



Western Australia

Shipping and Pilotage Act 1967
Western Australian Marine Act 1982

Transport Regulations Amendment (Mooring Control Areas) Regulations 2024

Transport Regulations Amendment (Mooring Control Areas) Regulations 2024

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Transport Regulations Amendment (Mooring Control Areas) Regulations 2024

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Transport Regulations Amendment (Mooring Control Areas) Regulations 2024*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published on the WA legislation website;
- (b) the rest of the regulations — on 1 July 2024.

Part 2 — *Shipping and Pilotage (Mooring Control Areas) Regulations 1983* amended

3. Regulations amended

This Part amends the *Shipping and Pilotage (Mooring Control Areas) Regulations 1983*.

4. Regulation 3 amended

- (1) In regulation 3 delete the definition of *registered owner*.
- (2) In regulation 3 insert in alphabetical order:

additional hire period, in relation to a mooring site, means any period of time for which a hirer is taken to hire the mooring site under regulation 6A(2);

hirer means a person who hires a mooring site under these regulations;

mooring site means a site at which a mooring apparatus is, or is proposed to be, located;

nominated vessel, in relation to a mooring site, means —

- (a) the vessel or other floating object specified in the application to hire the mooring site; or
 - (b) if the hire has been altered under regulation 17(2) — the vessel or floating object specified in accordance with that subregulation;
- (3) In regulation 3 in the definition of *displacement tonnage* delete “*tonnage*” and insert:

tonnage

Note: The heading to amended regulation 3 is to read:

Terms used

5. Regulation 4 amended

Delete regulation 4(3).

6. Regulation 5 amended

- (1) In regulation 5(1) delete “instal” and insert:

install

- (2) In regulation 5(2A) delete “registered by the controlling authority.” and insert:

hired to the person under these regulations.

- (3) In regulation 5(2):

- (a) in paragraph (b)(i) delete “for the registration of the relevant mooring site has been made to the controlling authority” and insert:

to hire the relevant mooring site has been made to the controlling authority by the person

- (b) in paragraph (b)(ii) delete “register that mooring site.” and insert:

hire that mooring site to the person.

Note: The heading to amended regulation 5 is to read:

Installation and use of moorings in mooring control areas

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7. Regulation 6 amended

(1) In regulation 6(1):

(a) delete “Application for the registration of” and insert:

An application to hire

(b) delete paragraph (b) and insert:

(b) the location of the mooring site;

(c) delete paragraph (d) and insert:

(d) the type, size and displacement tonnage of the vessel or other floating object to be placed on the mooring;

(da) the period of time, no longer than 12 months, for which the applicant seeks to hire the mooring site;

(2) Delete regulation 6(2).

Note: The heading to amended regulation 6 is to read:

Application to hire mooring site

8. Regulation 7 replaced

Delete regulation 7 and insert:

6A. Additional hire periods

(1) Subregulation (2) applies if —

(a) a mooring site has been hired to a hirer in accordance with these regulations for a period of time (the *initial hire period*); and

- (b) the initial hire period has ended; and
 - (c) the hirer has not by notice in writing to the controlling authority surrendered the mooring site.
- (2) Immediately after each of the following periods of time, the hirer is taken to continue to hire the mooring site for the period of time determined under subregulation (3) —
 - (a) the initial hire period;
 - (b) any period of time for which the hirer is taken to continue to hire the mooring site under this subregulation.
- (3) For the purposes of subregulation (2), the period of time is —
 - (a) a period of time equal to the initial hire period; or
 - (b) if the hirer has nominated in writing another period of time of no longer than 12 months — the period of time most recently nominated by the hirer under this paragraph.

7. Fees prescribed

- (1) In this regulation —
relevant area means —
 - (a) any of the following mooring control areas —
 - (i) Bremer Bay-Fishery Beach Mooring Control Area;
 - (ii) Bunbury-Koombana Bay — Casuarina Boat Harbour;
 - (iii) Carnarvon Fishing Boat Harbour;

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- (iv) Exmouth Boat Harbour Mooring Control Area;
 - (v) Jervoise Bay Mooring Control Area;
 - (vi) Kalbarri Murchison River Mooring Control Area;
 - (vii) Port of Onslow Mooring Control Area;
- and
- (b) the Inner Harbour of the Port Denison mooring control area.
- (2) The fee to hire a mooring site, other than a mooring site referred to in subregulation (3), with a mooring apparatus in a relevant area is —
- (a) a fee of \$2.85 per day, or part of a day, per metre of the length of the nominated vessel in relation to the mooring site; or
 - (b) a fee of \$6.45 per week per metre of the length of the nominated vessel in relation to the mooring site; or
 - (c) a fee of \$21.50 per month per metre of the length of the nominated vessel in relation to the mooring site; or
 - (d) if the period of time to which the fee relates is 3 months or more — a fee of \$13.05 per month per metre of the length of the nominated vessel in relation to the mooring site; or
 - (e) a fee of \$143.30 per year per metre of the length of the nominated vessel in relation to the mooring site; or
 - (f) a fee calculated using a combination of the fees referred to in paragraphs (a) to (d).

