - (c) causes, or is likely to cause, damage to any property.

Maximum penalty—50 penalty units.

## **22 Directions about activities that affect navigation**

- (1) Transport for NSW may issue a direction prohibiting or regulating any specified activity in or on navigable waters that affects navigation, or has the potential to affect navigation, whether or not it involves a vessel.
- (2) A direction may be issued—
  - (a) in a written document served on the person to whom it applies, or

(b) by notice published in the Gazette.

- (3) If a direction has been issued that, for reasons of safety associated with an activity, excludes persons or vessels not carrying out that activity from waters while that activity is being carried out, a person who carries out the relevant activity must pay the appropriate market rate for that use of the waters, as determined by Transport for NSW.
- (4) A person to whom a direction has been issued or applies must comply with such a direction.

Maximum penalty (subclause (4)): 100 penalty units.

### **23 Lighting and marking obstructions to navigation**

- (1) The owner of any obstruction to navigation must ensure that it is marked and lit so that it does not cause a danger to navigation.
- (2) Transport for NSW may, in writing, direct the owner of an obstruction to navigation to mark or light the obstruction in the time and manner specified in the direction and to maintain the marking or lighting in good condition.
- (3) The owner of an obstruction to navigation to whom a direction is given under subclause (2) must comply with that direction.
- (4) The owner of an obstruction to navigation to whom a direction is given under subclause (2) must notify Transport for NSW as soon as the owner becomes aware of any defect in relation to the marking or lighting of the obstruction.
- (5) If the owner of any obstruction to navigation fails to comply with a direction under subclause (2), Transport for NSW may take action to cause the obstruction to be marked or lit.
- (6) Transport for NSW may recover as a debt in a court of competent jurisdiction the reasonable costs and expenses incurred by Transport for NSW in the exercise of its powers under subclause (5) from the owner of the obstruction to navigation.
- (7) In this clause—

**obstruction to navigation** means anything in, over or on navigable waters (including a vessel, whether wrecked or not) that—

- (a) is a danger to the safe navigation of vessels (whether or not it is lawfully erected in, over or on navigable waters), or
- (b) is moored, berthed or placed in contravention of the marine legislation or the National Law.

Maximum penalty (subclauses (1), (3) and (4)): 50 penalty units.



## **24 Disposal of obstructions to navigation**

- (1) The Minister may dispose of any obstruction to navigation removed under section 16 of the Act in accordance with this clause.

**Note—**

Section 16 of the Act enables the Minister to direct the owner or person responsible for an obstruction to navigation to remove the obstruction. If the person fails to do so, the Minister may remove or authorise the removal of the obstruction.

- (2) The Minister is to take reasonable steps to determine who is the owner or person responsible for the obstruction to navigation unless the obstruction has been destroyed as referred to in section 16 (3) of the Act or the Minister considers the obstruction has no appreciable market value.
- (3) If the Minister considers that the obstruction to navigation has no appreciable market value, the Minister may direct that the obstruction be disposed of, kept, repaired or treated in any way that the Minister considers appropriate.
- (4) If the Minister considers that the obstruction to navigation has some appreciable market value, the obstruction is to be returned to a person who—
  - (a) establishes to the satisfaction of the Minister that the person is the owner or person responsible for the obstruction, and
  - (b) pays to the Minister the amount of reasonable costs and expenses incurred by the Minister as referred to in section 16 (5) of the Act.
- (5) If the Minister is unable to establish who is the owner or person responsible for the obstruction to navigation or recover the amount of reasonable costs and expenses incurred by the Minister, the Minister may, after a reasonable period of time has passed, sell or otherwise dispose of the obstruction or keep the obstruction.
- (6) The proceeds of any sale referred to in subclause (5) are to be applied towards reducing the amount of reasonable costs and expenses incurred by the Minister. If those proceeds are more than that amount and the Minister has established who is the owner or person responsible for the obstruction to navigation, the balance remaining after that amount is deducted is to be paid to that person on application in writing by that person.

## **25 Obligation on operators if vessels cause an obstruction to navigation**

If a vessel or any equipment associated with a vessel is a potential obstruction to navigation (within the meaning of section 16 of the Act) or danger to other vessels, the operator of the vessel must ensure that adequate warning is given to other vessel operators of the potential obstruction or danger.

Maximum penalty—50 penalty units.

## **26 Obstruction of lighthouses, lightships or dolphins**

A person must not, without lawful authority, be on or in or damage or interfere with any lighthouse, lightship or dolphin.

Maximum penalty—100 penalty units.

## **27 Securing vessel to navigation aid or bridge**

A person must not, without lawful authority, secure any vessel to any navigation aid or bridge.

Maximum penalty—100 penalty units.

## **28 Restrictions near certain vessels or machinery**

- (1) A person, whether or not conveyed by a vessel, must not enter or be in any navigable waters within 30 metres of any moored or anchored seagoing ship, stranded vessel, moored or anchored dredge, floating crane or machinery.
- (2) A person, whether or not conveyed by a vessel, must not enter or be in any navigable waters within 30 metres of any sunken vessel.
- (3) This clause does not apply to the following—
  - (a) a person or a member of a class of persons who is authorised to enter or be in the area by a member of staff of Transport for NSW or the Port Authority of New South Wales, the owner or master of the vessel concerned or a person in charge of the crane or machinery concerned,
  - (b) a person who is on board a vessel that is operated by a police officer, or a member of staff of Transport for NSW or the Port Authority of New South Wales, acting in the exercise of his or her functions,
  - (c) a person being conveyed in a vessel that is compelled by circumstances to proceed through the area concerned and that does so on a direct course without interruption,
  - (d) a person who is within the distance referred to because of an emergency or in order to avoid an immediate risk of injuring persons or damaging property,
  - (e) a person who is being conveyed on a vessel over which the person has no control,
  - (f) a person who did not know, and could not reasonably have determined, the location of the ship, vessel, dredge, crane or machinery.

Maximum penalty—100 penalty units.

## **29 Restrictions near certain wharves or marine installations**

- (1) A person, whether or not conveyed by a vessel, must not, without lawful authority, enter or be in any navigable waters within 100 metres of any wharf or marine installation used for the shipment, unshipment or storage of any oil, inflammable liquids, dangerous goods or explosives.

Maximum penalty—100 penalty units.

- (2) This clause does not apply to the following—

- (a) a person or a member of a class of persons who is authorised to enter or be in the area by a member of staff of Transport for NSW or the Port Authority of New South Wales or a person in charge of the wharf or installation concerned,
- (b) a person who is on board a vessel that is operated by a police officer, or a member of staff of Transport for NSW or the Port Authority of New South Wales, acting in the exercise of his or her functions,
- (c) a person being conveyed in a vessel that is compelled by circumstances to proceed through the area concerned and that does so on a direct course without interruption,
- (d) a person who is within the distance referred to because of an emergency or in order to avoid an immediate risk of injuring persons or damaging property,
- (e) a person who is being conveyed on a vessel over which the person has no control,
- (f) a person who did not know, and could not reasonably have determined, that the wharf or marine installation was used for the shipment, unshipment or storage of any oil, inflammable liquids, dangerous goods or explosives.

## **30 Restrictions near construction work**

- (1) A person, whether or not conveyed by a vessel, must not, without lawful authority, enter or be in any navigable waters within 30 metres of any site—

- (a) on which construction work is being carried on by or for Transport for NSW or any other public or local authority, and
- (b) on which there is erected a sign specifying that construction work is being carried on by that agency or authority and that it is an offence to be within 30 metres of that work.

Maximum penalty—100 penalty units.

- (2) This clause does not apply to the following—

- (a) a person or a member of a class of persons who is authorised to enter or be in the

area by a member of staff of Transport for NSW or the public or local authority concerned,

- (b) a person who is on board a vessel that is operated by a police officer, or a member of staff of Transport for NSW, acting in the exercise of his or her functions,
- (c) a person being conveyed in a vessel that is compelled by circumstances to proceed through the area concerned and that does so on a direct course without interruption,
- (d) a person who is within the distance referred to because of an emergency or in order to avoid an immediate risk of injuring persons or damaging property,
- (e) a person who is being conveyed on a vessel over which the person has no control.

### **31 Climbing on vessels**

- (1) A person must not, without lawful authority or the consent of the operator of the vessel—

- (a) climb onto or attach himself or herself to a vessel in navigable waters, or
  - (b) assist any person to climb onto or attach himself or herself to any vessel in navigable waters.

Maximum penalty—100 penalty units.

- (2) This clause does not apply if the person who climbs on or attaches himself or herself to a vessel does so because of an emergency or in order to avoid an immediate risk of injuring persons or damaging property.

### **32 Restrictions near naval vessels**

- (1) A person, whether or not conveyed by a vessel, must not, without lawful authority, enter or be in any navigable waters closer than—

- (a) 200 metres from the bow and 60 metres from the sides and stern of a naval vessel that is underway, or
  - (b) 60 metres from a naval vessel that is moored, anchored or berthed.

Maximum penalty—100 penalty units.

- (2) This clause does not apply to the following—

- (a) a person on board a vessel that has the consent of the master of the naval vessel concerned to be closer than the distances referred to,
  - (b) a person operating a ferry providing a ferry service that is on its usual route or timetable for the day,

- (c) a person (whether or not on board a vessel) who is within the distance referred to because of an emergency or in order to avoid an immediate risk of injuring persons or causing significant damage to property,
- (d) a person who is being conveyed on a vessel over which the person has no control,
- (e) a person who did not know, and could not reasonably have determined, that the vessel was a naval vessel.

(3) In this clause—

**naval vessel** means a vessel used by an arm of the Defence Force of Australia or by the naval, military or air forces of a country other than Australia.

### **33 Restrictions on securing vessels and interfering with safety equipment**

- (1) A person must not cause a vessel that is secured to become unsecured, unless authorised to do so by—
  - (a) the owner or operator of the vessel, or
  - (b) a police officer, or
  - (c) a member of staff of Transport for NSW acting in the exercise of his or her functions, or
  - (d) the relevant harbour master or a member of staff of the Port Authority of New South Wales acting in the exercise of his or her functions.
- (1A) Despite subclause (1), a person must not cause a vessel that is secured to become unsecured contrary to a direction of the relevant harbour master.
- (2) A person must not make improper use of, remove, damage, obstruct access to or otherwise interfere with any safety equipment located in the vicinity of navigable waters.
- (3) This clause does not prohibit action taken in an emergency with the intention of avoiding or minimising damage to the relevant vessel or for the purposes of servicing or replacing the safety equipment.

Maximum penalty—50 penalty units.

## **Division 6 Speed limits for certain areas**

### **34 Application of Division where notice applies**

- (1) This Division extends to the operation of a vessel in waters to which a notice under section 11 of the Act applies.

- (2) If there is an inconsistency between this Division and such a notice, this Division prevails, to the extent of the inconsistency.
- (3) This Division does not apply to a vessel operated by a police officer, or a member of staff of Transport for NSW, acting in the exercise of his or her functions.
- (4) Clauses 35–37 do not apply to ferries providing ferry services or being brought into position for the provision of those services.

### **35 Speed limit for Port of Sydney Central Area**

- (1) This clause applies to the navigable waters between a line from the stone pillar at Bradley's Head to Hermit Point and a line from Balls Head to Ballast Point.
- (2) A person must not operate a vessel of 30 metres or more in length to which this clause applies at a speed of more than 10 knots.

Maximum penalty—10 penalty units.

### **36 Speed limit for Port of Sydney Northern Area**

- (1) This clause applies to the navigable waters between a line from Inner South Head to Inner North Head and a line from the stone pillar at Bradley's Head to Hermit Point and including Middle Harbour and North Harbour.
- (2) A person must not operate a vessel of 30 metres or more in length to which this clause applies at a speed of more than 12 knots.

Maximum penalty—10 penalty units.

### **37 Speed limit for Port of Sydney Western Area**

- (1) This clause applies to the navigable waters of the Port of Sydney including all rivers and creeks connecting with the Port west of a line from Balls Head to Ballast Point extending to Silverwater Bridge.
- (2) A person must not operate a vessel of 30 metres or more in length to which this clause applies at a speed of more than 6 knots.

Maximum penalty—10 penalty units.

### **38 Speed limit of 8 knots**

- (1) This clause applies to the navigable waters of Sydney Cove within the meaning of Schedule 6.
- (2) A person must not operate a vessel in Sydney Cove at a speed of more than 8 knots.

Maximum penalty—50 penalty units.

## **Division 7 Requirements relating to distances between vessels and other objects**

### **39 Meaning of “safe distance and speed”**

For the purposes of this Division, a **safe distance and speed**, in relation to a person or thing, means a distance and speed that will ensure that the vessel will not cause danger or injury to the person, or damage to the thing, having regard to all relevant safety factors, including weather conditions at the time, visibility, speed of the vessel and obstructions to navigation that are present.

### **40 Minimum distances to be maintained**

- (1) The operator of any vessel must ensure that the vessel and any towing equipment and any person being towed by the vessel maintains—
  - (a) a distance of not less than 60 metres from any persons in the water or, if that is not practicable, a safe distance and speed, and
  - (b) a distance of not less than 60 metres from the location of a dive flag on the surface of the water or, if that is not practicable, a safe distance and speed.
- (2) The operator of a power-driven vessel that is travelling at a speed of 6 knots or more must ensure that the vessel, and any towing equipment and any person being towed by the vessel, maintain a distance of not less than 30 metres from any vessel, land, structures and other things or, if that is not practicable, a safe distance and speed.
- (3) The operator of a parasailing vessel must ensure that the vessel, any towing equipment and any person being towed maintain a distance of at least 200 metres from any other vessel and any overhead structure or apparatus erected or suspended above navigable waters.
- (4) Subclause (1) does not apply when a vessel is—
  - (a) supporting or retrieving divers from the water, or
  - (b) supporting swimmers in the water, or
  - (c) a manually-powered vessel such as, but not limited to, a canoe, surf ski or row boat, or
  - (d) a sailing vessel under 5.5 metres in length that does not have an auxiliary means of propulsion, or
  - (e) being launched or removed from the water with appropriate care to avoid injuring persons or damaging property.

Maximum penalty—50 penalty units.

#### **41 Restrictions in or near swimming areas**

- (1) A person must not operate a vessel in a swimming area unless permitted to do so by a notice erected or authorised to be erected by the Minister.
- (2) A person must not operate a power-driven vessel within 60 metres of a swimming area unless permitted to do so by a notice erected or authorised to be erected by the Minister.
- (3) A person must not use a vessel to tow another person by any means if the other person is in, or within 60 metres of, a swimming area.
- (4) This clause does not apply to a vessel that is operated by a local council, Surf Life Saving New South Wales or professional lifeguards for the purpose of undertaking rescues or surf rescue training or patrolling.
- (5) For the purposes of this clause, a **swimming area** means—
  - (a) in the case of surf beaches—the area of navigable waters designated for use by swimmers by the display of surf patrol flags or signs erected by a public or local authority authorised to do so, being an area having boundaries comprising—
    - (i) the shore between the flags or signs, and
    - (ii) imaginary lines running from the flags or signs perpendicular to the shore for a distance of 500 metres from the shore (or for such shorter distance from the shore as is indicated on the flags or signs), and
    - (iii) an imaginary line running between the ends of those lines, or
  - (b) in any other case—any area of navigable waters designated for use by swimmers by the display of signs erected by a public or local authority authorised to do so, being an area having boundaries comprising—
    - (i) the shore between the signs (or, if 3 or more such signs are erected on the shore, the shore between the 2 outermost signs), and
    - (ii) imaginary lines, running from the signs, perpendicular to the shore for a distance of 60 metres from the shore (or for such shorter distance from the shore as is indicated on the signs), and
    - (iii) an imaginary line running between the ends of those lines.

Maximum penalty—50 penalty units.

#### **42 Special provisions for vessels in the vicinity of vessels operating in chains**

The operator of a vessel that is passing or crossing a vessel in chains that is making way must—



- (a) operate at a speed of 4 knots or less when within 100 metres of the chains, ropes or cables being used by the vessel in chains, and
- (b) disengage power when crossing the chains, ropes or cables being used by the vessel in chains, except when it is unsafe to do so, and
- (c) pass at a safe distance astern from the vessel in chains.

Maximum penalty—50 penalty units.

## **Division 8 Towing, wake boarding and wake surfing**

### **43 Towing wake boarders and wake surfers**

- (1) The operator of a power-driven vessel must ensure that a person who is wake boarding or wake surfing from a vessel, whether or not using a rope, is not less than 7 metres from the centreline of the stern of the vessel.
- (2) The operator of a power-driven vessel must ensure that a person who is being towed from a vessel using any other device is not less than 7 metres from the centreline of the stern of the vessel.
- (3) This clause does not apply if—
  - (a) the operator considers, and mitigates, the risks associated with carbon monoxide emissions, and
  - (b) the vessel is not fitted with a propeller at the aft most position of the hull.

Maximum penalty—50 penalty units.

### **44 Restriction on number of persons being towed, wake boarding or wake surfing**

The operator of a vessel must not tow more than 3 persons at the same time (regardless of the number of devices used or their capacity) or allow more than 3 people to wake board or wake surf from the vessel, except in accordance with an aquatic licence.

Maximum penalty—50 penalty units.

### **45 Restriction on time of day when towing, wake boarding or wake surfing can occur**

The operator of a vessel must not tow any person, or allow any person to wake board or wake surf from the vessel, between sunset and sunrise, except in accordance with an aquatic licence.

Maximum penalty—50 penalty units.

### **46 Speed restriction where persons being towed is under 18 years**

- (1) The operator of a vessel must not operate the vessel at a speed of more than 60

knots if any person under the age of 18 years is being towed by that vessel.

Maximum penalty—50 penalty units.

- (2) This clause does not apply to a vessel operated in accordance with an aquatic licence.

**47 Observer requirements for towing, wake boarding or wake surfing**

- (1) The operator of a vessel must not tow any person, or allow any person to wake surf or wake board from the vessel, unless—

- (a) the operator has designated another person who is on board the vessel to act as an observer in accordance with this clause, and
- (b) the operator has explained the duties of an observer (as set out in subclause (3)) to the other person, and
- (c) the other person is qualified to act as an observer, and
- (d) the other person is not under the influence of alcohol or any other drug.

Maximum penalty—50 penalty units.

- (2) For the purposes of subclause (1) (c), a person is qualified to act as an observer if that person—

- (a) has attained the age of 16 years, or
- (b) is the holder of a boat driving licence or a personal watercraft driving licence.

- (3) An observer has the following duties—

- (a) to face and watch the person being towed,
- (b) to report to the operator of the vessel all matters affecting the safety of the person being towed and the safety of any other person affected by the towing operation.

- (4) This clause does not apply to a personal watercraft operated by Surf Life Saving New South Wales or professional lifeguards for the purpose of undertaking rescues or surf rescue training.

- (5) This clause does not apply to a personal watercraft being operated in open waters for tow-in surfing if there are no other surfboard riders present and the following conditions are complied with—

- (a) the personal watercraft must be equipped with—
  - (i) a quick release floating tow rope with a minimum length of 7 metres, and
  - (ii) a two-way communication device, and

- (iii) a rescue sled, and
  - (iv) a spare kill switch lanyard wrapped around the handlebars, and
  - (v) a toolkit, and
  - (vi) a bow tow-line with a minimum length of 7 metres,
- (b) the operator of the vessel—
- (i) must hold a current first aid certificate, and
  - (ii) must have passed a course or examination approved by Transport for NSW for the purposes of this paragraph, and
  - (iii) must carry dive fins and a safety knife on his or her person, and
  - (iv) must give right of way to all other boating and recreational activities, and
  - (v) must remain at least 200 metres from all other vessels and persons in the water, and
  - (vi) must not tow more than 1 person at a time,
- (c) the surfboard rider—
- (i) must hold a current personal watercraft driving licence, and
  - (ii) must hold a current first aid certificate, and
  - (iii) must wear an appropriate lifejacket, and
  - (iv) must have passed a course or examination approved by Transport for NSW for the purposes of this paragraph.

#### **48 Responsibilities in relation to trailing equipment**

The operator of a vessel must ensure that any rope, object or other apparatus trailing from the vessel does not cause any obstruction to navigation, danger to any person or damage to any property.

Maximum penalty—50 penalty units.

#### **49 Tow rope and towing device requirements**

- (1) The operator of a power-driven vessel must ensure that the far end of the tow rope or towing device used to tow a person ensures that the person being towed is not less than 7 metres behind the vessel.

Maximum penalty—50 penalty units.

(2) This clause does not apply if—

- (a) the tow rope or towing device used to tow a person is a training bar, and
- (b) the person, while being towed, is—
  - (i) learning how to barefoot ski or use a water ski, wake board or similar device, and
  - (ii) at least 1 metre from the side of the vessel, and
  - (iii) at least 1 metre forward of the vessel's exhaust port.

