



Western Australia

Rottnest Island Regulations 1988

Compare between:

[08 Aug 2006, 02-b0-03] and [25 Jul 2007, 02-c0-01]

Rottnest Island Regulations 1988

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Rottnest Island Regulations 1988* ¹.

2. Commencement

These regulations shall come into operation on the day on which the *Rottnest Island Authority Act 1987* comes into operation ¹.

3. Terms used in these regulations

In these regulations, unless the contrary intention appears —

“**adequate insurance cover**”, in relation to a vessel, means adequate insurance cover of a kind specified by notice under regulation 72A(1);

“**annual admission payment**” means the annual payment in lieu of admission fees referred to in regulation 7;

“**approved**” means approved by the Authority;

“**bicycle**” means any two-wheeled vehicle that is designed to be propelled solely by human power;

“**certificate of registration**” means a certificate of registration issued under the *Navigable Waters Regulations*;

“declare” and **“declared”** mean declare or declared to, and in a manner approved by, the Authority;

“length”, in relation to a vessel, means —

- (a) in the case of a vessel that is registered under the *Navigable Waters Regulations* —
 - (i) the length of the vessel specified in the certificate of registration of that vessel; or
 - (ii) if the Authority is not satisfied as to the accuracy of that registered length, the length determined under paragraph (b);

and

- (b) in any other case, the distance from the fore part of the hull to the after part of the hull taken at the upperside of the uppermost weathertight deck or, in the case of an open vessel, at the height of the gunwale;

“mooring” means any gear (including an anchor or stake) set out on the seabed in a permanent manner to which a vessel or other floating structure may be secured by a chain, cable, wire or rope;

“mooring area” means each of the following —

Porpoise Bay, Thomson Bay, Geordie Bay, Longreach Bay, Catherine Bay, Stark Bay, Narrow Neck and Marjorie Bay;

“mooring site” means a mooring site recorded in the register;

“mooring site licence” means a licence granted under regulation 20;

“mooring site licensee” means a person who holds a mooring site licence;

“overall length”, in relation to a vessel, means the length of the vessel plus any bow sprit or marlin board;

“owner”, in relation to a vessel, or aircraft, referred to in regulation 5(3), 6, 7A, 7B, 7C or 7D, includes a charterer, lessee or bailee of the vessel or aircraft;

“permanent resident” means a person resident on the Island for the purpose of —

- (a) any business undertaking authorised by the Authority; or
 - (b) his employment on the Island,
- and includes a dependant of any such person;

“register” means the register referred to in regulation 25;

“rental licence” means a licence granted under regulation 15;

“rental mooring” means a mooring designated by the Authority as a rental mooring;

“use” in relation to a vehicle includes driving a vehicle and riding or pushing a bicycle;

“vehicle” has the meaning assigned to it by section 5(1) of the *Road Traffic Act 1974*;

“vessel” means any floating object capable of carrying a person but does not include —

- (a) surfboards;
- (b) windsurfing boards;
- (c) canoes;
- (d) surfskis; or
- (e) other non-motorized recreational flotations of a similar nature;

“waters of the Island” means the waters referred to in section 4(b) of the Act.

[Regulation 3 amended in Gazette 30 Dec 1994 p. 7347; 4 Jul 1997 p. 3510-11.]

4. General provision as to permissions

- (1) Where in these regulations provision is made whereby an act or activity shall not be done or carried on without permission the reference to permission is to the permission of the Authority.

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- (2) For the purposes of any such provision, the Authority may refuse permission or in the exercise of the power to grant permission may —
- (a) grant permission generally or for any specific instance;
 - (b) grant permission on and subject to such terms and conditions as it thinks fit including provision as to —
 - (i) the part of the Island to which the permission applies;
 - (ii) the class or description of persons to whom the permission extends; or
 - (iii) the payment of any fee or charge whether before the act or activity commences or otherwise,
- and the Authority may amend or revoke a permission which has been granted.
- (3) A permission shall be in writing and shall be obtained before the act is done or the activity is commenced.
- (4) Where a permission has been given to a person subject to any condition the permission shall be deemed, in any prosecution against that person, to have lapsed during any period when the condition was not observed or performed according to its tenor by that person.

