



Western Australia

Port Authorities Regulations 2001

Compare between:

[04 Oct 2017, 06-f0-00] and [12 May 2018, 06-g0-01]

Port Authorities Regulations 2001

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Port Authorities Regulations 2001* ¹.

2. Commencement

These regulations come into operation on 1 June 2001.

3. Terms used

In these regulations, unless the contrary intention appears —
authorised member of staff of the port authority, in relation to the performance of a function by the member of staff, means a member of staff who is authorised by the port authority to perform the function;

collector of port charges, in relation to a port, means a person authorised by the port authority under section 119 of the Act to collect port charges on its behalf at the port;

length overall, in relation to a vessel, means the length of the vessel measured parallel to the static load waterline from the fore side of the stem to the after side of the stern or transom, excluding rubbing strakes and other projections;

Marine Act means the *Western Australian Marine Act 1982* or any Act that, on the repeal of the Marine Act, replaces that Act;

r. 4A

motor vehicle has the meaning given in the *Road Traffic (Administration) Act 2008* section 4;

Navigation Act means the *Navigation Act 2012* (Commonwealth);

pilot means a pilot approved by a port authority under section 96 of the Act;

pilotage provider's licence means a licence issued under regulation 28 to provide pilotage services in a port;

port authority, in relation to a port, means the port authority that controls and manages the port;

private vessel means a vessel used solely for private purposes and not for hire or reward;

property of the port authority or **property of a port authority** means property vested in or acquired by the, or a, port authority, as set out in section 25 of the Act;

vehicle has the meaning given in the *Road Traffic (Administration) Act 2008* section 4.

[Regulation 3 amended ~~in~~ Gazette 20 Jun 2014 p. 2030; 5 Sep 2014 p. 3214; 8 Jan 2015 p. 61-2.]

4A. Application as to assistance animals

These regulations are subject to any written law and any law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Commonwealth) section 9(2).

[Regulation 4A inserted ~~in~~ Gazette 8 Jan 2015 p. 62.]

**Part 1A — Additional port under port authority
control and management**

[Heading inserted-~~in~~: Gazette 3 Oct 2017 p. 5037.]

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.

[Regulation 4B inserted-~~in~~: Gazette 3 Oct 2017 p. 5037.]

Part 2 — Vessels in ports

Division 1 — Vessels arriving at ports

4. Notice of arrival at port

The master of a vessel is to notify the harbour master of the vessel's estimated time of arrival at a port 24 hours before that arrival or as otherwise required by the harbour master.

5. Vessel to maintain contact with port authority

- (1) The master of a vessel, other than an Australian fishing vessel or a private vessel, that enters a port is to inform the port authority of the vessel's movements while it is in the port by —
 - (a) maintaining radio contact with the port authority; or
 - (b) communicating with the port authority by another means approved by the port authority.
- (2) In subregulation (1) —

Australian fishing vessel means a vessel used for commercial fishing that is an Australian boat within the meaning of the *Fisheries Management Act 1991* of the Commonwealth.

Division 2 — Matters relating to safety

6. Vessel not to exceed maximum safe speed

The master of a vessel in a port must not cause or permit the vessel to move at a speed that exceeds the maximum speed at which the vessel can be safely moved in the port.

Penalty: \$12 000.

7. Fire on vessel, duties of people in case of

On discovering a fire in or on a vessel in a port —

- (a) the master or a member of the crew of the vessel; or

(b) a member of staff of the port authority,

is to give an appropriate alarm and notify the harbour master or the CEO.

8. Propellers of moored vessel not to be operated

Unless authorised by the harbour master, the master of a vessel that has a propeller must not cause or permit the propeller to be operated while the vessel is moored to a wharf in a port.

Penalty: \$5 000.

9. Owners of dangerous things to notify harbour master

- (1) The owner of a dangerous thing in a port or, if the dangerous thing is a vessel, the owner or master of the vessel —
- (a) must immediately after becoming aware of the dangerous thing notify the harbour master or the CEO of its location in the port; and
 - (b) must cause to be displayed on or near the dangerous thing any flags, masts, lights or other things as directed by the harbour master.

- (2) A person who does not comply with subregulation (1)(a), or with a direction under subregulation (1)(b), commits an offence.
- Penalty: \$12 000.

- (3) If neither the owner nor master of a vessel in a port complies with subregulation (1)(a), or with a direction under subregulation (1)(b), both the owner and the master of the vessel commit an offence under subregulation (2).

- (4) In this regulation —
- owner**, in relation to —

- (a) a vessel or part of a vessel; or
 - (b) a thing in the water that was in or on a vessel,
- has the meaning given in section 105(1) of the Act.

Division 3 — Matters relating to revenue

10. Collector of port charges may enter vessel

A collector of port charges, either alone or with other persons, may enter a vessel in a port to determine any port charges payable in respect of the vessel or any goods on the vessel.

11. Port charges to be paid before vessel leaves port

- (1) All port charges payable to a port authority in respect of a vessel are to be paid before the vessel leaves the port, unless the port authority has entered into or been given a written agreement or written guarantee with or by the master or an agent of the vessel that provides for the payment of the unpaid port charges within a period specified by the port authority.
- (2) If port charges payable to a port authority in respect of a vessel have not been paid, the port authority may cause the vessel to be detained at the port until —
 - (a) the charges are paid; or
 - (b) a written agreement or written guarantee referred to in subregulation (1) has been entered into or given by the master or an agent of the vessel.

Division 4 — General

12. Berthing, general rules for

- (1) The master or an agent of a vessel that requires a berth in a port is to apply to the harbour master in the manner approved by the port authority.
- (2) The master of a vessel in a port is to ensure that the vessel is not moored or secured to any part of a wharf other than the bollards or other securing places provided for that purpose.
- (3) The master of a vessel in a port is to ensure that the vessel is moored or secured to a wharf in a manner that, to the extent practicable, relieves the wharf from the weight of the vessel.

- (4) The master of a vessel in a port that is moored or secured to a wharf is to ensure that appropriate precautions (such as regular checks of mooring lines) are taken to prevent damage to the wharf.
- (5) Nothing in this regulation limits a direction given by the harbour master under section 104 of the Act.

13. Port authority officer may give directions to keep wharf clear during berthing

- (1) To enable the lines of a vessel that is being moved alongside a berth in a port to be worked, an authorised member of staff of the port authority may direct a person to leave or keep off the part of the wharf where the vessel is being moored.
- (2) A person who does not comply with a direction under subregulation (1) commits an offence.
Penalty: \$2 000.
- (3) This regulation does not limit regulation 76.

[14. Deleted ~~in~~ Gazette 13 Feb 2004 p. 546.]

15. Vessel moored to be kept clear of cranes etc. on wharves

- (1) The master of a vessel that is moored in a port must ensure that at all times —
 - (a) the vessel; and
 - (b) the vessel's boats, rigging, lines, ropes, hawsers and other equipment; and
 - (c) any gangway used or intended to be used in connection with the vessel,are kept clear of any crane, plant or other thing on a wharf in the port.

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

Penalty: \$5 000.

16. Vessel moored to have at least one person on watch

- (1) The master of a vessel of more than 500 gross registered tonnes that is moored in a port must ensure that at all times there is at least one person on watch on the vessel.

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

Penalty: \$2 000.

17. Waste water etc. not to be discharged on to wharf or into port waters without authority

Unless authorised by a member of staff of the port authority, the master of a vessel must not cause or permit any waste water or waste substances of any kind to be discharged from the vessel on to any part of a wharf or into the waters of a port.

Penalty: \$5 000.

18. Ballast to be discharged in accordance with harbour master's directions

- (1) The master of a vessel must not cause or permit any ballast to be discharged from the vessel into the waters of a port contrary to a direction given to the master by the harbour master.

Penalty: \$5 000.

- (2) Without limiting subregulation (1), a direction under that subregulation may require —

- (a) the ballast to be inspected or tested before or while the ballast is discharged; or
- (b) the ballast to be discharged in places, or in quantities,

in accordance with the direction.

19. Livestock not to be loaded or unloaded without authority

- (1) Unless authorised by the port authority, the master of a vessel must not cause or permit livestock to be loaded on to or unloaded from the vessel at a port.
Penalty: \$5 000.
- (2) The master of a vessel is to obtain authorisation under subregulation (1) at least 24 hours before the proposed time of loading livestock on to or unloading livestock from the vessel.
- (3) The master of a vessel must not cause or permit livestock to be unloaded from the vessel at a port unless the master has arranged for the livestock to be tended and controlled on being unloaded.
Penalty: \$5 000.
- (4) Subregulation (3) does not limit subregulation (1).

[20. Deleted~~in~~ Gazette 22 Mar 2002 p. 1655.]

21. Harbour master's powers to ensure compliance with regulations

- (1) For the purposes of ensuring that these regulations are complied with in relation to a vessel in a port, the harbour master may —
 - (a) cause the vessel to be moored, unmoored or moved; or
 - (b) cause any line or other tackle to be attached to, or detached or cast off from, the vessel; or
 - (c) require the master and crew of the vessel to provide any help necessary for the purposes of paragraph (a) or (b).
- (2) A person must not —
 - (a) unless authorised by the harbour master, detach or cast off from a vessel any line or other tackle caused to be attached to the vessel under subregulation (1)(b); or

- (b) refuse to provide any help reasonably required by the harbour master under subregulation (1)(c).

Penalty: \$5 000.

- (3) The harbour master may employ any persons or hire any equipment necessary for the purposes of subregulation (1)(a) or (b), and the owner and the master of the vessel are jointly and severally liable for the expenses reasonably incurred by the harbour master in doing so.
- (4) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

Part 3 — Pilotage

Division 1 — Definitions

22. Terms used

In this Part —

cargo vessel means a vessel which is not a passenger vessel or an exempt vessel;

exempt master means —

- (a) the master or first mate of a vessel; or
- (b) in relation to the Port of Fremantle — the master of a vessel,

who holds a pilotage exemption certificate;

exempt vessel means —

- (a) a vessel belonging to the naval, military or air forces of the Commonwealth or of any other country, including a foreign country; or
- (b) a vessel which the harbour master considers to be a non-commercial vessel;

normal working hours means the hours between 7:30 a.m. and 3:30 p.m. each day, other than a Saturday, a Sunday or a public holiday;

passenger vessel has the meaning given in the Marine Act section 3(1);

pilotage exemption certificate means —

- (a) a pilotage exemption certificate issued under regulation 51; or
- (b) in relation to the Port of Fremantle — a pilotage exemption certificate issued under Schedule 1 clause 76 or a certificate of local knowledge issued under Schedule 1 clause 89.

[Regulation 22 amended ~~in~~ Gazette 23 Jun 2009 p. 2486.]

Division 2 — Approval of pilots

23. Eligibility to be approved as pilot

- (1) A port authority may approve a person under section 96 of the Act as a pilot for its port if the person —
 - (a) produces evidence that satisfies the harbour master that the person meets the medical fitness requirements in *Marine Order 9 (Health — medical fitness) 2010*, given effect under the Navigation Act section 343(2); and
 - (b) satisfies the harbour master in the manner approved by the port authority —
 - (i) that the person has an adequate knowledge of those matters that the port authority considers relevant to the safe movement of vessels into, within and out of the port; and
 - (ii) in relation to any other matter that the port authority considers relevant to show that the person is competent and suitably qualified to be approved as a pilot for the port.
- (2) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subregulation (1).

[Regulation 23 amended ~~in~~ Gazette 5 Sep 2014 p. 3214.]

24. Approving pilots; retaining approval as pilot

- (1) When approving a person as a pilot for its port, a port authority may approve the person —
 - (a) subject to no conditions or restrictions; or
 - (b) subject to conditions or restrictions relating to sizes or types of vessels, or to areas of the port, as set out by the port authority in the approval.

- (2) A person must not act as a pilot in a port contrary to a condition or restriction to which the person's approval as a pilot for the port is subject and that is set out in the approval.

Penalty: \$5 000.

- (3) To retain approval as a pilot for a port under subregulation (1), a person is to comply with regulation 25 and perform the duties of a pilot for the port —

- (a) on vessels of the sizes and types; and
- (b) on the number of occasions; and
- (c) within the period; and
- (d) in the circumstances,

that the port authority requires and sets out in the approval.

- (4) If a person does not perform the duties of a pilot in accordance with the requirements that the port authority sets out in the approval, the port authority may, by written notice given to the person, impose conditions or restrictions, or additional conditions or restrictions, on the approval relating to sizes or types of vessels or to areas of the port.
- (5) Nothing in this regulation limits the port authority's power to revoke an approval under section 96(2) of the Act.

25. Duties of approved pilots for r. 24(3)

A person who is approved as a pilot for a port complies with this regulation if the person —

- (a) produces to the port authority evidence of the kind referred to in regulation 23(1)(a) before the expiry of each successive period of not more than 2 years, as approved by the port authority, from the date when the person was approved; and

- (b) satisfies the harbour master that he or she continues to be competent and suitably qualified to be approved as a pilot for the port —
 - (i) before the expiry of each successive period of not more than 5 years, as approved by the port authority, from the date when the person was approved; and
 - (ii) in the manner approved by the port authority.

Division 3 — Providers of pilotage services to be licensed

26. Division 2 not affected by this Division

Nothing in this Division limits the operation of Division 2.

27. Unlicensed persons not to provide pilotage services in ports

Subject to section 143(3) of the Act, a person must not provide pilotage services in a port except —

- (a) under the authority of a pilotage provider's licence in relation to that port issued by the port authority; and
- (b) in accordance with any conditions or restrictions to which the licence is subject under regulation 28(3).

Penalty: \$12 000.

[Regulation 27 amended ~~in~~ Gazette 20 Jun 2014 p. 2030.]

28. Pilotage provider's licence, application for and issue and effect of

- (1) An application for a pilotage provider's licence in relation to a port is to be made to, and in the form approved by, the port authority and is to be accompanied by a fee of \$1 000.
- (2) If satisfied that an applicant has appropriate qualifications and experience to provide pilotage services in the port, the port authority may issue a pilotage provider's licence in relation to that port to the applicant.

- (3) A pilotage provider's licence has effect for the period set out in the licence subject to —
- (a) payment to the port authority (except in respect of the year in which the fee referred to in subregulation (1) is paid) by the person who holds the licence of an annual fee of \$1 000; and
 - (b) any conditions or restrictions that the port authority imposes and sets out in the licence.

[(4) deleted]

*[Regulation 28 amended ~~in~~ Gazette 20 Jun 2014 p. 2030;
3 Oct 2017 p. 5037.]*

29. Cancelling and suspending pilotage provider's licence

- (1) If the port authority considers that a condition or restriction to which a pilotage 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.
- (2) A pilotage 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 subregulation (1).
- (3) A notice under subregulation (1) has effect on the day on which the person who holds the pilotage provider's licence is given the notice or on any later day specified in the notice.
- (4) A person whose pilotage provider's licence is suspended or cancelled by notice under subregulation (1) 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.

- (5) A person who does not comply with subregulation (4) commits an offence.

Penalty: \$2 000.

Division 4 — Pilots and pilotage

30. When pilotage is not compulsory (Act s. 97(1))

- (1) For the purposes of section 97(1) of the Act and subject to subregulations (2) and (3) and regulation 31, a vessel moving in a port is not required to use pilotage services if the vessel —
- (a) is a vessel operated by a defence force of Australia, other than a vessel used primarily to transport troops, fuel oil, stores or equipment; or
 - (b) has a length overall of not more than 35 m; or
 - [(c) *deleted*]
 - (d) is a vessel that —
 - (i) is under the command of an exempt master; and
 - (ii) may be moved under the authority of the exempt master's pilotage exemption certificate;or
 - (e) is being led by another vessel that is under the control of a pilot in the circumstances described in regulation 40; or
 - (f) is, for the convenience of shipping in the port or because the vessel is engaged in dredging operations, exempted by the harbour master from using pilotage services.
- (2) Subregulation (1)(d) applies to a vessel in the Port of Fremantle only if it has a draught of less than 12.5 m.
- (3) A vessel that is to be moved in the Port of Fremantle under the authority of a pilotage exemption certificate is to be regarded as being under the command of an exempt master for the purposes of subregulation (1)(d) only if the exempt master is recorded in the vessel's register as the master of the vessel.