(3) In this clause—

**training bar** means a metal bar or pole that—

- (a) is fitted to a vessel and extends perpendicular to the centreline of the vessel, and
- (b) can be held directly or by means of a short rope by a person being towed.

## **Division 9 Personal watercraft**

### **50 Personal watercraft behaviour label**

- (1) The owner of a personal watercraft must ensure that the personal watercraft is not operated by any person unless it has a label firmly affixed to it that—
  - (a) contains a description of requirements to carry a personal watercraft licence, wear a lifejacket, maintain minimum distances and comply with exclusion zones imposed by the Act and this Regulation, and
  - (b) is issued by Transport for NSW, and
  - (c) is not in any way defaced, obliterated or concealed, and
  - (d) is clearly visible from the steering position at all times.

Maximum penalty—20 penalty units.

- (2) This clause does not apply to a personal watercraft that is registered under the law of another State or Territory or of another jurisdiction.

### **51 Personal watercraft excluded from Sydney Harbour and its tributaries**

- (1) A person must not operate a personal watercraft on any navigable waters in a personal watercraft exclusion zone.
- (2) The owner of a personal watercraft must not permit a person to operate the personal watercraft on any navigable waters in a personal watercraft exclusion zone.

- (3) Subclauses (1) and (2) do not apply to a police officer, or a member of staff of Transport for NSW, acting in the exercise of his or her functions.
- (4) A person who commits an offence under subclause (1) may be disqualified by the responsible licensing official from holding or obtaining a boat driving licence—
  - (a) for the first such offence—for a period of up to 1 year after the commission of the offence, or
  - (b) for the second or subsequent such offence—for a period of up to 2 years after the commission of the offence.
- (5) The disqualification is in addition to any penalty imposed for the offence.
- (6) Subject to subclause (7), the responsible licensing official may at any time remove, or reduce the period of, a disqualification imposed by subclause (4).
- (7) A disqualification imposed by subclause (4) does not operate to the extent to which it is inconsistent with any order of a court, or any decision of the responsible licensing official under section 38 of the Act, that disqualifies the person concerned from holding or obtaining a licence.
- (8) For the purposes of subclause (4), a person is taken to have committed an offence—
  - (a) at the time that the person is found guilty of the offence by a court, or
  - (b) at the time that the person pays the penalty required by a penalty notice served on the person under section 126 of the Act in respect of the alleged offence (or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the [Fines Act 1996](#)).
- (9) Subclause (4) (b) extends to a person whose first offence against a provision that corresponded with subclause (1) was committed before the commencement of this clause.

(10) In this clause—

***personal watercraft exclusion zone*** means the waters of Port Jackson, and includes the waters of all tidal bays, rivers and their tributaries connected or leading to Sydney Harbour bounded by high water mark and lying to the west of a line commencing at the southernmost point of North Head and running to the northernmost point of South Head.

Maximum penalty (subclauses (1) and (2)): 50 penalty units.

## **52 Operation of personal watercraft at any speed**

- (1) A person must not operate a personal watercraft in an irregular manner on any

navigable waters in the personal watercraft restriction zone that are within 200 metres of a river bank or shore.

(2) A person must not operate a personal watercraft in an irregular manner on any navigable waters outside the personal watercraft restriction zone that are within 200 metres of a river bank or shore, if 1 or more dwellings are—

(a) located on land within 200 metres of the river bank or shore adjacent to the waters, and

(b) visible from those waters.

(3) This clause does not apply to any of the following—

(a) the operator of a personal watercraft that is towing a person,

(b) a police officer, or a member of staff of Transport for NSW, acting in the exercise of his or her functions.

(4) In this clause—

***operating a personal watercraft in an irregular manner*** includes, but is not limited to—

(a) driving it in a circle or other pattern, or

(b) weaving or diverting, or

(c) surfing down, or jumping over or across, any swell, wave or wash,

but does not include making any necessary turn or diversion.

***personal watercraft restriction zone*** means the waters (including any tributaries) of Avoca Lake, Botany Bay, Brisbane Water, Broken Bay, Bulbararing Lagoon, Cockrone Lagoon, Cooks River, Dee Why Lagoon, Georges River, Hawkesbury River, Manly Lagoon, Manly Reservoir, Narrabeen Lakes, Nepean River, Port Hacking, Prospect Reservoir, Terrigal Lagoon, Wamberal Lagoon and Woronora River (but does not include any open waters).

Maximum penalty—50 penalty units.

### **53 Operation of personal watercraft between sunset and sunrise**

(1) A person must not operate a personal watercraft between sunset and sunrise, except in accordance with an aquatic licence.

(2) The owner of a personal watercraft must not permit a person to operate the personal watercraft between sunset and sunrise unless the watercraft is operated in accordance with an aquatic licence.

- (3) This clause does not apply to a police officer, or a member of staff of Transport for NSW, acting in the exercise of his or her functions.

Maximum penalty—50 penalty units.

## **Division 10 Safe loading of vessels**

### **54 Maximum safe loading level of certain vessels**

- (1) The owner of a vessel must ensure that a label (a **safety label**) that complies with this clause is affixed to the vessel in accordance with this clause.
- (2) The safety label must be in a form approved by Transport for NSW.
- (3) The safety label must show the maximum safe load (comprising the total weight of persons and equipment) that the vessel may carry in calm water, or the maximum number of persons the vessel may carry in calm water, and such other safety information as determined by Transport for NSW.
- (4) The information to be displayed on the safety label relating to the maximum safe load and maximum number of persons that the vessel may carry must be calculated in accordance with the ABP Standard (within the meaning of Part 4).
- (5) The safety label must be firmly affixed to the vessel in a position that is clearly visible from each steering position on the vessel and complies with any instructions on the label relating to positioning.
- (6) The safety label must not be defaced, obliterated or concealed.
- (7) The owner and operator of a vessel to which a safety label is affixed must ensure that—
  - (a) the vessel is not loaded with persons or equipment (or both), the total weight of which exceeds the maximum safe load that is displayed on the safety label, and
  - (b) the number of persons on the vessel does not exceed the maximum number of persons the vessel may carry that is displayed on the safety label.
- (8) The owner and operator of a vessel to which no safety label is affixed must ensure that—
  - (a) the vessel is not loaded with persons or equipment (or both), the total weight of which exceeds the maximum safe load for the vessel calculated in accordance with the ABP Standard, and
  - (b) the number of persons on the vessel does not exceed the maximum number of persons the vessel may carry calculated in accordance with the ABP Standard.
- (9) In calculating the number of persons on board a vessel for the purposes of this clause,

children under the age of 1 year are to be disregarded.

(10) This clause does not apply to the following vessels—

- (a) a personal watercraft,
- (b) a vessel manually propelled by oars or paddles and that does not have an engine,
- (c) a vessel used solely for the purpose of racing or competition,
- (d) a sailing vessel with or without an engine,
- (e) a commercial vessel,
- (f) a vessel regulated under the [Navigation Act 2012](#) of the Commonwealth or as a regulated Australian vessel,
- (g) a vessel that has been in State waters for less than 3 months and—
  - (i) that is not ordinarily operated in State waters, and
  - (ii) that is registered under the law of another State or Territory or of another jurisdiction, and
  - (iii) that is operated in accordance with the requirements (if any) of the law of that State, Territory or jurisdiction relating to the maximum safe loading level of vessels, the labelling of vessels in relation to maximum safe loads and the maximum number of persons that the vessel may carry.

Maximum penalty (subclauses (1), (7) and (8)): 50 penalty units.

#### **55 Maximum safe loading levels for personal watercraft**

The owner and operator of a personal watercraft must ensure that the number of persons on the vessel does not exceed the maximum number of persons the vessel may carry specified by the manufacturer of the vessel.

Maximum penalty—50 penalty units.

### **Division 11 Impounded recreational vessels**

#### **55A Storage fee**

For the purposes of section 19K (1) of the Act, the prescribed fee for storage of an impounded vessel is the fee specified in Schedule 11.

#### **55B Towing fee for impounded vessel**

- (1) A fee is payable to the Commissioner of Police or Transport for NSW by the owner of a vessel that is towed under section 19A or 19D of the Act, except as otherwise



provided by this clause.

- (2) The fee payable is the fee specified in Schedule 11.
- (3) A fee is not payable under this clause (and if paid, is refundable) unless—
  - (a) a person is convicted of the offence referred to in section 19A (1) of the Act, or
  - (b) a penalty notice, issued in relation to any such alleged offence, is dealt with by payment of the penalty prescribed or by a penalty notice enforcement order under the *Fines Act 1996* that is made, or is taken to have been made, against the person and that is not subsequently quashed or set aside.
- (4) The Commissioner of Police or Transport for NSW is to give notice of any fee payable under this clause to the owner or operator of the vessel concerned and, except as otherwise provided by this Regulation, the fee is due and payable 14 days after the notice is given.

#### **55C Disposal of impounded vessels forfeited to the Crown**

- (1) If a vessel that was impounded under section 19D of the Act has not been released in accordance with Division 2 of Part 2 of the Act at the end of the period for which it was liable to be impounded, the Commissioner of Police or Transport for NSW may, by notice given to the owner of the vessel, warn the owner that the vessel is liable to be offered for sale unless appropriate steps are taken to procure the release of the vessel.
- (2) For the purposes of section 19M of the Act, a vessel that has been forfeited to the Crown under section 19E or 19F of the Act, or that remains duly impounded for 28 days after the service of a notice referred to in subclause (1), may be offered for sale, except as provided by subclause (3) or by the order of any court.
- (3) A vessel may not be offered for sale while any application under section 19J of the Act, or any subsequent proceedings arising out of such an application, are pending.
- (4) At any time within 12 months after a vessel has been sold in accordance with this Regulation, a person may apply to the Commissioner of Police or Transport for NSW for payment to the person of the balance of the proceeds of sale of the vessel, after deduction of any movement, towing and storage fees payable under the Act and the Commissioner's reasonable costs of or incidental to the sale.
- (5) The balance of the proceeds of sale may be paid by the Commissioner of Police or Transport for NSW to any applicant who satisfies the Commissioner or Transport for NSW, on such evidence as the Commissioner or Transport for NSW may reasonably require, that—
  - (a) the applicant was lawfully entitled to the vessel immediately before its sale, and

- (b) there was a reasonable excuse for the applicant's failure to obtain the release of the vessel before it was sold.

## **Division 12 Alcohol and other drug use**

### **55D Prescribed laboratories and authorised laboratories**

- (1) For the Act, Schedule 1, clause 23(3), definition of **authorised laboratory**, the following laboratories are prescribed—
  - (a) the laboratory at the NSW Health Pathology Forensic & Analytical Science Service at Lidcombe,
  - (b) the laboratory at the NSW Health Pathology Forensic & Analytical Science Service at North Ryde.
- (2) For the Act, Schedule 1, clause 24, definition of **prescribed laboratory**, the following laboratories are prescribed—
  - (a) the laboratory at the NSW Health Pathology Forensic & Analytical Science Service at Lidcombe,
  - (b) the laboratory at the NSW Health Pathology Forensic & Analytical Science Service at North Ryde.

## **Division 13 Miscellaneous safety provisions**

### **55E Restrictions on securing vessels near submarine cables**

- (1) A person must not cause a vessel to be anchored within 200 metres of a line indicated on a submarine cables line warning sign.
- (2) A person must not cause a vessel to be anchored within 200 metres of a submarine cable marked on—
  - (a) an appropriate chart that meets the minimum standards specified in Schedule 7, or
  - (b) an appropriate map that meets the minimum standards specified in Schedule 7.
- (3) For the purposes of this clause, a **submarine cables line warning sign** means any sign in or adjacent to any navigable waters which states in a legible manner that submarine cables are laid in or under those waters on a line indicated.

Maximum penalty—50 penalty units.

### **55F Diving operations**

The master of a vessel must not use any vessel on any enclosed waters in connection with any diving operations within 100 metres of any fairway or channel without the prior

consent of Transport for NSW, the Port Authority of New South Wales or the relevant harbour master.

Maximum penalty—50 penalty units.

### **55G Carriage of offensive matter**

If a vessel is used on any navigable waters for the carriage of refuse or other offensive matter, the master and owner of the vessel must ensure—

- (a) the vessel—
  - (i) is not secured to any public wharf, except where necessary for loading or unloading operations, and
  - (ii) is not secured in the vicinity of any recreation reserve or launching ramp or among other secured vessels, and
- (b) the refuse or matter is, except during loading or unloading operations, effectively covered with canvas or such other material as Transport for NSW, the Port Authority of New South Wales or the relevant harbour master may approve.

Maximum penalty—50 penalty units.

## **Part 3 Special safety requirements for certain waters and vessels**

### **Division 1 Waterway management**

#### **56 Operation of commercial vessels in State waters**

- (1) Transport for NSW may issue a direction in relation to waterway management matters to—
  - (a) a person operating, or proposing to operate, a commercial vessel, or
  - (b) a person or persons operating, or proposing to operate, a commercial vessel of a class referred to in the direction, or
  - (c) a person or persons operating, or proposing to operate, a commercial vessel carrying out a function or activity referred to in the direction.
- (2) A direction may be issued by notice in writing given to the person concerned or by publication in the Gazette.
- (3) If a direction is published in the Gazette, the direction takes effect at the beginning of the day after it is published, or on any later date specified in the direction.
- (4) If a direction has been issued under this clause that, for reasons of safety associated with an activity, excludes persons or vessels not carrying out that activity from waters while that activity is being carried out, a person who carries out the relevant activity

must pay the appropriate market rate for that use of the waters, as determined by Transport for NSW.

- (5) A person operating a vessel in State waters must comply with any such direction.

Maximum penalty—100 penalty units.

- (6) For the purposes of this clause, **waterway management matter** includes, but is not limited to, the following—

- (a) the designation of areas in which particular vessels may operate, or be prohibited from operating,
- (b) the designation of areas in which vessels may be used for particular purposes or where the use of vessels for particular purposes may be prohibited,
- (c) the designation of areas for the exclusive use of particular vessels or of vessels being used for a particular purpose,
- (d) the imposition of speed restrictions,
- (e) the imposition of navigation requirements.

## **Division 2 Navigation requirements for commercial adventure vessels**

### **57 Definitions**

In this Division, **commercial adventure vessel** means a Class 1 or Class 2 commercial vessel used for the purposes of providing high speed adventure or thrill rides for passengers.

### **58 Speed requirements for commercial adventure vessels in Port Jackson waters**

- (1) The master of a commercial adventure vessel must not operate the vessel in Port Jackson at a speed exceeding—

- (a) 20 knots in the waters west of a straight line drawn between the starboard lateral marker at Bradley's Head and Woollahra Point, or
- (b) 30 knots in the waters east of that line.

Maximum penalty—50 penalty units.

- (2) This clause does not apply to the following waters—

- (a) Sydney Cove,
- (b) any of the waters of Port Jackson for which a notice is displayed in accordance with section 11 of the Act that imposes restrictions on the speed of vessels in those waters.

**Note—**

Clause 38 sets out the speed limit for Sydney Cove.

**59 Navigation requirements for commercial adventure vessels operating in irregular manner**

- (1) The master of a commercial adventure vessel must ensure that, when operating the vessel in an irregular manner, the vessel maintains—
- (a) a distance of not less than 200 metres from any person in the water, and
  - (b) a distance of not less than 200 metres from any other vessel, and
  - (c) a distance of not less than 100 metres from any fixed object, and
  - (d) when coming to an abrupt stop, a distance of at least 500 metres in front of any ferry that is underway on the same path.

Maximum penalty—50 penalty units.

- (2) In this clause—

***operating a vessel in an irregular manner*** means—

- (a) driving it in a circle or other pattern, or
  - (b) weaving or diverting, or
  - (c) surfing down, or jumping over or across, any swell, wave or wash,
- but does not include making any necessary turn or diversion.

**Division 3 Requirements for navigation in the vicinity of Lord Howe Island**

**60 Navigation requirements for certain vessels**

- (1) The owner and master of a Class 1, Class 2 or Class 4 commercial vessel are each guilty of an offence if the vessel leaves Lord Howe Island Lagoon—
- (a) between sunset and sunrise, or
  - (b) when the wind speed exceeds 25 knots, or
  - (c) when the wind is in the segment 150 degrees to 320 degrees and the wind speed exceeds 21 knots.
- (2) The owner and master of a Class 1 or Class 2 commercial vessel are each guilty of an offence if the vessel is operated in waters within Lord Howe Island Lagoon between sunset and sunrise and for the whole period during which the vessel is operated—

- (a) the wind speed exceeds 15 knots, or
- (b) tidal conditions do not exceed 300 millimetres from the low water mark.

Maximum penalty—50 penalty units.

## **Division 4 Requirements for navigation in Sydney Cove**

### **61 Requirements for master of vessel operating in Sydney Cove**

The master of a vessel must ensure that the requirements of Schedule 6 are complied with in relation to the vessel.

Maximum penalty—50 penalty units.

## **Part 4 Requirements relating to builders plates for certain recreational vessels**

### **Division 1 Preliminary**

#### **62 Definitions**

In this Part—

**ABP Standard** means the standard entitled *National Standard for the Australian Builders Plate for Recreational Boats*, published under the authority of the Ministers comprising the former Australian Transport Council, and as in force from time to time.

**builders plate** means a plate fixed to a vessel displaying information about the vessel.

**owner builder** of a vessel means a natural person who builds the vessel for the person's own use.

**second hand vessel** means a vessel that has been used otherwise than as follows—

- (a) in the course of being built or tested,
- (b) by the builder only,
- (c) for the purpose of transporting it for the purpose of sale,
- (d) for the purpose of demonstrating it to a purchaser.

**sell** includes—

- (a) supply for sale, or
- (b) supply in furtherance of a trade or business, or
- (c) offer or display for sale.

### 63 Application of Part

- (1) This Part applies to all vessels except the following vessels—
  - (a) a second hand vessel,
  - (b) an amphibious vehicle, being a vessel that is also a motor vehicle and that is required to be registered within the meaning of the [Road Transport Act 2013](#),
  - (c) a canoe or surf ski or similar vessel designed to be manually powered by paddle,
  - (d) a pedal powered boat,
  - (e) a personal watercraft that complies with subclause (3),
  - (f) a rowing shell used for racing or rowing training,
  - (g) a sailboard or kiteboard or other similar vessel,
  - (h) a surf row boat,
  - (i) a hydrofoil or hovercraft,
  - (j) a sailing vessel, being a vessel that has sail as the primary means of propulsion, with or without an auxiliary means of mechanical propulsion,
  - (k) a submersible, being a powered vessel capable of submerging or operating underwater such as a submarine,
  - (l) an aquatic toy, being an object designed primarily for play in or on water, for example—
    - (i) an object designed solely to be towed behind a recreational vessel, and
    - (ii) an inflatable boat to which ISO 6185 *Inflatable boats*, as in force from time to time, does not apply,
  - (m) a commercial vessel or a regulated Australian vessel or vessel regulated under the [Navigation Act 2012](#) of the Commonwealth,
  - (n) a vessel used only for the purpose of racing in organised events.
- (2) This Part does not apply to a vessel that, before 1 July 2006, had reached a stage of construction of having the keel laid or a stage of construction at which—
  - (a) the vessel was identifiable as a vessel of a particular type, and
  - (b) a part of the vessel had been fabricated and assembled that had a mass of at least 50 tonnes or 1 per cent of the mass of all structural material of the proposed completed vessel, whichever is the lesser.

- (3) This Part does not apply to a vessel that is a personal watercraft if—
  - (a) the following information is written on or attached to the vessel in a clearly visible place—
    - (i) the total weight of persons and equipment that the vessel may carry in calm water (expressed in kilograms), as recommended by the builder of the vessel,
    - (ii) the maximum number of persons the vessel may carry, as recommended by the builder of the vessel, or
  - (b) the vessel is designed to carry not more than 2 persons over the age of 1 year.
- (4) This Part does not apply to a vessel that is an inflatable boat to which ISO 6185 *Inflatable boats*, as in force from time to time, applies if the vessel—
  - (a) has a plate attached to it in accordance with *European Directive 94/25/EC—Recreational Craft Directive*, as in force from time to time, that certifies that the vessel complies with the requirements of that Directive, or
  - (b) has a plate attached to it in accordance with the requirements of the US National Marine Manufacturers Association set out in the *NMMA Certification Handbook*, as in force from time to time, that certifies that the vessel complies with the requirements of that Handbook.

#### **64 Variation of ABP Standard**

For the purposes of this Part, a requirement of the ABP Standard to the effect that information on a builders plate for a vessel must include the name of the builder of the vessel is to be read as a requirement that the information must include the name of the person authorised to approve information who approves the information and the capacity in which the person approves the information.

### **Division 2 Requirements relating to builders plates**

#### **65 Vessel for sale required to have builders plate**

A person must not sell a vessel to which this Part applies unless—

- (a) a builders plate is fixed to the vessel in accordance with the ABP Standard, and
- (b) the plate contains the information required by the ABP Standard, and
- (c) the information on the plate is correct at the time of the sale, and
- (d) the plate has been fixed to the vessel in accordance with the requirements of the ABP Standard.