Part 2 — Fees

[Heading inserted in Gazette 29 Jun 2004 p. 2546.]

5. Admission fees

- (1) Subject to subregulation (5), an admission fee set out in Schedule 7 is payable in respect of every person who enters within the limits of the Island.

[(2) repealed]

- (3) The admission fee is payable —
- (a) in the case of a passenger on a vessel or aircraft in which persons are usually carried for reward, by the owner of the vessel or aircraft in accordance with regulation 6; and
 - (b) in the case of any other person, by that person as soon as is practicable after he enters within the limits of the Island.

- (4) A person referred to in subregulation (3)(b) shall not fail or refuse to pay an admission fee payable by him under this regulation.

Penalty: \$500.

- (5) An admission fee is not payable in respect of a person —
- (a) who is under 4 years of age;
 - (b) who is a member of the Authority;
 - (c) who is a permanent resident on the Island;
 - (d) who is a member of the crew of a vessel or aircraft in which persons are carried to the Island for reward;
 - (e) who has paid an admission fee and has not returned to the mainland since that payment was made; or
 - (f) while he is on a vessel or aircraft that enters within the limits of the Island and leaves without being anchored or moored, or in the case of an aircraft without landing.

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- (6) The Authority may reduce, waive or refund, in whole or in part, an admission fee in circumstances it considers appropriate.

[Regulation 5 amended in Gazette 9 Nov 1990 p. 5589; 14 Jun 1991 p. 2914; 29 Oct 1993 p. 5928; 14 Dec 1993 p. 6667; 4 Jul 1997 p. 3511; 24 Apr 2003 p. 1272.]

6. Collection of admission fees by transport operators

- (1) Subject to regulations 7A, 7B and 7C, the owner of a vessel or aircraft in which persons are carried to the Island for reward shall —
- (a) collect the admission fee provided for by regulation 5, or cause it to be collected, from each passenger who travels in the vessel or aircraft before he enters within the limits of the Island; and
 - (b) remit the fees so collected to the Authority, together with a return or returns duly completed in such form or forms as the Authority may provide for the purpose —
 - (i) in the case of a vessel having a passenger capacity of up to 50 persons under the *Western Australian Marine Act 1982*, not later than 31 August in each year in respect of fees collected during the year that ended on the preceding 30 June; and
 - (ii) in any other case, no later than 7 days after the last day of each collection period, in respect of fees collected during that collection period.

Penalty: \$1 000.

- (1a) In subregulation (1)(b)(ii) —
“collection period” means a period of 7 days commencing on a Wednesday and ending on a Tuesday.

- (2) A person shall not pass to another person his ticket for travel to the Island on a vessel or aircraft with the intention of providing false evidence that the other person has paid an admission fee.

Penalty: \$300.

- (3) If the owner of a vessel or aircraft fails to remit to the Authority the amount of any admission fees collected or required to be collected by him under subregulation (1), the Authority may recover from him the amount that has not been remitted in a court of competent jurisdiction.

*[Regulation 6 amended in Gazette 30 Dec 1994 p. 7347;
24 Apr 2003 p. 1272.]*

6A. Audit of admission fees

- (1) The Authority may cause the accounts and records of admission fees collected by the owner of a vessel or aircraft who is required to remit admission fees under regulation 6(1)(b)(ii) to be audited.
- (2) An owner of a vessel or aircraft shall not —
- (a) refuse or fail to provide to the Authority, within the time specified by the Authority, accounts and records requested by the Authority for the purpose of an audit under subregulation (1); or
 - (b) hinder or obstruct the Authority in the conduct of an audit under subregulation (1).