- (3) The fee to hire a mooring site with a mooring apparatus installed by or on behalf of the Department in a relevant area is —
 - (a) a fee of \$39.25 per day, or part of a day, per metre of the length of the nominated vessel in relation to the mooring site; or
 - (b) a fee of \$222.05 per week per metre of the length of the nominated vessel in relation to the mooring site; or
 - (c) a fee calculated using a combination of the fees referred to in paragraphs (a) and (b).
- (4) If the fee under this regulation to hire a mooring site could be determined under more than 1 provision, the provision that results in the lower fee applies.

7A. Payment and refund of fees

- (1) The appropriate fee under regulation 7(2) or (3) must be paid to the controlling authority in accordance with a notice or agreement under subregulation (2) —
 - (a) by an applicant in relation to an application to hire a mooring site based on the period of time set out under regulation 6(1)(da) in the application; or
 - (b) by a hirer in relation to any additional hire period in relation to a mooring site.
- (2) For the purposes of subregulation (1), the controlling authority must do 1 of the following —
 - (a) give the applicant or hirer a notice specifying the day, which must not be less than 14 days after the day on which the notice is given, by which the fee must be paid;

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- (b) enter into an agreement with the applicant or hirer specifying the day by which the fee must be paid.
- (3) If an application to hire a mooring site is refused, the controlling authority must refund any fee paid in relation to the application.

9. Regulation 8 amended

- (1) Delete regulation 8(1) to (3) and insert:
 - (1) If an application under regulation 6 that relates to a mooring site at which no mooring apparatus is located is made, the controlling authority may grant approval for the installation of a mooring apparatus by notice in writing to the applicant if it is satisfied of the following —
 - (a) that the mooring site is appropriate;
 - (b) that the mooring apparatus proposed by the applicant is generally suitable for the nominated vessel;
 - (c) that the nominated vessel will not constitute a danger or interfere with the navigation of other craft that may use the area;
 - (d) that the establishment of the mooring site in the area selected is not likely to interfere with other possible usage of the waters.
 - (2) If approval is granted for the installation of a mooring apparatus under subregulation (1) the applicant must —
 - (a) notify the controlling authority when the mooring apparatus is in position; and

- (b) if required to do so by the controlling authority, assist a person nominated by the controlling authority in an inspection of the mooring apparatus.
 - (3) If an application under regulation 6 in relation to a mooring site is made and the controlling authority is satisfied that the provisions of these regulations have been complied with in relation to the mooring site, it may hire the mooring site to the applicant.
- (2) In regulation 8(4):
- (a) delete “for the registration of” and insert:

to hire
 - (b) delete “register the mooring site in the name of” and insert:

hire the mooring site to
 - (c) delete “registration” (2nd occurrence) and insert:

hire
- (3) In regulation 8(5) delete “shall not” and insert:

cannot

Note: The heading to amended regulation 8 is to read:

Approval for installation of mooring apparatus and hire of mooring site

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10. Regulation 10 amended

- (1) After regulation 10(b) insert:
 - (ba) so that it at all times complies with any direction given under regulation 13; and
- (2) In regulation 10(c) delete “regulation 13 and”.
- (3) In regulation 10 after each of paragraphs (a) and (b) insert:

and

11. Regulation 11 amended

In regulation 11 after “a mooring” insert:

with a mooring apparatus not installed by or on behalf of the
Department

Note: The heading to amended regulation 11 is to read:

Deteriorated moorings

12. Regulation 12 amended

- (1) In regulation 12(1) delete “shall not” and insert:

cannot
- (2) In regulation 12(2) delete “shall be deemed” and insert:

is taken to be

- (3) Delete regulation 12(3).

Note: The heading to amended regulation 12 is to read:

Mooring site hirer's rights limited

13. Regulations 13 to 15 replaced

Delete regulations 13 to 15 and insert:

13. Directions about floats, buoys and display of information on moorings

The controlling authority may by notice in writing to a hirer do 1 or more of the following —

- (a) make a direction in relation to the size, shape or colour of a float or buoy used at the mooring site hired by the hirer;
- (b) direct that the hirer display, on a mooring apparatus, a mooring number or any other information.

14. Mooring to be suited to vessel and inspection report may be required

- (1) Any mooring apparatus on a mooring site must be of a nature, material, dimension, size, type and construction that will provide a secure mooring for the nominated vessel in relation to the mooring site.
- (2) A controlling authority may require, in writing, a hirer of a mooring site with a mooring apparatus installed by or on behalf of the hirer to provide to the controlling authority an inspection report from an inspector approved by the controlling authority as to the condition of the mooring.
- (3) The hirer must provide the report within 28 days after being required to do so by the controlling authority.