Maximum penalty—50 penalty units.



## **66 Builders plate exemptions—available defences**

- (1) It is a defence to a prosecution for an offence against clause 65 if the defendant establishes that the defendant was an owner builder of the vessel concerned and the vessel was sold more than 5 years after it was first used or first registered.
- (2) It is a defence to a prosecution for an offence against clause 65 if the defendant establishes that—
  - (a) the defendant was not the builder of the vessel, and
  - (b) there was a plate fixed to the vessel when it was sold by the defendant and the defendant reasonably believed that the plate was a builders plate for the vessel, and
  - (c) the defendant had no reason to believe that the information on the plate was incorrect, and
  - (d) the defendant was not aware of any modification of the vessel that would affect the accuracy of the information on the plate.
- (3) It is a defence to a prosecution for an offence against clause 65 if the defendant establishes that the vessel was to be exported overseas.

## **67 Persons authorised to approve information on builders plates**

For the purposes of this Part, the information on a builders plate fixed to or to be fixed to a vessel may only be approved by any of the following persons (a **person authorised to approve information**)—

- (a) the builder of the vessel so long as the builder of the vessel is not an owner builder,
- (b) a person who is approved by Transport for NSW for the purposes of this clause,
- (c) a person who imported the vessel into Australia from overseas,
- (d) a person authorised to do so under a corresponding law of another Australian jurisdiction.

## **68 Offences relating to fixing of builders plates on vessels**

- (1) This clause applies to a vessel that is required to have a builders plate fixed to it under this Part when sold in New South Wales.
- (2) A person must not fix a builders plate to a vessel to which this clause applies if—
  - (a) the person has reason to believe that the information on the builders plate is incorrect or does not comply with the ABP Standard, or
  - (b) the information on the plate has not been approved by a person authorised to

approve information.

- (3) A person must not alter the information on a builders plate that is fixed to a vessel to which this clause applies if—
- (a) the person has reason to believe that the information will be incorrect if so altered or will not comply with the ABP Standard, or
  - (b) the information as so altered has not been approved by a person authorised to approve information.

Maximum penalty—50 penalty units.

#### **69 Offence relating to approval of information on builders plates**

A person must not approve any information on a builders plate fixed to, or to be fixed to, a vessel that is required to have a builders plate fixed to it under this Part when sold in New South Wales unless—

- (a) the person is a person authorised to approve information, and
- (b) the information is correct and complies with the ABP Standard.

Maximum penalty—50 penalty units.

#### **70 Builders plate not to be altered unless authorised**

A person must not alter, deface, conceal, remove or obliterate a builders plate that is fixed to a vessel in accordance with this Part unless the person is, or is authorised to do so by, a person authorised to approve information.

Maximum penalty—50 penalty units.

#### **71 Vessel may not be registered without builders plate**

Transport for NSW may refuse to register for the first time a vessel to which a builders plate is required to be fixed under this Part when sold in New South Wales if—

- (a) a builders plate is not fixed to the vessel in accordance with the ABP Standard, or
- (b) Transport for NSW has reason to believe the information on a builders plate fixed to the vessel is incorrect.

## **Part 5 Marine safety licences**

### **Division 1 General provisions**

#### **72 Definition**

In this Part—

**marine pilotage code** means the NSW Marine Pilotage Code as in force from time to time and published by the Minister on the website of Transport for NSW.

**Note—**

The website of Transport for NSW is [www.transport.nsw.gov.au](http://www.transport.nsw.gov.au).

### **73 Declaration of certain marine safety licences**

For the purposes of all of the provisions of the Act, the following licences are declared to be marine safety licences under section 29 (h) of the Act—

- (a) an aquatic licence,
- (b) a bar crossing licence.

### **74 Applications for marine safety licences**

- (1) An application for a marine safety licence must—
  - (a) be made to the responsible licensing official in the form approved by the responsible licensing official, and
  - (b) be accompanied by the particulars and documents required by the responsible licensing official (including, for example, medical assessments), and
  - (c) be accompanied by such proof of identity documentation as is required by the responsible licensing official, and
  - (d) be accompanied by the relevant fee specified in Schedule 11, and
  - (e) comply with any other requirements of this Part in relation to applications for the type of marine safety licence concerned.
- (2) A reference in this Division to an application for a marine safety licence includes a reference to an application for a further marine safety licence whether or not made before or after the expiry of the previous licence.
- (3) The responsible licensing official may waive any of the requirements of this Regulation in relation to an application for a further marine safety licence.

### **75 Eligibility for licence**

- (1) The following marine safety licences may be granted to 1 natural person only—
  - (a) a boat driving licence,
  - (b) a marine pilot's licence,
  - (c) a marine pilotage exemption certificate,
  - (d) a certificate of local knowledge,

(e) a bar crossing licence.

(2) The following marine safety licence may be granted to 1 natural person only or to 1 other legal entity only—

(a) a vessel registration certificate,

(b) an aquatic licence.

## **76 Refusal to issue marine safety licence**

(1) An application for a marine safety licence may be refused in any of the following circumstances—

(a) if any information provided by the applicant is found to be false or misleading in a material particular or is, in the opinion of the responsible licensing official, inadequate to enable the application to be assessed properly,

(b) if the applicant is not, in the opinion of the responsible licensing official, a fit and proper person to hold the licence,

(c) if the applicant has been issued with a penalty notice in relation to an offence against the marine legislation and that penalty notice has not been withdrawn or a court has not dismissed the relevant charges,

(d) if the applicant has been found guilty of an offence against the marine legislation,

(e) in the case of an application for a further licence, if the applicant has failed to comply with any condition of a current or previous licence,

(f) in the case of an application for a further licence, if any fees for, or in connection with, a current or previous licence are overdue and have been overdue for a period of at least 14 days,

(g) if the responsible licensing official determines that it is in the public interest to do so,

(h) if the applicant is not eligible for the licence under this Regulation.

### **Note—**

The following provisions specify some additional grounds for refusing to issue particular types of marine safety licences—

- (a) clause 104 (boat driving licences),
  - (b) clause 108 (marine pilot's licences),
  - (c) clause 110 (marine pilotage exemption certificates),
  - (d) clause 113 (certificates of local knowledge),
  - (e) clause 117 (bar crossing licences).
- (2) In addition to the circumstances in which the responsible licensing official may refuse to issue a licence under subclause (1), the responsible licensing official may refuse to issue a vessel registration certificate if—
- (a) the holder of the certificate fails to comply with any of the requirements of Division 2 in relation to the vessel, or
  - (b) the vessel is an unsafe vessel (within the meaning of section 44 of the Act), or
  - (c) the responsible licensing official is of the opinion that the vessel may cause damage to any property or the environment, or
  - (d) the holder of the certificate ceases to own the vessel.
- (3) If the responsible licensing official refuses to issue a marine safety licence, the responsible licensing official is to give notice in writing of the decision, and the reasons for the decision, to the applicant concerned.

## **77 When immediate boat driving licence suspension notice may be issued**

- (1) An **immediate licence suspension notice** is a notice in a form approved by Transport for NSW that informs the holder of a boat driving licence of the fact that—
- (a) the licence is suspended, and
  - (b) if the holder is dissatisfied with the suspension of the notice, the holder may apply to the Tribunal for an administrative review under the [Administrative Decisions Review Act 1997](#).
- (2) An authorised officer may give the holder of a boat driving licence an immediate licence suspension notice in any of the following circumstances—
- (a) if the holder of the boat driving licence is charged by a police officer (whether or not the same police officer) with an offence involving the death of, or grievous bodily harm to, another person caused by the use of a vessel, being an offence that comprises—
    - (i) the crime of murder or manslaughter, or
    - (ii) an offence against section 33, 35 (2), 52B or 54 of the [Crimes Act 1900](#),

- (b) the holder of the boat driving licence is charged with an offence under section 13 or 13A of the Act,
  - (c) the holder of the boat driving licence is charged with an offence under section 24 of the Act that involves a middle range prescribed concentration of alcohol or high range prescribed concentration of alcohol.
- (3) An immediate licence suspension notice may be given to the holder of a boat driving licence at any time within 48 hours after—
- (a) the holder being served with a penalty notice for the offence concerned, or
  - (b) the holder being charged with the offence concerned.
- (4) An immediate licence suspension notice operates to suspend the licence from a date specified in the notice, or (if the notice so specifies) immediately on receipt of the notice, until—
- (a) the charge is heard and determined by a court (that is, when the offence is proved or the court attendance notice is dismissed), or
  - (b) until the charge is withdrawn (that is, when the person charged is notified in writing of that fact by the responsible licensing official or when it is withdrawn before the court), or
  - (c) a decision is made not to take or continue proceedings against a person (that is, when the person is notified in writing of that fact by a responsible licensing official or the proceedings are discharged by the court).
- (5) Particulars of each immediate licence suspension notice given under this clause are to be forwarded to Transport for NSW immediately after the notice is given.
- (6) If an immediate licence suspension notice is given to the holder of a boat driving licence, any boat driving licence held by the person is suspended in accordance with the terms of the notice.
- (7) A person who holds a boat driving licence and who is given an immediate licence suspension notice must surrender the person's licence.

Maximum penalty—20 penalty units.

- (8) For the purposes of this clause, a person is charged with an offence when particulars of the offence are notified in writing to the person by a responsible licensing official.

## **78 Suspension or cancellation of marine safety licence**

- (1) For the purposes of section 38 (1) (c) of the Act, the prescribed circumstances in which the responsible licensing official may suspend or cancel a marine safety licence are as follows—

- (a) any information provided by the holder of the licence for the purposes of the marine legislation is found to be false, misleading or inadequate in a material particular,
  - (b) the holder of the licence is not, in the opinion of the responsible licensing official, a fit and proper person to hold the licence,
  - (c) the holder of the licence has failed to comply with any condition of the licence,
  - (d) the holder of the licence has committed an offence against any provision of the marine legislation or section 52B of the *Crimes Act 1900* or any provision of the law of the Commonwealth or of another State or a Territory that the responsible licensing official reasonably considers to be similar to a provision of the marine legislation or that section,
  - (e) if the responsible licensing official determines that it is in the public interest to do so,
  - (f) the holder of the licence requests that the licence be suspended or cancelled.
- (2) In addition to the circumstances in which the responsible licensing official may suspend or cancel a licence under subclause (1), the responsible licensing official may suspend or cancel a vessel registration certificate if—
- (a) the holder of the certificate fails to comply with any of the requirements of Division 2 or of the responsible licensing official in relation to the vessel, or
  - (b) the vessel is an unsafe vessel (within the meaning of section 44 of the Act), or
  - (c) the responsible licensing official is of the opinion that the vessel may cause damage to any property or the environment, or
  - (d) the holder of the certificate ceases to own the vessel.
- (3) In addition to the circumstances in which the responsible licensing official may suspend or cancel a licence under subclause (1), the responsible licensing official may suspend or cancel a boat driving licence if—
- (a) the holder of the licence is, in the opinion of the responsible licensing official, incapable of safely operating a vessel of the type to which the licence relates or is physically or medically unfit to operate such a vessel, or
  - (b) the holder of the licence fails to provide any medical or eyesight assessment or report required by the responsible licensing official, or
  - (c) the holder of the licence fails to undertake any courses or practical boating training required by the responsible licensing official, or

- (d) the holder has had a similar licence or authorisation suspended or cancelled under the laws of the Commonwealth or another State or a Territory for disciplinary reasons.
- (4) In addition to the circumstances in which the responsible licensing official may suspend or cancel a licence under subclause (1), the responsible licensing official may suspend or cancel a marine pilot's licence, a marine pilotage exemption certificate or a certificate of local knowledge if—
  - (a) the holder of the licence or certificate is, in the opinion of the responsible licensing official, incapable of safely operating a vessel of the type to which the licence or certificate relates or is physically or medically unfit to operate such a vessel, or
  - (b) the holder of the licence or certificate fails to provide any medical or eyesight assessment or report required by the responsible licensing official, or
  - (c) the holder of the licence or certificate has failed to satisfactorily complete any further courses or training required by the responsible licensing official, or
  - (d) the holder has had a similar licence or certificate suspended or cancelled under the laws of the Commonwealth or another State or a Territory for disciplinary reasons, or
  - (e) the holder of the licence or certificate ceases to hold a relevant qualification, within the meaning of clause 108 (2).
- (5) If the responsible licensing official suspends or cancels a marine safety licence under this clause or clause 77, the responsible licensing official is to give notice in writing of the decision and (except in the case where the holder of the licence has requested the suspension or cancellation) the reasons for the decision to the holder of the licence.
- (6) The suspension or cancellation of a marine safety licence by the responsible licensing official (except in accordance with section 111 of the Act or under clause 77) takes effect on the day on which notice of it is given as referred to in subclause (5) or on a later day specified in the notice.
- (7) For the purposes of subclause (1) (d), a person is taken to have committed an offence at the time that the person—
  - (a) is found guilty of the offence by a court, or
  - (b) pays the penalty required by a penalty notice served on the person under section 126 of the Act in respect of the alleged offence (or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the [Fines Act 1996](#)).



## **79 Disqualification of person from holding or obtaining marine safety licence**

- (1) The responsible licensing official may disqualify a person from holding or obtaining a marine safety licence for a specified period (not exceeding 2 years) if the person has committed an offence against the marine legislation.
- (2) For the purposes of this clause, a person is taken to have committed an offence at the time that the person is found guilty of the offence by a court.

## **80 Change of particulars to a marine safety licence**

The holder of a marine safety licence must notify the responsible licensing official in writing, or in another manner acceptable to the responsible licensing official, of each of the following events within 14 days of the event occurring—

- (a) any change in the licence holder's particulars recorded on the licence, including any change of name or address,
- (b) any change in the vessel particulars recorded on the licence, including any change in the vessel name, proposed use of the vessel or proposed area of operation,
- (c) any change in the vessel's ownership or control, including the date of any such change and the name or address of the person to whom ownership or control has passed,
- (d) any advice received from a medical practitioner that casts doubt on the person's fitness to hold the marine safety licence.

Maximum penalty—20 penalty units.

## **81 Issue of replacement marine safety licence**

- (1) If a marine safety licence is lost, stolen, damaged, destroyed or defaced, the holder of the licence must, within 14 days, inform the responsible licensing official in writing.

Maximum penalty—20 penalty units.

- (2) The responsible licensing official may, on payment of the relevant fee specified in Schedule 11, issue a replacement marine safety licence to a person if satisfied that the person is the holder of a licence that has been lost, stolen, damaged, destroyed or defaced.

## **82 Renewal of marine safety licence**

- (1) The responsible licensing official may send a notice of renewal to the holder of a marine safety licence.
- (2) A notice of renewal is a notice—
  - (a) addressed to a holder of a marine safety licence, and

- (b) stating that, if the marine safety licence is not renewed on or before a specified date, the marine safety licence will expire.
- (3) If the responsible licensing official fails to send a notice of renewal, that failure does not affect—
  - (a) the expiry of the marine safety licence, or
  - (b) the obligation of a holder of a marine safety licence to renew the licence if a licence is required by or under the Act.

### **83 Return of a marine safety licence**

- (1) The responsible licensing official may request in writing the holder of a marine safety licence to return the licence to the responsible licensing official—
  - (a) to enable amendment of any conditions associated with the licence, or endorsement of conditions on or in association with the licence, or
  - (b) for the purpose of issuing a different licence, or
  - (c) if the licence contains a photograph of the holder of the licence and the responsible licensing official considers that the photograph is no longer a true likeness of the holder, to enable a new photograph to be taken.
- (2) The holder of a marine safety licence to whom a request is made under this clause must not, without reasonable excuse, fail to comply with the request within the time specified in the request.

Maximum penalty (subclause (2)): 20 penalty units.

### **84 Cheating or forgery**

- (1) An applicant for a marine safety licence must not cheat in any examination associated with the marine safety licence.
- (2) A person must not—
  - (a) forge a marine safety licence, or
  - (b) alter a marine safety licence without proper authorisation, or
  - (c) use a forged marine safety licence, or
  - (d) use a marine safety licence that has been altered without proper authorisation.
- (3) A person who commits an offence under subclause (1) or (2) is disqualified from holding or obtaining any licence under this Part for a period of 12 months after the commission of the offence. The disqualification is in addition to any penalty imposed for the offence.

- (4) A disqualification imposed by subclause (3) does not operate to the extent to which it is inconsistent with any order of a court, or any decision of the responsible licensing official under section 38 of the Act, that disqualifies the person concerned from holding or obtaining a licence.
- (5) For the purposes of this clause, a person is taken to have committed an offence at the time that the person—
  - (a) is found guilty of the offence by a court, or
  - (b) pays the penalty required by a penalty notice served on the person under section 126 of the Act in respect of the alleged offence (or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the [Fines Act 1996](#)).

Maximum penalty (subclauses (1) and (2)): 10 penalty units.

## **Division 2 Vessel registration**

### **85 Vessels exempt from registration**

- (1) For the purposes of section 50 (3) of the Act, the following classes of vessel are exempt from registration—
  - (a) vessels that—
    - (i) are less than 5.5 metres in length, and
    - (ii) are not power-driven vessels or are fitted with an engine having a power rating of less than 4.0 kilowatts, and
    - (iii) are not the subject of a mooring licence under the [Ports and Maritime Administration Regulation 2012](#) or wet berthed at a marina or moored or berthed in accordance with a lease granted by Transport for NSW, and
    - (iv) are not occupying any navigable waters by direction of, or with the permission of, the Crown or any person or body lawfully entitled to give such a direction or permission,
  - (b) off-the-beach vessels that—
    - (i) are not the subject of a mooring licence under the [Ports and Maritime Administration Regulation 2012](#) or wet berthed at a marina, and
    - (ii) are not occupying any navigable waters by direction of, or with the permission of, the Crown or any person or body lawfully entitled to give such a direction or permission,

- (c) any canoe, surf ski or rowing shell of any length,
  - (d) seaplanes,
  - (e) a vessel that is in the charge of a trader and is being used for purposes connected with the manufacture, alteration, repair, testing, sale or demonstration of—
    - (i) a commercial purpose of the vessel, or
    - (ii) an engine or component that forms part of or is used in, or is intended to form part of or to be used in, a vessel.
- (2) For the purposes of section 50 (3) of the Act, a vessel owned by Surf Life Saving New South Wales is exempt from registration if—
- (a) the vessel clearly displays a unique identification number for that body on each side of the forward half of the vessel in block letters of at least 150 millimetres in height or, in the case of a personal watercraft, at least 100 millimetres in height, and
  - (b) the vessel is operated only by personnel of that body authorised by that body to do so and only in the course of official duties, and
  - (c) particulars of the vessel (including its identification number, make, model and colour) are listed on a database maintained by that body and to which access is available to the responsible licensing official on request.
- (3) In this clause—

**official duties**, in relation to Surf Life Saving New South Wales, means operating a vessel while carrying out rescue or lifesaving activities, including authorised training activities.

**trader** means a person who manufactures, alters, repairs, tests, sells, demonstrates for a commercial purpose, or otherwise deals in, vessels or trade articles, whether on the person's own behalf or as an employee or agent.

## **86 Vessel registration number issued on initial registration of vessel**

An initial vessel registration certificate granted by the responsible licensing official in relation to a vessel is to contain a vessel registration number.

## **87 Hull identification number requirements**

- (1) A vessel registration certificate is not to be issued or transferred in respect of a vessel unless a hull identification number approved by Transport for NSW is affixed to the vessel in a form, manner and location that is in accordance with—
- (a) International Standard No ISO 10087:2006, *Small Craft—Craft*

*identification—Coding system* published by the International Organization for Standardization and as in force from time to time, or

(b) directions given in writing by Transport for NSW.

- (2) This clause does not apply to a commercial vessel or a regulated Australian vessel or vessel regulated under the [Navigation Act 2012](#) of the Commonwealth.
- (3) Despite subclause (1), a vessel registration certificate may, with the approval of the responsible licensing official, be issued or transferred without a hull identification number being affixed to the vessel. It is a condition of vessel registration that the number is affixed to the vessel within the period specified in the approval.

## **88 Boatcode agents**

- (1) Transport for NSW may authorise a person to issue and affix hull identification numbers for the purposes of clause 87.
- (2) A person authorised under this clause must comply with any written directions of Transport for NSW in relation to the issuing or attaching of hull identification numbers.

Maximum penalty (subclause (2)): 50 penalty units.

## **89 Alteration of a hull identification number**

A person must not—

- (a) alter, deface, remove or obliterate a hull identification number affixed to a vessel, or
- (b) attach a different hull identification number to a vessel if a hull identification number is already affixed to the vessel.

Maximum penalty—100 penalty units.