Penalty: \$1 000.

[Regulation 6A inserted in Gazette 24 Apr 2003 p. 1272.]

7. Annual payment in lieu of admission fee

Where —

- (a) in respect of any vessel or aircraft (not being a vessel or aircraft in which persons are usually carried for reward) the relevant payment set out in Schedule 7 is paid in respect of any year, or part of a year, ending on 31 August following the payment; and

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- (b) an adhesive label issued by the Authority on receipt of that amount is exhibited on that vessel or aircraft in such a position as to be clearly visible from the exterior,

a person who is carried to the Island on that vessel or aircraft during that year is taken to have paid the admission fee required under regulation 5.

[Regulation 7² inserted in Gazette 4 Jul 1997 p. 3511.]

7A. Annual payment by fishing or diving charter operators in lieu of admission fees

- (1) If —

- (a) the owner of a vessel in which persons are carried to the Island for reward for the sole purpose of participating in recreational fishing, or recreational diving, from that vessel, pays to the Authority, subject to subregulation (3), the annual payment calculated in accordance with Schedule 5 —

- (i) in advance of and in respect of a financial year; and

- (ii) for the number of visits declared by the owner to be made by the vessel to the Island during that financial year;

and

- (b) an adhesive label issued by the Authority on receipt of the annual payment is exhibited on the vessel in such a position as to be clearly visible from the exterior,

a person who is carried to the Island on the vessel during that financial year for the sole purpose of participating in recreational fishing, or recreational diving, from that vessel shall be deemed to have paid the admission fee prescribed by regulation 5.

- (2) At the time when the owner of a vessel makes a declaration of the number of visits to be made to the Island under

subregulation (1)(a)(ii), the owner shall also declare the number of visits, if any, made by the vessel to the Island during the previous financial year.

- (3) If the number of visits made by a vessel to the Island during the previous financial year is different from the number declared by the owner in respect of that financial year, the Authority may make an appropriate adjustment to the annual payment that the owner is required to pay under subregulation (1)(a).

[Regulation 7A inserted in Gazette 14 Dec 1993 p. 6667-8; amended in Gazette 30 Dec 1994 p. 7347.]

7B. Aerodrome usage fees

- (1) Subject to regulations 7C and 7D, the owner of an aircraft in which persons are carried to the Island shall pay to the Authority, for each occasion when the aircraft lands at the Island, the aerodrome usage fee set out in Part 1 of Schedule 6 that applies to the maximum loaded weight and type of the aircraft.
- (2) If the owner of an aircraft pays the applicable aerodrome usage fee under subregulation (1) or annual payment under regulation 7C, a person who is carried to the Island in the aircraft shall be deemed to have paid the admission fee prescribed by regulation 5.

[Regulation 7B inserted in Gazette 30 Dec 1994 p. 7348.]

7C. Annual payment in lieu of aerodrome usage fees

- (1) Subject to regulation 7D, the owner of an aircraft in which persons are carried to the Island may pay to the Authority, instead of the aerodrome usage fee referred to in regulation 7B for each occasion when the aircraft lands at the Island, an annual payment —
- (a) in advance of and in respect of a financial year; and

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- (b) calculated by multiplying the amount set out in Part 2 of Schedule 6 that applies to the maximum loaded weight and type of the aircraft by the number of visits declared by the owner to be made by the aircraft to the Island during that financial year.
- (2) At the time when the owner of an aircraft makes a declaration of the number of visits to be made by the aircraft to the Island during a financial year, the owner shall also declare the number of visits, if any, made by the aircraft to the Island during the previous financial year.
- (3) If the number of visits made by an aircraft to the Island during the previous financial year is different from the number declared by the owner in respect of that financial year, the Authority may make an appropriate adjustment to the annual payment payable by the owner under subregulation (1).

[Regulation 7C inserted in Gazette 30 Dec 1994 p. 7348.]