[Regulation 30 amended ~~in~~ Gazette 16 Sep 2016 p. 3944.]

31. Harbour master may direct exempt master to ensure vessel uses pilotage services

- (1) The harbour master may direct the master of a vessel that, under regulation 30 or Schedule 1 clause 5, is not required to use pilotage services to ensure that the vessel uses pilotage services when moving in a port, if the harbour master considers that it is necessary for the vessel to use those services —
 - (a) because of local tidal or local current conditions; or
 - (b) because of major works being carried out in the port; or
 - (c) because the vessel, or another vessel in the port, is carrying a noxious or otherwise hazardous cargo; or
 - (d) because of any other circumstances that the harbour master considers may endanger the safety of the vessel or another vessel or any port facilities or any person in the port.
- (2) A person who does not comply with a direction under subregulation (1) commits an offence.
Penalty: \$12 000.

32. Notifying port authority when pilot is required

- (1) The master, owner or an agent of a vessel who requires a pilot to move the vessel into, within or out of a port is to notify the port authority of the time when the pilot is required —
 - (a) in writing or as otherwise approved by the port authority; and
 - (b) at least 2 hours before that time.
- (2) If any change takes place to the time notified to a port authority under subregulation (1), notification of the new time a pilot is required is to be given to the port authority —
 - (a) in writing or as otherwise approved by the port authority; and

- (b) if the new time is —
 - (i) earlier than the time previously notified — at least 2 hours before the new time; or
 - (ii) later than the time previously notified — at least 2 hours before the time previously notified.
- (3) A person giving notification under this regulation outside the normal business hours of a port authority is to give the notification to —
 - (a) the signal station for the port; or
 - (b) if the port does not have an operating signal station, the harbour master or duty pilot.

33. Vessel not ready for pilot at notified time, liability for port authority's expenses

- (1) If —
 - (a) a port authority provides a pilot in response to notification given under regulation 32; and
 - (b) the vessel concerned is not ready to be moved by the pilot within 30 minutes after the time notified,

the person who gave the notification is liable for any expenses reasonably incurred by the port authority in providing the pilot.
- (2) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

34. Positioning of vessel when pilot boards or leaves vessel

The master of a vessel that is to be under the control of a pilot is to position the vessel so as to provide the best possible lee for the pilot when boarding or leaving the vessel.

35. Facilities to be provided when pilot boards or leaves vessel

The master of a vessel is to ensure that appropriate facilities for boarding or leaving the vessel are provided for a pilot who is to board or leave it.

36. Master's duties when pilot has boarded vessel

- (1) When a person has boarded a vessel to act as its pilot, the master of the vessel —
- (a) must produce, as applicable to the vessel, the certificate of registry, certificate of tonnage and certificate of pratique of the vessel on demand to the pilot; and
 - (b) must inform the pilot of the vessel's draught, its manoeuvring characteristics and any defects in its equipment that could affect the safe movement of the vessel; and
 - (c) must reach agreement with the pilot in relation to the proposed movement of the vessel; and
 - (d) must ensure that the vessel displays the International Code Flag "H" during daylight hours.
- (2) A person who does not comply with subregulation (1)(a), (b), (c) or (d) commits an offence.
- Penalty: \$5 000.

37. Tug master to comply with pilot's directions

- (1) The master of a vessel that is towing, or otherwise assisting the manoeuvring of, a vessel that is under the control of a pilot must comply with a direction given to the master by the pilot.
- (2) A person who does not comply with a direction under subregulation (1) commits an offence.
- Penalty: \$5 000.

38. Harbour master may require second pilot to be used

- (1) If the harbour master considers that because of the structure of a vessel, or for any other reason, the vessel might not be safely moved by one pilot, the harbour master may direct the master of the vessel to use a second pilot to assist in the control of the vessel.

- (2) A person who does not comply with a direction under subregulation (1) commits an offence.

Penalty: \$5 000.

39. Pilots to carry and produce evidence of approval

- (1) A person who is acting as a pilot in a port is to carry —
- (a) the written approval given to the person by the port authority under section 96 of the Act; or
 - (b) any other document given to the pilot by the port authority as evidence that the pilot is approved by the port authority under that section.
- (2) A person who is acting as a pilot in a port is to produce the written approval or other document if asked to do so by the master of a vessel that is, or is to be, under the control of the person as pilot.

40. Vessel being led is under control of pilot and liable to pay for pilotage services

- (1) If for any reason —
- (a) a vessel (the *first vessel*) is unable to be boarded by a pilot for the purpose of being moved in a port; and
 - (b) the first vessel is moved in the port by being led by another vessel that is under the control of a pilot,
- the first vessel is taken to be under the control of a pilot for the purposes of these regulations.
- (2) The owner and the master of the first vessel are liable for any charges for pilotage services to the same extent as the owner and the master would have been if, otherwise than in the circumstances described in subregulation (1), the first vessel had been moved in the port while under the control of a pilot.

[Division 5 (r. 41-48) deleted ~~in~~ Gazette 20 Jun 2014 p. 2030.]

Division 6 — Pilotage exemption certificates

Note for this Division:

This Division is displaced by Schedule 1 Division 5 Subdivision 2 in relation to the Fremantle Port Authority and the Port of Fremantle.

49. Eligibility for pilotage exemption certificates

- (1) A person may apply to the harbour master of a port for a pilotage exemption certificate in respect of ~~a the~~ port if ~~—~~

(a) the person is ~~—~~

(i) entitled to reside permanently in Australia under an Act of the Commonwealth; or

(ii) a New Zealand citizen who is entitled to reside and work in Australia under an Act of the Commonwealth;

and

(b) the person complies with subregulations (2), (3) and (4).

- (2) A person complies with this subregulation if the person holds —

- (a) a certificate of competency under the Navigation Act or the Marine Act that authorises the person to command a vessel of each kind for which the pilotage exemption certificate is sought; or
- (b) a certificate of competency or other qualification recognised by the port authority as equivalent to a certificate of competency described in paragraph (a).

- (3) A person complies with this subregulation if, within 12 months before the date of the application, the person —

- (a) has been the master of a vessel under the control of a pilot on at least the approved number of occasions when the vessel was moved into, and on at least the approved number of occasions when the vessel was moved out of, the port; or

- (b) has been the first mate of a vessel under the control of a pilot or under the command of an exempt master on at least the approved number of occasions when the vessel was moved into, and on at least the approved number of occasions when the vessel was moved out of, the port, on each occasion remaining on duty on the bridge of the vessel while it was so moved.
- (4) A person complies with this subregulation if the person has a written record, verified by the signature of the harbour master, for each occasion referred to in subregulation (3)(a) or (b), as the case requires, of —
 - (a) the name of the vessel; and
 - (b) the length overall and gross registered tonnage of the vessel; and
 - (c) the time and date when the vessel was moved.
- (5) In this regulation —

approved means approved by the port authority.

*[Regulation 49 amended ~~in~~ Gazette 5 Sep 2014 p. 3215;
11 May 2018 p. 1511.]*

50. Applications for pilotage exemption certificates

An application for a pilotage exemption certificate is to be in the form approved by the harbour master and is to be accompanied by —

- (a) a fee of —
 - (i) for a pilotage exemption certificate in respect of the Port of Dampier, \$1 211.70; and
 - (ii) for a pilotage exemption certificate in respect of any other port, \$660.00;
- and
- (b) evidence that satisfies the harbour master that the applicant meets —

- (i) the requirements set out in regulation 49; and
- (ii) the medical fitness requirements in *Marine Order 9 (Health — medical fitness) 2010*, given effect under the Navigation Act section 343(2);

and

- (c) the written record referred to in regulation 49(4).

[Regulation 50 amended—~~in~~ Gazette 22 Jun 2007 p. 2850; 2 Oct 2007 p. 4971; 16 Oct 2009 p. 4068; 4 Jun 2010 p. 2482; 15 Jun 2012 p. 2520; 12 Jul 2013 p. 3225; 5 Sep 2014 p. 3215.]

51. Issue of pilotage exemption certificates

- (1) The harbour master is to issue a pilotage exemption certificate to an applicant who —
 - (a) applies in accordance with regulation 50; and
 - (b) satisfies the harbour master —
 - (i) in an examination approved by the port authority, that the applicant has an adequate knowledge of those matters that the port authority considers relevant to the safe movement of vessels into, within and out of its port; and
 - (ii) in relation to any other matter that the port authority considers relevant to show that the applicant is competent and suitably qualified to move a vessel under the authority of a pilotage exemption certificate.
- (2) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subregulation (1)(b) and regulation 50(b).

52. Conditions on pilotage exemption certificates

- (1) When issuing a pilotage exemption certificate, the harbour master is to endorse on the certificate a condition relating to the —
 - (a) maximum length overall; or
 - (b) maximum gross registered tonnage,of a vessel that may be moved under the authority of the certificate.
- (2) The harbour master is to take into account the applicant's written record referred to in regulation 49(4) in determining the appropriate condition to be endorsed on a pilotage exemption certificate under subregulation (1).
- (3) If, in relation to an application for a pilotage exemption certificate —
 - (a) at least one of the occasions referred to in regulation 49(3)(a) or (b), as the case requires, did not take place at night; or
 - (b) for any other reason associated with the application the harbour master considers it appropriate to do so,the harbour master may endorse a prescribed condition on a pilotage exemption certificate.
- (4) An exempt master who does not comply with a condition endorsed on the master's pilotage exemption certificate under this regulation commits an offence.
Penalty: \$5 000.
- (5) In subregulation (3) —
prescribed condition, in relation to a pilotage exemption certificate, means —
 - (a) in relation to subregulation (3)(a) — the condition that the certificate is not valid during the period from sunset to sunrise;

- (b) in relation to subregulation (3)(b) — any other condition or conditions relating to the movement of a vessel under the authority of the certificate.

53. Applications to vary or delete conditions on pilotage exemption certificates

- (1) An exempt master may apply to the harbour master for the variation or deletion of a condition endorsed on the exempt master's pilotage exemption certificate.
- (2) An application under subregulation (1) is to be in the form approved by the harbour master.
- (3) If an application under subregulation (1) relates —
 - (a) to the maximum length overall or maximum gross registered tonnage of a vessel that may be moved under the authority of the certificate; or
 - (b) to the condition that the pilotage exemption certificate is not valid during the period from sunset to sunrise,

the application is also to be accompanied by a written record that complies with subregulation (4).

- (4) A written record complies with this subregulation if it is verified by the signature of the harbour master and contains the information referred to in regulation 49(4)(a), (b) and (c) for each occasion within 12 months before the date of the application that the applicant has been —
 - (a) the master of a vessel under the control of a pilot; or
 - (b) the first mate of a vessel under the control of a pilot or under the command of an exempt master,

when the vessel was moved into or out of the port concerned.

- (5) The harbour master is to consider an application under subregulation (1) and, if applicable, take into account the written record referred to in subregulation (3), and the harbour master may then vary or delete a condition endorsed on a pilotage

exemption certificate, or refuse to do so, as the harbour master thinks fit.

54. Validity and expiry of pilotage exemption certificates

- (1) A pilotage exemption certificate, including a pilotage exemption certificate revalidated under regulation 56, is valid unless it expires under subregulation (2) or is revoked under regulation 57.
- (2) If an exempt master does not move a vessel under the authority of the master's pilotage exemption certificate for a period of 6 months, the certificate expires at the end of that period.

55. Applications for revalidation of pilotage exemption certificates

- (1) A person whose pilotage exemption certificate expires under regulation 54(2) may apply to the harbour master to have it revalidated if —
 - (a) the applicant complies with subregulation (2); and
 - (b) the application is made in accordance with subregulation (3) within 6 months after the certificate expires.
- (2) An applicant complies with this subregulation if, within the period of 6 months referred to in subregulation (1)(b), the applicant has been —
 - (a) the master of a vessel under the control of a pilot; or
 - (b) the first mate of a vessel under the control of a pilot or under the command of an exempt master,

on at least one occasion when the vessel was moved into, and at least one occasion when the vessel was moved out of, the port concerned.

- (3) An application under subregulation (1) is to be in the form approved by the harbour master and is to be accompanied by a written record, verified by the signature of the harbour master,

that contains the information referred to in regulation 49(4)(a), (b) and (c) for each occasion referred to in subregulation (2).

56. Revalidation of pilotage exemption certificates

- (1) The harbour master is to revalidate the expired pilotage exemption certificate of an applicant who —
 - (a) applies in accordance with regulation 55; and
 - (b) satisfies the harbour master —
 - (i) in an examination approved by the port authority, that the applicant has an adequate knowledge of those matters that the port authority considers relevant to the safe movement of vessels into, within and out of its port; and
 - (ii) in relation to any other matter that the port authority considers relevant to show that the applicant is competent and suitably qualified to move a vessel under the authority of a pilotage exemption certificate.
- (2) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subregulation (1)(b).
- (3) A pilotage exemption certificate that is revalidated under this regulation has the same effect as it did immediately before it expired.
- (4) A person whose pilotage exemption certificate —
 - (a) expires under regulation 54; and
 - (b) is not revalidated within 6 months after that expiry,may apply for a new pilotage exemption certificate under regulation 50 if the person is eligible under regulation 49.

57. Suspending and revoking pilotage exemption certificates

- (1) This regulation applies if the harbour master considers that a person who holds a pilotage exemption certificate —
 - (a) has contravened the Act or these regulations; or
 - (b) is unable to move a vessel safely in the port concerned.
- (2) If subregulation (1)(a) applies, the harbour master may give the person written notice —
 - (a) suspending the operation of the pilotage exemption certificate for any period that the harbour master considers appropriate; or
 - (b) revoking the pilotage exemption certificate.
- (3) If subregulation (1)(b) applies, the harbour master is to give the person written notice revoking the pilotage exemption certificate.
- (4) A notice under subregulation (2) or (3) has effect on the day on which the person who holds the pilotage exemption certificate is given the notice or on any later day specified in the notice.
- (5) A person whose pilotage exemption certificate is suspended or revoked under subregulation (2) or (3) must return it to the harbour master within 14 days after being given notice of its suspension or revocation, whether or not the person intends to appeal against the suspension or revocation.
- (6) A person who does not comply with subregulation (5) commits an offence.
Penalty: \$2 000.

58. Appeals against decision made under r. 57

- (1) A person may appeal to the port authority against a decision of the harbour master to suspend or revoke the person's pilotage exemption certificate under regulation 57.

- (2) An appeal under subregulation (1) —
 - (a) is to be in writing, signed by the appellant; and
 - (b) is to set out fully and in detail the grounds of the appeal; and
 - (c) is to be lodged with the port authority within 30 days —
 - (i) after the appellant is given written notice of the suspension or revocation of the pilotage exemption certificate under regulation 57; or
 - (ii) if applicable, after the later day specified in the notice.
- (3) An appellant is to give to the port authority in writing any further information that the port authority reasonably requires from the appellant for the purposes of determining the appeal.
- (4) Within 21 days after an appeal is lodged with the port authority, and after considering the grounds of the appeal, any further information given by the appellant under subregulation (3) and any other material that the port authority considers relevant to a proper determination of the appeal, the port authority is to determine the appeal by —
 - (a) in the case of a decision of the harbour master to suspend the appellant's pilotage exemption certificate — confirming or varying the period of suspension or setting aside the decision; or
 - (b) in the case of a decision of the harbour master to revoke the appellant's pilotage exemption certificate — confirming or setting aside the decision.
- (5) The port authority is to give written notice to the appellant and the harbour master of the port authority's determination of the appeal under subregulation (4).
- (6) If the port authority sets aside a decision of the harbour master to revoke or suspend the appellant's pilotage exemption certificate, the harbour master is to return the certificate to the appellant as soon as practicable.