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- (4) If, as a result of the report, the controlling authority is not satisfied with the condition of the mooring, the controlling authority may —
- (a) require the hirer to repair, relocate or remove the mooring within a specified time; or
 - (b) if the hirer cannot be contacted or does not repair, relocate or remove the mooring within the time specified, remove and destroy the mooring.

15. Mooring site hire may be terminated

- (1) The controlling authority may terminate the hiring of a mooring site if —
- (a) the controlling authority considers it desirable in the public interest that the hiring should be terminated; or
 - (b) the hirer ceases to own or control the nominated vessel in relation to the mooring site; or
 - (c) a fee has not been paid in relation to the mooring site in accordance with regulation 7A; or
 - (d) the hirer does not comply with a direction under regulation 13; or
 - (e) an inspection report is not provided in accordance with regulation 14(3).
- (2) Subregulation (1) applies whenever the mooring site is hired, including during any additional hire period.

14. Regulation 16 amended

- (1) In regulation 16(2)(a) delete “that specified in the application for registration of the mooring site; or” and insert:

the nominated vessel in relation to the mooring site; or

- (2) After regulation 16(2) insert:

- (3) Subregulation (2)(b) does not apply to a hirer who uses or permits to be used a mooring at a hired mooring site for mooring 2 vessels if —

- (a) 1 of the vessels is the nominated vessel in relation to the mooring site or another vessel permitted under these regulations to use the mooring; and
- (b) the other vessel is a tender marked, in accordance with the *Navigable Waters Regulations 1958* regulation 45A(3), with the same registration number as the vessel referred to in paragraph (a).

Note: The heading to amended regulation 16 is to read:

Use of moorings

15. Regulation 17 amended

- (1) In regulation 17(1):

- (a) delete “The registered owner” and insert:

A hirer of a mooring site

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- (b) in paragraph (a) delete “vessel or floating object in respect of which registration is effected” and insert:

nominated vessel in relation to the mooring site

- (c) in paragraph (b) delete “in the registered particulars of” and insert:

to the information contained in the application to hire

- (2) In regulation 17(2):

- (a) delete “may, upon ceasing to own the vessel or other floating object specified in the application for registration of” and insert:

of a mooring site must, upon ceasing to own the nominated vessel in relation to

- (b) delete “the registration” and insert:

the hire

Note: The heading to amended regulation 17 is to read:

Notice to be given to controlling authority

16. Regulation 18 amended

In regulation 18(1):

- (a) delete “shall” and insert:

does

- (b) delete “hiring”.

17. Regulation 19 amended

- (1) In regulation 19(1) delete “mooring, the registered owner has” and insert:

any mooring at a mooring site, the hirer of the mooring site has,

- (2) In regulation 19(2) delete “he” and insert:

the person

- (3) In regulation 19(2) delete the Penalty and insert:

Penalty for this subregulation: a fine of \$200.

18. Regulation 25 inserted

After regulation 24 insert:

25. Transitional provisions for *Transport Regulations Amendment (Mooring Control Areas) Regulations 2024*

- (1) In this regulation —
- commencement day*** means the day on which the *Transport Regulations Amendment (Mooring Control Areas) Regulations 2024* regulation 3 comes into operation;
- pre-commencement regulations*** means these regulations as in force immediately before commencement day.

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- (2) An application under the pre-commencement regulations for the registration of a mooring site that has been made, but not decided by the controlling authority, before commencement day is, on and from commencement day, taken to be an application under these regulations to hire the mooring site.
- (3) Any fee paid under the pre-commencement regulations regulation 7 in relation to a period of time that ends after commencement day is taken to be a fee paid under regulation 7A for that period of time.
- (4) A person who, immediately before commencement day, was a registered owner in relation to a mooring site under the pre-commencement regulations is taken to be the hirer of the mooring site under and is subject to these regulations.

19. Various references to “shall” amended

In the provisions listed in the Table delete “shall” (each occurrence) and insert:

must

Table

r. 5(1)	r. 6(1) and (3)
r. 8(4)	r. 9
r. 10	r. 16(1) and (2)
r. 16A(1)	r. 17(1)
r. 18(2)	

20. Various references to “registered owner” amended

In the provisions listed in the Table delete “registered owner” (each occurrence) and insert:

hirer

Table

r. 9	r. 10
r. 11(a) and (b)	r. 12(1) and (2)
r. 16(1) and (2)	r. 17(1)(a) and (b) and (2)
r. 18(1)	

21. Various references to “registered mooring site” amended

In the provisions listed in the Table delete “registered mooring site” and insert:

hired mooring site

Table

r. 10(a)	r. 11
r. 12(4)	r. 16(2)
r. 18(1) and (2)	

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Part 3 — Mooring Regulations 1998 amended

22. Regulations amended

This Part amends the *Mooring Regulations 1998*.

23. Part 6 deleted

Delete Part 6.

K. COLLERAN, Clerk of the Executive Council

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