7D. Regulations 7B and 7C not applicable to certain aircraft

- (1) Regulations 7B and 7C do not apply —
 - (a) in respect of an aircraft operated as part of a regular passenger transport service to the Island; or
 - (b) in respect of an aircraft, operated by an approved charter operator, in which persons are carried for reward from, and returned to, the Island without the aircraft having landed outside the limits of the Island.
- (2) The aerodrome usage fee, if any, payable by the owner of an aircraft referred to in subregulation (1) that lands at the Island is as determined from time to time by the Authority.

[Regulation 7D inserted in Gazette 30 Dec 1994 p. 7348; amended in Gazette 4 Jul 1997 p. 3512.]

7E. Main Ferry Jetty berthing fee

- (1) The owner of a vessel shall before berthing that vessel at the Main Ferry Jetty at Rottnest Island pay to the Authority the relevant berthing fee set out in Schedule 8 for berths at that jetty.
- (2) A person referred to in subregulation (1) who fails or refuses to pay a berthing fee payable by him under that subregulation commits an offence.

Penalty: \$1 000.

[Regulation 7E inserted in Gazette 29 Jun 2004 p. 2546.]

Part 3 — Residence on Island

8. Licence to occupy premises

- (1) The Authority may grant to a person a licence to occupy specified accommodation on the Island for a period specified in the licence.
- (2) The rent payable for a licence to occupy accommodation during any period shall be calculated at such rate as the Authority may from time to time determine for the occupation of that accommodation during that period.
- (3) A licence under subregulation (1) —
 - (a) may be granted subject to such conditions as the Authority thinks fit; and
 - (b) is not transferable and shall not vest by operation of law in any other person.
- (4) The Authority may, by notice in writing served on the licensee, forthwith cancel a licence if it is satisfied on reasonable grounds that the licensee has —
 - (a) failed to comply with a condition of the licence; or
 - (b) committed an offence against the Act or these regulations,or has permitted or suffered some other person to do any of those things.
- (5) The rent paid for a licence that is cancelled under subregulation (4) is not refundable, in whole or in part.
- (6) Part VII of the *Property Law Act 1969* does not apply to a licence granted under this regulation.
- (7) In this regulation and in regulations 9 and 10 “**accommodation**” includes a camping site in the camping ground on the Island.

9. Casual residence on the Island

- (1) A person shall not take up casual residence within the limits of the Island except —
- (a) as the guest of a permanent resident;
 - (b) as a guest at the Rottnest Lodge Resort or the Rottnest Island Hotel;
 - (c) in accommodation specified in a licence granted to him under regulation 8;
 - (d) with the consent of that other person, in accommodation specified in a licence granted under regulation 8 to some other person; or
 - (e) in a vessel that —
 - (i) is anchored; or
 - (ii) is secured to a rental mooring, or a mooring on a mooring site, and is authorised to be so secured under Division 2 or 3 of Part 4.

Penalty: \$1 000.

- (2) For the purposes of this regulation, a person, not being a permanent resident, is deemed to have taken up casual residence within the limits of the Island if he remains there between sunset and sunrise without apparent means of taking his departure.

[Regulation 9 amended in Gazette 4 Jul 1997 p. 3512.]

10. Cleanliness and damage to accommodation

- (1) Without limiting regulation 8(3)(a) it is condition of every licence granted under that regulation that the licensee —
- (a) shall keep the accommodation and its surrounds in a reasonable state of cleanliness;
 - (b) shall notify the Authority as soon as is practicable of any damage to the accommodation or its surrounds; and
 - (c) shall not intentionally or negligently cause or permit damage to the accommodation or its surrounds.

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- (2) In this regulation “**accommodation**” includes chattels provided with the accommodation.

Part 4 — Moorings

[Heading inserted in Gazette 4 Jul 1997 p. 3512.]

Division 1 — General control provisions

[Heading inserted in Gazette 4 Jul 1997 p. 3512.]