59. Use of pilotage exemption certificates to be recorded

An exempt master is to maintain a written record, verified by the signature of the harbour master, of —

- (a) the name of the vessel; and
- (b) the length overall and gross registered tonnage of the vessel; and
- (c) the time and date when the vessel is moved,

for each occasion when the exempt master moves a vessel under the authority of a pilotage exemption certificate.

Part 4 — Goods and cargo

60. Details of cargo on board vessel arriving at port to be given to port authority

- (1) In this regulation and regulation 61 —
documents or information means documents or information as, and in the form, required by the port authority.
- (2) The master of a vessel that arrives at a port must give to the port authority, before any cargo is unloaded from the vessel, documents or information specifying any cargo that is to be unloaded from the vessel (*details of cargo*).
- (3) The master of the vessel from which cargo is unloaded must give to the port authority documents or information, within the period specified by the port authority, setting out any necessary corrections to the details of cargo.
- (4) A person who does not comply with subregulation (2) or (3) commits an offence.
Penalty: \$2 000.
- (5) Documents or information setting out any necessary corrections to the details of cargo are or is taken not to have been given to the port authority within the period referred to in subregulation (3) in relation to any cargo that is removed from the port before the documents are, or information is, given.

61. Details of cargo and fuel on board vessel leaving port to be given to port authority

- (1) The master of a vessel that has been loaded with any cargo at a port must give to the port authority, before the vessel leaves the port, documents or information setting out details of the cargo with which the vessel has been loaded and of any fuel bunkered by the vessel at the port.

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

Penalty: \$2 000.

62. Loading and unloading to be continuous

The master of a vessel that is being loaded or unloaded at a port is to ensure that the loading or unloading proceeds continuously until it is completed, subject to any lawful directions given by an authorised member of staff of the port authority in relation to the hours to be worked.

[63-65. Deleted ~~in~~ Gazette 13 Feb 2004 p. 546.]

66. Unclaimed goods, port authority's powers as to

- (1) In this regulation and regulation 67 —
unclaimed goods means goods unloaded from a vessel at a port that are not claimed by the consignee within 14 days, or any longer period that the port authority may allow in a particular case, after being unloaded.
- (2) A port authority may —
- (a) move unclaimed goods and store them at any premises of the port authority; or
 - (b) cause unclaimed goods to be delivered to the consignee at the consignee's risk and expense.
- (3) A port authority may keep unclaimed goods until any expenses reasonably incurred by the port authority in connection with moving and storing them, and any port charges payable in relation to them, have been paid to the port authority.
- (4) A port authority may sell unclaimed goods by public auction if the port authority is not paid the expenses and charges referred to in subregulation (3) within 7 days —
- (a) after demand has been made on the owner of the unclaimed goods; or

- (b) if the port authority is unable, after reasonable enquiries, to identify or find the owner of the goods — after notice of the proposed sale has been published at least once a week for 2 consecutive weeks in a newspaper circulating in the area where the port authority operates.
- (5) If unclaimed goods are perishable, a port authority may sell them, without complying with subregulation (4), not less than 24 hours after moving and storing them.

67. Sale of unclaimed goods, application of proceeds of

- (1) A port authority is to apply the proceeds of the sale of unclaimed goods under regulation 66 in payment of —
 - (a) the port authority's reasonable expenses in moving, storing and selling them; and
 - (b) any port charges payable in relation to them,and, subject to subregulation (2), is to pay any surplus amount of those proceeds on demand to the owner of the goods.
- (2) If no demand is made by the owner of the goods within 30 days after the sale of the goods, the surplus amount of those proceeds is to be paid to the Treasurer to be credited to the Consolidated Account², and any claim of the owner of the goods to that amount is extinguished.

68. Goods falling from vessel in port

- (1) If any goods or other material fall or falls from a vessel in a port, the master or another officer or an agent of the vessel is to report the matter to the port authority.
- (2) The port authority may take any action it considers appropriate to recover the goods or other material.
- (3) The master, the owner and an agent of the vessel, and any person who caused or permitted the goods or material to fall from the vessel, are jointly and severally liable for any expenses

reasonably incurred by the port authority in taking action under subregulation (2).

- (4) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

Part 5 — Conduct of persons in ports

69. Term used: designated by notices or signs

In this Part —

designated by notices or signs, in relation to a port, means designated by notices or signs erected at the port by the port authority.

70. Social functions on board vessel prohibited in certain cases

- (1) Unless authorised in writing by the port authority, the owner, master or an agent of a vessel in a port must not cause or permit a social function or activity to take place on board the vessel that obstructs or interferes with, or is likely to obstruct or interfere with, port services.

Penalty: \$5 000.

- (2) In subregulation (1) —

port services has the meaning given in section 35(9) of the Act.

71. Dead animals, waste etc. not to be left in ports unless authorised

Unless authorised by the port authority, a person must not cause a dead animal or any litter, rubbish or waste substances of any kind to be placed or left —

- (a) in the waters of a port; or
- (b) on a wharf or jetty or in a building or other structure or any other place in a port.

Penalty: \$5 000.

72. Port authority notices etc., removal of etc. is offence

A person must not remove, obliterate or otherwise interfere with a notice, sign or notice board erected or placed in a port by the port authority.

Penalty: \$2 000.

73. Notices etc. not to be put on port authority property without authority

Unless authorised by the port authority, a person must not write, paint or place a placard, notice or other document on port facilities or other property of a port authority.

Penalty: \$2 000.

74. Life saving equipment, interfering with

A person must not interfere with any life saving equipment provided in a port by the port authority except for the purpose of using the equipment in the appropriate manner.

Penalty: \$5 000.

75. Dredging etc. prohibited without authority

Unless authorised in writing by the port authority, a person must not use dredges, drags or grapplings in a manner that disturbs the bed of the waters of a port.

Penalty: \$5 000.

76. Persons to comply with reasonable directions of port authority staff

(1) An authorised member of staff of the port authority may give any reasonable direction to a person in a port.

(2) A person who does not comply with a direction under subregulation (1) commits an offence.

Penalty: \$2 000.

(3) Subregulation (2) applies to a person whether or not the person is employed in the port.

77. Animals prohibited in port without authority

(1) Unless authorised by the port authority, a person must not cause or permit an animal that is in the person's possession or under the person's control to enter or remain in a port.

Penalty: \$2 000.

[(2) deleted]

[Regulation 77 amended ~~in~~ Gazette 8 Jan 2015 p. 62.]

78. Disorderly conduct

- (1) A person must not be drunk or behave in a disorderly manner in a port.
Penalty: \$2 000.
- (2) An authorised member of staff of the port authority may prevent a person who appears to the member of staff to be drunk or behaving in a disorderly manner from entering a port or any area of a port.
- (3) An authorised member of staff of the port authority —
 - (a) without limiting regulation 76(1), may direct a person who appears to the member of staff to be drunk or behaving in a disorderly manner to leave, or not to enter, a port; and
 - (b) if the person does not comply with the direction, may cause the person to be removed from the port.
- (4) A person who does not comply with a direction under subregulation (3)(a) commits an offence.
Penalty: \$2 000.

79. Certain persons may be prohibited from entering port

- (1) Subject to subregulation (3), the CEO may, by written notice given to a person, direct the person not to enter a port or not to enter an area of a port specified in the notice.
- (2) A person who does not comply with a direction under subregulation (1) commits an offence.
Penalty: \$2 000.
- (3) The CEO may give a direction to a person under subregulation (1) only if —
 - (a) the person has been convicted of 2 or more offences; or

- (b) the CEO has reasonable grounds for believing that the person may hinder the efficiency of the operations of the port if the person enters the port or a specified area of the port.
- (4) The CEO may, by written notice given to a person, revoke a direction given to the person under subregulation (1).
- (5) If a person enters a port or a specified area of a port contrary to a direction under subregulation (1), an authorised member of staff of the port authority may cause the person to be removed from the port or that area of the port.
- (6) In this regulation —
offence means an offence under the Act or these regulations.

80. Smoking in designated places prohibited

- (1) A port authority may, by erecting signs or notices, designate areas of its port where smoking is not permitted.
- (2) A person must not smoke in an area designated under subregulation (1).
Penalty: \$2 000.
- (3) This regulation does not limit the operation of the *Health (Smoking in Enclosed Public Places) Regulations 2003*³.
[Regulation 80 amended ~~in~~ Gazette 10 Dec 2004 p. 5916.]

[81-82. Deleted ~~in~~ Gazette 22 Mar 2002 p. 1655.]

83. Selling or supplying things and soliciting business prohibited

- (1) Unless authorised in writing by the port authority, a person must not sell or supply anything, or offer to sell or supply anything, in a port.
Penalty: \$2 000.
- (2) Unless authorised in writing by the port authority, a person must not solicit business of any kind in a port.
Penalty: \$2 000.

84. Wrecks not to be climbed on etc.

- (1) Unless authorised in writing by the port authority, a person must not climb on to or enter a vessel that is sunk, stranded or abandoned in a port.
Penalty: \$2 000.
- (2) If a person is on or in a vessel contrary to subregulation (1), the port authority may cause the person to be removed from the vessel.
- (3) A person is liable for any expenses reasonably incurred by the port authority in removing the person from a vessel under subregulation (2).
- (4) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

85. Fire alarms, activating etc.

- (1) A person must not activate, operate, sound, use or interfere with any fire alarm or fire extinguishing equipment or device on port facilities or other property of a port authority unless the person does so —
 - (a) for the purpose of giving a warning of, or extinguishing, a fire; or
 - (b) as otherwise authorised by the port authority.Penalty: \$5 000.
- (2) A person is liable for any expenses reasonably incurred by the port authority as a result of the activation, operation, sounding, use of or interference with anything by the person contrary to subregulation (1).
- (3) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

86. Valves, hydrants etc., unauthorised use of

Unless authorised by the port authority, a person must not turn a valve or cock, or open or close a hydrant, on port facilities or other property of a port authority.

Penalty: \$5 000.

87. Electric lights etc., unauthorised interference with

Unless authorised by the port authority, a person must not interfere with an electric light, light fitting or power mains on port facilities or other property of a port authority.

Penalty: \$12 000.

88. Stray boats and other abandoned or unattended property

- (1) The port authority may move and store at any premises of the port authority a drifting boat or anything else found abandoned or unattended in a port (the *abandoned property*).
- (2) The port authority may keep the abandoned property until it is claimed by its owner, who is liable for the port authority's reasonable expenses in moving and storing the property and any port charges payable in relation to the property.
- (3) The port authority may recover those expenses and charges in a court of competent jurisdiction as a debt due to the port authority.
- (4) If the abandoned property is not claimed within 30 days after being found in the port, the port authority may sell the property by public auction after a notice of the proposed sale has been published at least once a week for 2 consecutive weeks in a newspaper circulating in the area where the port authority operates.
- (5) The port authority —
 - (a) is to apply the proceeds of the sale of abandoned property in payment of the port authority's reasonable

- expenses in moving, storing and selling the property and any port charges payable in relation to the property; and
- (b) subject to subregulation (6), is to pay any surplus amount of those proceeds on demand to the owner of the property.
- (6) If no demand is made by the owner of the abandoned property within 30 days after the sale of the property, the surplus amount of those proceeds is to be paid to the Treasurer to be credited to the Consolidated Account ², and any claim of the owner of the property to that amount is extinguished.

89. Swimming in designated areas prohibited

Unless authorised by the port authority, a person must not swim in, or dive or jump into, the waters of a port in an area designated by notices or signs as an area where swimming is not permitted.

Penalty: \$2 000.

90. Closed areas of ports etc., unauthorised entry of

Unless authorised by the port authority, a person must not enter an area of a port, or a port facility, closed by the port authority and designated by notices or signs as being closed.

Penalty: \$2 000.

91. Fishing in designated areas of port prohibited

- (1) Unless authorised by the port authority, a person must not fish in an area of a port designated by notices or signs as an area where fishing is not permitted.
- Penalty: \$2 000.
- (2) A person who does not comply with any condition or restriction that is set out in a notice or sign erected by the port authority for the purpose of controlling fishing in the port commits an offence.
- Penalty: \$2 000.

92. Fishing nets etc., use of

- (1) A person must not place a fishing net, rock lobster pot or other fishing gear in the navigable waters of a port contrary to a notice or sign erected by the port authority.

Penalty: \$5 000.

- (2) A port authority may —

- (a) designate by notices or signs erected by the port authority; or
- (b) define in a notice published in the *Gazette*,

the waters of the port that are navigable waters for the purposes of subregulation (1).

93. Launching etc. boats in unauthorised places etc. prohibited

- (1) A person must not launch a boat or bring a boat ashore in a port except in an area of the port designated by notices or signs as a place where boats may be launched or brought ashore (a *launching place*).

Penalty: \$2 000.

- (2) A person must not leave a boat that has been brought ashore in a port anywhere in the port except in an area designated by notices or signs as a place where boats may be left.

Penalty: \$2 000.

- (3) If a road in a port is designated by notices or signs as a road on which a boat may be towed by a motor vehicle to or from a launching place, a person must not use a motor vehicle to tow a boat to or from the launching place otherwise than on that road.

Penalty: \$2 000.

- (4) A person who uses a motor vehicle to tow a boat to a launching place must move the motor vehicle as soon as practicable after the boat is launched —

- (a) to an area set aside by the port authority near the launching place for parking; or
 - (b) if no area for parking has been set aside by the port authority — to a public road or public parking area.
- (5) A person who does not comply with subregulation (4) commits an offence.
Penalty: \$2 000.

94. Camping etc. prohibited unless authorised

- (1) Unless authorised by the port authority, a person must not —
 - (a) use a tent, hut or any building or other structure in which to sleep overnight in a port; or
 - (b) erect a tent, hut or other structure in a port, other than a beach shade or windbreak intended for use during the period from sunrise to sunset.
Penalty: \$2 000.
- (2) A person who erects or uses a beach shade or windbreak in a port is to ensure that it is removed from the port by the end of the period referred to in subregulation (1)(b) on the day on which it is erected or used.

95. Marine life not to be removed from wharf etc. unless authorised

Unless authorised by the port authority, a person must not remove any form of marine life (whether animal or plant) from —

- (a) a wharf, jetty, pylon, pile light, buoy, beacon or marker in a port; or
- (b) a pile supporting a thing referred to in paragraph (a).

Penalty: \$2 000.

96. Buildings etc. not to be erected without authority

- (1) Unless authorised in writing by the port authority, a person must not erect a building or other structure in a port.
Penalty: \$12 000.
- (2) Subregulation (1) does not limit the application of any other written law to the erection of a building or other structure in a port.

97. Excavation work not to be done unless authorised

- (1) Unless authorised in writing by the port authority, a person must not carry out any excavation work on port land.
Penalty: \$5 000.
- (2) Subregulation (1) does not limit the application of any other written law to the carrying out of excavation work on port land.
- (3) In this regulation —
excavation work means any work that involves breaking or penetrating the ground surface.

98. Motor boats and water skiing, restrictions on

- (1) A person must not drive a motor boat at more than 8 knots or water ski in a port —
 - (a) unless authorised by the port authority —
 - (i) in any waters having a depth of less than 3 m; or
 - (ii) within 45 m of a river bank or low water mark;or
 - (b) in or through an area set aside for vessels to be moored; or
 - (c) within 15 m of a vessel that is under way; or
 - (d) within 45 m of —
 - (i) a moored vessel; or
 - (ii) a person in the water; or
 - (iii) a jetty or wharf;

or

- (e) through an arch of a bridge.

Penalty: \$2 000.