## **90 Display of vessel registration number**

- (1) The owner or operator of a registered vessel must not operate the vessel, or permit the vessel to be operated, unless the vessel registration number set out in the vessel registration certificate for the vessel—
- (a) is displayed—
- (i) in the case of a sailing vessel, on the transom or on each side of the vessel, or
- (ii) in any other case, on each side of the vessel, and
- (b) contains figures that are—
- (i) in the case of a personal watercraft or sailing vessel, at least 100 millimetres high, or

- (ii) in any other case, at least 150 millimetres high, and
  - (c) is in a contrasting colour to the hull so that it is clearly distinguishable.
- (2) The owner or the operator of a registered vessel must not operate the vessel, or permit the vessel to be operated, if any vessel registration number that is required by this clause to be displayed on the vessel is in any way defaced, obliterated or concealed.

Maximum penalty—50 penalty units.

### **91 Removal of vessel registration number**

The owner of a formerly registered vessel the registration of which has been cancelled by the responsible licensing official must, within 24 hours of being notified of that cancellation remove any vessel registration number displayed on the vessel.

Maximum penalty—50 penalty units.

### **92 Personalised vessel registration**

- (1) A personalised vessel registration number may be issued by Transport for NSW, on request and payment of the relevant fee specified in Schedule 11, for any period which Transport for NSW considers appropriate.
- (2) Transport for NSW may refuse to issue, or may cancel or suspend, a personalised vessel registration number if Transport for NSW considers that the number is or could be offensive.

### **93 Transfer of registrable vessel ownership**

- (1) An owner of a registrable vessel who transfers the ownership of the vessel to another person must, within 14 days after the transfer, send notification of the transfer to Transport for NSW in a form that is approved by Transport for NSW.
- (2) A person to whom ownership of a registrable vessel is transferred must, within 14 days after acquiring ownership of the vessel submit an application in a form approved by Transport for NSW to transfer the registration of the vessel.
- (3) On receipt of an application to transfer the registration of a vessel, Transport for NSW may, if Transport for NSW considers it appropriate to do so, issue a new vessel registration number for the vessel.
- (4) If Transport for NSW issues a new registration number for the vessel, Transport for NSW is to notify the new owner of the vessel in writing of the new vessel registration number.
- (5) An owner of a vessel who receives a notification under subclause (4) in relation to the vessel—

- (a) must change the registration number on the vessel to the new registration number within 7 days after receiving the notification, and
- (b) if the notification requires the owner to have the vessel inspected by an authorised officer within a specified period, must present the vessel to be so inspected within that period.

Maximum penalty (subclauses (1), (2) and (5)): 50 penalty units.

#### **94 Disposal of a registrable vessel**

If a registrable vessel is lost, destroyed or disposed of (otherwise than by means of the transfer of ownership of the vessel), the owner of the vessel must inform Transport for NSW in writing of the fact within 14 days after it occurs.

Maximum penalty—20 penalty units.

#### **95 Condition of personal watercraft registration relating to unlicensed operation of watercraft**

It is a condition of the vessel registration for a personal watercraft that the holder of the vessel registration certificate must ensure that the watercraft is not operated by a person unless the person holds a personal watercraft driving licence that authorises the person to operate the watercraft.

Maximum penalty—50 penalty units.

#### **96 Unauthorised operation of vessel**

A person must not operate a registered vessel, or permit a registered vessel in the person's custody to be operated, without the authority or consent of the holder of the vessel registration certificate for the vessel.

Maximum penalty—50 penalty units.

### **Division 3 Aquatic licences**

#### **97 Aquatic activities to be licensed**

- (1) A person must not conduct an aquatic activity unless the person—
  - (a) is the holder of an aquatic licence in respect of the aquatic activity, and
  - (b) is conducting the aquatic activity in accordance with the conditions of the licence, and
  - (c) does not conduct the aquatic activity for longer than 14 days on any 1 occasion.

Maximum penalty—100 penalty units.

**Note—**

An aquatic activity lasting longer than 14 days on any 1 occasion must comply with the requirements of the [Environmental Planning and Assessment Act 1979](#).

- (2) A person is not required to hold an aquatic licence to conduct any of the following activities in or on navigable waters if the conduct of the activity will not restrict the availability of those waters for normal use by members of the public or vessel operators or cause an increased risk of danger to the public or vessel operators and complies with any conditions advised by the licensing official—
- (a) an aquatic activity comprised of or involving the use of surfboards or other similar craft including stand up paddle boards, or
  - (b) a swimming competition, or
  - (c) a fishing competition, or
  - (d) an aquatic activity conducted by Surf Life Saving New South Wales or a surf life saving club affiliated with it if all the participants in the activity are qualified members of the body conducting the activity, or
  - (e) any other aquatic activity approved by the responsible licensing official in writing, when conducted in accordance with any conditions approved by the responsible licensing official in writing.
- (3) Subclause (1) does not apply to an aquatic activity conducted in accordance with a certificate of operation for hire and drive vessels issued in accordance with the National law.

## **98 Classification of aquatic licences**

The following are classes of aquatic licences—

- (a) a licence for commercial aquatic activities,
- (b) a licence for all other (non-commercial) aquatic activities.

## **99 Purpose of aquatic licences**

An aquatic licence may authorise (for a maximum period of 14 days on each occasion) any or all of the following—

- (a) the conduct of 1 or more aquatic activities by the licence holder,
- (b) the conduct of an aquatic activity on more than 1 occasion,
- (c) the exclusive use of an area of navigable waters for the conduct of an aquatic activity.



## **100 Additional requirements for applications**

- (1) An application for an aquatic licence must—
  - (a) describe the proposed aquatic activity to which the application relates, and
  - (b) specify the navigable waters to which the application relates, and
  - (c) specify any land that adjoins those navigable waters that the applicant intends to use in connection with the proposed aquatic activity or is likely to be affected by the proposed aquatic activity, and
  - (d) specify the duration of the proposed aquatic activity, and
  - (e) specify the period for which the aquatic licence is intended to have effect.
- (2) The responsible licensing official may require the following information or documentation to be provided by an applicant for an aquatic licence in addition to any other information or documentation that is required to be provided by this Regulation in relation to the application—
  - (a) documentary evidence that the conduct of the proposed aquatic activity will be in accordance with the requirements of any relevant government agency,
  - (b) a form of indemnity and release, approved by Transport for NSW, in relation to the conduct of the proposed aquatic activity and in favour of the Minister, the Crown and Transport for NSW.
- (3) The responsible licensing official may require the applicant to pay an additional fee to cover any costs reasonably incurred by the Minister in the publication of a notice under section 12 of the Act in connection with the event to which the application relates.

## **Division 4 Boat driving licences**

### **101 Classification of boat driving licences**

- (1) The following are classes of boat driving licences—
  - (a) general boat driving licence,
  - (b) personal watercraft driving licence.
- (2) A person who holds a personal watercraft driving licence is also taken to hold a general boat driving licence.

### **102 Certain vessels and persons exempt from requirements relating to boat driving licences**

- (1) A person is exempt from section 63 of the Act if the vessel that the person is

operating—

- (a) is not a personal watercraft, and
- (b) is being operated at a speed of less than 10 knots.

(2) Subclause (1) does not exempt a person from section 63 of the Act if—

- (a) the person holds a boat driving licence that is suspended, or
- (b) the person has held a boat driving licence that has been cancelled and the person is disqualified from applying for another such licence.

(3) A person is exempt from section 63 of the Act if the person—

- (a) is not ordinarily resident in this State, and
- (b) has been operating power-driven recreational vessels in State waters for less than 3 months, and
- (c) is licensed under the law of another jurisdiction to operate a vessel of the type concerned and is operating the vessel in accordance with the conditions of that licence to the extent that those conditions are capable of applying in this State, and
- (d) is carrying that licence when operating the vessel, and
- (e) produces the licence for inspection if required by an authorised officer.

(4) A person is exempt from section 63 of the Act in respect of the operation of a personal watercraft if the person—

- (a) is eligible to obtain a personal watercraft licence, and
- (b) is completing practical boating training conducted by a registered training organisation for the purpose of obtaining a personal watercraft driving licence, and
- (c) is under the immediate supervision of a trainer 18 years of age or older who holds a valid personal watercraft driving licence and has held that licence for a period longer than 2 years.

(5) For the purposes of subclause (4) (c), a person is under the immediate supervision of another person if that other person is present on the personal watercraft and is able to immediately take control of the personal watercraft.

**Note—**

Section 63 of the Act requires persons operating power-driven recreational vessels as master to hold a boat driving licence. Sections 62 and 64 of the Act contain exemptions from that requirement and also enable the regulations to exempt vessels and persons from that requirement.

### **103 Licence requirements for hire and drive vessels**

- (1) The operator of a hire and drive personal watercraft must hold a personal watercraft driving licence.
- (2) An operator of a hire and drive vessel, other than a personal watercraft, must hold a boat driving licence if the vessel is operated at 10 knots or more.
- (3) In this clause—

***hire and drive personal watercraft*** means a personal watercraft that is let for hire and reward or for any other consideration and that is not used for a commercial purpose by the person to whom it is let.

Maximum penalty—20 penalty units.

### **104 Additional requirements for applications for boat driving licences**

- (1) An applicant for a boat driving licence must be at least 12 years of age.
- (2) A boat driving licence is not to be issued unless the applicant for the licence—
  - (a) has produced evidence satisfactory to the responsible licensing official of the applicant's age, and
  - (b) has produced, when aged less than 16 years, written evidence of parental or guardian consent to the application, and
  - (c) has passed any practical test or examination conducted in accordance with this clause that is required by the responsible licensing official or has attained any qualification that the responsible licensing authority considers necessary, and
  - (d) has passed an eyesight test if required by the responsible licensing official, and
  - (e) has passed any medical examinations, and produced any medical reports, that the responsible licensing official considers necessary, and
  - (f) has attended any courses or practical boating training conducted in accordance with this clause that the responsible licensing authority considers necessary, or has attained any qualification that the responsible licensing authority considers necessary.
- (3) An application for a boat driving licence may be refused if the applicant for the licence is, in the opinion of the responsible licensing official, incapable of safely operating a vessel of the type to which the licence relates, or is physically or medically unfit to operate such a vessel.

**Note—**

Clause 76 (1) specifies additional grounds for refusing to issue any marine safety licence (including a boat driving licence).

- (4) (Repealed)
- (5) Practical boating training is conducted in accordance with this clause if the training organisation providing the practical boating training has an agreement with Transport for NSW to provide such training.
- (6) The responsible licensing official may refuse to issue a boat driving licence if the applicant has had a similar licence or authorisation suspended or cancelled under the laws of the Commonwealth or another State or a Territory for disciplinary reasons.
- (7) For the purposes of this Division, an applicant for, or the holder of, a boat driving licence who was born on 29 February in any year is taken to have been born on 28 February.

#### **105 Conditions of boat driving licences**

- (1) It is a condition of each boat driving licence that the holder of the licence—
  - (a) undergo and pass any examinations and tests required by the responsible licensing official regarding knowledge of the law or safe and proper practice in relation to the operation of vessels, and
  - (b) attend any courses that the responsible licensing official considers necessary, and
  - (c) undergo and pass any eyesight test or medical examination required by the responsible licensing official,whether or not the holder of the licence has previously undergone similar examinations and tests or attended similar courses.
- (2) It is a condition of each boat driving licence that the holder of the licence must not operate a vessel if the holder becomes aware of any circumstance, condition or injury that might cast doubt on the holder's fitness to operate a vessel as authorised by the licence.

#### **106 Restrictions applying to boat driving licence holders under 16 years**

- (1) The holder of a general boat driving licence or a personal watercraft driving licence, or an interstate licence holder, who is less than 16 years of age must not do any of the following, except in accordance with an aquatic licence—
  - (a) drive a vessel at a speed greater than 20 knots,
  - (b) drive a vessel in any race, display, regatta, exhibition or similar operation,
  - (c) drive a personal watercraft at a speed of 10 knots or more—
    - (i) without the holder of a personal watercraft driving licence who is 16 years of age or older being present on the personal watercraft, or

- (ii) while the vessel is towing any person,
- (d) drive any vessel, other than a personal watercraft, at a speed of 10 knots or more—
  - (i) without the holder of a general boat driving licence who is 16 years of age or older being present in the vessel, or
  - (ii) between sunset and sunrise, or
  - (iii) while the vessel is towing any person.

Maximum penalty—20 penalty units.

- (2) In this clause, an **interstate licence holder** is a person who—
  - (a) is not ordinarily resident in this State, and
  - (b) is licensed under the law of another jurisdiction to operate a vessel of the type concerned.

#### **107 Disqualification of certain persons from holding boat driving licences**

- (1) A person who commits an offence under section 63 of the Act by driving a personal watercraft on navigable waters without being the holder of a marine safety licence (whether or not a licence to which this Part applies) authorising the driver to drive the watercraft may be disqualified by the responsible licensing official from holding or obtaining a boat driving licence—
  - (a) for the first such offence—for a period of up to 1 year after the commission of the offence, or
  - (b) for any subsequent such offence—for a period of up to 2 years after the commission of the offence.
- (2) The disqualification is in addition to any penalty imposed for the offence.
- (3) Subject to subclause (4), the responsible licensing official may at any time remove, or reduce the period of, a disqualification imposed by subclause (1).
- (4) A disqualification imposed by subclause (1) does not operate to the extent to which it is inconsistent with any order of a court, or any decision of the responsible licensing official under section 38 of the Act, that disqualifies the person concerned from holding or obtaining a licence.
- (5) For the purposes of this clause, a person is taken to have committed an offence at the time that the person—
  - (a) is convicted of the offence by a court, or

- (b) pays the penalty required by a penalty notice served on the person under section 126 of the Act in respect of the alleged offence (or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the [Fines Act 1996](#)).

#### **107A Renewal of boat driving licences**

- (1) The holder of a boat driving licence may renew that licence at any time before, on or within 5 years of the licence expiry date.
- (2) If a licence holder does not renew the holder's boat driving licence within 5 years after the licence expiry date, the holder is not entitled to the renewal of that licence but can apply for a new licence.

### **Division 5 Marine pilot's licences**

#### **108 Additional requirements for applications for marine pilot's licences**

- (1) A marine pilot's licence is not to be issued unless the applicant for the licence—
  - (a) meets the health requirements set out in the marine pilotage code, and
  - (b) holds a relevant qualification, and
  - (c) provides evidence that the applicant is competent to carry out unsupervised duties as a marine pilot in the relevant pilotage port in accordance with the marine pilotage code.

**Note—**

Clause 76 (1) specifies additional grounds for refusing to issue any marine safety licence (including a marine pilot's licence).

- (2) For the purposes of this clause, a **relevant qualification** is—
  - (a) a certificate of competency issued under [Marine Order 70 \(Seafarer certification\) 2014](#), made pursuant to the [Navigation Act 2012](#) of the Commonwealth, as master for the gross tonnage of vessel to be piloted, or
  - (b) a certificate of recognition issued under [Marine Order 70 \(Seafarer certification\) 2014](#), made pursuant to the [Navigation Act 2012](#) of the Commonwealth, in relation to an international qualification equivalent to a certificate referred to in paragraph (a), or
  - (c) the equivalent of a marine pilot's licence issued in another Australian jurisdiction (other than a coastal pilot licence issued under [Marine Order 54 \(Coastal pilotage\) 2014](#), made pursuant to the [Navigation Act 2012](#) of the Commonwealth) and at least 1 year's experience piloting all vessels in the port to which that licence

relates (but only if the vessels are of a similar tonnage to those to which the application relates), or

- (d) a demonstrated level of competency that is, in the opinion of the responsible licensing official, equivalent to a qualification referred to in paragraph (a), (b) or (c).

### **109 Conditions of marine pilot's licences**

- (1) It is a condition of each marine pilot's licence that the holder of the licence must—
  - (a) satisfactorily complete any training as required under the marine pilotage code, and
  - (b) undergo any health assessment as required under the marine pilotage code, whether or not the holder of the licence has previously undergone similar training or assessments.
- (2) It is a condition of each marine pilot's licence that the holder of the licence must not act as a marine pilot if the holder becomes aware of any circumstance, condition or injury that might cast doubt on the holder's fitness to act as a marine pilot as authorised by the licence.
- (3) It is a condition of each marine pilot's licence that the holder of the licence maintain the records required to be maintained by the marine pilotage code.

## **Division 6 Marine pilotage exemptions**

### **109A Recreational vessels exempt from compulsory pilotage**

For the purposes of section 75 (1) (e) of the Act, a recreational vessel is declared to be an exempt vessel for the purposes of Part 6 of the Act.

### **110 Additional requirements for applications for marine pilotage exemption certificates**

A marine pilotage exemption certificate is not to be issued unless the applicant for the certificate—

- (a) holds a certificate of competency that authorises the applicant to be a master of the vessel to which the application relates, and
- (b) has satisfactorily completed the training required by the marine pilotage code and passed an examination approved by the responsible licensing official, and
- (c) provides evidence, in accordance with the marine pilotage code, that the applicant is competent to carry out unsupervised movements of the vessel to which the certificate relates in the relevant pilotage port, and

- (d) meets the medical and eyesight requirements of the *National Standard for Commercial Vessels—Part D Crew competencies*, for the certificate of competency held by the applicant to which the application relates.

**Note—**

Clause 76 (1) specifies additional grounds for refusing to issue any marine safety licence (including a marine pilotage exemption certificate).

### **111 Conditions of marine pilotage exemption certificates**

It is a condition of each marine pilotage exemption certificate that the holder of the certificate—

- (a) must satisfactorily complete any training as required under the marine pilotage code whether or not the holder of the certificate has previously undergone similar training, and
- (b) must hold a certificate of medical fitness as required by this Regulation for the certificate of competency held as a master of the vessel to which the certificate relates, and
- (c) must not move a vessel for which pilotage is compulsory in the relevant pilotage port other than the vessel specified in the certificate, and
- (d) must not move a vessel for which pilotage is compulsory in the relevant pilotage port if the holder becomes aware of any circumstance, condition or injury that might cast doubt on the holder's fitness to conduct such movements as are authorised by the certificate, and
- (e) must maintain the records required to be maintained by the marine pilotage code, and
- (f) must comply with any direction given by the relevant harbour master, and
- (g) must comply with any port procedures published by the relevant harbour master or the responsible licensing official.

### **112 Vessels for which marine pilot exemption certificates are not valid**

A marine pilotage exemption certificate is not to be issued in respect of the following vessels—

- (a) a vessel the length of which exceeds 215 metres, unless approved by the responsible licensing official,
- (b) a vessel with a single person bridge operation,
- (c) a vessel that is nuclear powered,



- (d) a vessel carrying dangerous or hazardous goods in bulk, unless approved by the responsible licensing official,
- (e) a vessel or class of vessels that, in the opinion of the responsible licensing official, poses a threat to the safety of life or port property,
- (f) any vessel determined by the responsible licensing official, by notice in writing given to the master or owner of the vessel, as a vessel for which a marine pilotage exemption certificate is not to be issued,
- (g) any class of vessel determined by the responsible licensing official, by order published on the NSW legislation website, as a class of vessel for which a marine pilotage exemption certificate is not to be issued.

## **Division 7 Certificates of local knowledge**

### **113 Additional requirements for applications for certificates of local knowledge**

A certificate of local knowledge is not to be issued unless the applicant for the certificate—

- (a) holds a certificate of competency that authorises the applicant to be a master of the type of vessel to which the application relates, and
- (b) has satisfactorily passed an examination approved by the relevant harbour master for the pilotage port, and
- (c) provides evidence that the applicant is competent to carry out unsupervised movements of the type of vessel to which the certificate relates in the relevant pilotage port to the satisfaction of the relevant harbour master, and
- (d) meets the medical and eyesight requirements of the *National Standard for Commercial Vessels—Part D Crew competencies*, for the certificate of competency held by the applicant to which the application relates.

#### **Note—**

Clause 76 (1) specifies additional grounds for refusing to issue any marine safety licence (including a certificate of local knowledge).

### **114 Conditions of certificates of local knowledge**

It is a condition of each certificate of local knowledge that the holder of the certificate—

- (a) must satisfactorily complete any training as required under the marine pilotage code whether or not the holder of the certificate has previously undergone similar training, and
- (b) must hold a certificate of medical fitness as required by the National Law for the

certificate of competency held as a master of the type of vessel to which the certificate relates, and

- (c) must not carry out any unsupervised vessel movements if the holder becomes aware of any circumstance, condition or injury that might cast doubt on the holder's fitness to carry out such movements as are authorised by the certificate, and
- (d) must maintain the records required to be maintained by the marine pilotage code, and
- (e) must comply with any direction given by the relevant harbour master, and
- (f) must comply with any port procedures published by the relevant harbour master or the responsible licensing official.

#### **115 Vessels for which certificates of local knowledge are not valid**

A certificate of local knowledge is not to be issued in respect of the following vessels—

- (a) a vessel the length of which exceeds 80 metres unless approved by the responsible licensing official,
- (b) a vessel that is nuclear powered,
- (c) a vessel carrying dangerous or hazardous goods in bulk, unless approved by the responsible licensing official,
- (d) a vessel or class of vessels that, in the opinion of the responsible licensing official, poses a threat to the safety of life or port property.