11. Use of moorings

- (1) A person shall not without permission —
- (a) install a mooring for a vessel in the waters of the Island;
or
 - (b) secure a vessel, or allow it to remain secured, to a mooring that is installed without such permission.

Penalty: \$1 000.

- (2) A person shall not secure a vessel, or allow it to remain secured, to a mooring in the waters of the Island unless —
- (a) the vessel is authorised under Division 2 or 3 to be secured to that mooring; and
 - (b) the vessel exhibits, so that it is clearly visible from the exterior of the vessel —
 - (i) an adhesive sticker issued for that vessel under Division 3; or
 - (ii) a rental licence specifying that vessel.

Penalty: \$500.

- (3) A person shall not secure a vessel, or allow it to remain secured, to —
- (a) a mooring to which a vessel is already secured; or
 - (b) a vessel that is secured to a mooring.

Penalty: \$500.

- (4) Subregulation (3) does not apply so as to prohibit a vessel with an overall length of up to 3.75 metres from being secured to another vessel.

[Regulation 11 inserted in Gazette 4 Jul 1997 p. 3512-13.]

12. Anchorages

- (1) A person shall not anchor a vessel, or allow it to remain anchored, unless the vessel lies in a position where —
- (a) no part of the vessel, or a vessel attached to it, is closer than 50 metres to any mooring; and
 - (b) the vessel, or a vessel attached to it, does not obstruct or interfere with access to a mooring.

Penalty: \$500.

- (2) Subregulation (1) does not apply in respect of a vessel that is required to anchor contrary to that subregulation to avoid or mitigate danger to human life or significant damage to property.

[Regulation 12 inserted in Gazette 4 Jul 1997 p. 3513.]

13. Competent operator

- (1) A person shall not anchor a vessel or secure it to a mooring, or allow it to remain so anchored or secured, unless a competent operator of the vessel —
- (a) is within the limits of the Island; and
 - (b) if the vessel remains so anchored or secured overnight, resides on the vessel or in casual residence on the Island under regulation 9.

Penalty: \$300.

- (2) In subregulation (1) —
- “competent operator”**, in relation to a vessel, means an individual who —
- (a) is over 18 years of age;
 - (b) is capable of operating the vessel; and
 - (c) has responsibility for the vessel.

[Regulation 13 inserted in Gazette 4 Jul 1997 p. 3513.]

14. Application to person on vessel

For the purposes of regulations 11, 12 and 13, a person who is on a vessel that is anchored, or secured to a mooring, is taken to allow it to remain so secured or anchored unless the person shows to the satisfaction of the Authority that —

- (a) the person does not have responsibility for the vessel;
and
- (b) another person is properly responsible for the vessel.

[Regulation 14 inserted in Gazette 4 Jul 1997 p. 3513; amended in Gazette 19 Jun 1998 p. 3302.]

Division 2 — Rental moorings

[Heading inserted in Gazette 4 Jul 1997 p. 3513.]

15. Licence to occupy rental mooring

- (1) The Authority may, on application under subregulation (2), grant to the applicant a licence for the use of a specified rental mooring by a specified vessel for a specified period.
- (2) An application shall be —
 - (a) made by an individual over the age of 18 years; and
 - (b) in an approved form that is duly completed.
- (3) A rental licence may be granted on such conditions as the Authority thinks fit.
- (4) A vessel is authorised to be secured to a rental mooring during any period if a rental licence for the use of that particular rental mooring by that vessel for that period is of effect.
- (5) A rental licence is not transferable.
- (6) In subregulation (1) —
“specified” means specified in the licence.

[Regulation 15 inserted in Gazette 4 Jul 1997 p. 3513-14.]