- (2) In this regulation —

motor boat means a vessel propelled otherwise than by oars or sail and includes a personal watercraft within the meaning of the *Navigable Waters Regulations 1958* ⁴;

water ski includes water ski using only the feet for support on the water.

99. Races, regattas etc. not to be held without authority

Unless authorised in writing by the port authority, a person must not organise, promote or conduct in a port —

- (a) a race, display or regatta of any vessels; or
- (b) an exhibition of any form of aquatic sport (including water skiing).

Penalty: \$2 000.

Part 6 — Vehicles in ports

100. Terms used

In this Part —

no-parking area means an area referred to in regulation 105(1)(b);

no-stopping area means an area referred to in regulation 104(1);

parking area means an area referred to in subregulation 105(1)(a);

traffic sign means a notice or sign erected by the port authority to control traffic in its port.

101. Application of road laws

The provisions of this Part are in addition to those of each road law, as defined in the *Road Traffic (Administration) Act 2008* section 4, in relation to a port.

[Regulation 101 amended ~~in~~ Gazette 8 Jan 2015 p. 63.]

102. Careless driving

A person who drives a motor vehicle in a port without due care and attention commits an offence.

Penalty: \$2 000.

103. Drivers to comply with traffic signs

Subject to this Part, a person driving a motor vehicle in a port who does not comply with a traffic sign commits an offence.

Penalty: \$2 000.

104. Stopping vehicles

- (1) A port authority may, by marking lines or by erecting notices or signs, designate the areas of the port where vehicles are not to be stopped.

- (2) Subject to subregulations (3) and (4) and regulation 106, a person must not stop a vehicle in a no-stopping area.
Penalty: \$2 000.
- (3) If the person stops the vehicle for no longer than is necessary in the circumstances, subregulation (2) does not apply to a person who stops a vehicle —
 - (a) to avoid a collision; or
 - (b) because the vehicle is disabled; or
 - (c) because of a medical or other emergency.
- (4) Subregulation (2) does not apply to a person who stops a vehicle as directed by a police officer or by an authorised member of staff of the port authority.

105. Parking vehicles

- (1) A port authority may, by marking lines or by erecting notices or signs, designate the areas of the port where —
 - (a) vehicles may be parked; or
 - (b) vehicles are not to be parked.
- (2) A notice or sign referred to in subregulation (1) may state that only vehicles of a particular kind or particular kinds may be parked in a parking area, or that the parking of vehicles in a parking area is otherwise subject to the conditions stated on the notice or sign.
- (3) Subject to subregulation (4) and regulation 106, a person must not park a vehicle —
 - (a) in a parking area otherwise than in accordance with the lines, notices or signs that designate the parking area; or
 - (b) in a no-parking area.

Penalty: \$2 000.

- (4) Subregulation (3) does not apply to a person who parks a vehicle as directed by a police officer or by an authorised member of staff of the port authority.

106. Emergency vehicles, exceptions for

- (1) If it is expedient and safe to do so, an emergency vehicle may be —
 - (a) driven in a port otherwise than in accordance with a traffic sign; or
 - (b) stopped in a port in a no-stopping area; or
 - (c) parked in a port —
 - (i) in a parking area otherwise than in accordance with the lines, notices or signs that designate the parking area; or
 - (ii) in a no-parking area.
- (2) In subregulation (1) —
emergency vehicle means a motor vehicle that has entered a port in connection with —
 - (a) urgent police duties; or
 - (b) the fighting of fire or the answering of a fire call; or
 - (c) providing assistance to a sick or injured person; or
 - (d) any other emergency in which human life is reasonably believed to be in danger.

107. Obstructing vehicles may be removed

- (1) If a port authority considers that a vehicle is obstructing, or may obstruct, traffic in its port, an authorised member of staff of the port authority may direct the driver of the vehicle to move the vehicle out of the port or to another place within it.
- (2) A person who does not comply with a direction under subregulation (1) commits an offence.
Penalty: \$2 000.

(3) If —

- (a) the driver of a vehicle does not comply with a direction under subregulation (1); or
- (b) the port authority is unable, after reasonable enquiries, to locate the driver of the vehicle,

the port authority may cause the vehicle to be moved out of the port or to another place within it, and the driver of the vehicle is liable for any expenses reasonably incurred by the port authority in doing so.

(4) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

Part 7 — Infringement notices and modified penalties

108. Prescribed offences (Act s. 124)

The offences mentioned in Schedule 3 are the offences for which an infringement notice may be given under section 124 of the Act.

109. Prescribed modified penalties (Act s. 125(2))

The modified penalty mentioned opposite an offence in Schedule 3 is the modified penalty for that offence for the purposes of section 125(2) of the Act.

110. Over-length vehicle, meaning of in Sch. 3

A reference in Schedule 3 to an *over-length vehicle* is a reference to a vehicle that has a length greater than 5 m.

111. Infringement notice, prescribed form of (Act s. 125(1))

The form of an infringement notice is set out in Form 1 in Schedule 4 for the purposes of section 125(1) of the Act.

112. Withdrawal of infringement notice, prescribed form of (Act s. 127(1))

The form of a notice to withdraw an infringement notice is set out in Form 2 in Schedule 4 for the purposes of section 127(1) of the Act.

Part 8 — Miscellaneous

113. Effect of breach of condition to which authorisation is subject

An authorisation given to a person by a port authority or harbour master under these regulations ceases to have effect if the person does not comply with any condition or restriction —

- (a) to which the authorisation is subject; and
- (b) if the authorisation is given in writing — that is set out in the authorisation.

114. Master of vessel to produce certificates of tonnage and registry etc. on request by certain officers

- (1) The master of a vessel that is in a port or is to enter a port must produce the certificate of tonnage and certificate of registry or other national papers of the vessel on demand to —
 - (a) a collector of port charges; or
 - (b) an authorised member of staff of the port authority.
- (2) A person who does not comply with subregulation (1) commits an offence.

Penalty: \$5 000.

115. Powers of authorised officers in relation to offenders

- (1) An authorised officer may direct a person (an *offender*) —
 - (a) who is on port facilities or other property of a port authority; and
 - (b) who the authorised officer reasonably believes is committing or has committed an offence against the Act or these regulations,

to give his or her name and address to the officer and may direct the offender to leave the facilities or property, the port or an area of the port specified by the officer.

- (2) A person —
- (a) who, when directed to give his or her name and address to an authorised officer, gives a false name or false address to the officer; or
 - (b) who does not comply with a direction under subregulation (1),
- commits an offence.
- Penalty: \$2 000.
- (3) An authorised officer may cause an offender to be removed from port facilities or other property of a port authority, the port or an area of the port.
- (4) A police officer may, without a warrant, arrest an offender.
- (5) In this regulation —
- authorised officer*** means a police officer or an authorised member of staff of the port authority.

[116. Deleted ~~in~~ Gazette 13 Feb 2004 p. 546.]

117. Certain easements, leases and licences may be granted without Minister's approval (Act s. 28(2))

An easement, lease or licence meets the prescribed criteria for the purposes of section 28(2) of the Act if the period for which the easement, lease or licence is granted by a port authority does not exceed 5 years.

118. Amount of port authority's liability prescribed (Act s. 40(3)(c))

For the purposes of section 40(3)(c) of the Act, the prescribed amount of a port authority's liability is the amount equal to 20% of the written down value of the port authority's consolidated fixed assets, as appearing in its latest audited accounts.

118A. Port services prescribed (Act s. 35(9))

Under section 35(9) of the Act, “quarantine services” are prescribed for the purposes of the definition of *port services* in that subsection.

[Regulation 118A inserted ~~in~~ Gazette 10 Dec 2004 p. 5916.]

119. Rate of interest on overdue amounts (Act s. 136(1))

- (1) For the purposes of section 136(1) of the Act, the rate of interest on an amount outstanding to a port authority is 3% greater than the rate of interest published from time to time by the Bank of Western Australia Ltd. as its overdraft reference rate.
- (2) In subregulation (1) —
overdraft reference rate means the base rate of interest used by the Bank of Western Australia Ltd. to determine the rates of interest payable on overdraft loans.

120. Rounding off amounts (Act Sch. 5 cl. 31)

- (1) A port authority may insert in any accounts or report under Schedule 5 to the Act, in substitution for an amount —
 - (a) that the port authority would, but for clause 31 of that Schedule, be required or permitted to set out in the accounts or report; and
 - (b) that is not less than \$500,
an amount that is ascertained by increasing or decreasing (as the case requires), by not more than \$500, the first-mentioned amount to \$1 000 or the nearest multiple of \$1 000.
- (2) If the first-mentioned amount in subregulation (1) is exactly \$500 greater than \$1 000 or a multiple of \$1 000, the amount is to be increased under that subregulation to \$2 000 or the next multiple of \$1 000, as the case requires.

r. 121

121. Provisions for particular ports and port authorities

- (1) If a Division of Schedule 1 applies to a port and a port authority, the provisions of that Division have effect in relation to —
 - (a) that port; and
 - (b) that port authority's control and management of that port.
- (2) The provisions referred to in subregulation (1) have effect even though they override, are inconsistent with or are additional to other provisions of these regulations.
- (3) A provision of these regulations mentioned in the Table does not apply to —
 - (a) the Port of Ashburton; or
 - (aa) the Port of Balla Balla; or
 - (b) the Port of Dampier; or
 - (c) the Pilbara Ports Authority's control and management of the ports referred to in paragraphs (a), (aa) and (b).

Table

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

- (4) Subregulation (3) does not limit the application of subregulation (1) or (2) to Schedule 1 Division 1A or 4.

[Regulation 121 inserted ~~in~~ Gazette 20 Jun 2014 p. 2030-1; amended ~~in~~ Gazette 3 Oct 2017 p. 5037-8.]

[122. Omitted under the Reprints Act 1984 s. 7(4)(f).]

Schedule 1 — Provisions for particular ports and port authorities

[r. 121]

[Heading inserted ~~in~~ Gazette 20 Jun 2014 p. 2032.]

Division 1 — Port of Albany

[Heading inserted ~~in~~ Gazette 20 Jun 2014 p. 2032.]

1. Application of this Division

This Division applies to the Port of Albany and the Southern Ports Authority.

[Clause 1 inserted ~~in~~ Gazette 19 Sep 2014 p. 3342.]

2. Terms used

In this Division —

fishing vessel means a vessel of less than 500 gross registered tonnes that is used for commercial fishing;

service provider's licence means a licence issued under clause 5B(2) to provide a towage service, line boat service, bunkering service, stevedoring service, mooring service, transport service, bulk handling service or fish handling service in the port.

[Clause 2 amended ~~in~~ Gazette 12 Jun 2007 p. 2681.]

3. Notice of arrival at port

- (1) The master of a vessel that is to enter the port is to notify the harbour master of the vessel's estimated time of arrival at the pilot boarding ground —

- (a) 48 hours; and
- (b) 24 hours; and
- (c) 2 hours,

before that time.

- (2) Subclause (1) does not apply to —

- (a) a fishing vessel; or
- (b) a vessel that is not to be —
 - (i) berthed in the port; or
 - (ii) provided with any services by the port authority.

4. Fishing vessels not to berth at berth 1, 2 or 3 without authority

Unless authorised by the harbour master or an authorised member of staff of the port authority, the master of a fishing vessel must not berth the vessel at the main wharf of the port at berth No. 1, 2 or 3.

Penalty: \$2 000.

5. When pilotage is not compulsory

For the purposes of section 97(1) of the Act and subject to regulation 31, a vessel moving in the port is not required to use pilotage services if the vessel is a fishing vessel that is registered in Australia.

5A. 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, mooring service, transport service, bulk handling service or fish handling 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 5B(3).

Penalty: \$12 000.

[Clause 5A inserted ~~in~~ Gazette 12 Jun 2007 p. 2682.]

5B. Service providers' 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, mooring service, transport service, bulk handling service or fish handling 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: \$2 000.

[Clause 5B inserted ~~in~~ Gazette 12 Jun 2007 p. 2682-3.]

Division 1A — Port of Balla Balla

[Heading inserted ~~in~~ Gazette 3 Oct 2017 p. 5038.]

Subdivision 1 — Application

[Heading inserted ~~in~~ Gazette 3 Oct 2017 p. 5038.]

5C. Application of this Division

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

[Clause 5C inserted ~~in~~ Gazette 3 Oct 2017 p. 5038.]

Subdivision 2 — Vessels in the port

[Heading inserted ~~in~~ Gazette 3 Oct 2017 p. 5038.]

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.

[Clause 5D inserted ~~in~~ Gazette 3 Oct 2017 p. 5038.]

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.

[Clause 5E inserted ~~in~~ Gazette 3 Oct 2017 p. 5038-9.]

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.

[Clause 5F inserted ~~in~~ Gazette 3 Oct 2017 p. 5039.]

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.

[Clause 5G inserted ~~in~~ Gazette 3 Oct 2017 p. 5039.]

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.

[Clause 5H inserted ~~in~~ Gazette 3 Oct 2017 p. 5039.]

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.

[Clause 5I inserted ~~in~~ Gazette 3 Oct 2017 p. 5039-40.]

Subdivision 3 — Control of moorings

[Heading inserted ~~in~~ Gazette 3 Oct 2017 p. 5040.]

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.

[Clause 5J inserted ~~in~~ Gazette 3 Oct 2017 p. 5040.]

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.

[Clause 5K inserted ~~in~~ Gazette 3 Oct 2017 p. 5040.]

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.

[Clause 5L inserted ~~in~~ Gazette 3 Oct 2017 p. 5040.]

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.

[Clause 5M inserted ~~in~~ Gazette 3 Oct 2017 p. 5041.]

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.

[Clause 5N inserted ~~in~~ Gazette 3 Oct 2017 p. 5041.]

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.

[Clause 5O inserted ~~in~~ Gazette 3 Oct 2017 p. 5041.]

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.

[Clause 5P inserted ~~in~~ Gazette 3 Oct 2017 p. 5042.]

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.

[Clause 5Q inserted ~~in~~ Gazette 3 Oct 2017 p. 5042.]

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.

[Clause 5R inserted ~~in~~ Gazette 3 Oct 2017 p. 5042-3.]

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.

[Clause 5S inserted ~~in~~ Gazette 3 Oct 2017 p. 5043.]

Subdivision 4 — Service provider's licences

[Heading inserted ~~in~~ Gazette 3 Oct 2017 p. 5043.]

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.

[Clause 5T inserted ~~in~~ Gazette 3 Oct 2017 p. 5043.]

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.

[Clause 5U inserted ~~in~~ Gazette 3 Oct 2017 p. 5043.]

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.

[Clause 5V inserted ~~in~~ Gazette 3 Oct 2017 p. 5043-4.]

Subdivision 5 — Goods

[Heading inserted ~~in~~ Gazette 3 Oct 2017 p. 5044.]

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.

[Clause 5W inserted ~~in~~ Gazette 3 Oct 2017 p. 5044.]

Subdivision 6 — Miscellaneous

[Heading inserted ~~in~~ Gazette 3 Oct 2017 p. 5045.]

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.

[Clause 5X inserted ~~in~~ Gazette 3 Oct 2017 p. 5045.]

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.

[Clause 5Y inserted ~~in~~ Gazette 3 Oct 2017 p. 5045.]

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.

[Clause 5Z inserted ~~in~~ Gazette 3 Oct 2017 p. 5045.]

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.

[Clause 5ZA inserted ~~in~~ Gazette 3 Oct 2017 p. 5045.]

Division 2 — Port of Broome

[Heading inserted ~~in~~ Gazette 20 Jun 2014 p. 2032.]

Subdivision 1 — General matters

6. Application of this Division

This Division applies to the Port of Broome and the Kimberley Ports Authority.

[Clause 6 inserted ~~in~~ Gazette 20 Jun 2014 p. 2032.]

