
MARINE/MARITIME

MA301

Port Authorities Act 1999

Port Authorities Amendment Regulations 2017

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Port Authorities Amendment Regulations 2017*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Port Authorities Regulations 2001*.

4. Part 1A inserted

After regulation 4A insert:

Part 1A — Additional port under port authority control and management**4B. Port of Balla Balla**

For the purposes of section 4(2A)(b) and Schedule 9 clause 2(1) of the Act, the Port of Balla Balla is placed under the control and management of the Pilbara Ports Authority.

5. Regulation 28 amended

Delete regulation 28(4).

6. Regulation 121 amended

(1) In regulation 121(3):

(a) after paragraph (a) insert:

(aa) the Port of Balla Balla; or

- (b) in paragraph (c) delete “paragraphs (a)” and insert:

paragraphs (a), (aa)

- (c) delete the Table and insert:

Table

regulation 5	regulation 7
regulation 8	regulation 10
regulation 13	regulation 15
regulation 18	regulation 32
regulation 33	regulation 90
regulation 114	

- (2) In regulation 121(4) delete “to Schedule 1 Division 4.” and insert:

or (2) to Schedule 1 Division 1A or 4.

7. Schedule 1 Division 1A inserted

After Schedule 1 Division 1 insert:

Division 1A — Port of Balla Balla

Subdivision 1 — Application

5C. Application of this Division

This Division applies to the Port of Balla Balla and the Pilbara Ports Authority.

Subdivision 2 — Vessels in the port

5D. Terms used

In this Subdivision —

commercial vessel means a vessel other than a private vessel;

fishing vessel means a vessel that is used for commercial fishing.

5E. Master of vessel to produce certificates and papers on request by certain officers

- (1) The master of a vessel in the port must produce the certificate of tonnage and certificate of registry or other national papers of the vessel on demand to —
- (a) the harbour master; or

- (b) a member of staff of the port authority authorised by the harbour master for the purposes of this clause.

- (2) A person who does not comply with subclause (1) commits an offence.

Penalty for this subclause: a fine of \$5 000.

5F. Moored vessel not to be moved unless harbour master notified

The master of a vessel moored at a wharf or another place in the port must not cause or permit the vessel to depart from its mooring unless the master has notified the harbour master of the proposed departure.

Penalty for this subclause: a fine of \$5 000.

5G. Bunkering

- (1) Unless authorised by the harbour master, the master of a vessel in the port must not cause or permit the vessel to be bunkered.

Penalty for this subclause: a fine of \$5 000.

- (2) If the harbour master authorises a vessel to be bunkered, the master of the vessel must notify the harbour master at the beginning and at the end of bunkering.

- (3) A person who does not comply with subclause (2) commits an offence.

Penalty for this subclause: a fine of \$5 000.

5H. Navigation of private vessels

- (1) The master of a private vessel in the port must ensure that the vessel —
 - (a) does not impede the passage of a commercial vessel in the port; and
 - (b) keeps enough distance from a commercial vessel in the port to allow the commercial vessel to be safely navigated.

- (2) A person who does not comply with subclause (1)(a) or (b) commits an offence.

Penalty for this subclause: a fine of \$12 000.

5I. Duties of masters of fishing vessels

- (1) In this clause —

prohibited anchorage area means an area of the port designated by notices or signs erected by the port authority as an area where a vessel is prohibited from anchoring.

- (2) The master of a fishing vessel in the port must not cause or permit any fishing to take place from the vessel in a channel, fairway, anchorage area or prohibited anchorage area of the port.

Penalty for this subclause: a fine of \$5 000.

- (3) The master of a fishing vessel in the port must ensure that the vessel —
- (a) does not impede the passage of a commercial vessel in the port; and
 - (b) keeps enough distance from a commercial vessel in the port to allow the commercial vessel to be safely navigated.
- (4) A person who does not comply with subclause (3)(a) or (b) commits an offence.
- Penalty for this subclause: a fine of \$12 000.

Subdivision 3 — Control of moorings

5J. Terms used

In this Subdivision —

mooring means a structure or apparatus used or proposed to be used to secure a vessel in the port;

mooring handbook means the mooring handbook for the port published by, and held at the offices of, the Pilbara Ports Authority and accessible on the website of the Pilbara Ports Authority;

mooring owner means a person authorised to install or use a mooring under clause 5M.

5K. Moorings not to be installed or used without authority

Unless authorised by the harbour master under clause 5M, a person must not install or use a mooring.

Penalty for this subclause: a fine of \$5 000.