### **Division 8 Bar crossings by certain commercial vessels**

#### **116 Application of Part**

This Part applies to Class 1 and Class 2 commercial vessels that are carrying passengers.

**Note—**

Clause 124 contains other requirements relating to bar crossings for vessels.

#### **117 Authorisation required for bar crossings for certain commercial vessels**

- (1) The master of a vessel to which this Part applies must not operate the vessel across a coastal bar unless the master holds a bar crossing licence in relation to that coastal bar.
- (2) An application for a bar crossing licence must be accompanied by—
  - (a) an appropriate certificate of competency issued under the National Law, and
  - (b) evidence of appropriate experience in crossing each coastal bar in relation to

which the licence is sought that is satisfactory to the licensing authority.

- (3) An application for a bar crossing licence may be refused if the applicant fails to demonstrate appropriate experience in crossing any coastal bar in relation to which the licence is sought.

**Note—**

Clause 76 (1) specifies additional grounds for refusing to issue any marine safety licence (including a bar crossing licence).

- (4) The owner of a vessel is guilty of an offence if the vessel is operated in contravention of subclause (1).

Maximum penalty (subclauses (1) and (4)): 50 penalty units.

**118 Requirements on masters of certain commercial vessels in relation to bar crossings**

- (1) The master of a vessel to which this Part applies must ensure that, when the vessel is crossing a coastal bar, each person on board the vessel who is a passenger or special personnel—
- (a) is in an open area in the after part of the vessel, and
  - (b) is wearing an appropriate lifejacket.
- (2) The master of a vessel to which this Part applies must not cross a coastal bar if the wind speed is more than 20 knots or the swell height is more than 2 metres.

Maximum penalty—50 penalty units.

## **Part 6 Safety equipment and facilities**

### **Division 1 Preliminary**

**119 Vessels exempt from certain requirements of Part**

- (1) This Part does not apply to the following vessels—
- (a) a vessel (other than a personal watercraft) used in connection with lifesaving or surf rescues by a local council,
  - (b) a vessel (other than a personal watercraft) used in connection with lifesaving, surf rescues, a competition or training conducted by a club affiliated with—
    - (i) the Royal Life Saving Society—Australia, or
    - (ii) Surf Life Saving Australia Limited, or
    - (iii) Surf Life Saving New South Wales,
  - (c) a rowing shell on enclosed waters.

- (2) Division 2 (except to the extent that it imposes requirements relating to lifejackets) does not apply to the following vessels—
  - (a) a personal watercraft on enclosed waters,
  - (b) a canoe on enclosed waters (whether or not fitted with a motor),
  - (c) a surf ski, sailboard or kiteboard.
- (3) Division 2 (except to the extent that it imposes requirements relating to lifejackets) and Division 4 do not apply to a vessel that—
  - (a) is not ordinarily operated in State waters, and
  - (b) has not been continuously in State waters for a period of more than 3 months, and
  - (c) complies with the requirements for the carriage of safety equipment that apply to the vessel's place of registration or home port.

#### **120 Meaning of “appropriate lifejacket”**

- (1) In this Regulation, a reference to an **appropriate lifejacket** is a reference to—
  - (a) in the case of a vessel operating in enclosed waters—a lifejacket level 50S or greater, and
  - (b) in the case of a vessel operating in open waters—a lifejacket level 100 or greater, and
  - (c) in the case of a kiteboard, sailboard, canoe, personal watercraft or off-the-beach vessel operating in any waters—a lifejacket level 50S or greater, and
  - (d) in the case of a person being towed by any vessel or wake boarding or wake surfing from a vessel (whether or not the person is using a rope)—a lifejacket level 50S or greater.
- (2) Despite subclause (1), a lifejacket is not an **appropriate lifejacket** for the purposes of this Regulation if—
  - (a) the lifejacket relies solely on oral inflation for buoyancy, or
  - (b) the lifejacket is not the correct size for the wearer or intended wearer, or
  - (c) the lifejacket is not in good condition.
- (3) Despite subclause (1), an inflatable lifejacket is not an **appropriate lifejacket** for the purposes of this Regulation unless—
  - (a) the lifejacket was purchased or otherwise acquired new by the current owner no more than 12 months ago, or

(b) the lifejacket has been serviced—

(i) at intervals of 12 months or less, or

(ii) at least at such longer intervals as are indicated by the manufacturer's instructions (if any) provided for the lifejacket.

(4) In this clause—

**lifejacket level 50S** means a lifejacket that meets performance level 50S of Australian Standard AS 4758*Lifejackets* (as in force from time to time) that complies with the requirements set out in Schedule 7 for that lifejacket.

**lifejacket level 100** means a lifejacket that meets performance level 100 of Australian Standard AS 4758*Lifejackets* (as in force from time to time) that complies with the requirements set out in Schedule 7 for that lifejacket.

## **Division 2 Responsibilities of owners and operators of recreational vessels in relation to safety equipment**

### **121 Minimum safety equipment to be carried on recreational vessels**

- (1) The owner and the operator of a recreational vessel on navigable waters must ensure that the vessel carries the safety equipment specified in Schedule 8 in respect of the vessel and that any such safety equipment—
  - (a) complies with the standards specified in Schedule 7 in respect of the equipment, and
  - (b) is in good condition, and
  - (c) is maintained in accordance with the manufacturer's instructions (if any) provided for the equipment, and
  - (d) is replaced when the manufacturer's specified expiry date (if any) for the equipment is reached, and
  - (e) is stored or placed so as to enable quick and easy access to it.
- (2) The owner and the operator of a recreational vessel on navigable waters must ensure that each person on board the vessel is aware of where the equipment required by this Regulation to be carried on the vessel is stored or placed.
- (3) The owner and the operator of a recreational vessel on navigable waters that is required to carry appropriate lifejackets must ensure that the lifejackets (while not in use)—
  - (a) are kept clearly visible to persons on board the vessel, or

- (b) are stored in a location that is unobstructed and marked by a clearly visible sign that has the word “lifejackets” in red letters on a white background or white letters on a red background.
- (4) Transport for NSW may, by notice in writing given to a person who is the owner or operator of a recreational vessel on navigable waters, request the person to provide evidence of a kind specified in the notice relating to the maintenance, condition or storage of any equipment required by this Regulation to be carried on the vessel.
- (5) A person who is given a notice under subclause (4) must not, without reasonable excuse, fail to provide the evidence requested within the time specified in the notice.
- (6) It is a reasonable excuse for the purposes of subclause (5) that to comply with the notice and provide the evidence might tend to incriminate a natural person or make the person liable to any forfeiture or penalty.

Maximum penalty (subclauses (1)–(3) and (5)): 50 penalty units.

### **Division 3 Requirements to wear lifejackets**

#### **122 Application of Division**

This Division applies to—

- (a) all recreational vessels in navigable waters, and
- (b) all hire and drive vessels within the meaning of the National law in navigable waters.

#### **123 Circumstances in which lifejacket must be worn on board certain vessels**

(1) This clause applies to the following vessels—

- (a) canoes,
- (b) kiteboards,
- (c) sailboards,
- (d) vessels under 4.8 metres in length,
- (e) an off-the-beach vessel, that is, a wind-powered vessel that is designed to be launched directly from a beach.

(1A) This clause applies in relation to kiteboards and sailboards only when these vessels are used more than 400 metres from the shore.

(2) Each person on board a vessel to which this clause applies must wear an appropriate lifejacket—

- (a) when the vessel is being operated between sunset and sunrise, or

- (b) when the vessel is being operated on open waters, or
- (c) when the vessel is being operated in alpine waters, or
- (d) when the person is not accompanied on the vessel by another person 12 years of age or more.

- (3) The operator of a vessel to which this clause applies must ensure that each person on board the vessel complies with the requirements of this clause.

Maximum penalty—50 penalty units.

#### **124 Lifejacket must be worn when crossing coastal bar**

- (1) A person on board a vessel must wear an appropriate lifejacket when the vessel is crossing a coastal bar.
- (2) A person is not guilty of an offence against subclause (1) if the person is a person other than the operator of the vessel concerned and establishes that he or she did not know, and could not reasonably have been expected to know, that the vessel was crossing a coastal bar.
- (3) For the purposes of subclause (2), a person is taken to have had knowledge that the vessel concerned was crossing a coastal bar if, before the vessel proceeded to cross the coastal bar, the operator had—
  - (a) informed the person that the vessel was crossing a coastal bar, or
  - (b) requested or required the person to put on a lifejacket.
- (4) The operator of a vessel must ensure that each person on board the vessel complies with subclause (1).

Maximum penalty (subclauses (1) and (4)): 50 penalty units.

#### **125 Lifejacket must be worn on personal watercraft**

- (1) Each person on board a personal watercraft must wear an appropriate lifejacket.
- (2) The operator of a personal watercraft must ensure that any other person on the personal watercraft is wearing an appropriate lifejacket.

Maximum penalty—50 penalty units.

#### **126 Lifejacket must be worn by a child less than 12 years of age**

- (1) A child who is less than 12 years of age is required to wear an appropriate lifejacket if the child is—
  - (a) on board a vessel that is less than 4.8 metres in length, or

(b) in an open area on board a vessel that is less than 8 metres in length and is underway.

- (2) The operator of a vessel must ensure that each child on board the vessel wears an appropriate lifejacket when required by this clause.

Maximum penalty—50 penalty units.

**127 Lifejacket must be worn when being towed by a vessel or when wake boarding or wake surfing**

- (1) A person must wear an appropriate lifejacket if that person is being towed on or over the water by a vessel or is wake boarding or wake surfing from a vessel (whether or not the person is using a rope).
- (2) The operator of a vessel must ensure that each person being towed by the vessel or wake boarding or wake surfing from the vessel complies with this clause.

Maximum penalty—50 penalty units.

**128 Lifejacket must be worn when directed by master of a vessel**

A person on board any vessel must wear an appropriate lifejacket if directed to do so by the master of the vessel.

Maximum penalty—50 penalty units.

**129 General defences**

- (1) A person is not guilty of an offence under this Division of failing to wear an appropriate lifejacket on a vessel if the person is a person other than the operator of the vessel concerned and establishes that there was no available appropriate lifejacket on board the vessel at the time concerned.
- (2) The operator of a vessel is not guilty of an offence under this Division of failing to ensure that a person on the vessel was wearing an appropriate lifejacket if the operator establishes that he or she took all reasonable measures to ensure that the person was wearing an appropriate lifejacket.

**Division 4 Requirements for hatches and exterior doors**

**130 Hatches and exterior doors—construction**

- (1) The owner and operator of a relevant recreational vessel must ensure that any hatch or exterior door on the vessel that can be used as a means of entering or leaving the vessel is capable of being opened from both the outside and the inside of the vessel.
- (2) A person must not supply a relevant recreational vessel to another person knowing that the vessel will be used, or is likely to be used, for recreational purposes unless



any hatch or exterior door on the vessel that can be used as a means of entering or leaving the vessel is capable of being opened from both the outside and the inside of the vessel.

(3) In this clause—

***relevant recreational vessel*** means a recreational vessel—

- (a) the hull construction of which commenced on or after 1 January 1991, and
- (b) that does not have an alternative means of entering or leaving the vessel so that the risk of entrapment, if the hatch or exterior door cannot be opened from both inside and outside the vessel, is controlled.

Maximum penalty—50 penalty units.

### **131 Hatches and exterior doors—locking**

The operator of a recreational vessel that is underway must ensure that any hatch or exterior door on the vessel that can be used as a means of entering or leaving the vessel is kept unlocked if it is reasonably practicable to do so.

Maximum penalty—50 penalty units.

## **Part 7 Miscellaneous**

### **132 Inspection reports on public ferry wharves**

- (1) This clause applies to an inspection of a public ferry wharf carried out for the purposes of providing a report as to the condition of the wharf in accordance with a notice under section 125L of the Act.
- (2) The results of an inspection to which this clause applies must be recorded in the report concerned in a form approved by the Minister and must include an assessment of the following—
  - (a) whether the wharf complies with Australian Standard AS 4997—2005 *Guidelines for the design of maritime structures* as in force from time to time,
  - (b) whether the wharf complies with the document titled *Guideline for the Assessment of Public Ferry Wharf Safety (2016)* published on the website of Transport for NSW and as in force from time to time,
  - (c) whether the wharf is structurally adequate and fit for its purpose.

### **133 Maintenance plans for public ferry wharves**

- (1) The Minister may, by notice in writing, require the owner or person responsible for the maintenance of a public ferry wharf to prepare a maintenance plan for the wharf and

to submit the plan to the Minister within the time specified in the notice.

- (2) The notice may specify the form of, and matters to be addressed in, the maintenance plan.
- (3) A person must not fail to comply with a requirement imposed on the person under this clause.

Maximum penalty (subclause (3)): 50 penalty units.

#### **134 (Repealed)**

#### **135 Penalty notice offences and penalties**

- (1) For the purposes of section 126 of the Act—
  - (a) each offence created by a provision of the [Marine Safety Act 1998](#) or by this Regulation made under that Act specified in Column 1 of Schedule 9 is an offence for which a penalty notice may be served, and
  - (b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of the Schedule.
- (2) For the purposes of section 126 of the Act—
  - (a) each offence created by a provision of the [Marine Pollution Act 2012](#) or the regulations made under that Act specified in Column 1 of Schedule 10 is an offence for which a penalty notice may be served, and
  - (b) the penalty prescribed for each such offence is—
    - (i) in the case of an offence committed by a natural person—the amount specified opposite the provision in Column 2 of the Schedule, or
    - (ii) in the case of an offence committed by a corporation—the amount specified opposite the provision in Column 3 of the Schedule.
- (3) If the reference to a provision in Column 1 of Schedule 9 or 10 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.
- (4) For the purposes of section 126 (6) of the Act, authorised officers are prescribed as a class of persons who are law enforcement officers in relation to the offences specified in Column 1 of Schedule 9 or 10.
- (4A) For the purposes of section 126 (6) of the Act, an OSR employee is prescribed as belonging to a class of persons who are law enforcement officers in relation to detectable offences within the meaning of Schedule 1A to the Act.

- (5) For the purposes of this Regulation, penalty amounts are expressed in terms of the following levels—

**Level 1** means a penalty of \$100.

**Level 2** means a penalty of \$250.

**Level 3** means a penalty of \$500.

**Level 4** means a penalty of \$750.

**Level 5** means a penalty of \$1,500.

**Level 6** means a penalty of \$5,000.

- (6) For the purposes of this clause, **OSR employee** means a person who—

- (a) is employed, including under a temporary hire arrangement, secondment or other arrangement, in the Office of State Revenue in the Department of Finance, Services and Innovation, and
- (b) is authorised by the Commissioner of Fines Administration and is subject to the control and direction of the Commissioner of Fines Administration as an authorised officer.

### **135A Testing and security indicators for approved enforcement devices**

- (1) For the purposes of clause 6 (b) of Schedule 1A to the Act—

- (a) an approved enforcement device that is approved for speed measurement and is a radar based device of a kind to which the Australian Standard entitled AS 2898.1—2003, *Radar speed detection, Part 1: Functional requirements and definitions* applies must be tested for accuracy and functional requirements in accordance with that Standard, and
- (b) any other approved enforcement devices that are approved for speed measurement must be tested for accuracy and functional requirements in accordance with the manufacturer's recommended calibration method as approved by the Commissioner of Police or (in the case only of a device that is used in conjunction with, or forms part of, a digital camera device) by Transport for NSW, and
- (c) the prescribed period is 12 months.

- (2) Each of the following is prescribed as a security indicator for the purposes of clause 7 (1) of Schedule 1A to the Act—

- (a) a series of 40 characters produced by a SHA-1 algorithm,

- (b) a series of 56 characters produced by a SHA-224 algorithm,
  - (c) a series of 64 characters produced by a SHA-256 algorithm,
  - (d) a series of 96 characters produced by a SHA-384 algorithm,
  - (e) a series of 128 characters produced by a SHA-512 algorithm.
- (3) The prescribed period for the purposes of clause 7 (2) (b) of Schedule 1A to the Act is 90 days.
- (4) For the purposes of this clause, **character** includes a letter, number or symbol.

### **136 Fees**

- (1) For the Act, sections 37 and 137, the fees set out in Schedule 11 are payable in relation to the matters set out in that Schedule.
- (2) (Repealed)
- (3) Transport for NSW may waive, reduce or postpone (whether wholly or in part) the payment of any fee or charge payable under the Act or this Regulation if, in the opinion of Transport for NSW, it is appropriate to do so.

### **137 No false representation as to whether navigation is restricted in an area**

A person must not falsely represent or knowingly allow another person to falsely represent that navigation is restricted by the Minister in any area.

Maximum penalty—50 penalty units.

### **138 Exemption on safety or emergency grounds**

- (1) A person does not contravene a provision of this Regulation by reason only of taking action for the purpose of securing the safety of any person or avoiding significant risk to the environment or damage to property.
- (2) A person does not contravene a provision of this Regulation in relation to the operation of a vessel—
- (a) displaying an emergency patrol signal (within the meaning of clause 7) if the display has been authorised as referred to in clause 7 (1) (a) or the vessel is being operated as referred to in clause 7 (1) (b) or (c), or
  - (b) under blue lights if the vessel is operated by an accredited rescue unit (within the meaning of the [State Emergency and Rescue Management Act 1989](#)).

### **139 Report of certain accidents**

- (1) A report is not required to be sent under section 99 (1) of the Act in relation to a

marine accident that involves only recreational vessels (other than a marine accident involving vessels participating in an aquatic activity carried out under an aquatic licence) if the accident does not result in any of the following—

- (a) injury to any person or a fatality,
- (b) damage to property costing more than \$5,000,
- (c) damage, or risk of damage, to the environment.

(2) A report is not required to be sent under section 99 (1) of the Act in relation to a marine accident involving only vessels participating in an aquatic activity carried out under an aquatic licence if the accident does not result in any of the following—

- (a) injury to any person or a fatality,
- (b) damage to property other than to a vessel participating in the aquatic activity,
- (c) damage to any vessel participating in the aquatic activity costing more than \$5,000,
- (d) damage, or risk of damage, to the environment.

#### **140 Exemptions by Transport for NSW**

- (1) Transport for NSW may exempt any person or class of persons, or any vessel or class of vessels, from any or all of the provisions of this Regulation.
- (2) Transport for NSW may exempt vessels from compliance with a notice under section 11 of the Act.
- (3) An exemption is to be by order in writing—
  - (a) given to the person concerned or the owner or master of the vessel concerned, or
  - (b) if the exemption relates to a class of persons or vessels, published in the Gazette.

#### **Note—**

Section 139 of the Act contains further provisions relating to exemptions, including that exemptions may be made subject to conditions and do not apply during any period in which any such condition is not complied with.

#### **141 Repeals and savings**

- (1) The following are repealed—
  - (a) the *Marine Safety (General) Regulation 2009*,
  - (b) the *Marine Safety (General) Exemption Order 2009*.
- (2) Except as provided by subclauses (3)–(7), any act, matter or thing that, immediately

before the repeal of the *Marine Safety (General) Regulation 2009*, had effect under that Regulation (other than the *Marine Safety (General) Exemption Order 2009*) continues to have effect under this Regulation.

- (3) A young adult licence in force immediately before the repeal of the *Marine Safety (General) Regulation 2009* is taken to be, and has effect as, a general boat driving licence or personal watercraft driving licence until the date on which the young adult licence was due to expire, unless sooner suspended or cancelled.
- (4) A lifejacket that was an appropriate lifejacket for a vessel under the *Marine Safety (General) Regulation 2009*, immediately before the repeal of that Regulation, is taken to be an appropriate lifejacket for that vessel for the purposes of this Regulation.
- (5) An aquatic licence in force under the *Marine Safety (General) Regulation 2009*, immediately before the repeal of that Regulation is taken to have effect as an aquatic licence, subject to any conditions applying to it until the licence expires, and any exemption from a requirement of the Act or the regulations included in such a licence at the time of that repeal continues to have effect until the licence expires.
- (6) A disqualification under clause 37 or 80 of the *Marine Safety (General) Regulation 2009* in force immediately before the repeal of that Regulation continues to have effect under this Regulation.
- (7) A form of evidence certificate that was prepared in accordance with former clause 27 (6) or 29 (3) of Schedule 1 to the Act before the relevant day so that it could be used under that subclause when completed—
  - (a) is taken to be, and is to be construed as, a form of evidence certificate prepared in accordance with new clause 27 (6) or 29 (3) of Schedule 1 to the Act, and
  - (b) may, during the transitional period, be completed in accordance with and used under that subclause.
- (8) In this clause—

**former clause 27 (6) or 29 (3)** of Schedule 1 to the Act means clause 27 (6) or 29 (3) as in force immediately before the relevant day.