7. Notice of arrival at port

- (1) The master of a vessel that is to enter the port is to notify the harbour master of the vessel's estimated time of arrival at the pilot boarding ground —
 - (a) 48 hours; and
 - (b) 24 hours; and
 - (c) 2 hours,before that time.
- (2) Subclause (1) does not apply to —
 - (a) a vessel of less than 500 gross registered tonnes that is used for commercial fishing; or
 - (b) a vessel that is not to be —
 - (i) berthed in the port; or
 - (ii) provided with any services by the port authority.

8. Notice of dangerous cargoes

- (1) When notifying the harbour master under clause 7(1)(a), the master of a vessel must also notify the harbour master of any explosives or dangerous goods that are —
 - (a) to be loaded on to, or unloaded from, the vessel at the port; or
 - (b) to be kept on board the vessel while it is in the port.
- (2) The master of a vessel who is required to notify the harbour master in relation to explosives or dangerous goods under subclause (1) must

also provide to the harbour master any information required by the harbour master about the explosives or dangerous goods.

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

Penalty: \$12 000.

- (4) In this clause —

dangerous goods means substances or articles prescribed to be dangerous goods under the *Explosives and Dangerous Goods Act 1961*⁵;

explosives means substances or articles prescribed to be explosives under the *Explosives and Dangerous Goods Act 1961*⁵.

9. Moored vessel not to move 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: \$5 000.

10. 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: \$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: \$5 000.

11. 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: \$12 000.

- (3) In subclause (1) —

commercial vessel means a vessel other than a private vessel.

12. Vessel moored in port to have at least one person on watch

- (1) The master of a vessel of more than 150 gross registered tonnes that is moored in the port must ensure that at all times there is at least one person on watch on the vessel.

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

Penalty: \$2 000.

Subdivision 2 — Control of moorings

13. 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 owner means a person authorised to install or use a mooring under clause 16.

14. Moorings not to be installed or used without authority

Unless authorised by the harbour master under clause 16, a person must not install or use a mooring.

Penalty: \$5 000.

15. 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.

16. Authorisation of mooring

- (1) On an application under clause 15, 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.

17. Revoking authorisation of mooring

- (1) The harbour master may revoke an authorisation under clause 16 if —

- (a) a mooring owner does not provide an inspection report as required under clause 20(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.

[Clause 17 amended ~~in~~ Gazette 2 Oct 2007 p. 4972.]

18. 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: \$2 000.

19. 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) has a colour approved by the harbour master; and
 - (c) is spherical and has a diameter of not less than 300 mm; and
 - (d) 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), (c) or (d) commits an offence.
Penalty: \$2 000.

20. Inspection reports for moorings

- (1) A person who is authorised to install a mooring under clause 16 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 16 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.

21. 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: \$2 000.

22. Removal of moorings

The harbour master may remove a mooring from the waters of the port if the harbour master is unable, after reasonable enquiries, to identify or find the mooring owner.

Subdivision 3 — Service providers' licences

23. Term used: service provider's licence

In this Subdivision —

service provider's licence means a licence issued under clause 25(2) to provide a towage service, pilot/line boat service, bunkering service (including pipeline), stevedoring service or mooring service in the port.

[Clause 23 amended ~~in~~ Gazette 12 Jun 2007 p. 2683.]

24. Unlicensed persons not to provide certain services

Subject to section 143(3) of the Act, a person must not provide a towage service, pilot/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 25(3).

Penalty: \$12 000.

[Clause 24 inserted ~~in~~ Gazette 12 Jun 2007 p. 2684.]

25. Service providers' 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, pilot/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: \$2 000.

[Clause 25 inserted ~~in~~ Gazette 12 Jun 2007 p. 2684-5.]

Subdivision 4 — Goods

26. Goods not to be placed on port facility etc. 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: \$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: \$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 less than 1 m from a mooring point, hose connection or electrical fixture.

Penalty: \$5 000.

[Clause 26 amended ~~in~~ Gazette 20 Jun 2014 p. 2032.]

Subdivision 5 — Things obstructing or interfering with operations of port

27. Things obstructing port operations, powers as to

- (1) If any container, trailer, equipment or other thing (an **obstruction**) in the port is, in the opinion of the port authority, obstructing or interfering with, or is likely to obstruct or interfere with, the efficiency of the operations of the port, the port authority may direct the owner of the obstruction to move it to a specified place in the port or to remove it from the port.
- (2) A person who does not comply with a direction under subclause (1) commits an offence.
Penalty: \$5 000.
- (3) If —
- (a) the obstruction is not moved in accordance with a direction under subclause (1); or
 - (b) the port authority is unable, after reasonable enquiries, to identify or find the owner of the obstruction,
- the port authority may move the obstruction and store it at any premises of the port authority.
- (4) The port authority may keep the obstruction until any expenses reasonably incurred by the port authority in connection with moving and storing it, and any port charges payable in relation to it, have been paid to the port authority.
- (5) The port authority is not liable for any loss incurred by the owner of an obstruction that results from moving or storing the obstruction under this clause.

Subdivision 6 — Miscellaneous

28. 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: \$12 000.

[Clause 28 amended ~~in~~ Gazette 20 Jun 2014 p. 2032.]

29. 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.

[Clause 29 inserted ~~in~~ Gazette 20 Jun 2014 p. 2032.]

Division 3 — Port of Bunbury

[Heading inserted ~~in~~ Gazette 20 Jun 2014 p. 2033.]

30. Application of this Division

This Division applies to the Port of Bunbury and the Southern Ports Authority.

[Clause 30 inserted ~~in~~ Gazette 19 Sep 2014 p. 3342.]

31. Term used: service provider's licence

In this Division —

service provider's licence means a licence issued under clause 34(2) to provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port.

32. Vessel in port to maintain contact with port authority

The master of a vessel, other than a private vessel, that enters the port is to inform the port authority of the vessel's movements while it is in the port by —

- (a) maintaining radio contact with the port authority; or
- (b) communicating with the port authority by another means approved by the port authority.

33. 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 34(3).

Penalty: \$12 000.

34. Service providers' 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: \$2 000.

[Clause 34 amended ~~in~~ Gazette 12 Jun 2007 p. 2685-6.]

Division 4 — Port of Ashburton and Port of Dampier

[Heading inserted ~~in~~ Gazette 20 Jun 2014 p. 2033.]

Subdivision 1 — Preliminary

35. Application of this Division

This Division applies to the Port of Ashburton, the Port of Dampier and the Pilbara Ports Authority.

[Clause 35 inserted ~~in~~ Gazette 20 Jun 2014 p. 2033.]

36. Terms used

In this Division —

commercial vessel means a vessel other than a private vessel;

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

International Code, in relation to a designated flag or signal, means the flag or signal so designated in the publication *International Code of Signals*, as amended from time to time and produced by the body known as the International Maritime Organization;

Iron Ore (Hamersley Range) Agreement has the same meaning as it has in Schedule 6 Division 1 to the Act;

pilotage exemption certificate means a pilotage exemption certificate issued under regulation 51.

[Clause 36 amended ~~in~~ Gazette 28 Jun 2013 p. 2765; 3 Oct 2017 p. 5046.]

Subdivision 2 — Vessels in the port

37. Radio watch to be kept by commercial vessels

- (1) For the purpose of receiving communications from the harbour master, the master of a commercial vessel must —
 - (a) when the vessel is approaching the port — maintain a listening watch on VHF Radio Channel 16 (156.8 kHz); or
 - (b) when the vessel is in the port — maintain a listening watch on VHF Radio Channel 11.
- (2) A person who does not comply with subclause (1) commits an offence.
Penalty: \$5 000.

[Clause 37 amended ~~in~~ Gazette 16 Sep 2016 p. 3944.]

38. Boating safety exclusion zone not to be entered without authority

- (1) In this clause —

boating safety exclusion zone means the areas shaded in red on the map bearing the logo of the Pilbara Ports Authority, or the Dampier Port Authority, and titled “Boating Safety Exclusion Zone” held at the offices of the Pilbara Ports Authority and accessible on the website of the Pilbara Ports Authority.

- (2) Unless authorised by the harbour master, the master of a vessel must not cause or permit the vessel to enter a boating safety exclusion zone in the port.

Penalty: a fine of \$5 000.

[Clause 38 inserted ~~in~~ Gazette 28 Jun 2013 p. 2765; amended ~~in~~ Gazette 20 Jun 2014 p. 2033.]

39. Master of vessel to produce certificates of tonnage and registry etc. 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: \$5 000.

40. Vessel moored to wharf, anchors of to be stowed

- (1) The master of a vessel that is moored to a wharf in the port must ensure that the vessel’s anchors are stowed in the hawse pipe.

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

Penalty: \$5 000.

41. Propellers of moored vessel not to be operated

- (1) Unless authorised by the harbour master, the master of a vessel that has a propeller must not cause or permit the propeller to be operated while the vessel is moored to a wharf in the port.

Penalty: \$5 000.

- (2) If the propeller of a vessel is authorised to be operated under subclause (1), the master of the vessel must ensure that no injury to any person or damage to any property is caused by that operation.

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

Penalty: \$12 000.

42. Commercial vessels not to be beached in the port

Unless authorised by the harbour master, the master of a commercial vessel must not cause or permit the vessel to be beached in the port.

Penalty: \$5 000.

43. 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: \$5 000.

44. Fire on vessel, duties of people on board

- (1) If there is a fire in or on a vessel in the port —

- (a) the master of the vessel must immediately notify the harbour master or, if the harbour master is unavailable, a member of staff of the port authority; and
- (b) a person on board the vessel or under the authority of the master of the vessel must help extinguish the fire or protect other vessels or property in the port if directed by the harbour master to do so.

- (2) A person who does not comply with —

- (a) subclause (1)(a); or

(b) a direction under subclause (1)(b),

commits an offence.

Penalty: \$12 000.

45. 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: \$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: \$5 000.

46. Ballast to be sufficient

- (1) The master of a vessel berthed at a wharf in the port must ensure that there is at all times enough cargo or ballast on board the vessel to keep it stable and capable of departing from the berth.

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

Penalty: \$5 000.

47. 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: \$12 000.

48. Fishing vessels, duties of masters of

- (1) 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.

Penalty: \$5 000.

- (2) 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.

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

Penalty: \$12 000.

- (4) 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.

Subdivision 3 — Control of moorings

49. 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 52.

[Clause 49 amended ~~in~~ Gazette 3 Oct 2017 p. 5046.]

50. Moorings not to be installed or used without authority

Unless authorised by the harbour master under clause 52, a person must not install or use a mooring.

Penalty: \$5 000.

51. 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.

52. Authorisation of mooring

- (1) On an application under clause 51, 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.

53. Revoking authorisation of mooring

- (1) The harbour master may revoke an authorisation under clause 52 if —
 - (a) a mooring owner does not provide an inspection report as required under clause 56(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 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.

[Clause 53 amended ~~in~~ Gazette 2 Oct 2007 p. 4972; 3 Oct 2017 p. 5046.]

54. 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: \$2 000.

55. 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.
- [(d) deleted]*
- (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.

[Clause 55 amended ~~in~~ Gazette 3 Oct 2017 p. 5046.]

56. Inspection reports for moorings

- (1) A person who is authorised to install a mooring under clause 52 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 52 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.

57. 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: \$2 000.

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.

[Clause 58 inserted ~~in~~ Gazette 3 Oct 2017 p. 5047.]

Subdivision 4 — Service providers' licences

59. Term used: service provider's licence

In this Subdivision —

service provider's licence means a licence issued under clause 61 to provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port.

[Clause 59 amended ~~in~~ Gazette 12 Jun 2007 p. 2686.]

60. 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 61(3).

Penalty: \$12 000.

[Clause 60 amended ~~in~~ Gazette 12 Jun 2007 p. 2686.]

61. Service providers' 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: \$2 000.

[Clause 61 amended ~~in~~ Gazette 12 Jun 2007 p. 2686-7.]

Subdivision 5 — Goods

62. Goods not to be placed on port facility etc. 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: \$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: \$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 less than 1 m from a mooring point, hose connection or electrical fixture.

Penalty: \$5 000.

[Clause 62 amended ~~in~~ Gazette 20 Jun 2014 p. 2033.]

Subdivision 6 — Miscellaneous

63. 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: \$12 000.

[Clause 63 amended ~~in~~ Gazette 20 Jun 2014 p. 2033.]

64. 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.

[Clause 64 inserted ~~in~~ Gazette 20 Jun 2014 p. 2033-4.]

Division 4A — Port of Esperance

[Heading inserted ~~in~~ Gazette 20 Jun 2014 p. 2034.]

64A. Application of this Division

This Division applies to the Port of Esperance and the Southern Ports Authority.

[Clause 64A inserted ~~in~~ Gazette 19 Sep 2014 p. 3343.]

64AA. Term used: service provider's licence

In this Division —

service provider's licence means a licence issued under clause 64F(2) to provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port.

[Clause 64AA inserted ~~in~~ Gazette 12 Jun 2007 p. 2687.]

64B. Fishing vessels not to berth at berth 1, 2 or 3 without authority

Unless authorised by the harbour master or an authorised member of staff of the port authority, the master of a fishing vessel must not berth the vessel at the main wharf of the port at berth 1, 2 or 3.

Penalty: \$2 000.

[Clause 64B inserted ~~in~~ Gazette 31 Jan 2003 p. 296.]

64C. Vessel not to be moored etc. without authority

Unless authorised in writing by the harbour master, a person must not moor, anchor, land or beach a vessel in the port.

Penalty: \$2 000.

[Clause 64C inserted ~~in~~ Gazette 31 Jan 2003 p. 296.]

64D. Fishing gear not to be put in port waters without authority

Unless authorised in writing by the harbour master, a person must not place a fishing net, pot or other fishing gear in the waters of the port.

Penalty: \$2 000.

[Clause 64D inserted ~~in~~ Gazette 31 Jan 2003 p. 296.]

64E. 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 64F(3).

Penalty: \$12 000.

[Clause 64E inserted ~~in~~ Gazette 12 Jun 2007 p. 2687-8.]

64F. Service providers' 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: \$2 000.

[Clause 64F inserted ~~in~~ Gazette 12 Jun 2007 p. 2688-9.]

Division 5 — Port of Fremantle

[Heading inserted ~~in~~ Gazette 20 Jun 2014 p. 2034.]

Subdivision 1 — General matters

65. Application of this Division

This Division applies to the Fremantle Port Authority and the Port of Fremantle.

66. Terms used

In this Division —

department means the department of the Public Service principally assisting the Minister in the administration of the Marine Act;

Inner Harbour means the area of the port the boundaries of which are delineated on Plan 19473, deposited with the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5;

Outer Harbour means the area of the port described in clause 72(4).

[Clause 66 amended ~~in~~ Gazette 4 Jun 2010 p. 2480; 20 Jun 2014 p. 2034.]

67. Signal station, position of

The signal station for the port is on the port authority's building located at latitude 32° 3' 20" south and longitude 115° 44' 23" east.

68. Inner Harbour Entrance Channel, duties of masters of small vessels entering

- (1) Before a small vessel enters the Inner Harbour Entrance Channel (the ***Entrance Channel***), the person in charge of the vessel is to make certain that there are no other vessels in or approaching the Entrance Channel.
- (2) If a small vessel and another vessel are approaching each other in the Entrance Channel, the person in charge of the small vessel must move the vessel —

- (a) as close as practicable to the side of the Entrance Channel on the starboard side of the small vessel; and
 - (b) so that the small vessel avoids the navigation beacons along the sides of the Entrance Channel; and
 - (c) at a speed slow enough to ensure that a safe distance is maintained from any diving operations or wharf maintenance operations that are taking place.
- (3) A person who does not comply with subclause (2)(a), (b) or (c) commits an offence.
Penalty: \$12 000.
- (4) In this clause —
small vessel means a vessel with a length overall of less than 25 m —
 - (a) that is used solely for private purposes, and not for hire or reward, and is not propelled solely by oars; or
 - (b) in respect of which a fishing boat licence is, or is required to be, in force under the *Fish Resources Management Regulations 1995*.