5L. Application for authorisation to install or use mooring

- (1) A person may apply to the harbour master for authorisation to install or use a mooring.
- (2) An application is to be made in the form approved by the harbour master setting out —
- (a) the full name, residential address and telephone number of the applicant; and
 - (b) the location or proposed location of the mooring, as the case requires; and
 - (c) whether the vessel to be moored at the mooring will be used for private or commercial purposes and details of those purposes; and
 - (d) the type, length overall and tonnage of the vessel to be moored at the mooring; and
 - (e) if the application is for authorisation to install a mooring — the specifications for the construction of the mooring.

5M. Authorisation of mooring

- (1) On an application under clause 5L, the harbour master may authorise the installation or use of a mooring, as the case requires, if satisfied that —
 - (a) the location or proposed location of the mooring is appropriate; and
 - (b) the mooring is suitable for the vessel that is to be moored at the mooring; and
 - (c) the mooring is designed and constructed, or proposed to be constructed, so that the vessel to be moored at the mooring would be securely moored during cyclone conditions; and
 - (d) the vessel to be moored at the mooring would not constitute a danger to, or interfere with, the navigation of other vessels in the port.
- (2) The harbour master is to give an applicant written notice of an authorisation under subclause (1) or a decision not to give an authorisation.

5N. Revoking authorisation of mooring

- (1) The harbour master may revoke an authorisation under clause 5M if —
 - (a) a mooring owner does not provide an inspection report as required under clause 5Q(4); or
 - (b) the harbour master is satisfied that it is in the interests of marine safety at the port to do so.
- (2) The revocation has effect when written notice of it is given to the mooring owner.
- (3) The harbour master may, in the notice, direct the mooring owner to cause the mooring to be removed from the waters of the port within 14 days after the day on which the notice is given.
- (4) If the notice includes a direction under subclause (3), it must also state the effect of subclause (5) and clause 5S(1)(b), (2) and (3).
- (5) A person who does not comply with a direction under subclause (3) commits an offence.
Penalty for this subclause: a fine of \$2 000.

5O. Moorings to be maintained in good condition

- (1) A mooring owner must ensure that the mooring is maintained in good condition.
- (2) A person who does not comply with subclause (1) commits an offence.
Penalty for this subclause: a fine of \$2 000.

5P. Floats on moorings

- (1) A mooring owner must ensure that there is connected to the mooring a float or buoy (a *mooring buoy*) that —
 - (a) has a sufficient size to provide buoyancy when supporting the rope, chain or other connection between the mooring block and the surface float, with at least half of the mooring buoy projecting above the waterline at all times; and
 - (b) meets the mooring design requirements relating to mooring buoys set out in the mooring handbook and any other requirements of the harbour master relating to mooring buoys; and
 - (c) is legibly marked with a means of identification approved by the harbour master.
- (2) A person who does not comply with subclause (1)(a), (b) or (c) commits an offence.

Penalty for this subclause: a fine of \$5 000.

5Q. Inspection reports for moorings

- (1) A person who is authorised to install a mooring under clause 5M is to obtain a written report on the condition of the mooring after it is installed.
- (2) A person who is authorised to use a mooring under clause 5M is to obtain a written report on the condition of the mooring in each year in which the person has the use of the mooring after the year in which the report referred to in subclause (1) is obtained.
- (3) A report required to be obtained under this clause is to be prepared by a person approved by the harbour master who has inspected the mooring —
 - (a) for the report referred to in subclause (1) — as soon as practicable after the mooring is installed; or
 - (b) for a report referred to in subclause (2) — during the period from 1 May to 30 October in the relevant year.
- (4) A mooring owner is to provide the harbour master with a copy of a report obtained under this clause —
 - (a) in the case of the report referred to in subclause (1) — as soon as practicable after it is prepared; or
 - (b) in the case of a report referred to in subclause (2) — not later than 14 November in the relevant year.
- (5) A mooring owner is liable for the costs of an inspection made or a report prepared under this clause.

5R. Sale or disposal of moorings

- (1) A mooring owner must notify the harbour master if the mooring is sold or otherwise disposed of.

- (2) A person who does not comply with subclause (1) commits an offence.

Penalty for this subclause: a fine of \$2 000.

5S. Removal of moorings

- (1) The harbour master may remove a mooring from the waters of the port if —
- (a) the harbour master is unable, after reasonable enquiries, to identify or find the mooring owner; or
 - (b) the mooring owner has failed to comply with a direction under clause 5N(3).
- (2) If a harbour master removes a mooring under subclause (1)(b), the mooring owner is liable for any expenses reasonably incurred by the harbour master in doing so.
- (3) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

Subdivision 4 — Service provider's licences

5T. Term used: service provider's licence

In this Subdivision —

service provider's licence means a licence issued under clause 5V to provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port.