**new clause 27 (6) or 29 (3)** of Schedule 1 to the Act means clause 27 (6) or 29 (3) as amended by the *Road Transport Amendment (Alcohol and Drug Testing) Act 2014*.

**relevant day** means 1 February 2015 (being the day on which the *Road Transport Amendment (Alcohol and Drug Testing) Act 2014* commenced).

**transitional period** means the period of 12 months commencing on the relevant day.

## Schedule 1 Coastal bars

(Clause 3 (1))

Name of coastal bar	General description of bar location
Bellinger River	Located near the town of Urunga in the vicinity of the confluence of the Bellinger and Kalang Rivers and the Tasman Sea.
Boambee Creek	Located near the town of Toormina in the vicinity of the confluence of Boambee Creek with the Tasman Sea.
Bonville Creek	Located near the town of Sawtell in the vicinity of the confluence of Bonville Creek with the Tasman Sea.
Brisbane Water	Located near the town of Umina in the vicinity of the confluence of Brisbane Water with Broken Bay and west of the port hand lateral markers.
Brunswick River	Located near the town of Brunswick Heads in the vicinity of the confluence of the Brunswick River with the Coral Sea.
Burrill Lake	Located near the town of Dolphin Point in the vicinity of the confluence of Burrill Lake with the Tasman Sea.
Camden Haven River	Located near the town of North Haven in the vicinity of the confluence of the Camden Haven Inlet with the Tasman Sea.
Clarence River	Located near the town of Yamba in the vicinity of the confluence of the Clarence River with the Coral Sea.
Clyde River	Located near the town of Batemans Bay in the vicinity of the confluence of the Clyde River and Batemans Bay.
Corindi River	Located near the town of Red Rock in the vicinity of the confluence of the Corindi River with the Tasman Sea.
Crookhaven River	Located near the town of Crookhaven in the vicinity of the confluence of the Crookhaven River with the Tasman Sea.
Cudgen Creek	Located near the town of Kingscliff in the vicinity of the confluence of Cudgen Creek with the Coral Sea.
Cudgera Creek	Located near the town of Hastings Point in the vicinity of the confluence of Cudgera Creek with the Coral Sea.
Currarong Creek	Located near the town of Currarong in the vicinity of the confluence of Currarong Creek with the Tasman Sea.
Durras Lake	Located near the town of Durras North in the vicinity of the confluence of Durras Lake with the Tasman Sea.
Evans River	Located near the town of Evans Head in the vicinity of the confluence of the Evans River with the Coral Sea.
Hastings River	Located near the town of Port Macquarie in the vicinity of the confluence of the Hastings River with the Tasman Sea.

Kianinny Bay	Located near the town of Tathra in the vicinity of the confluence of Kianinny Bay with the Tasman Sea.
Killick Creek	Located near the town of Crescent Head in the vicinity of the confluence of Killick Creek with the Tasman Sea.
Korogoro Creek	Located near the town of Hat Head in the vicinity of the confluence of Korogoro Creek with the Tasman Sea.
Lake Conjola	Located near the town of Lake Conjola in the vicinity of the confluence of Lake Conjola with the Tasman Sea.
Lake Illawarra	Located near the town of Warilla in the vicinity of the confluence of Lake Illawarra with the Tasman Sea.
Macleay River	Located near the town of South West Rocks in the vicinity of the confluence of the Macleay River with the Tasman Sea.
Manning River	Located near the town of Harrington in the vicinity of the confluence of the Manning River with the Tasman Sea.
Manning River	Located near the town of Old Bar in the vicinity of the confluence of Farquhar Inlet with the Tasman Sea.
Merimbula Lake	Located near the town of Merimbula in the vicinity of the confluence of Merimbula Lake with the Tasman Sea.
Minnamurra River	Located near the town of Minnamurra in the vicinity of the confluence of the Minnamurra River with the Tasman Sea.
Mogareka Inlet	Located approximately 2 km north of the town of Tathra in the vicinity of the confluence of Mogareka Inlet with the Tasman Sea.
Mooball Creek	Located near the town of Pottsville in the vicinity of the confluence of Mooball Creek with the Coral Sea.
Moonee Creek	Located near the town of Moonee Beach in the vicinity of the confluence of Moonee Creek with the Tasman Sea.
Moruya River	Located near the town of Moruya Heads in the vicinity of the confluence of the Moruya River with the Tasman Sea.
Nambucca River	Located near the town of Nambucca Heads in the vicinity of the confluence of the Nambucca River with the Tasman Sea.
Narrawallee Inlet	Located near the town of Narrawallee in the vicinity of the confluence of Narrawallee Inlet with the Tasman Sea.
Pambula River	Located near the town of Pambula Beach in the vicinity of the confluence of the Pambula River with the Tasman Sea.
Richmond River	Located near the town of East Ballina in the vicinity of the confluence of the Richmond River with the Coral Sea.
Sandon River	Located near the town of Sandon in the vicinity of the confluence of the Sandon River with the Coral Sea.



South West Rocks Creek	Located near the town of South West Rocks in the vicinity of the confluence of South West Rocks Creek with the Tasman Sea.
Sussex Inlet	Located near Jervis Bay and Cudmirrah National Parks in the vicinity of the confluence of Sussex Inlet with the Tasman Sea.
Swansea Channel	Located near the suburb of Swansea in the vicinity of the confluence of Lake Macquarie's Swansea Channel with the Tasman Sea.
Tomaga River	Located near the towns of Mossy Point and Tomakin in the vicinity of the confluence of the Tomaga River with the Tasman Sea.
Tuross Inlet	Located near the town of Tuross Head in the vicinity of the confluence of Tuross Lake with the Tasman Sea.
Tweed River	Located near the town of Tweed Heads in the vicinity of the confluence of the Tweed River with the Coral Sea.
Tuggerah Lake	Located near the town of The Entrance in the vicinity of the confluence of Tuggerah Lake with the Tasman Sea.
Wagonga Inlet	Located near the town of Narooma in the vicinity of the confluence of the Wagonga Inlet with the Tasman Sea.
Wallis Lake	Located near the towns of Forster-Tuncurry in the vicinity of the confluence of Wallis Lake with the Tasman Sea.
Wonboyn River	Located near the town of Wonboyn in the vicinity of the confluence of the Wonboyn River with the Tasman Sea.
Wooli River	Located near the town of Wooli in the vicinity of the confluence of the Wooli River with the Coral Sea.

## Schedule 2 Partially smooth waters

(Clause 3 (1))

### Port Stephens

On Port Stephens west of a line drawn across its entrance to the Tasman Sea from the north-eastern extremity of Tomaree Head in a north-easterly direction to the south-eastern extremity of Yacabba Head.

### Broken Bay

On Broken Bay west of a line drawn across its entrance to the Tasman Sea from a point on the northern extremity of Barrenjoey Head in a north-easterly direction to the southern extremity of Box Head.

### Port Jackson

On Port Jackson west of a line drawn across its entrance to the Tasman Sea from the western extremity of Cannae Point in a southerly direction to the northern extremity of Inner South Head.

### Botany Bay

On Botany Bay west of a line drawn across its entrance to the Tasman Sea from the southern extremity

of Bare Island in a southerly direction to the northern extremity of Inscription Point.

### **Port Hacking**

On Port Hacking west of a line drawn across its entrance to the Tasman Sea from the eastern extremity of Glaisher Point in a south-easterly direction to the northern extremity of Point Hacking Point.

### **Jervis Bay**

On Jervis Bay west of a line drawn across its entrance to the Tasman Sea from the southern extremity of Dart Point in a southerly direction to the northern extremity of Governor Head.

### **Twofold Bay**

On Twofold Bay west of a line drawn across its entrance to the Tasman Sea from the southern extremity of Worang Point in a southerly direction to the northern extremity of Honeysuckle Point.

## **Schedule 3 Smooth waters**

(Clause 3 (1))

### **Tweed Heads**

On the Tweed River south of a line drawn from the northernmost extremity of the Spur Wall in a north-easterly direction to a point on the shore adjacent to the prolongation of Florence Street, Tweed Heads.

### **Brunswick Heads**

On the Brunswick River upstream of a line drawn directly across the river from a point on the southern training wall at the junction with the most easterly point of the entrance to Simpsons Creek and approximately 600 metres upstream of its entrance to the Coral Sea in a generally northerly direction to a point opposite the shore.

### **Ballina**

On the Richmond River upstream of a line drawn across the river from a point on the shore adjacent to the prolongation of Moon Street, Ballina in a south south-westerly direction to a point on the opposite shore.

### **Evans Head**

On the Evans River upstream of a line drawn directly across the river from the western extremity of an unnamed point on the eastern shore approximately 380 metres upstream of its entrance with the Coral Sea in a north-westerly direction to a point on the opposite shore.

### **Yamba and Iluka**

On the Clarence River upstream of a line drawn from the northern extremity of Hickey Island approximately 1,600 metres upstream of its entrance to the Coral Sea in a northerly direction to a point on the opposite shore.

### **Wooli**

On the Wooli River upstream of a line drawn across the river from a point on the eastern shore

approximately 1,400 metres upstream of its entrance to the Coral Sea in a westerly point to a point on the opposite shore.

### **Urunga**

On the Bellinger and Kalang Rivers upstream of a line drawn from a point on the southern training wall approximately 1,100 metres upstream of its entrance to the Tasman Sea in an easterly direction to a point on the opposite shore.

### **Nambucca Heads**

On the Nambucca River upstream of lines drawn across the river entrance channels from a point on the northern shore adjacent to the prolongation of High Street, Nambucca Heads, in a southerly direction to a point on the eastern shore of Warrell Creek at its entrance to the Nambucca River and opposite Warrell Point.

### **South West Rocks and Stuarts Point**

On the Macleay River upstream of a line drawn across the river from a point on the southern training wall approximately 1,300 metres upstream from its entrance with the Tasman Sea in a generally north-westerly direction to a point on the opposite northern training wall.

### **Port Macquarie**

On the Hastings River upstream of a line drawn across the river from a point on the southern shore adjacent to the prolongation of Hay Street, Port Macquarie, in a northerly direction to a point on the opposite northern training wall.

### **Laurieton**

On the Camden Haven River upstream of a line drawn across the river from a point on the southern training wall at Klondyke Rocks approximately 1,000 metres upstream of its entrance to the Tasman Sea.

### **Manning River**

On the Manning River upstream of a line drawn across the river from a point on the northern training wall approximately 3,100 metres upstream of its entrance to the Tasman Sea in a south south-westerly direction to the northern extremity of the southern training wall.

### **Wallis Lake**

On Wallis Lake upstream of the Forster-Tuncurry Bridge.

### **Port Stephens**

On Port Stephens upstream of a line drawn from the southern extremity of Corrie Island in a south-easterly direction across the waterway to a point on the southern shore in line with the highest point of Tomaree Head.

### **Newcastle**

On the Hunter River upstream of a line drawn across the river from the western extremity of Stony Point in a westerly direction to a point on the opposite northern shore 500 metres upstream from Pirate

Point.

### **Lake Macquarie**

On Lake Macquarie upstream of a line drawn across Swansea Channel from a point on the northern extremity of Coon Island in an easterly direction to a point on the eastern shore adjacent to the prolongation of Soldiers Road, Pelican.

### **Tuggerah Lakes**

On Tuggerah Lakes west of The Entrance Bridge.

### **Brisbane Water**

On Brisbane Water upstream of a line drawn from the western extremity of Wagstaffe Point in a generally west north-westerly direction to a point on the opposite shore adjacent to the prolongation of Kourung Street, Ettalong.

### **Pittwater**

On Pittwater south of a line drawn from a point on the shore at the western extremity of Shark Point, Barrenjoey Head in a westerly direction to the eastern extremity of First Head.

### **Hawkesbury River**

On the Hawkesbury River upstream of a line drawn from the southern extremity of Juno Point in an easterly direction to the northern extremity of Flint and Steel Point.

### **Pittwater to Hawkesbury River**

The area bounded by lines drawn between the western extremity of Shark Point, Barrenjoey Head to the eastern extremity of First Head and Juno Point and Flint and Steel Point, except when the wave height in any part of that area exceeds 0.5 metre from trough to crest.

### **Brisbane Water to Pittwater or Hawkesbury River**

The area bounded by lines drawn between the northern extremity of Barrenjoey Head and the southern extremity of Box Head and the western extremity of Shark Point, Barrenjoey Head to the eastern extremity of First Head, except when the wave height in any part of that area exceeds 0.5 metre from trough to crest.

### **Port Jackson**

On Port Jackson upstream of a line drawn from the western extremity of Laings Point in a west north-westerly direction to the eastern extremity of Georges Head.

### **Middle Harbour**

On Middle Harbour upstream of a line drawn from the southern extremity of Grotto Point in a southerly direction to the western extremity of an unnamed point at the south-eastern end of Balmoral Beach.

### **Port Jackson to Middle Harbour**

The area bounded by lines drawn between Dobroyd Point and Inner South Head, Laings Point and

Georges Head and Grotto Point in a southerly direction to the western extremity of an unnamed point at the south-eastern end of Balmoral Beach, except when the wave height in any part of that area exceeds 0.5 metre from trough to crest.

### **Botany Bay**

On Botany Bay west of a line drawn from the southern extremity of Molineux Point in a south-westerly direction to the north-western extremity of Bonna Point.

### **Georges River**

On the Georges River upstream of the Captain Cook Bridge.

### **Port Hacking**

On Port Hacking upstream of a line drawn from the southern extremity of Hungry Point in a south south-easterly direction to the north-western extremity of an unnamed point at the south-eastern end of Horderns Beach.

### **Port Kembla**

On Port Kembla Outer Harbour west of a line drawn from the north-western extremity of the southern breakwall in a northerly direction to the south-eastern extremity of the northern breakwall.

### **Lake Illawarra**

On Lake Illawarra upstream of Windang Bridge.

### **Crookhaven Heads**

On the Crookhaven River upstream of a line drawn from the north-western extremity of an unnamed point adjacent to Crookhaven Heads Regional Boat Ramp in a northerly direction to the mid point of the northern training wall.

### **Sussex Inlet and St Georges Basin**

On Sussex Inlet and St Georges Basin upstream of a line drawn across the waterway from an unnamed point at the south-westerly end of Bherwerre Beach at the junction with the Tasman Sea in a westerly direction to a point on the opposite shore.

### **Lake Conjola**

On Lake Conjola west of a line drawn across the waterway from a point adjacent to the eastern side of the Boat Ramp at Lakes Entrance Caravan Park in a northerly direction to a point on the opposite shore.

### **Burrill Lake**

On Burrill Lake upstream of a line drawn directly across the waterway from a point on the western shore adjacent to the north-eastern boundary of Rotary Park.

### **Tabourie Lake**

On Tabourie Lake westward of a line drawn in a northerly direction from the picnic area on the

southern shore to the caravan park on the northern shore.

### **Clyde River**

On the Clyde River at Batemans Bay upstream of a line drawn between the eastern side of the entrance to the boat harbour and Pinnacle Point.

### **Tomaga River**

On the Tomaga River upstream of a line drawn across the river from a point adjacent to the Tomakin Boat Ramp at the end of Kingston Place, Tomakin to a point on the opposite shore.

### **Moruya River**

On the Moruya River upstream of a line drawn across the waterway from a point on the southern training wall approximately 750 metres from its entrance to the Tasman Sea in a generally northerly direction to a point on the opposite shore.

### **Durras Lake**

On Durras Lake west of a line drawn due south from the natural spring well at North Durras.

### **Coila Lake**

On Coila Lake west of a line drawn from the Boat Ramp at the end of Foam Street, Tuross Heads in a north-easterly direction to a point on the opposite northern shore.

### **Tuross Lake**

On Tuross Lake upstream of a line drawn from the Boat Ramp off Nelson Parade, Tuross Heads in a south south-westerly direction to an unnamed point on the shore of the Eurobodalla National Park.

### **Narooma**

On the Wagonga Inlet at Narooma upstream of a line drawn from a point on the southern shore adjacent to the northern boundary of Rotary Park, Narooma in a north-westerly direction to the southernmost extremity of the northern training wall.

### **Corunna Lake**

On Corunna Lake upstream of the Princes Highway Bridge.

### **Wallaga Lake**

On Wallaga Lake upstream of the Tilba Road Bridge.

### **Bermagui**

On the Bermagui River upstream of a line drawn from the northern extremity of the eastern training wall in a westerly direction to a point midway along the eastern training wall.

### **Merimbula Lake**

On Merimbula Lake upstream of a line drawn across its entrance with the Tasman Sea from an unnamed point at the junction of Mitchies Beach and Merimbula Beach in an easterly direction to a

point on the opposite shore at Bar Beach.

#### **Pambula**

On the Pambula River upstream of a line drawn between Black Gin Point and the seaward end of Mosquito Bight Point.

#### **Eden**

On Twofold Bay west of a line drawn from the western extremity of the Eden Breakwall in a south-easterly direction to the northern extremity of Munganoa Point.

#### **Wonboyn**

On Wonboyn River upstream of a line drawn from the north-western extremity of Dollys Island in a south-easterly direction to a point on the opposite northern shore.

#### **Murray River**

On the Murray River and its New South Wales tributaries and in the **transferred Victorian area** as defined in the [Marine Safety Legislation \(Lakes Hume and Mulwala\) Act 2001](#).

#### **Lord Howe Island Lagoon**

On Lord Howe Island Lagoon inside the coral reef bounded by lines commencing in the north-west adjacent to the southern shore of North Beach in a south-easterly direction to Blackburn Island thence in a south-easterly direction to a point on the shore at Callaghans Rock at Lovers Bay.

#### **Other New South Wales waters**

All other coastal navigable waters (such as rivers, creeks, lakes and lagoons) except those listed in Schedule 3.

All inland navigable waters (such as rivers, lakes and dam waters).

### **Schedule 4 Modifications to Convention on International Regulations for Preventing Collisions at Sea**

(Clause 5)

#### **Rule 1 of the International Regulations is modified by including the following NSW special Rule—**

- (1) Despite Rule 1 (a), these Rules extend to vessels in all navigable waters.
- (2) These Rules do not apply to vessels taking part in an aquatic activity if the aquatic licence that authorises the activity provides for a different set of rules to be applied. However, these Rules do apply if there is a risk of collision between a vessel taking part in the aquatic activity and a vessel that is not taking part in the aquatic activity.
- (3) An unoccupied vessel is exempt from the provisions of these Rules if it is—
  - (a) secured under the authority of, and in accordance with the conditions, attached to

an occupation licence issued under the *Management of Waters and Waterside Lands Regulations—N.S.W.*, or

(b) lawfully occupying any navigable waters by direction of, or with the permission of, the Crown or any other person or body lawfully entitled to give such a direction or permission.

(4) Subrule (3) of this special rule does not apply to a vessel secured to a shipping mooring.

**Rule 18 of the International Regulations is modified by including the following NSW special Rule—**

- (1) In this special Rule, **priority over sail signal** means a signal displaying an orange diamond shape.
- (2) In addition to complying with the requirements of Rule 18, the operator of a sailing vessel must keep out of the way of, and keep a safe distance from, a vessel displaying a priority over sail signal.
- (3) If the operator of a sailing vessel is unable to comply with subrule (2) of this special Rule, the operator is to make that fact clear to the operator of the vessel displaying the priority over sail signal as soon as possible.
- (4) The operator of a vessel must not display a priority over sail signal without the written consent of the Minister.

**Rule 23 of the International Regulations is modified by including the following NSW special Rule—**

- (1) In this special Rule, **commuter craft zone** means the following areas of water—
  - (a) Hawkesbury River Area—being the navigable waters of that part of Hawkesbury River and tributaries (including Mullet, Mooney Mooney, Mangrove and Berowra Creeks) upstream of a line between Green Point and Croppy Point to a line across the River from an unnamed point, approximately 1 kilometre south of the entrance to Breakfast Creek, (near Spencer) to Gentlemans Halt,
  - (b) Pittwater Area—being the navigable waters of that part of Pittwater and tributaries lying south of a line extending from the western extremity of Observation Point north-westerly to an unnamed point at the northern extremity of Great Mackerel Beach,
  - (c) Woronora Area—being the navigable waters of that part of Woronora River and tributaries lying south of a line extending in an easterly direction from an unnamed point (approximately 250 metres north-east of the entrance to Still Creek) to the opposite shore of the River,



- (d) Port Hacking Area—being the navigable waters of that part of Port Hacking and Gunnamatta Bay commencing at the eastern extremity of Cabbage Tree Point thence by the shore of Bundeena Bay to the eastern extremity of Gunyah Beach thence by a line extending north-westerly across Port Hacking to the western extremity of Hungry Point thence by the shore of Gunnamatta Bay to the eastern extremity of Burraneer Point thence by a line extending south-easterly across Port Hacking to the point of commencement.
- (2) A power-driven vessel less than 5 metres in length may exhibit sidelights and a sternlight instead of the lights prescribed by Rule 23 (a) and (d) when underway in a commuter craft zone.
- (3) The operator of a vessel in chains must ensure that the vessel displays, instead of the lights prescribed by Rule 23—
  - (a) an all round orange flashing light (within the meaning of Rule 21) when operating and making way at any time, and
  - (b) an all round green light situated not less than 1 metre vertically above the red light at the forward end of the vessel to indicate the direction in which the vessel is proceeding when making way, and
  - (c) an all round red light at each end of the vessel in a horizontal line at a height of not less than 3 metres above the deck of the vessel if the vessel is available to operate but is not making way.
- (4) A high speed catamaran ferry may, with the written consent of the Minister, exhibit an all round flashing yellow light (within the meaning of Rule 21).