69. Notice of arrival at port

- (1) Subject to subclause (2), the master of a vessel that is to enter the port is to notify the harbour master of the estimated time of the vessel's arrival at the appropriate pilot boarding ground —
 - (a) 48 hours; and
 - (b) 24 hours; and
 - (c) 2 hours,before that time.
- (2) Subclause (1) does not apply to a vessel that is not to be —
 - (a) berthed in the port; or
 - (b) provided with any services by the port authority.
- (3) The appropriate pilot boarding ground for a vessel having a draft —

- (a) of 11 m or more is 3 nautical miles north west of the Fairway Buoy; or
- (b) of less than 11 m is, unless the harbour master otherwise directs the master of the vessel, one nautical mile west of the Hall Bank Beacon in Gage Roads.

70. Notice of dangerous cargoes

- (1) When notifying the harbour master under clause 69(1)(a), the master of a vessel must also notify the harbour master of any explosives or dangerous goods that are —
 - (a) to be loaded on to, or unloaded from, the vessel at the port; or
 - (b) to be kept on board the vessel while it is in the port.
- (2) The master of a vessel who is required to notify the harbour master in relation to explosives or dangerous goods under subclause (1) must also provide to the harbour master any information required by the harbour master about the explosives or dangerous goods.
- (3) A person who does not comply with subclause (1) or (2) commits an offence.
Penalty: \$12 000.
- (4) In this clause —
dangerous goods means substances or articles prescribed to be dangerous goods under the *Explosives and Dangerous Goods Act 1961*⁵;
explosives means substances or articles prescribed to be explosives under the *Explosives and Dangerous Goods Act 1961*⁵.

71. Where vessel is to be anchored on entering port

- (1) Subject to subclauses (2) and (3) and clause 72, the master of a vessel that enters the port is to anchor the vessel in Gage Roads, south of latitude 32° 01' south.
- (2) The master of a vessel must not anchor the vessel in the shipping route that extends on a bearing of 180° from Deepwater Channel to the area described in clause 72.
Penalty: \$5 000.

- (3) The port authority may authorise a vessel to be moved directly to its berthing place in the port without it first being anchored as required by subclause (1).
- (4) A vessel authorised to be moved under subclause (3) is not by virtue of that authorisation exempt from pilotage.

72. Vessels not to enter certain areas of port

- (1) Unless the vessel is being moved into or out of the Inner Harbour, the master of a vessel must not cause or permit the vessel to enter the area of the port to which subclause (2) applies.

Penalty: \$5 000.

- (2) This subclause applies to the area of the port bounded by lines starting from the light tower on the North Mole and extending on a bearing of $286\frac{1}{2}^{\circ}$ for 2.3 nautical miles; then on a bearing of 180° for 1.2 nautical miles; then on a bearing of $80\frac{1}{2}^{\circ}$ for 2.65 nautical miles to the light tower on the South Mole.

- (3) Unless authorised by the port authority, the master of a vessel must not cause or permit the vessel to enter the area of the Outer Harbour to which subclause (4) applies.

Penalty: \$5 000.

- (4) This subclause applies to the area of the Outer Harbour bounded by lines starting at the shoreline from

Position A Latitude $32^{\circ} 11.172' S$, Longitude $115^{\circ} 46.439' E$,
then in a westerly direction to

Position B Latitude $32^{\circ} 11.168' S$, Longitude $115^{\circ} 45.987' E$,
then in a south westerly direction to

Position C Latitude $32^{\circ} 13.333' S$, Longitude $115^{\circ} 44.855' E$,
then in a southerly direction to

Position D Latitude $32^{\circ} 15.000' S$, Longitude $115^{\circ} 44.833' E$,
then in an easterly direction to the shoreline to

Position E Latitude $32^{\circ} 15.000' S$, Longitude $115^{\circ} 45.310' E$

then in a northerly and north-easterly direction along the shoreline at the high water mark to return to

Position A Latitude 32° 11.172' S, Longitude 115° 46.439' E.

Subdivision 2 — Pilotage exemption certificates

73. Terms used

In this Subdivision —

AMSA means the Australian Maritime Safety Authority established under the *Australian Maritime Safety Authority Act 1990* of the Commonwealth;

in charge of a vessel means in charge of a vessel as the master or first mate.

74. Eligibility for pilotage exemption certificates

- (1) A person may apply to the harbour master of a port for a pilotage exemption certificate if in respect of the ~~person is entitled to reside permanently in Australia under an Act of the Commonwealth and the person complies with~~ port if —

(a) the person is —

(i) entitled to reside permanently in Australia under an Act of the Commonwealth; or

(ii) a New Zealand citizen who is entitled to reside and work in Australia under an Act of the Commonwealth;

and

(b) the person complies with —

(i) subclause (2); and

~~(b)~~ ii subclause (3) or (4).

- (2) A person complies with this subclause if the person holds —

(a) a certificate of competency under the Navigation Act or the Marine Act that authorises the person to command a vessel of each kind for which the pilotage exemption certificate is sought; or

[(b), (c) deleted]

- (d) a certificate of competency or other qualification recognised by AMSA as equivalent to a certificate of competency mentioned in paragraph (a).
- (3) A person complies with this subclause if, subject to clause 75(2), within 2 years before the date of the application the person has been the master of a vessel under the control of a pilot —
 - (a) on at least 4 occasions when the vessel was moved into the port; and
 - (b) on at least 4 occasions when the vessel was moved out of the port.
- (4) A person complies with this subclause if —
 - (a) subject to clause 75(2), within 2 years before the date of the application the person has been the first mate of a vessel under the control of a pilot —
 - (i) on at least 4 occasions when the vessel was moved into the port; and
 - (ii) on at least 4 occasions when the vessel was moved out of the port,and on each occasion remained on duty on the bridge of the vessel while it was being moved; and
 - (b) the person has a written statement, signed by the pilot or master of the vessel on each occasion referred to in paragraph (a), verifying that the person complied with the requirements of that paragraph on that occasion.

[Clause 74 amended ~~in~~; Gazette 18 Sep 2009 p. 3623; 5 Sep 2014 p. 3215; [11 May 2018 p. 1512](#).]

75. Applications for pilotage exemption certificates

- (1) An application for a pilotage exemption certificate is to be in the form approved by the harbour master and is to be accompanied by —
 - (a) the fee set out in item 1 of the Table to clause 93; and
 - (b) evidence that satisfies the harbour master that —
 - (i) the application is valid under subclause (2); and

- (ii) the applicant has complied with the provisions of clause 74 that apply to the applicant; and
 - (iii) the applicant meets the medical fitness requirements in *Marine Order 9 (Health — medical fitness) 2010*, given effect under the Navigation Act section 343(2); and
 - (iv) the applicant has complied with clause 76(3), if that provision applies to the applicant.
- (2) An application is valid under this subclause if at least one of the occasions referred to in clause 74(3) or 74(4)(a), as the case requires, was —
 - (a) if the application is for a pilotage exemption certificate that has effect in relation to the category of vessels to which clause 77(4)(a) or (b) applies — within 12 months before the date of the application; or
 - (b) if the application is for a pilotage exemption certificate that has effect in relation to the category of vessels to which clause 77(4)(c) or (d) applies — within 6 months before that date.

[Clause 75 amended ~~in~~ Gazette 5 Sep 2014 p. 3215.]

76. Issue of pilotage exemption certificates

- (1) The harbour master may issue a pilotage exemption certificate to an applicant who —
 - (a) applies in accordance with clause 75; and
 - (b) satisfies the harbour master —
 - (i) in an examination approved by the port authority, that the person has an adequate knowledge of those matters that the port authority considers relevant to the safe movement of vessels into, within and out of the port; and
 - (ii) in relation to any other matter that the port authority considers relevant to show that the person is competent and suitably qualified to move a vessel under the authority of a pilotage exemption certificate.

- (2) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subclause (1)(b) and clause 75(1)(b).
- (3) A person who fails the examination referred to in subclause (1)(b)(i) is not eligible to apply again under clause 75 until, after the examination, the person has been, as the case requires, the master or first mate of a vessel under the control of a pilot on at least one occasion when the vessel was moved —
 - (a) into or out of the port; or
 - (b) into or out of a particular area of the port in relation to which the person's knowledge was found to be deficient in the examination,as determined by the harbour master.

77. Vessels to which pilotage exemption certificates apply

- (1) When issuing a pilotage exemption certificate, the harbour master is to endorse a category of vessels on the certificate in accordance with subclause (3).
- (2) A pilotage exemption certificate has effect in relation to —
 - (a) vessels with a length overall appropriate to the category endorsed in accordance with subclause (3) or clause 79(2); and
 - (b) vessels with a length overall less than is appropriate to that category.
- (3) Subject to clause 79, the category of vessels that is to be endorsed on a pilotage exemption certificate is the category that the harbour master considers appropriate having regard to the length overall of the vessels of which the applicant for the certificate was master or first mate, as the case requires, for the purposes of complying with clause 74(3) or 74(4)(a).
- (4) The categories of vessels that apply for the purposes of this clause are —
 - (a) vessels with a length overall of less than 80 m; and
 - (b) vessels with a length overall of 80 m or more but less than 155 m; and

- (c) vessels with a length overall of 155 m or more but less than 215 m; and
- (d) vessels with a length overall of 215 m or more.

78. Pilotage exemption certificates have effect only during daylight hours unless otherwise endorsed

- (1) Unless a pilotage exemption certificate is endorsed under subclause (3), the certificate has effect only during the period from sunrise to sunset.
- (2) A person who holds a pilotage exemption certificate may apply to the harbour master, in a form approved by the harbour master, for the certificate to be endorsed to have effect at all times.
- (3) The harbour master is to endorse the certificate to have effect at all times if satisfied by evidence given with the application that the applicant complies with subclause (4).
- (4) An applicant complies with this subclause if, within 12 months before the date of the application, the applicant has been in charge of a vessel under the control of a pilot —
 - (a) on at least one occasion when the vessel was moved into the port; and
 - (b) on at least one occasion when the vessel was moved out of the port,

with the vessel on each occasion being moved during the period from sunset to sunrise.

- (5) If a pilotage exemption certificate is endorsed to have effect in relation to the category of vessels to which clause 77(4)(c) or (d) applies, the harbour master is not to endorse the certificate under subclause (3) unless satisfied that at least one of the occasions referred to in subclause (4) was within 6 months before the date of the application.

79. Endorsement of pilotage exemption certificates for longer vessels than certificate applies to

- (1) A person who holds a pilotage exemption certificate may apply to the harbour master, in a form approved by the harbour master, for the

certificate to be endorsed to have effect in relation to a category of vessels (the *application category*) with a length overall greater than is appropriate to the category of vessels in relation to which the certificate has effect at the time the application is made.

- (2) The harbour master is to endorse the certificate to have effect in relation to the application category if satisfied by evidence given with the application that the applicant complies with subclause (3).
- (3) An applicant complies with this subclause if, within 12 months before the date of the application, the applicant has been in charge of a vessel under the control of a pilot —
 - (a) on at least 2 occasions when the vessel was moved into the port; and
 - (b) on at least 2 occasions when the vessel was moved out of the port,

with the vessel on each occasion having a length overall appropriate to the application category.

- (4) If an application is made under subclause (1) to have a pilotage exemption certificate endorsed to have effect in relation to the category of vessels to which clause 77(4)(c) or (d) applies, the harbour master is not to endorse the certificate under subclause (2) unless satisfied that at least one of the occasions referred to in subclause (3) was within 6 months before the date of the application.

80. Validity and renewal of pilotage exemption certificates

- (1) A pilotage exemption certificate is valid for 2 years and expires at the end of that period unless it sooner —
 - (a) expires under clause 81; or
 - (b) is revoked under clause 84.
- (2) If a person who holds a pilotage exemption certificate (including a pilotage exemption certificate previously renewed under this subclause or revalidated under clause 82) applies to the harbour master, in a form approved by the harbour master —
 - (a) before the certificate expires; and

- (b) with evidence that satisfies the harbour master in relation to the applicant's medical fitness,

the harbour master may renew the certificate for a period that, in the discretion of the harbour master, does not exceed 2 years.

[Clause 80 amended ~~in~~ Gazette 5 Sep 2014 p. 3216.]

81. Expiry of pilotage exemption certificates

If a pilotage exemption certificate is endorsed to have effect in relation to the category of vessels to which —

- (a) clause 77(4)(a) or (b) applies, and the person who holds the certificate does not move a vessel under the authority of the certificate for 12 months; or
- (b) clause 77(4)(c) or (d) applies, and the person who holds the certificate does not move a vessel under the authority of the certificate for 6 months,

the certificate expires at the end of the period of 12 months or 6 months, as the case requires.

82. Revalidation of expired pilotage exemption certificates

- (1) A person whose pilotage exemption certificate expires under clause 80(1) or 81 may apply to the harbour master, in a form approved by the harbour master, to have the certificate revalidated if the application is made within 2 years after the applicant last moved a vessel under the authority of the expired certificate.
- (2) The harbour master is to revalidate the pilotage exemption certificate for a period that, in the discretion of the harbour master, does not exceed 2 years if satisfied by evidence given with the application that the applicant has applied in accordance with subclause (1) and complies with subclause (4).
- (3) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subclause (2).
- (4) An applicant complies with this subclause if the applicant —

- (a) has been in charge of a vessel, under the control of a pilot, with a length overall not less than is appropriate to the category of vessels to which the expired certificate applied, on at least one occasion when the vessel was moved into or out of the port —
 - (i) if the expired certificate had effect in relation to the category of vessels to which clause 77(4)(a) or (b) applies — within 12 months before the date of the application; or
 - (ii) if the expired certificate had effect in relation to the category of vessels to which clause 77(4)(c) or (d) applies — within 6 months before the date of the application;
 - and
 - (b) has an adequate knowledge of those matters that the port authority considers relevant to the safe movement of vessels into, within and out of the port.
- (5) A pilotage exemption certificate that is revalidated under this clause has the same effect as it did immediately before it expired.
- (6) A person whose pilotage exemption certificate expires and is not revalidated within the period referred to in subclause (1) may apply for a new pilotage exemption certificate under clause 75 if the person is eligible under clause 74.

83. Restrictions on pilotage exemption certificates

- (1) The harbour master may issue a pilotage exemption certificate that is endorsed to have effect —
- (a) in relation to all waters of the port or only in relation to a specified area or specified areas of the port;
 - (b) only in relation to a vessel with a draught that does not exceed the specified maximum draught.
- (2) A pilotage exemption certificate that is endorsed under subclause (1) has effect in accordance with that endorsement.

84. Revoking pilotage exemption certificates

- (1) The harbour master may, in the discretion of the harbour master, revoke a pilotage exemption certificate by written notice given to the person who holds the certificate.
- (2) A notice under subclause (1) has effect on the day on which the person who holds the pilotage exemption certificate is given the notice or on any later day specified in the notice.

85. Use of pilotage exemption certificates to be recorded

- (1) A person who holds a pilotage exemption certificate is to keep a written record of each occasion when the person moves a vessel under the authority of the certificate that specifies —
 - (a) the name and length overall of the vessel; and
 - (b) the date on which, and the areas of the port in which, the vessel was moved.
- (2) A person who holds a pilotage exemption certificate is to make available, on the request of the harbour master or an authorised member of staff of the port authority, the written record kept under subclause (1).

86. Compulsory pilotage areas, declaration of

- (1) The port authority may, by notice published in the *Gazette*, declare that an area of the port specified in the notice is a compulsory pilotage area.
- (2) A pilotage exemption certificate does not have effect in a compulsory pilotage area.
- (3) The port authority may, by notice published in the *Gazette*, revoke or amend a notice under subclause (1).