5U. Unlicensed persons not to provide certain services

Subject to section 143(3) of the Act, a person must not provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port except —

- (a) under the authority of a service provider's licence issued by the port authority; and
- (b) in accordance with any conditions or restrictions to which the licence is subject under clause 5V(3).

Penalty: a fine of \$12 000.

5V. Service provider's licences

- (1) An application for a service provider's licence is to be made to, and in the form approved by, the port authority, and is to be accompanied by a fee of an amount determined by the port authority that is not more than \$1 000.
- (2) If satisfied that an applicant has appropriate qualifications and experience to provide, as the case requires, a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port, the port authority may issue a service provider's licence to the applicant.

- (3) A service provider's licence has effect in relation to the provision of the service, and for the period, set out in the licence subject to —
- (a) annual payment to the port authority, by the person who is granted or holds the licence, of an amount determined by the port authority that is not more than \$10 000 per annum; and
 - (b) any conditions or restrictions that the port authority imposes and sets out in the licence.
- (4) If the port authority considers that a condition or restriction to which a service provider's licence is subject has been breached, the port authority may by written notice given to the person who holds the licence —
- (a) suspend the operation of the licence for any period that the port authority considers appropriate; or
 - (b) cancel the licence.
- (5) A service provider's licence is to set out procedures determined by the port authority that enable the person who holds the licence to appeal if the licence is suspended or cancelled under subclause (4).
- (6) A notice under subclause (4) has effect on the day on which the person who holds the service provider's licence is given the notice or on any later day specified in the notice.
- (7) A person whose service provider's licence is suspended or cancelled by notice under subclause (4) must return the licence to the port authority within 7 days after the notice has effect, whether or not the person intends to appeal against the suspension or cancellation.
- (8) A person who does not comply with subclause (7) commits an offence.
- Penalty for this subclause: a fine of \$2 000.

Subdivision 5 — Goods

5W. Goods not to be placed on port facility, port land or other property of the port authority without authority

- (1) Unless authorised by the harbour master, a person must not place any goods on any port facility, port land or other property of the port authority in the port.
- Penalty for this subclause: a fine of \$5 000.
- (2) Without limiting subclause (1), a person must not unload any goods on to, or otherwise place any goods on, a wharf in the port except where directed by the harbour master.
- Penalty for this subclause: a fine of \$5 000.
- (3) Unless otherwise directed by the harbour master, a person must not unload any goods on to, or otherwise place any goods on, a wharf in the port in a manner that obstructs or interferes with, or is likely to obstruct or interfere with, a mooring point, hose connection or electrical fixture.
- Penalty for this subclause: a fine of \$5 000.

Subdivision 6 — Miscellaneous**5X. Damage to property to be reported to harbour master**

- (1) A person who is involved in, or who is the master of a vessel that is involved in, an incident that results in damage to any port facility or other property of the port authority in the port, or to a vessel or navigational aid in the port, must as soon as practicable report details of the incident and damage to the harbour master.
- (2) A person who does not comply with subclause (1) commits an offence.

Penalty for this subclause: a fine of \$12 000.

5Y. Unauthorised entry of closed areas of port

Unless authorised by the harbour master, a person must not enter any of the following in the port that is closed by the port authority and designated by notices or signs erected by the port authority as being closed —

- (a) an area of the port;
- (b) a port facility;
- (c) a wharf, or an area of a wharf, operated by the port authority.

Penalty: a fine of \$2 000.

5Z. Restrictions on driving or moving vehicles on wharves

- (1) Unless authorised by an authorised member of staff of the port authority, a person must not, except as stated in subclause (2), drive or move a vehicle on or across a wharf in the port.

Penalty for this subclause: a fine of \$2 000.

- (2) A person may drive or move a vehicle on or across a wharf in the port if the vehicle —
 - (a) is being used, or is returning after being used, to carry cargo to be loaded on to a vessel moored at the wharf; or
 - (b) is to be used, or is being used, to carry cargo unloaded from a vessel moored at the wharf.

5ZA. Mooring and fishing in restricted area not permitted without authority

- (1) In this clause —

restricted area means the areas shaded in red on the map bearing the logo of the Pilbara Ports Authority and titled “Port of Balla Balla Mooring and Fishing Restricted Area” held at the offices of the Pilbara Ports Authority and accessible on the website of the Pilbara Ports Authority.

- (2) Unless authorised in writing by the harbour master, a person must not —
 - (a) moor or anchor a vessel in the restricted area; or
 - (b) fish in the restricted area.

Penalty for this subclause: a fine of \$5 000.

