



Western Australia

Marine Navigational Aids Act 1973

Compare between:

[29 Nov 2016, 01-b0-01] and [27 Feb 2019, 01-c0-02]

Marine Navigational Aids Act 1973

An Act relating to the establishment, maintenance and use of marine navigational aids.

1. Short title

This Act may be cited as the *Marine Navigational Aids Act 1973*⁺.

2. Interpretation

In this Act —

chief executive officer means the chief executive officer of the department;

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

marine navigational aid means a lighthouse, light ship, port light, buoy, beacon, signal, or other structure, mark, device or apparatus that is or is intended to be an aid to marine navigation, and includes a radio beacon or an electronic aid;

port authority means ~~the body a~~ port authority established under ~~an~~ the Port Authorities Act ~~of the Parliament of the State as the port authority in relation to a port or the approaches to that port~~ 1999.

[Section 2 amended: No. 47 of 1993 s. ~~25~~25; No. 2 of 2019 s. 37.]

3. Marine navigational aids

- (1) The ~~department~~[chief executive officer](#), and a port authority in relation to the [approaches to a port under its control and the approaches thereto](#)—[management](#) —
- (a) may, [subject to subsection \(1A\)](#), establish any marine navigational aid; [and](#)
 - (aa) may enter into an agreement with any person who has established or who proposes to establish a marine navigational aid providing for the transfer from that person of the control of that aid; [and](#)
 - (b) may add to, alter or remove any such aid; [and](#)
 - (c) may alter the character of any such aid; and
 - (d) shall maintain every such aid under its control.

[\(1A\) The chief executive officer cannot establish a navigational aid within the boundaries of a port under the control and management of a port authority without the agreement of that port authority.](#)

- (2) Any marine navigational aid established by the ~~department~~[chief executive officer](#) or a port authority before the commencement of this Act shall be deemed to have been established under this Act.
- (3) Where the ~~department~~[chief executive officer](#) or a port authority enters into an agreement pursuant to paragraph (aa) of subsection (1) —
- (a) any marine navigational aid to which the agreement applies shall be deemed to have been or to be established under this Act; and
 - (b) provision shall be made in the agreement for the payment from time to time of the expense incurred in the exercise of the powers conferred by paragraphs (b), (c) and (d) of that subsection.

[Section 3 amended: No. 66 of 1977 s. 2; No. 31 of 1980 s. ~~33~~; No. 2 of 2019 s. 38.]

3A. Fees payable in respect of fishing boats

- (1) Subject to subsection (2), there are payable to the department in respect of every fishing boat fees at such rates as are prescribed in respect of the provision of marine navigational aids outside any port under the control and management of a port authority and the approaches to that port.
- (2) Regulations prescribing fees payable under subsection (1) may provide that fishing boats of a specified class, or of specified classes, are exempt from the payment of those fees.
- (3) In this section —

fishing boat means a vessel licensed, or required to be licensed, by or under the *Fish Resources Management Act 1994* or the *Pearling Act 1990*.

[Section 3A inserted: No. 83 of 1978 s. 3; amended: No. 53 of 1994 s. 264; No. 2 of 2019 s. 39.]

4. Protection from actions

No civil action, claim or demand lies, or shall be commenced or allowed, by or in favour of any person against —

- (a) the State;
- (b) the Minister or the department;
- (c) a port authority;
- (d) any officer of the department or a port authority or other person acting in good faith for the purposes of this Act; or
- (e) where the control of the marine navigational aid is transferred to the department or a port authority under an agreement entered into pursuant to section 3(1)(aa), a person who is or was the owner, lessee or bailee of the marine navigational aid,

by reason of any act, matter or thing done or omitted to be done in good faith, but whether negligently or otherwise, in relation to, or by reason of any defect in, a marine navigational aid established or deemed to have been established under this Act or maintained under this Act.

[Section 4 amended: No. 30 of 1980 s. 2.]

5. Offence

- (1) A person who wilfully or negligently does anything which causes damage to or interferes with the operation of, or the use by a person of, a marine navigational aid established or deemed to have been established under this Act so as to hinder the effective operation, or use, of the aid commits an offence.

Penalty: ~~-\$200~~ for this subsection: a fine of \$12 000.