Subdivision 3 — Certificates of local knowledge

87. Eligibility for certificates of local knowledge

- (1) A person may apply for a certificate of local knowledge if the person complies with subclauses (2) and (4).

- (2) A person complies with this subclause if the person has been the master or first mate of a vessel of more than 150 gross registered tonnes —
 - (a) for at least 3 months during the 12 months before the date of the application; and
 - (b) on at least 4 occasions within those 3 months when the vessel was moved in the area or areas of the port in relation to which the application is to be made.
- (3) The reference in subclause (2) to a vessel of more than 150 gross registered tonnes includes, in relation to a vessel that does not have a recorded gross registered tonnage, a reference to a vessel with a length overall of more than 24 m.
- (4) A person complies with this subclause if on any of the occasions referred to in subclause (2)(b) when the person was, as the case requires —
 - (a) the master of the vessel — the person held at that time a Master Class 4 certificate of competency issued under the Marine Act, or a higher certificate of competency, and the vessel was under the control of a pilot; or
 - (b) the first mate of the vessel — the master of the vessel held at that time a certificate of local knowledge relating to the area or areas of the port in which the vessel was moved.

88. Application for certificates of local knowledge

An application for a certificate of local knowledge is to be made to the harbour master, in a form approved by the harbour master, and is to be accompanied by —

- (a) the fee set out in item 2 of the Table to clause 93; and
- (b) details of the area or areas of the port in relation to which the application is made; and
- (c) evidence that satisfies the harbour master that the applicant has complied with clause 87(2) and (4).

89. Issue of certificates of local knowledge

- (1) The harbour master may issue a certificate of local knowledge to an applicant who —
 - (a) applies in accordance with clause 88; and
 - (b) satisfies the harbour master, in an examination approved by the port authority, that the applicant —
 - (i) is capable of safely moving a vessel of more than 150 gross registered tonnes in the area or areas of the port in relation to which the application is made; and
 - (ii) has an adequate knowledge of those matters that the port authority considers relevant to the safe movement of vessels into, within and out of the port.
- (2) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subclause (1)(b) and clause 88(c).
- (3) A certificate of local knowledge issued by the harbour master is to be —
 - (a) endorsed to have effect in relation to a specified area or specified areas of the port; and
 - (b) signed by the harbour master.
- (4) A certificate of local knowledge that is endorsed under subclause (3)(a) has effect in accordance with that endorsement.

90. Validity and renewal of certificates of local knowledge

- (1) A certificate of local knowledge is valid for 2 years and expires at the end of that period unless it is sooner revoked under clause 91B.
- (2) If a person who holds a certificate of local knowledge (including a certificate of local knowledge previously renewed under this subclause or revalidated under clause 91A) applies to the harbour master, in a form approved by the harbour master —
 - (a) before the certificate expires; and
 - (b) with evidence that satisfies the harbour master that the person has moved a vessel under the authority of the certificate within 2 years before the application,

the harbour master may renew the certificate for a period that, in the discretion of the harbour master, does not exceed 2 years.

[Clause 90 inserted ~~in~~ Gazette 18 Sep 2009 p. 3623-4.]

91A. Revalidation of expired certificate of local knowledge

- (1) A person whose certificate of local knowledge expires under clause 90 may apply to the harbour master, in a form approved by the harbour master, to have the certificate revalidated if the application is made within 2 years of the expiry.
- (2) The harbour master is to revalidate the certificate of local knowledge for a period that, in the discretion of the harbour master, does not exceed 2 years if satisfied by evidence given with the application that the applicant has applied in accordance with subclause (1) and complies with subclause (4).
- (3) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subclause (2).
- (4) An applicant complies with this subclause if —
 - (a) the applicant has moved a vessel under the authority of a licence within 2 years of the application; or
 - (b) the applicant —
 - (i) is capable of safely moving a vessel of more than 150 gross registered tonnes in the area or areas of the port in relation to which the application is made; and
 - (ii) has an adequate knowledge of those matters that the port authority considers relevant to the safe movement of vessels into, within and out of the port.
- (5) A certificate of local knowledge that is revalidated under this clause has the same effect as it did immediately before it expired.
- (6) A person whose certificate of local knowledge expires and is not revalidated within the period referred to in subclause (1) may apply for a new certificate of local knowledge under clause 88 if the person is eligible under clause 87.

[Clause 91A inserted ~~in~~ Gazette 18 Sep 2009 p. 3624.]

91B. Revoking certificate of local knowledge

- (1) The harbour master may, in the discretion of the harbour master, revoke a certificate of local knowledge by written notice given to the person who holds the certificate.
- (2) A notice under subclause (1) has effect on the day on which the person who holds the certificate of local knowledge is given the notice or on any later day specified in the notice.

[Clause 91B inserted ~~in~~ Gazette 18 Sep 2009 p. 3624-5.]

91. Effect of certificates of local knowledge

- (1) A vessel may be moved under the authority of a certificate of local knowledge in the area or areas of the port in relation to which the certificate has effect if —
 - (a) the vessel is undergoing a trial conducted by or on behalf of the builder of the vessel in accordance with a permit issued by the chief executive officer of the department; or
 - (b) the vessel has a length overall of not more than 80 m and is a vessel that —
 - (i) plies between the port and Rottnest Island or between the port and Hillarys Boat Harbour; or
 - (ii) has entered the port from, or is leaving the port to move into, the Swan River.
- (2) A certificate of local knowledge does not have effect in a compulsory pilotage area declared under clause 86(1).

Subdivision 4 — Things obstructing or interfering with operations of port

92. Things obstructing etc. port operations, powers as to

- (1) If any container, trailer, equipment or other thing (an *obstruction*) in the port is, in the opinion of the port authority, obstructing or interfering with, or is likely to obstruct or interfere with, the efficiency of the operations of the port, the port authority may direct the owner of the obstruction to move it to a specified place in the port or to remove it from the port.

- (2) A person who does not comply with a direction under subclause (1) commits an offence.
Penalty: \$5 000.
- (3) If —
- (a) the obstruction is not moved in accordance with a direction under subclause (1); or
 - (b) the port authority is unable, after reasonable enquiries, to identify or find the owner of the obstruction,
- the port authority may move the obstruction and store it at any premises of the port authority.
- (4) The port authority may keep the obstruction until any expenses reasonably incurred by the port authority in connection with moving and storing it, and any port charges payable in relation to it, have been paid to the port authority.
- (5) The port authority is not liable for any loss incurred by the owner of an obstruction that results from moving or storing the obstruction under this clause.

Subdivision 5 — Fees and charges

93. Fees for pilotage exemption certificates and certificates of local knowledge

The application fees referred to in clauses 75(1)(a) and 88(a) are set out in the Table to this clause.

Table

1. Application for pilotage exemption certificate (clause 75(1)(a))	\$660
2. Application for certificate of local knowledge (clause 88(a))	\$55

Subdivision 6 — Licences

94. Terms used

In this Subdivision —

excavation licence means a licence to carry out excavation work on port land issued under clause 98;

excavation work means work that involves breaking or penetrating the ground surface;

service provider's licence means a licence issued under clause 96 to provide a service listed in clause 95(2) in the port.

[Clause 94 amended ~~in~~ Gazette 29 Jan 2013 p. 337.]

95. Unlicensed persons not to provide certain services

- (1) Subject to section 143(3) of the Act, a person must not provide in the port a service listed in subclause (2) 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 96(3).

Penalty: a fine of \$12 000.

- (2) For subclause (1), each of these services is listed —
- (a) a towage service;
 - (b) a line boat service;
 - (c) a bunkering service;
 - (d) a stevedoring service;
 - (e) a mooring service.

[Clause 95 inserted ~~in~~ Gazette 29 Jan 2013 p. 337.]

96. Service provider's licence

- (1) An application for a service provider's licence —
- (a) must be made to, and in the form approved by, the port authority; and
 - (b) must 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 a service listed in clause 95(2) 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 must 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.

Penalty for an offence under subclause (7): a fine of \$2 000.

[Clause 96 inserted ~~in~~ Gazette 29 Jan 2013 p. 337-8.]

97. Excavation work, excavation licence needed to provide

- (1) Subject to section 143(3) to the Act, a person must not carry out any excavation work on port land except —
 - (a) under the authority of an excavation licence issued by the port authority in relation to that excavation work; and
 - (b) in accordance with any conditions or restrictions to which the licence is subject under clause 98(6).

Penalty: \$12 000.

- (2) Subclause (1) does not limit the application of any other written law to the carrying out of excavation work on port land.

98. Excavation licences

- (1) An application for an excavation licence is to be made to, and in the form approved by, the port authority, and is to be accompanied by a fee of \$200.
- (2) If the port authority considers that it is appropriate to do so in relation to a particular application, the port authority may waive the fee referred to in subclause (1).
- (3) An applicant is to provide to the port authority any information or documents that the port authority reasonably requires to satisfy itself that there is appropriate public liability insurance in effect for the purposes of the excavation work proposed to be carried out under the authority of the excavation licence.
- (4) The port authority may refuse to consider an application for an excavation licence if the application is made less than 3 days before the excavation work proposed to be carried out under the licence is due to begin.
- (5) On an application under subclause (1) and payment of the fee referred to in that subclause (unless waived under subclause (2)), and if satisfied in relation to the matter referred to in subclause (3), the port authority may issue an excavation licence to the applicant.
- (6) An excavation licence has effect for 7 days or, if another period is set out in the licence, that other period, subject to any conditions or restrictions that the port authority imposes and sets out in the licence.
- (7) If the port authority considers that a condition or restriction to which an excavation 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.

- (8) An excavation 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 (7).
- (9) A notice under subclause (7) has effect on the day on which the person who holds the excavation licence is given the notice or on any later day specified in the notice.
- (10) A person whose excavation licence is suspended or cancelled by notice under subclause (7) 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.
- (11) A person who does not comply with subclause (10) commits an offence.
Penalty: \$2 000.

99. Protection from liability for port authority for licensed excavation work

The port authority is not liable for any damage or loss resulting from excavation work carried out under the authority of an excavation licence.

Subdivision 7 — Miscellaneous

100. No swimming outside designated areas without authority

Unless authorised by the port authority, a person must not swim in, or dive or jump into, the waters of the port except in an area designated by notices or signs erected by the port authority as an area where swimming is permitted.

Penalty: \$2 000.

101. Motor boats and water skiing in Inner Harbour, restrictions on

- (1) Unless authorised by the port authority, a person must not drive a motor boat at more than 8 knots or water ski in the Inner Harbour.

Penalty: \$2 000.

- (2) In subclause (1) —

motor boat means a vessel propelled otherwise than by oars or sail and includes a personal watercraft within the meaning of the *Navigable Waters Regulations 1958* ⁴;

water ski includes water ski using only the feet for support.

Division 6 — Port of Geraldton

[Heading inserted-~~in~~: Gazette 20 Jun 2014 p. 2034.]

102. Application of this Division

This Division applies to the Port of Geraldton and the Mid West Ports Authority.

[Clause 102 inserted-~~in~~: Gazette 20 Jun 2014 p. 2034.]

102A. Term used: service provider's licence

In this Division —

service provider's licence means a licence issued under clause 106B(2) to provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port.

[Clause 102A inserted-~~in~~: Gazette 12 Jun 2007 p. 2690.]

103. Fishing vessels berthing at Commercial Berth Harbour to maintain contact with port authority

- (1) The master of an Australian fishing vessel that enters the port to berth at the Commercial Berth Harbour is to inform the port authority of the vessel's movements while it is in the port by —
- (a) maintaining radio contact with the port authority; or
 - (b) communicating with the port authority by another means approved by the port authority.
- (2) Subclause (1) does not limit the operation of regulation 5 in relation to the Mid West Ports Authority and the Port of Geraldton.
- (3) In this clause —

Australian fishing vessel means a vessel used for commercial fishing that is an Australian boat within the meaning of the *Fisheries Management Act 1991* of the Commonwealth.

[Clause 103 amended ~~in~~ Gazette 20 Jun 2014 p. 2034.]

104. Vessel moored to have at least one person on watch

- (1) The master of a vessel of more than 150 gross registered tonnes that is moored in the port must ensure that at all times there is at least one person on watch on the vessel.
- (2) A person who does not comply with subclause (1) commits an offence.
Penalty: \$2 000.

105. Motor boats and water skiing, restrictions on

- (1) A person must not drive a motor boat at more than 8 knots or water ski in the port —
 - (a) unless authorised by the port authority —
 - (i) in any waters having a depth of less than 3 m; or
 - (ii) within 45 m of a river bank or low water mark;or
 - (b) in or through an area set aside for vessels to be moored; or
 - (c) within 45 m of a vessel that is under way; or
 - (d) within 45 m of —
 - (i) a moored vessel; or
 - (ii) a person in the water; or
 - (iii) a jetty or wharf;or
 - (e) through an arch of a bridge.Penalty: \$2 000.

- (2) In this clause and clause 106 —

motor boat means a vessel propelled otherwise than by oars or sail and includes a personal watercraft within the meaning of the *Navigable Waters Regulations 1958* ⁴;

water ski includes water ski using only the feet for support on the water.

106. Small vessels to leave channel and water ski area if other vessel sounds warning

- (1) If a vessel in, approaching or leaving Geraldton Harbour gives a warning consisting of 3 prolonged blasts of its foghorn, the master of a vessel with a length overall of less than 35 m (a **small vessel**) must, unless subclause (3) applies, ensure that —
- (a) the small vessel does not enter the channel or water ski area of Geraldton Harbour for at least 30 minutes after the warning is given; and
 - (b) if the small vessel is in the channel or water ski area of Geraldton Harbour when the warning is given — it leaves the channel or water ski area immediately.
- (2) A person who does not comply with subclause (1)(a) or (b) commits an offence.
Penalty: \$2 000.
- (3) This subclause applies if the master of a small vessel has been authorised by the harbour master for the purposes of this clause.
- (4) In this clause —
channel, Geraldton Harbour and **water ski area** are as indicated on Department of Transport Chart WA 939.

106A. 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 106B(3).

Penalty: \$12 000.

[Clause 106A inserted ~~in~~ Gazette 12 Jun 2007 p. 2690.]

106B. 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: \$2 000.

[Clause 106B inserted-~~in~~: Gazette 12 Jun 2007 p. 2690-1.]

Division 7 — Port of Port Hedland

[Heading inserted-~~in~~: Gazette 20 Jun 2014 p. 2034.]

107. Application of this Division

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

[Clause 107 inserted-~~in~~: Gazette 20 Jun 2014 p. 2034.]

107A. Term used: service provider's licence

In this Division —

service provider's licence means a licence issued under clause 110B(2) to provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port.

[Clause 107A inserted-~~in~~: Gazette 12 Jun 2007 p. 2692.]

108. Riding animals and driving etc. vehicles on wharves, restrictions on

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

Penalty: \$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.

109. Horse riding etc. prohibited in designated areas

A person must not ride a horse or any other animal in an area of the port designated by notices or signs erected by the port authority as an area where riding animals is not permitted.

Penalty: \$2 000.

110. Mooring and fishing in restricted area not permitted without authority

- (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.

- (2) In subclause (1) —

restricted area means the area defined by a line starting at a point situated approximately 100 m north of the Goldsworthy Mining Limited conveyor groyne and coincident with the high water mark on Finucane Island; then 498 m on a grid bearing of 124° 07' to a point situated on a line parallel to the wharf alignment and 60 m out from the dredged berth toe line; then 527.6 m on a grid bearing of 198° 43' to a point on that same alignment; then 138 m on a grid bearing of 229° 48' to a point coincident with the high water mark on the "UTAH" reclamation promontory on Finucane Island; and then generally north-westerly and north-easterly following the high water mark along the shore line of Finucane Island back to the starting point.