**Rule 27 of the International Regulations is modified by including the following NSW special Rule—**

- (1) The owner and operator of a vessel engaged in diving operations, and any diver engaged in those operations from the vessel, must ensure that a rigid replica of an International Code flag “A” is displayed on the vessel, or on a buoy or float positioned nearby, so as to make it clearly visible and that—
  - (a) the top of the flag is at least 1 metre from the top of any part of the vessel’s superstructure or other obstruction or at least 2 metres from the water surface if mounted on a nearby buoy, and
  - (b) the flag is visible through 360°, and
  - (c) the flag is at least 400 millimetres by 400 millimetres in size, and
  - (d) the flag is not faded, and
  - (e) the flag is maintained in good condition.

- (2) The operator of a vessel underway must maintain a safe distance from, and travel at a safe speed when in the vicinity of, an area in which a replica of an International Code flag "A" is displayed.
- (3) Rule 27 (g) does not operate so as to exempt any vessel which is engaged in dredging operations or underwater operations from the requirements of that Rule in relation to the exhibition of lights and shapes.

**Rule 29 of the International Regulations is modified by including the following NSW special Rule**

In addition to the requirements of Rule 29, a vessel engaged on pilotage duty between sunrise and sunset must exhibit when underway a flag that is of a size not less than 900 millimetres by 600 millimetres and is divided horizontally in 2 colours (the upper half being white and the lower half being red).

**Schedule 5 Waters in which kitesurfing and sailboarding prohibited**

(Clause 15)

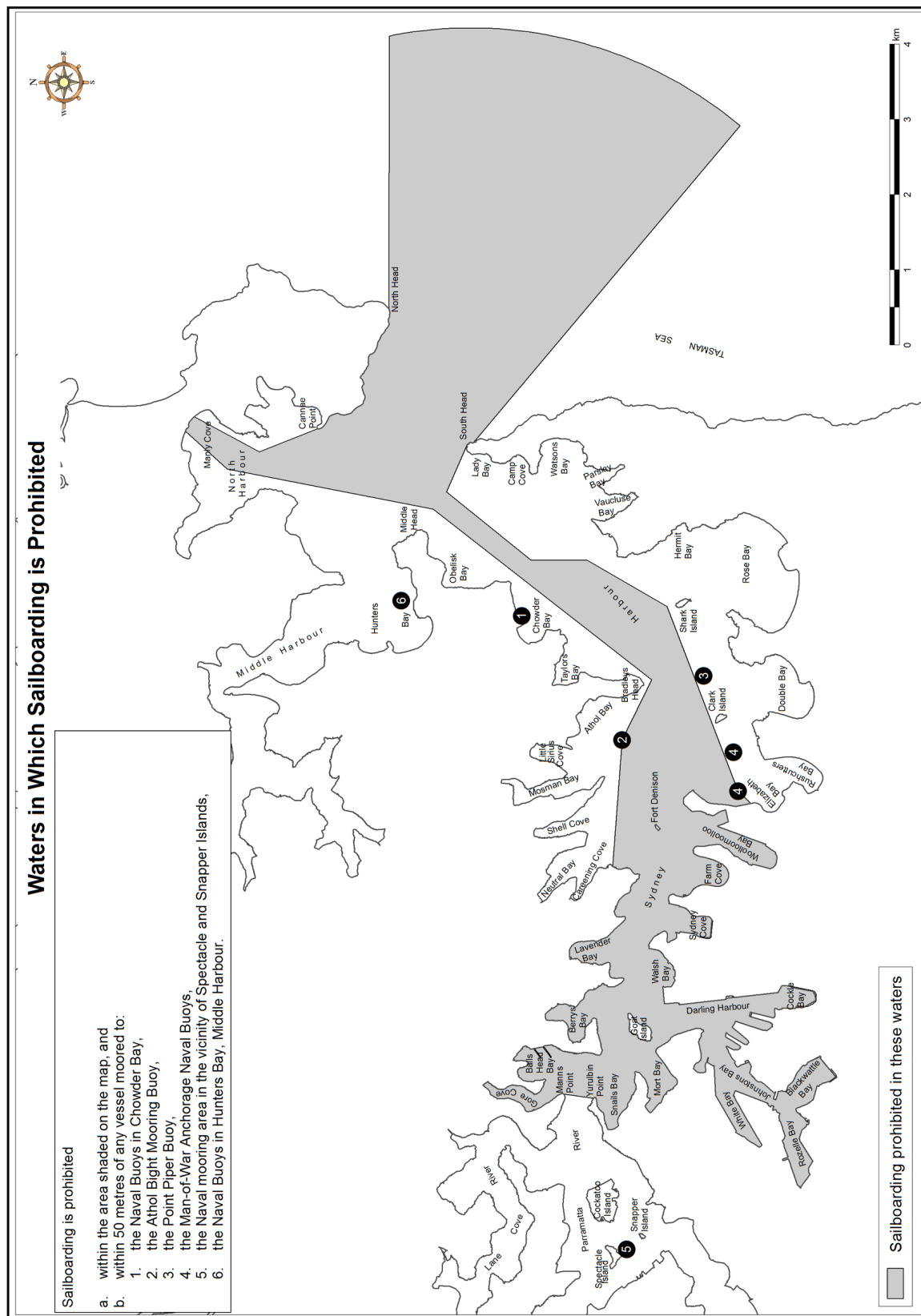
**Part 1 Waters in which kitesurfing prohibited**

The waters of Port Jackson, including the waters of all tidal bays, rivers and their tributaries connected or leading to Sydney Harbour bounded by high water mark and lying to the west of a line commencing at the southernmost point of North Head and running to the northernmost point of South Head.

**Part 2 Waters in which sailboarding prohibited**

**Note—**

The following map must be read in conjunction with clause 15.



## Schedule 6 Requirements relating to Sydney Cove

(Clause 61)

### 1 Definitions

In this Schedule—

**Sydney Cove** means the whole of that portion of Sydney Harbour that lies south of an imaginary line drawn from the position of the northernmost fixed red beacon on Dawes Point to the position of the fixed red beacon on Bennelong Point.

**Note—**

A map of Sydney Cove is available on the Transport for NSW website.

**wharf authorisation** means an authorisation (however described) given by Transport for NSW under the [Ports and Maritime Administration Act 1995](#) that permits a person to secure a vessel to a wharf, pier, jetty, landing stage or dock owned by Transport for NSW within Sydney Harbour or its tributaries.

### 2 Approvals required

- (1) A vessel must not enter or operate in Sydney Cove unless—
  - (a) written approval has been obtained from Transport for NSW, the Port Authority of New South Wales or the harbour master, or
  - (b) there is a wharf authorisation for the vessel that has been given by Transport for NSW, the Port Authority of New South Wales or the harbour master.
- (2) No sailing vessel may operate in Sydney Cove with sails hoisted except with the written approval of Transport for NSW.

### 3 General navigation requirements

A vessel must be operated at a safe distance from the Port Lateral Marker at Bennelong Point and Dawes Point when arriving or departing from Sydney Cove.

### 4 North/south rule

- (1) Subject to this clause, a vessel must be operated on a northerly or southerly course within Sydney Cove.
- (2) A vessel departing Sydney Cove to a place west of Sydney Cove must be operated on a northerly course until altering course to port to pass north of the diamond shape marking the centre of the Harbour Bridge unless it is clearly safer to do otherwise.
- (3) However, a vessel may be operated other than on a northerly or southerly course while within Sydney Cove if—

- (a) the vessel is being manoeuvred as required to relocate between wharves 2, 3, 4, 5 or 6, in circumstances when it is safe to do so, or
- (b) the vessel is restricted in its ability to manoeuvre.

## 5 The waiting line

- (1) A vessel must not depart from a berth if the departure hinders a vessel that is south of the waiting line.
- (2) A vessel must not proceed south of the waiting line unless its berth is vacant and there are no vessels hindering its approach.
- (3) A vessel that is permitted to relocate between wharves 2, 3, 4, 5 or 6 must not remain south of the waiting line if its destination wharf is not available.
- (4) In this clause—

**waiting line** means the imaginary line drawn between the knuckle located at the northern end of the Sydney Cove Passenger Terminal building and the knuckle in the Opera House sea wall, located 150 metres south of Bennelong Point.

## 6 Special requirements for water taxis

- (1) A water taxi waiting for the use of the Commissioners Steps and the Harbour Masters Steps must remain west of the taxi waiting line west.
- (2) A water taxi waiting for the use of the Eastern Pontoon must remain east of the taxi waiting line east.
- (3) Another vessel must not be permitted to raft up to a water taxi in Sydney Cove.
- (4) Passengers must not be permitted to embark or disembark a water taxi at wharves 2, 3, 4, 5 or 6 at Sydney Cove.
- (5) A water taxi must give berthing priority to another vessel for which there is a wharf authorisation.
- (6) In this clause—

**raft up** means to rope together a number of small vessels to form a raft-like structure.

**taxi waiting line east** means an imaginary line drawn along the western face of the Eastern Pontoon parallel to the sea wall extending south to the sea wall.

**taxi waiting line west** means an imaginary line drawn along the face of the Overseas Passenger Terminal wharf extending south to the sea wall.

## **7 Control of hull or propeller wash**

- (1) A vessel in Sydney Cove must not be operated in a manner that directs excessive propeller turbulence towards the Commissioners Steps or the Harbour Masters Steps when vessels are alongside those berths.
- (2) A vessel must not be operated so as to generate excessive hull or propeller wash within Sydney Cove.

## **8 Berthing of certain vessels at Eastern Pontoon**

- (1) A vessel more than 12 metres in length berthing at the Eastern Pontoon must be berthed port side to except with the written approval of Transport for NSW.
- (2) When departing the Eastern Pontoon, a vessel berthed port side to must be operated astern until the vessel is at least 200 metres to the north, then turned to starboard to head the vessel on a northerly course to leave Sydney Cove.
- (3) A vessel departing the Eastern Pontoon must not hinder the operation of any other vessel in Sydney Cove.

## **9 Berthing of vessels in Sydney Cove without wharf authorisations**

- (1) This clause applies to a vessel in Sydney Cove that does not have a wharf authorisation.
- (2) At least 1 member of the crew of a vessel to which this clause applies must—
  - (a) remain on board the vessel, or within 5 metres of the vessel if ashore, and
  - (b) keep watch in relation to the safety of the vessel, other vessels in Sydney Cove and any person boarding or on-board the vessel.

## **10 Vessels entering or leaving Campbells Cove**

- (1) A vessel entering or leaving Campbells Cove must be manoeuvred as close to the entrance to Campbells Cove as safe navigation permits so as not to impede other Sydney Cove traffic.
- (2) This clause does not affect the requirements of clause 4.

## **11 Communications on VHF Channel 13**

- (1) The master of a vessel in Sydney Cove must monitor VHF Channel 13 at all times while the vessel is in Sydney Cove.
- (2) The master of a vessel in Sydney Cove must immediately advise the Port Authority of New South Wales' Vessel Traffic Service, Sydney on VHF Channel 13 of any matter affecting safe navigation of a vessel in Sydney Cove.

## Schedule 7 Standard of safety equipment carried on recreational vessels

(Clause 121 (1))

Item of equipment	Minimum standard required
Anchor with chain and/or line	<p>The anchor and chain or line, or both, must be suitable for the purpose of securing the vessel given the vessel's size, weight and the area of operation.</p> <p>The chain and/or line must be of sufficient strength and durability for the purpose and is to be securely attached to both the anchor and the vessel.</p> <p>Where applicable, the anchor should comply with Australian Standard AS 2198—1983, <i>Anchors for small boats</i> (as in force from time to time).</p>
Appropriate chart	An Australian Navigational Chart showing each area proposed for the vessel's voyage, whether in printed or digital format, that can be readily displayed for the duration of the voyage.
Appropriate map	A clearly legible map (whether in printed or digital format) of each area proposed for the vessel's voyage or excursion showing significant features for navigation such as shallows, reefs, hazards and channels by figures, colours or shading.
Bailer with lanyard	<p>A bailer must be suitable for bailing water from the vessel and have a lanyard or rope securely attached. The bailer must be readily accessible and not used for any other purpose. The lanyard must be of a length to allow the bailer to be cast over the side of the vessel and retrieved.</p> <p>A fire bucket carried in accordance with this standard may double as a bailer provided it satisfies the above requirements.</p>
Bilge pump	The pump or pumps carried must be capable of draining each compartment of the vessel. They may be either manual or power operated, and must have a strainer fitted to the suction pipe. The strainer must be of a sufficiently small mesh size to prevent choking of the pump.
Bucket with lanyard	<p>The bucket must be suitable for bailing water out of the vessel, as well as collecting water for use in case of fire. The bucket must be manufactured from metal or a robust plastic or robust canvas (for example, a Wallaby bucket), and be designed so as not to collapse, distort or lose the handle when full of water. The bucket must not be used for any other purpose and must be readily available at all times.</p> <p>The bucket must have a lanyard or rope attached of significant length to allow the bucket to be cast over the side and retrieved full of water.</p>
Compass	The compass must be liquid damped with a rotating card showing the cardinal points.
EPIRB	<p>An EPIRB suitable for marine use, must transmit on 406 MHz and conform with Australian and New Zealand Standard AS/NZS 4280.1:2003, <i>406 MHz satellite distress beacons—Marine emergency position-indicating radio beacons (EPIRBs)</i> (IEC 61097-2:2002, MOD (as in force from time to time)</p> <p>Any 406 MHz EPIRB must be properly registered with the Australian Maritime Safety Authority (AMSA).</p>

Fire extinguisher	<p>Fire extinguishers carried must be of a type suitable for the type of fuel carried on board the vessel as specified in Australian Standard AS 1799.1—2009, <i>Small craft—Part 1: General requirements for power boats</i> (as in force from time to time). They must be designed and manufactured in accordance with an Australian Standard specification for portable fire extinguishers.</p> <p>Extinguishers must be stowed, so as to be readily accessible in the case of fire.</p>
Lifejacket Level 50S or greater	<p>A lifejacket that meets—</p> <p>(a) performance standard 50S, 50, 100, 150 or 275 of Australian Standard AS 4758 <i>Lifejackets</i> (as in force from time to time), or</p> <p>(b) any standard or specifications approved by Transport for NSW.</p>
Lifejacket Level 100 or greater	<p>A lifejacket that meets—</p> <p>(a) performance standard 100, 150 or 275 of Australian Standard AS 4758 <i>Lifejackets</i> (as in force from time to time), or</p> <p>(b) any standard or specifications approved by Transport for NSW.</p>
Marine radio	<p>A 27 MHz, HF or VHF marine radio transceiver approved by the Australian Communications and Media Authority (ACMA).</p> <p>In addition, for vessels operating within the coverage area of VHF service, the VHF transceiver must be of international maritime type complying with Australian/New Zealand Standard AS/NZS 4415.1:2003, <i>Radiotelephone transmitters and receivers for the maritime mobile service operating in the VHF bands—Technical characteristics and methods of measurement—Part 1: Shipborne equipment and limited coast stations (including DSC)</i> (IEC 61097-7:1996, MOD) (as in force from time to time).</p> <p>In addition, for vessels operating outside the coverage area of VHF service, at least 1 of the following options (in descending order of capability) must be selected by the operator based on the availability of services in the area of operation—</p> <p>(a) GMDSS-compatible Inmarsat C terminal,</p> <p>(b) MF/HF transceiver (non-DSC) plus marine satellite telephone,</p> <p>(c) mobile telephone service (satellite, CDMA or GSM) appropriate for use in the marine environment,</p> <p><b>Note—</b></p> <p>This option is for vessels that may operate occasionally outside of VHF range as the minimum equipment needed to provide distress and safety communications. It is not considered as capable an option as (a) or (b) above.</p> <p>(d) Class 1 MF/HF transceiver complying with GMDSS Sea Area A3 requirements as per the <a href="#">Navigation Act 2012</a> of the Commonwealth and provision iv/10.1.2 of the Safety Convention (within the meaning of the <a href="#">Navigation Act 2012</a> of the Commonwealth).</p> <p><b>Note—</b></p> <p>This option is normally only available to larger vessels that can satisfy higher transmitter power and antenna performance requirements.</p>

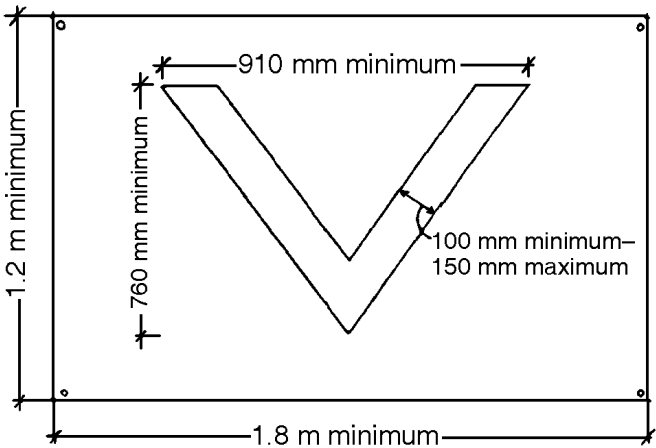


Oars (pair) with rowlocks	A pair of oars that must be capable of being used to row the vessel in which they are carried.
Orange smoke hand-held distress signal	An orange smoke hand-held distress signal that complies with Australian Standard AS 2092—2004, <i>Pyrotechnic marine distress flares and signals for pleasure craft</i> (as in force from time to time) as it relates to such distress signals.
Paddle	A paddle that is capable of being used to row the vessel in which it is carried.
Red hand-held distress flare	A red hand-held distress flare that complies with Australian Standard AS 2092—2004, <i>Pyrotechnic marine distress flares and signals for pleasure craft</i> (as in force from time to time) as it relates to such distress signals.

A fluorescent orange-red coloured sheet of dimensions not less than 1.8 metres × 1.2 metres with a black V superimposed on the sheet in the position shown. The letter “V” on the sheet must be of a width no more than 150 millimetres. Lanyard (rope) must be tied to each corner of the sheet.

Figure

V-sheet (distress signal)



Waterproof torch	A water resistant, floating type torch in operational order that is capable of being used to signal.
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**Schedule 8 Minimum safety equipment to be carried on recreational vessels**

(Clause 121 (1))

**Part 1 General requirements for safety equipment**

**1 General**

- (1) The following equipment is required to be provided on all vessels, or those vessels specified.
- (2) Part 2 modifies these requirements for particular vessels.

Essential items	Quantity	Area of operation	
		Enclosed waters	Open waters
Anchor with chain/line	1	Yes	Yes
Appropriate lifejacket	1 for each person on board the vessel	Yes	Yes
Appropriate map or chart	1	No	Yes
Bailer/bucket/fire bucket (except for any vessels with covered bilges or closed under-floor compartments other than airtight void spaces)	1	Yes	Yes
Bilge pump (for any vessels with covered bilges or closed under-floor compartments other than airtight void spaces)	At least 1. Must be capable of draining each compartment (other than airtight void spaces), which may require more than 1	Yes	Yes
Compass	1	No	Yes
<b>Distress signals</b>			
Orange smoke hand-held distress signal	2	No	Yes
Red hand-held distress flare	2	No	Yes
EPIRB	1	No	Yes, but only if vessel is more than 2 nautical miles from nearest shore
Fire extinguisher (for all vessels with an electric start motor, gas installation, fuel stove or battery)	At least 1. More are to be carried if potential sources of fire and the size of the vessel require it	Yes	Yes
Fresh drinking water	2 litres per person	No	Yes
Marine radio	1	No	Yes, but only if vessel is more than 2 nautical miles from nearest shore
Paddles, oars or rowlocks (for boats under 6 metres in length unless a second means of propulsion is fitted)	1	Yes	Yes
Sound signal (airhorn, whistle or bell)	1	Yes	Yes
V-sheet (distress signal)	1	No	Yes

Waterproof torch

1

Yes

Yes

## **Part 2 Modified requirements for specified vessels**

### **2 Modified requirements for safety equipment in relation to sailing vessels**

- (1) A sailing vessel, less than 6 metres in length and operating on enclosed waters, is not required to carry an anchor.
- (2) A sailing vessel with a permanently enclosed, self draining hull is not required to carry a bucket or bailer.
- (3) A sailing vessel engaged in a sail training session organised by a club, school or other similar organisation is not required to carry safety equipment specified in Part 1 if a power-driven vessel, capable of use for rescue purposes, is in attendance.