- (2) In addition to the penalty, a person convicted of an offence against subsection (1) may be ordered to pay the amount of the damage to the marine navigational aid caused by the commission of the offence, or the cost of repairing, replacing or reinstating the aid.

[Section 5 amended: No. 30 of 1980 s. ~~3~~3; No. 2 of 2019 s. 40.]

6. Delegation

- (1) The chief executive officer may delegate to an officer of the department any power or duty the chief executive officer has under another provision of this Act.

- (2) The delegation must be in writing signed by the chief executive officer.

- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.

- (4) A person exercising or performing a power or duty that has been delegated to the person under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

(5) Nothing in this section limits the ability of the chief executive officer to perform a function through an officer of the department or an agent.

[Section 6 inserted: No. 2 of 2019 s. 41.]

7. Regulations

(1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

(2) Without limiting subsection (1), the regulations may provide for the following —

(a) require a person to report the details of an incident that results in damage to a marine navigational aid;

(b) prohibit a person from attaching or fastening a vessel or any other thing to a marine navigational aid;

(c) require a person, when directed to do so by an inspector or an authorised person, to detach or unfasten a vessel or any other thing attached or fastened to a marine navigational aid;

(d) prohibit a person from using a vessel or any other thing in a way that might damage a marine navigational aid;

(e) provide that contravention of a regulation is an offence and, for an offence against the regulations, provide for a penalty not exceeding a fine of \$12 000;

(f) provide that a person convicted of an offence against the regulations may be ordered to pay the amount of the damage to a marine navigational aid caused by the commission of the offence, or the cost of repairing, replacing or reinstating the aid.

[Section 7 inserted: No. 2 of 2019 s. 41.]

Notes

[†] ~~_____~~ This is a compilation of the *Marine Navigational Aids Act 1973* and includes ~~the~~ amendments made by ~~the~~ other written laws ~~referred to in the following~~. [For provisions that have come into operation, and for information about any reprints, see the compilation table^{†*}](#). [For provisions that have not yet come into operation see the uncommenced provisions table.](#)

Compilation table

Short title	Number and year	Assent	Commencement
<i>Marine Navigational Aids Act 1973</i>	27 of 1973	6 Jun 1973	6 Jun 1973
<i>Marine Navigational Aids Act Amendment Act 1977</i>	66 of 1977	28 Nov 1977	28 Nov 1977
<i>Marine Navigational Aids Act Amendment Act 1978</i>	83 of 1978	27 Oct 1978	1 Jul 1985 (see s. 2 and <i>Gazette</i> 28 Jun 1985 p. 2292)
<i>Marine Navigational Aids Amendment Act 1980</i>	31 of 1980	28 Oct 1980	28 Oct 1980
<i>Acts Amendment (Department of Transport) Act 1993 Pt. 10</i>	47 of 1993	20 Dec 1993	1 Jan 1994 (see s. 2 and <i>Gazette</i> 31 Dec 1993 p. 6861)
<i>Fish Resources Management Act 1994</i> s. 264	53 of 1994	2 Nov 1994	1 Oct 1995 (see s. 2 and <i>Gazette</i> 29 Sep 1995 p. 4649)
Reprint of the <i>Marine Navigational Aids Act 1973</i> as at 31 May 2002 (includes amendments listed above)			
^{†*} _____ On the date as at which this compilation was prepared,			
Ports Legislation Amendment Act 2019 Pt. 5	2 of 2019	26 Feb 2019	27 Feb 2019 (see s. 2(b))

Uncommenced provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For

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To view the text of the [uncommenced provisions](#) see ~~the endnotes referred to in the table~~ [Acts as passed on the WA Legislation website](#).

~~Provisions that have not come into operation~~

Short title	Number and year	Assent	Commencement
<i>Aquatic Resources Management Act 2016</i> s. 368 ²	53 of 2016	29 Nov 2016	To be proclaimed (see s. 2(b))

² ~~On the date as at which this compilation was prepared, the *Aquatic Resources Management Act 2016* s. 368 had not come into operation. It reads as follows:~~

~~**368. Marine Navigational Aids Act 1973 amended**~~

~~(1) This section amends the *Marine Navigational Aids Act 1973*.~~

~~(2) In section 3A(3) in the definition of *fishing boat* delete “*Fish Resources Management Act 1994* or the *Pearling Act 1990*.” and insert:~~

~~*Aquatic Resources Management Act 2016*.~~