[Clause 110 amended ~~in~~ Gazette 3 Oct 2017 p. 5047.]

110A. 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 110B(3).

Penalty: \$12 000.

[Clause 110A inserted ~~in~~ Gazette 12 Jun 2007 p. 2692.]

110B. 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

Port Authorities Regulations 2001

Schedule 1 Provisions for particular ports and port authorities

Division 7 Port of Port Hedland

cl. 110B

(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: \$2 000.

[Clause 110B inserted ~~in~~ Gazette 12 Jun 2007 p. 2692-4.]

[Schedule 2 deleted ~~in~~ Gazette 20 Jun 2014 p. 2035.]

Schedule 3 — Prescribed offences and modified penalties

[r. 108 & 109]

Prescribed offence		Modified penalty
General		
[1.	<i>deleted</i>]	
1A.	Regulation 13(2): failing to comply with a direction of an authorised member of staff to leave or keep off wharf	\$200.00
1AA.	Regulation 71: placing or leaving dead animals or waste substances in a port	\$200.00
1B.	Regulation 72: interfering with port authority notice, sign or notice board.....	\$200.00
1C.	Regulation 73: unauthorised writing, painting or placing notices on port property	\$200.00
1D.	Regulation 76(2): failing to comply with reasonable direction of authorised member of staff	\$200.00
1E.	Regulation 77(1): unauthorised causing or permitting animal to enter, or remain in, a port	\$200.00
1F.	Regulation 78(1): being drunk or behaving in a disorderly manner.....	\$200.00
1G.	Regulation 83(1): unauthorised selling or supplying in a port	\$200.00
1H.	Regulation 83(2): unauthorised soliciting of business in a port	\$200.00
1I.	Regulation 90: unauthorised entry to closed area of port or closed port facility	\$200.00
1J.	Regulation 91(1): unauthorised fishing in designated area of a port	\$200.00
1JA.	Regulation 92(1): obstruction of navigable waters by fishing gear.....	\$200.00
1K.	Regulation 94(1): unauthorised camping in a port.....	\$200.00
2.	Regulation 103: failing to comply with a traffic sign	\$80.00

	Prescribed offence	Modified penalty
3.	Regulation 104(2): stopping a vehicle (other than an over-length vehicle) in a no-stopping area	\$40.00
4.	Regulation 104(2): stopping an over-length vehicle in a no-stopping area	\$80.00
5.	Regulation 105(3)(a): parking a vehicle (other than an over-length vehicle) in a parking area otherwise than in accordance with a notice, sign, etc.	\$40.00
6.	Regulation 105(3)(a): parking an over-length vehicle in a parking area otherwise than in accordance with a notice, sign, etc.	\$80.00
7.	Regulation 105(3)(b): parking a vehicle (other than an over-length vehicle) in a no-parking area	\$40.00
8.	Regulation 105(3)(b): parking an over-length vehicle in a no-parking area	\$80.00
8A.	Regulation 115(2): giving false name or address to, or failing to comply with direction of, an authorised officer ..	\$200.00
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

	Prescribed offence	Modified penalty
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
Port of Ashburton and Port of Dampier		
9.	Schedule 1 clause 38(2): vessel entering boating safety exclusion zone	\$200.00
10.	Schedule 1 clause 39(2): failing to produce on demand certificate of tonnage and certificate of registry etc.	\$200.00
11.	Schedule 1 clause 41(1): operating propeller of a vessel moored to a wharf	\$200.00
12.	Schedule 1 clause 45(1): unauthorised bunkering of a vessel.....	\$200.00
13.	Schedule 1 clause 45(3): failing to notify harbour master of beginning and end of bunkering	\$200.00
14.	Schedule 1 clause 47(2): failing to ensure a private vessel does not impede passage of commercial vessel or keeps safe distance from commercial vessel.....	\$500.00

	Prescribed offence	Modified penalty
15.	Schedule 1 clause 48(1): failing to ensure no fishing from a fishing vessel in a channel, fairway, etc.	\$500.00
16.	Schedule 1 clause 48(3): failing to ensure a fishing vessel does not impede passage of commercial vessel or keeps safe distance from commercial vessel.....	\$500.00
17.	Schedule 1 clause 50: unauthorised installation or use of mooring	\$500.00
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
18.	Schedule 1 clause 62(1): unauthorised placing of goods on port facility, port land, etc.	\$200.00
19.	Schedule 1 clause 62(2): unloading goods on to wharf, or placing goods on wharf, otherwise than where directed by harbour master.....	\$200.00
20.	Schedule 1 clause 62(3): unloading goods on to wharf, or placing goods on wharf, less than 1 m from mooring point, hose connection, etc.	\$200.00
21.	Schedule 1 clause 63(2): failing to report incident resulting in damage to port facility, vessel, navigational aid, etc.	\$200.00
Port of Esperance		
22.	Schedule 1 clause 64B: unauthorised berthing of fishing vessel at main wharf berth 1, 2 or 3	\$200.00
23.	Schedule 1 clause 64C: unauthorised mooring, anchoring, landing or beaching of vessel in port	\$200.00
24.	Schedule 1 clause 64D: unauthorised placing of fishing gear in waters of port.....	\$200.00
Port of Fremantle		
25.	Schedule 1 clause 100: unauthorised swimming in waters of port outside designated area.....	\$200.00
26.	Schedule 1 clause 101(1): unauthorised use of motor	

Prescribed offence	Modified penalty
boats, or water skiing, in Inner Harbour.....	\$200.00
<i>[Schedule 3 amended in: Gazette 31 Jan 2003 p. 298-9; 10 Dec 2004 p. 5916; 28 Jun 2013 p. 2766; 20 Jun 2014 p. 2035; 3 Oct 2017 p. 5047-8.]</i>	

Schedule 4 — Forms

[r. 111, 112]

Form 1

Port Authorities Act 1999

Infringement notice

Serial No

Date/...../.....

To: ⁽¹⁾

of: ⁽²⁾

It is alleged that on/...../..... at ⁽³⁾

at ⁽⁴⁾

you committed the following offence —

.....
.....
.....

contrary to regulation/Schedule 1 clause ⁽⁵⁾ of the *Port Authorities Regulations 2001*.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorised person ⁽⁶⁾

at ⁽⁷⁾

within a period of 28 days after the giving of this notice.

Name of authorised person giving the notice

Signature

- (1) Name of alleged offender
- (2) Address of alleged offender
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Regulation or clause designation
- (6) Description of authorised persons
- (7) Place where modified penalty may be paid

Form 2

Port Authorities Act 1999

Withdrawal of infringement notice

Serial No

Date/...../.....

To: ⁽¹⁾

of: ⁽²⁾

Infringement notice No. dated/...../..... for the alleged
offence of

.....

.....

has been withdrawn.

The modified penalty of \$

- * has been paid and a refund is enclosed.
- * has not been paid and should not be paid.
- * Delete as appropriate

Name and title of authorised person giving this notice

Signature

(1) Name of alleged offender given the infringement notice

(2) Address of alleged offender

=====

Notes

- ¹ This is a compilation of the *Port Authorities Regulations 2001* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Port Authorities Regulations 2001</i>	18 May 2001 p. 2417-545	1 Jun 2001 (see r. 2)
<i>Port Authorities Amendment Regulations 2002</i>	22 Mar 2002 p. 1655	22 Mar 2002
<i>Port Authorities Amendment Regulations 2003</i>	31 Jan 2003 p. 293-9	31 Jan 2003
<i>Port Authorities Amendment Regulations (No. 2) 2003</i>	27 Jun 2003 p. 2501	1 Jul 2003 (see r. 2)
<i>Port Authorities Amendment Regulations 2004</i>	13 Feb 2004 p. 545-6	14 Feb 2004 (see r. 2 and <i>Gazette</i> 13 Feb 2004 p. 537)
<i>Port Authorities Amendment Regulations (No. 2) 2004</i>	10 Dec 2004 p. 5915-16	10 Dec 2004
Reprint 1: The <i>Port Authorities Regulations 2001</i> as at 20 May 2005 (includes amendments listed above)		
<i>Port Authorities Amendment Regulations 2005</i>	26 Jul 2005 p. 3401-2	26 Jul 2005
<i>Port Authorities Amendment Regulations (No. 2) 2005</i>	30 Aug 2005 p. 4057-8	30 Aug 2005
<i>Port Authorities Amendment Regulations (No. 4) 2005</i>	16 Sep 2005 p. 4327-8	16 Sep 2005
<i>Port Authorities Amendment Regulations (No. 2) 2006</i>	29 Aug 2006 p. 3579-81	29 Aug 2006
<i>Port Authorities Amendment Regulations (No. 3) 2006</i>	29 Aug 2006 p. 3581-2	29 Aug 2006
Reprint 2: The <i>Port Authorities Regulations 2001</i> as at 10 Nov 2006 (includes amendments listed above)		
<i>Port Authorities Amendment Regulations 2007</i>	12 Jun 2007 p. 2679-94	12 Jun 2007
<i>Port Authorities Amendment Regulations (No. 4) 2007</i>	22 Jun 2007 p. 2849-50	r. 1 and 2: 22 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))

Citation	Gazettal	Commencement
<i>Port Authorities Amendment Regulations (No. 3) 2007</i>	22 Jun 2007 p. 2850-1	r. 1 and 2: 22 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 2) 2007</i>	22 Jun 2007 p. 2852	r. 1 and 2: 22 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 5) 2007</i>	2 Oct 2007 p. 4970-2	r. 1 and 2: 2 Oct 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 3 Oct 2007 (see r. 2(b))
Reprint 3: The Port Authorities Regulations 2001 as at 12 Oct 2007 (includes amendments listed above)		
<i>Port Authorities Amendment Regulations (No. 6) 2007</i>	30 Nov 2007 p. 5939-40	r. 1 and 2: 30 Nov 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Dec 2007 (see r. 2(b))
<i>Port Authorities Amendment Regulations 2008</i>	5 Sep 2008 p. 4139-40	r. 1 and 2: 5 Sep 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 6 Sep 2008 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 2) 2008</i>	31 Oct 2008 p. 4775	r. 1 and 2: 31 Oct 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Nov 2008 (see r. 2(b))
<i>Port Authorities Amendment Regulations 2009</i>	23 Jun 2009 p. 2485-9	r. 1 and 2: 23 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2009 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 2) 2009</i>	18 Sep 2009 p. 3623-5	r. 1 and 2: 18 Sep 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Sep 2009 (see r. 2(b))
Reprint 4: The Port Authorities Regulations 2001 as at 25 Sep 2009 (includes amendments listed above)		
<i>Port Authorities Amendment Regulations (No. 4) 2009</i>	16 Oct 2009 p. 4068	r. 1 and 2: 16 Oct 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 17 Oct 2009 (see r. 2(b))
<i>Port Authorities Amendment Regulations 2010</i>	4 Jun 2010 p. 2475	r. 1 and 2: 4 Jun 2010 (see r. 2(a));

Citation	Gazettal	Commencement
		Regulations other than r. 1 and 2: 5 Jun 2010 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 2) 2010</i>	4 Jun 2010 p. 2476-7	r. 1 and 2: 4 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2010 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 4) 2010</i>	4 Jun 2010 p. 2478-9	r. 1 and 2: 4 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2010 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 3) 2010</i>	4 Jun 2010 p. 2479-81	r. 1 and 2: 4 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2010 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 5) 2010</i>	4 Jun 2010 p. 2481-2	r. 1 and 2: 4 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2010 (see r. 2(b))
<i>Port Authorities Amendment Regulations 2011</i>	30 Jun 2011 p. 2623-6	r. 1 and 2: 30 Jun 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2011 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 2) 2011</i>	30 Jun 2011 p. 2627-8	r. 1 and 2: 30 Jun 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2011 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 4) 2011</i>	12 Aug 2011 p. 3244-5	r. 1 and 2: 12 Aug 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 13 Aug 2011 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 5) 2011</i>	20 Dec 2011 p. 5401	r. 1 and 2: 20 Dec 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Dec 2011 (see r. 2(b))
Reprint 5: The Port Authorities Regulations 2001 as at 6 Jan 2012 (includes amendments listed above)		
<i>Port Authorities Amendment Regulations 2012</i>	25 May 2012 p. 2209	r. 1 and 2: 25 May 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2012 (see r. 2(b))
<i>Port Authorities Amendment</i>	15 Jun 2012	r. 1 and 2: 15 Jun 2012 (see r. 2(a));

Citation	Gazettal	Commencement
<i>Regulations (No. 2) 2012</i>	p. 2520	Regulations other than r. 1 and 2: 1 Jul 2012 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 3) 2012</i>	24 Aug 2012 p. 3959-60	r. 1 and 2: 24 Aug 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Aug 2012 (see r. 2(b))
<i>Port Authorities Amendment (Fremantle) Regulations 2013</i>	29 Jan 2013 p. 336-8	r. 1 and 2: 29 Jan 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Jan 2013 (see r. 2(b))
<i>Port Authorities Amendment (Esperance Pilotage Fees) Regulations 2013</i>	29 Jan 2013 p. 338-40	r. 1 and 2: 29 Jan 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Jan 2013 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 2) 2013</i>	28 Jun 2013 p. 2765-6	r. 1 and 2: 28 Jun 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 29 Jun 2013 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 4) 2013</i>	12 Jul 2013 p. 3224-5	r. 1 and 2: 12 Jul 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 13 Jul 2013 (see r. 2(b))
<i>Port Authorities Amendment Regulations 2013</i>	13 Aug 2013 p. 3737-8	r. 1 and 2: 13 Aug 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 14 Aug 2013 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 2) 2014</i>	20 Jun 2014 p. 2029-35	r. 1 and 2: 20 Jun 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2014 (see r. 2(b)(i))
<i>Port Authorities Amendment Regulations (No. 4) 2014</i>	5 Sep 2014 p. 3214-16	r. 1 and 2: 5 Sep 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 6 Sep 2014 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 5) 2014</i>	19 Sep 2014 p. 3342-3	r. 1 and 2: 19 Sep 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Oct 2014 (see r. 2(b)(i))

Reprint 6: The Port Authorities Regulations 2001 as at 21 Nov 2014 (includes amendments listed above)

Citation	Gazettal	Commencement
<i>Port Authorities Amendment Regulations 2014</i>	8 Jan 2015 p. 61-3	r. 1 and 2: 8 Jan 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 27 Apr 2015 (see r. 2(b) and <i>Gazette</i> 17 Apr 2015 p. 1371)
<i>Transport Regulations Amendment (Vessel Pilotage) Regulations 2016 Pt. 2</i>	16 Sep 2016 p. 3943-5	Pt. 2 (other than r. 4(2)): 17 Sep 2016 (see r. 2(c)); r. 4(2): 17 Sep 2017 (see r. 2(b))
<i>Port Authorities Amendment Regulations 2017</i>	3 Oct 2017 p. 5037-48	r. 1 and 2: 3 Oct 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 4 Oct 2017 (see r. 2(b))
<i>Transport Regulations Amendment (Pilotage) Regulations 2018 Pt. 2</i>	11 May 2018 p. 1511-12	12 May 2018 (see r. 2(b))

- ² Under the *Financial Management (Transitional Provisions) Act 2006* Sch. 2 cl. 13 a reference to the Consolidated Fund may, where the context so requires, be read as if it had been amended to be a reference to the Consolidated Account. This reference was changed under the *Reprints Act 1984* s. 7(5)(a).
- ³ Repealed by the *Tobacco Products Control Act 2006*.
- ⁴ Formerly referred to the *Navigable Waters Regulations* the citation of which was changed to the *Navigable Waters Regulations 1958* by the *Navigable Waters Amendment Regulations (No. 2) 2005* r. 3. The reference was changed under the *Reprints Act 1984* s. 7(3)(gb).
- ⁵ Repealed by the *Dangerous Goods Safety Act 2004*.