### **3 Modified safety equipment requirements for certain vessels less than 6 metres**

- (1) A vessel of less than 6 metres in length, with 2 or more independent means of propulsion, is not required to carry a paddle or a pair of oars.
- (2) For the purposes of subclause (1), 2 or more sails are considered to be 1 means of propulsion.

### **4 Modified safety equipment requirements for certain small tenders**

- (1) This clause applies to tenders that—
  - (a) are operating on enclosed waters, and
  - (b) are operating within 200 metres of the shore, and
  - (c) are less than 3 metres in length.
- (2) A tender to which this clause applies is not required to carry safety equipment specified in Part 1 if the tender carries the following safety equipment—
  - (a) a paddle or a pair of oars and rowlocks,
  - (b) a waterproof torch if operating between sunset and sunrise,
  - (c) a bucket, bailer or bilge pump.

### **5 Modified safety equipment requirements for personal watercraft and canoes on open waters**

A personal watercraft or canoe (other than an outrigger canoe) on open waters is not required to carry safety equipment specified in Part 1.

**6 Modified safety equipment requirements for rowboats, dinghies and inflatable boats**

A row boat, dinghy or inflatable boat is not required to carry safety equipment specified in Part 1 if the vessel is—

- (a) less than 3 metres in length, and
- (b) not a tender, and
- (c) not carrying an engine or fuel, and
- (d) not more than 200 metres from the nearest shore, and
- (e) operating between sunrise and sunset, and
- (f) operating on enclosed waters, and
- (g) built so as to float if swamped or capsized.

**7 Modified safety equipment requirements for off-the-beach vessels**

An off-the-beach vessel is not required to carry safety equipment specified in Part 1 if the vessel does not have sufficient storage room to carry the safety equipment specified in that Part in relation to the vessel.

**8 Modified safety equipment requirements for outrigger canoes**

- (1) An outrigger canoe is not required to carry safety equipment specified in Part 1 while operating on open waters if—
  - (a) each person on board has undergone a safety drill in respect of possible emergencies arising on the vessel, and
  - (b) the vessel is operating between sunrise and sunset, and
  - (c) the vessel is built so as to float if swamped or capsized, and
  - (d) the vessel is returned to shore or a safe haven if the weather or water conditions become, or are predicted to become, unsuitable for canoeing, and
  - (e) the vessel is carrying the following equipment—
    - (i) an appropriate lifejacket for each person on board,
    - (ii) flares or a mobile telephone (in a watertight container),
    - (iii) if the vessel is an outrigger canoe that carries 3 or more persons—
      - (A) at least 2 buckets (bailers) with a lanyard attached to each, and
      - (B) at least 1 spare paddle, and

- (C) a rope of at least 25 metres in length and 12 millimetres in diameter of the type known as “silver rope”, securely attached to the forward canoe spreader or lashing point (the “wae”) for towing,
  - (iv) if the vessel is an outrigger canoe that carries fewer than 3 persons—a leg rope.
- (2) An outrigger canoe is not required to carry safety equipment specified in Part 1 while operating on enclosed waters if—
  - (a) each person on board has undergone a safety drill in respect of possible emergencies arising on the vessel, and
  - (b) where the outrigger canoe carries 3 or more persons—the canoe is displaying a white strobe light on a 1 metre pole or 2 fixed white lights, 1 mounted at each end of the canoe, when operating between sunset and sunrise, and
  - (c) where the outrigger canoe carries fewer than 3 persons—the vessel has 1 all round white light affixed to the highest point of the vessel, when operating between sunset and sunrise, and
  - (d) the vessel is built so as to float if swamped or capsized, and
  - (e) the vessel is returned to shore or a safe haven if the weather or water conditions become, or are predicted to become, unsuitable for canoeing, and
  - (f) the vessel is carrying the following equipment—
    - (i) an appropriate lifejacket for each person on board,
    - (ii) where the vessel is operating between sunset and sunrise—flares or a mobile telephone (in a watertight container),
    - (iii) if the vessel is an outrigger canoe that carries 3 or more persons—
      - (A) at least 2 buckets (bailers) with a lanyard attached to each, and
      - (B) at least 1 spare paddle, and
      - (C) a rope of at least 25 metres in length and 12 millimetres in diameter of the type known as “silver rope”, securely attached to the forward canoe spreader or lashing point (the “wae”) for towing,
    - (iv) if the vessel is an outrigger canoe that carries fewer than 3 persons—a leg rope.

## **9 Modified safety equipment requirements for dragon boats in enclosed waters**

A dragon boat is not required to carry safety equipment specified in Part 1 while operating

- on enclosed waters if—
- (a) each person on board has undergone a safety drill in respect of possible emergencies arising on the vessel, and
  - (b) the vessel is displaying appropriate lights when operating between sunset and sunrise, and
  - (c) the vessel is operating not more than 400 metres from the nearest shore, and
  - (d) the vessel is built so as to float if swamped or capsized, and
  - (e) the vessel is returned to shore or a safe haven if the weather or water conditions become, or are predicted to become, unsuitable for boating, and
  - (f) the vessel is not rowed in the middle of a channel and is rowed on the starboard side (bow side) of the channel, and
  - (g) the vessel is carrying the following equipment—
    - (i) at least 1 bucket (bailer) with a lanyard attached,
    - (ii) a rope of at least 25 metres in length and 12 millimetres in diameter of the type known as “silver rope”, securely attached to the dragon boat for towing,
    - (iii) flares or a mobile telephone (in a watertight container) when the vessel is operating between sunset and sunrise.

**Schedule 9 Penalty notice offences—offences under Marine Safety Act 1998**

(Clause 135 (1))

Column 1	Column 2
Offences	Level of penalty
Offences under the Marine Safety Act 1998	
Section 10 (3) in respect of a contravention of Part B or Part C of the <i>International Regulations for Preventing Collisions at Sea 1972</i>	2
Section 10 (3) in respect of a contravention of Part D of the <i>International Regulations for Preventing Collisions at Sea 1972</i>	1
Section 11 (4) exceed notified speed limit by less than 10 knots where vessel concerned is not a personal watercraft	1
Section 11 (4) exceed notified speed limit by less than 10 knots where vessel concerned is a personal watercraft	2
Section 11 (4) exceed notified speed limit by 10 knots or more where vessel concerned is not a personal watercraft	2

Section 11 (4) exceed notified speed limit by 10 knots or more where vessel concerned is a personal watercraft	3
Section 11 (4) create wash in contravention of notice	3
Section 11 (4) any other contravention of notice	2
Section 12 (6)	3
Section 13 (1) (a) where vessel concerned is a commercial vessel	5
Section 13 (1) (a) where vessel concerned in a recreational vessel	3
Section 13 (2)	3
Section 15, 15A (2) or 16 (2)	3
Section 32	1
Section 35 (1) or (2)	3
Section 45 (1) or (2), 47 (1), (2) or (3)	5
Section 47 (4)	2
Section 51 (1) or (2)	3
Section 63 where vessel concerned is not a personal watercraft	2
Section 63 where vessel concerned is a personal watercraft—first offence	3
Section 63 where vessel concerned is a personal watercraft—second or subsequent offence	4
Section 91 (1)	5
Section 91 (2)	3
Section 92 (5) or 97 (4)	1
Section 102 (a)	3
Section 125 (2)	3
Section 125D or 125E (3)	5
<b>Offences under this Regulation</b>	
Clause 6 (1), (2) or (3)	3
Clause 7 (1), (2) or (3)	3
Clause 8 (2), (3), (4) or (5)	2
Clause 8 (6) or (7)	2
Clause 9 (4)	2
Clause 10 (1)	2

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Clause 10 (2)	2
Clause 11 (1)	1
Clause 11 (2)	2
Clause 12 (1)	3
Clause 13	3
Clause 14	1
Clause 15 (1) or (2)	1
Clause 17	2
Clause 17A	4
Clause 18	2
Clause 18A	2
Clause 19	2
Clause 20 (1) or (2)	2
Clause 21 (1) or (2)	2
Clause 22 (4)	5
Clause 23 (1), (3) or (4)	2
Clause 25	1
Clause 26	2
Clause 27	2
Clause 28 (1) or (2)	1
Clause 29 (1)	1
Clause 30 (1)	5
Clause 31 (1)	5
Clause 32 (1)	5
Clause 33 (1) or (2)	3
Clause 35 (2)	3
Clause 36 (2)	3
Clause 37 (2)	3
Clause 38 (2)	3
Clause 40 (1) where vessel concerned is not a personal watercraft	1
Clause 40 (1) where vessel concerned is a personal watercraft	2

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Clause 40 (2) where vessel concerned is not a personal watercraft	1
Clause 40 (2) where vessel concerned is a personal watercraft	2
Clause 40 (3)	1
Clause 41 (1) where vessel operated is not a personal watercraft	1
Clause 41 (1) where vessel operated is a personal watercraft	2
Clause 41 (2) where vessel operated is not a personal watercraft	1
Clause 41 (2) where vessel operated is a personal watercraft	2
Clause 41 (3) where vessel operated is not a personal watercraft	1
Clause 41 (3) where vessel operated is a personal watercraft	2
Clause 42	1
Clause 43 (1) or (2)	2
Clause 44	2
Clause 45 or 46 (1)	2
Clause 47 (1) where vessel operated is not a personal watercraft	2
Clause 47 (1) where vessel operated is a personal watercraft	3
Clause 47 (3)	2
Clause 48	2
Clause 49 (1)	2
Clause 50 (1)	1
Clause 51 (1) first offence	3
Clause 51 (1) second or subsequent offence	4
Clause 51 (2)	3
Clause 52 (1) or (2)	2
Clause 53 (1)	3
Clause 53 (2)	2
Clause 54 (1)	1
Clause 54 (7) or (8)	3
Clause 55	3
Clause 55E	2
Clause 55F	2
Clause 55G	2

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Clause 56 (5)	5
Clause 58 (1)	3
Clause 59 (1)	3
Clause 60 (1)	3
Clause 60 (2)	3
Clause 61	3
Clause 65, 68 (2) or (3) or 69	3
Clause 70	3
Clause 77 (7)	1
Clause 80, 81 (1) or 83 (2)	1
Clause 84 (1) or (2)	2
Clause 88 (2)	3
Clause 89	3
Clause 90 (1) or (2) or 93 (1), (2) or (5) (a)	1
Clause 91	1
Clause 93 (5) (b)	2
Clause 94	1
Clause 95	3
Clause 96	3
Clause 97 (1)	5
Clause 103 (1)	3
Clause 103 (2)	2
Clause 106 (1)	1
Clause 117 (1) or (4)	3
Clause 118 (1)	3
Clause 118 (2)	3
Clause 121 (1), (2), (3) or (5) in respect of one item of safety equipment other than a lifejacket	1
Clause 121 (1), (2), (3) or (5) in respect of one or more lifejackets or more than one item of safety equipment	2
Clause 123 (2) or (3)	2
Clause 124 (1) or (4)	2

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Clause 125 (1) or (2)	2
Clause 126 (2)	2
Clause 127 (1) or (2)	2
Clause 128	2
Clause 130 (1)	1
Clause 130 (2)	3
Clause 131	2
Clause 133 (3)	5
Clause 134 (1), (2) or (3)	2
Clause 137	3

## Schedule 10 Penalty notice offences—offences under **Marine Pollution Act 2012**

clause 135(2)

Column 1	Column 2	Column 3
Offences	Level of penalty for natural persons	Level of penalty for corporations
<b>Offences under the <i>Marine Pollution Act 2012</i></b>		
Section 15(1)	6	6
Section 16(1)	6	—
Section 16(2)	6	6
Section 17	6	6
Section 26(1)	6	6
Section 27(1)	4	5
Section 28	4	5
Section 29(1)	6	6
Section 30(1)	6	—
Section 30(2)	6	6
Section 31	6	6
Section 43(1)	2	3
Section 44	2	3
Section 45(1)	5	6

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Section 46(1)	5	—
Section 46(2)	5	6
Section 47	5	6
Section 53(1)	5	6
Section 54(1)	5	—
Section 54(2)	5	6
Section 55	5	6
Section 55A(1)	5	6
Section 60(1)	5	6
Section 61(1)	5	—
Section 61(2)	5	6
Section 62	5	6
Section 68(1) or (2)	5	6
Section 69(1) or (2)	5	6
Section 70(1) or (2)	5	6
Section 71(1) or (2)	5	6
Section 72(2)	5	6
Section 73	5	6
Section 78(1)	4	4
Section 79	4	4
Section 80	4	5
Section 81	4	5
Section 82	4	4
Section 87(1)	6	—
Section 88	6	—
Section 89	6	—
Section 90(1) or (2)	6	6
Section 91(1)	6	6
Section 92(1) or (2)	6	6
Section 93	6	6
Section 95(1)	5	5

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Section 100(1)	5	5
Section 104	4	4
Section 107(1)	4	4
Section 110(1)	4	4
Section 113(1)	5	6
Section 116	4	—
Section 117(1) or (2)	4	—
Section 119	4	—
Section 120	4	5
Section 121(1) or (2)	4	5
Section 122	2	—
Section 124	4	5
Section 127	4	—
Section 128(1) or (2)	4	—
Section 130	4	—
Section 131	4	5
Section 132(1) or (2)	4	5
Section 133	3	—
Section 135(1)	3	4
Section 136	3	4
Section 140	3	—
Section 141(1) or (2)	4	—
Section 143	4	—
Section 144	3	4
Section 145(1) or (2)	3	4
Section 146	3	—
Section 150(1)	4	—
Section 150(2)	4	5
Section 150(3)	1	1
Section 151(1)	4	—
Section 151(2)	4	5

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Section 151(3)	1	1
Section 152(1)	4	—
Section 152(2)	4	5
Section 152(3)	1	1
Section 174(1)	5	6
Section 175	5	6
Section 177(1)	5	6
Section 181	6	6
Section 187(1)	5	6
Section 193(4)	5	6
Section 195(5)	5	5
Section 198	5	6
Section 200(5)	5	5
Section 202	5	6
Section 202A(5)	5	6
Section 202C(5)	5	5
Section 209(1)	5	6
Section 222(1)	5	6
Section 231	5	5

**Offences under the *Marine Pollution Regulation 2024***

Section 10	5	—
Section 18(3)	5	6
Section 20(1)	5	6
Section 21(3)	5	6
Section 24(2)	5	6
Section 25	5	6
Section 34	4	5
Section 35	4	5
Section 36	5	6
Section 37	5	6
Section 40(1)	5	6

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Section 41	5	6
Section 46(1) or (3)	5	—
Section 47(1) or (3)	5	6
Section 48(1)	5	6
Section 49	5	6

## Schedule 11 Fees relating to State matters

clauses 55A, 55B(2), 74(1)(d), 81(2), 92(1) and 136(1)

Matter	Fee
<b>Part 1 Fees for marine safety licences</b>	
Vessel registration—	
(a) personal watercraft	\$483
(b) personal watercraft—pensioner concession	\$242
(c) other vessels—	
(i) vessel not more than 3m in length	\$89
(ii) vessel more than 3m in length but not more than 6.5m in length	\$89 plus \$14 for each 0.5m, or part of 0.5m, over 3m
(iii) vessel more than 6.5m in length but not more than 10m in length	\$218 plus \$15 for each 0.5m, or part of 0.5m, over 7m
(iv) vessel more than 10m in length but not more than 14m in length	\$332 plus \$15 for each 0.5m, or part of 0.5m, over 10.5m
(v) vessel more than 14m in length	\$474 plus \$16 for each 0.5m, or part of 0.5m, over 14.5m to a maximum of \$1002
(vi) pensioner concession	50% of the relevant licence fee in subparagraph (i)–(v), rounded to the nearest dollar
General boat driving licence—	
(a) licence examination	\$42
(b) 1-year licence	\$77
(c) 3-year licence	\$220

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(d) 5-year licence	\$351
(e) 10-year licence	\$679
(f) pensioner concession or concession for persons less than 16 years of age	50% of the relevant licence fee in paragraphs (b)–(e), rounded to the nearest dollar
Personal watercraft driving licence—	
(a) licence examination	\$62
(b) licence upgrade examination	\$20
(c) 1-year licence	\$245
(d) 3-year licence	\$662
(e) 5-year licence	\$1042
(f) 10-year licence	\$1,961
(g) pensioner concession or concession for persons less than 16 years of age	50% of the relevant licence fee in paragraphs (c)–(f), rounded to the nearest dollar
Marine pilot's licence—	
(a) initial application	\$559
(b) application to extend licence to add a new port	\$13
(c) renewal application	\$280
Marine pilotage exemption certificate—	
(a) initial application	\$559
(b) renewal application	\$280
Certificate of local knowledge—	
(a) initial application	\$84
(b) renewal application	\$44
Application for aquatic licence—	
(a) licence for a commercial activity	\$470

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(b) licence for an activity other than a commercial activity	\$237
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Bar crossing licence	\$154
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## Part 2 Fees for impounded vessels

Daily fee for storage of an impounded vessel	\$25
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Towing fee for a vessel impounded and towed under the Act, section 19A or 19D	Actual towing costs
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## Part 3 Fees and charges for other services

Transfer of vessel registration—

(a) to a person who is not a dealer in vessels for sale	\$38
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(b) to a dealer in vessels for sale	\$23
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Application for authorisation as a boatcode agent	\$1,527
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Transfer of a boatcode agent authorisation	\$401
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Affixing of hull identification number	\$107
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Inspection to validate hull identification number	\$107
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Hull identification number plates—set of 20	\$179
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Hull identification number certificates—pad of 50	\$39
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Personalised vessel registration number	\$223
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Preservation of personalised vessel registration number	\$32
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Registration numbers—

(a) large—set of 2	\$25
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(b) small—set of 2	\$13
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(c) individual	\$2
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Attendance by an authorised officer at a special event or aquatic activity, if attendance is a condition of an aquatic licence	\$227 per hour
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Retrieval of domestic commercial vessel records	\$36 per hour or part of an hour taken to retrieve the records
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Issue of replacement marine safety licence if a licence is lost, stolen or damaged	\$24
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## Schedule 12 (Repealed)

## **Schedule 13 Savings, transitional and other provisions**

### **Part 1 Provisions consequent on enactment of [Marine Safety Act 1998](#)**

#### **1 Licences and permissions issued under the [Management of Waters and Waterside Lands Regulations—N.S.W.](#)**

- (1) Any licence or other permission that, immediately before the repeal of the [Management of Waters and Waterside Lands Regulations—N.S.W.](#), had effect under a provision of that regulation—
  - (a) continues to have effect (despite that repeal), and
  - (b) may be withdrawn, varied, revoked or cancelled in accordance with the repealed regulation (as if those regulations remained in force), and
  - (c) ceases to have effect as provided for by the repealed regulation (as if those regulations remained in force) or as provided for by this clause (whichever happens first).
- (2) Accordingly, any function conferred on any person under the repealed regulation in connection with any such licence or permission may continue to be exercised after the repeal of the repealed regulation as if that regulation remained in force.
- (3) A reference to a mooring licence in the marine legislation or any other law includes a reference to a licence or other permission that continues to have effect in accordance with this clause and that permits the activity for which the mooring licence would otherwise be required.

### **Part 2 Provisions consequent on enactment of [Marine Legislation Amendment Act 2016](#)**

#### **2 Evidentiary certificates and other documents**

- (1) Any document that, immediately before the relevant day, had effect under a provision of former Schedule 1 continues to have effect under the provision of new Schedule 1 that corresponds (or substantially corresponds) with that former provision.
- (2) Without limiting subclause (1), a form of evidence certificate that was prepared in accordance with a former clause specified in Column 1 of the table to this clause before the relevant day so that it could be used under that clause when completed—
  - (a) is taken to be, and is to be construed as, a form of evidence certificate prepared in accordance with the corresponding new clause in Column 2, and
  - (b) may, during the transitional period, be completed in accordance with and used under that clause.

- (3) In this clause, a reference to a **former clause** or **former Schedule 1** means the specified clause in Schedule 1 to the Act, or Schedule 1, respectively, as in force immediately before the relevant day.
- (4) In this clause, a reference to a **new clause** or **new Schedule 1** means the specified clause in Schedule 1 to the Act, or Schedule 1, respectively, as substituted by the [Marine Legislation Amendment Act 2016](#).

(5) In this clause—

**relevant day** means the day on which Schedule 1 [63] to the [Marine Legislation Amendment Act 2016](#) commences.

**transitional period** means the period of 12 months commencing on the relevant day.

Column 1	Column 2
former clause 27 (1) or 29 (1)	new clause 37 (2)
former clause 27 (2) or 29 (2)	new clause 36 (2)
former clause 27 (4)	new clause 37 (2)
former clause 27 (5)	new clause 37 (4)
former clause 27 (6)	new clause 37 (5)
former clause 27 (7)	new clause 37 (6)