8. Schedule 1 clause 36 amended

In Schedule 1 Division 4 clause 36 in the definition of *pilotage exemption certificate* delete “regulation 51;” and insert:

regulation 51.

9. Schedule 1 clause 49 amended

In Schedule 1 Division 4 clause 49 insert in alphabetical order:

mooring handbook means the mooring handbook for the port published by, and held at the offices of, the Pilbara Ports Authority and accessible on the website of the Pilbara Ports Authority;

10. Schedule 1 clause 53 amended

In Schedule 1 Division 4 after clause 53(2) insert:

- (3) The harbour master may, in the notice, direct the mooring owner to cause the mooring to be removed from the waters of the port within 14 days after the day on which the notice is given.
- (4) If the notice includes a direction under subclause (3), it must also state the effect of subclause (5) and clause 58(1)(b), (2) and (3).
- (5) A person who does not comply with a direction under subclause (3) commits an offence.
Penalty for this subclause: a fine of \$2 000.

11. Schedule 1 clause 55 amended

- (1) In Schedule 1 Division 4 delete clause 55(1)(b) to (d) and insert:

- (b) meets the mooring design requirements relating to mooring buoys set out in the mooring handbook and any other requirements of the harbour master relating to mooring buoys; and
 - (c) is legibly marked with a means of identification approved by the harbour master.

- (2) In Schedule 1 Division 4 delete clause 55(2) and insert:

- (2) A person who does not comply with subclause (1)(a), (b) or (c) commits an offence.
Penalty for this subclause: a fine of \$5 000.

12. Schedule 1 clause 58 replaced

In Schedule 1 Division 4 delete clause 58 and insert:

58. Removal of moorings

- (1) The harbour master may remove a mooring from the waters of the port if —
 - (a) the harbour master is unable, after reasonable enquiries, to identify or find the mooring owner; or
 - (b) the mooring owner has failed to comply with a direction under clause 53(3).
- (2) If a harbour master removes a mooring under subclause (1)(b), the mooring owner is liable for any expenses reasonably incurred by the harbour master in doing so.
- (3) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

13. Schedule 1 clause 110 amended

In Schedule 1 Division 7 delete clause 110(1) and insert:

- (1) Unless authorised in writing by the harbour master, a person must not —
 - (a) moor or anchor a vessel in the restricted area; or
 - (b) fish in the restricted area.

Penalty for this subclause: a fine of \$5 000.

14. Schedule 3 amended

- (1) In Schedule 3 after item 8A insert:

Port of Balla Balla

8B.	Schedule 1 clause 5E(2): failing to produce on demand certificate of tonnage and certificate of registry etc.....	\$200.00
8C.	Schedule 1 clause 5G(1): unauthorised bunkering of a vessel.....	\$200.00
8D.	Schedule 1 clause 5G(3): failing to notify harbour master of beginning and end of bunkering	\$200.00
8E.	Schedule 1 clause 5H(2): failing to ensure a private vessel does not impede passage of commercial vessel or keeps safe distance from commercial vessel	\$500.00
8F.	Schedule 1 clause 5I(2): failing to ensure no fishing from a fishing vessel in a channel, fairway, etc.	\$500.00
8G.	Schedule 1 clause 5I(4): failing to ensure a fishing vessel does not impede passage of commercial vessel or keeps safe distance from commercial vessel	\$500.00
8H.	Schedule 1 clause 5K: unauthorised installation or use of mooring.....	\$500.00

8I.	Schedule 1 clause 5N(5): failing to comply with direction to cause removal of mooring within 14 days after revocation of authorisation to install or use the mooring	\$500.00
8J.	Schedule 1 clause 5W(1): unauthorised placing of goods on port facility, port land, etc.....	\$200.00
8K.	Schedule 1 clause 5W(2): unloading goods on to wharf, or placing goods on wharf, otherwise than where directed by harbour master	\$200.00
8L.	Schedule 1 clause 5W(3): unloading goods on to wharf, or placing goods on wharf, in a manner that obstructs or interferes with, or is likely to obstruct or interfere with, a mooring point, hose connection or electrical fixture	\$200.00
8M.	Schedule 1 clause 5X(2): failing to report incident resulting in damage to port facility, vessel, navigational aid, etc.	\$200.00

- (2) In Schedule 3 in items 14, 16 and 17 delete “\$200.00” insert:

\$500.00

- (3) In Schedule 3 after item 17 insert:

17A.	Schedule 1 clause 53(5): failing to comply with direction to cause removal of mooring within 14 days after revocation of authorisation to install or use the mooring	\$500.00
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N. HAGLEY, Clerk of the Executive Council.