16. Rent

- (1) The rent payable for a rental licence during any period shall be calculated at such rate as the Authority may determine for use of that rental mooring during that period.
- (2) If a licensee cancels a rental licence before the rental period specified in the licence has commenced, the Authority —
 - (a) may retain from the rent as a cancellation fee —
 - (i) \$15 if the cancellation is more than 48 hours before the notice period specified in the licence; and
 - (ii) 50% of the rent if the cancellation is less than 48 hours before the notice period specified in the licence;
 - and
 - (b) shall refund or credit to the licensee the balance of the rent.
- (3) No rent is refundable or to be credited in respect of a licence cancelled under regulation 17 or cancelled after the rental period specified in the licence has commenced.

[Regulation 16 inserted in Gazette 4 Jul 1997 p. 3514.]

17. Cancellation by Authority

The Authority may, by written notice given to the licensee, cancel a rental licence if it is satisfied on reasonable grounds that the licensee has —

- (a) failed to comply with a condition of the licence; or
- (b) committed an offence under the Act or these regulations,

or caused or permitted another person to do any of those things.

[Regulation 17 inserted in Gazette 4 Jul 1997 p. 3514.]

18. Damage to mooring

- (1) If a rental mooring is damaged or destroyed (“**the loss**”) during the period of a rental licence granted in respect of that rental mooring, the cost of repair or replacement is a debt due to the Authority by the licensee and is recoverable in a court of competent jurisdiction unless the licensee can show that —
 - (a) the loss was caused by the act or omission of some other person; and
 - (b) the licensee could not have prevented the loss by the exercise of reasonable care.
- (2) For the purposes of subregulation (1), the loss is taken to have occurred during the period of the licence if —
 - (a) the mooring is found to be damaged or destroyed at the end of the rental period specified in the licence; and
 - (b) the licensee did not report the loss to the Authority at the commencement of the rental period.

[Regulation 18 inserted in Gazette 4 Jul 1997 p. 3514-15.]

Division 3 — Mooring site licences

[Heading inserted in Gazette 4 Jul 1997 p. 3515.]

19. Terms used in this Division

In this Division, unless the contrary intention appears —

“**additional vessel**” means a vessel authorised to be secured to a mooring under regulation 27;

“**authorised user**” means a person authorised under regulation 31 to occupy a mooring site;

“**authorised user’s vessel**” means a vessel authorised to be secured to a mooring under regulation 31;

“**licensed vessel**” means a vessel authorised to be secured to a mooring under regulation 26;

“mooring inspection report” means a report by a mooring contractor that —

- (a) is in an approved form;
- (b) certifies that a mooring on a mooring site inspected —
 - (i) complies with the approved mooring specifications; and
 - (ii) is suitable for the use of a vessel with specifications up to and including the specifications of the longest vessel registered, or proposed to be registered, in respect of that mooring site as a licensed vessel, additional vessel or authorised user’s vessel, at the date of the mooring inspection report;

and

- (c) is less than 12 months old;

“suitable vessel” means a vessel which —

- (a) has a length of at least 6.4 metres;
- (b) is a sailing vessel or has its own form of self propulsion capable of achieving a speed of 5 knots; and
- (c) has adequate insurance cover;

“waiting list” means the waiting list referred to in regulation 21(1)(a).

[Regulation 19 inserted in Gazette 4 Jul 1997 p. 3515; amended in Gazette 7 Dec 2001 p. 6188.]

20. Mooring site licence

- (1) Subject to section 13(3) of the Act and regulation 22, the Authority may, on application under subregulation (3), grant to the applicant a licence to occupy a specified mooring site.

- (2) A mooring site licence may be granted on such conditions as the Authority thinks fit.
- (3) An application shall —
- (a) be in an approved form that is duly completed;
 - (b) be made by a person —
 - (i) whose principal place of residence is in the State;
 - (ii) whose name appears on an electoral roll as an elector under the *Electoral Act 1907*;
 - (iii) who is named on the certificate of registration of the vessel nominated under paragraph (d) as the owner of that vessel, or who produces evidence of ownership satisfactory to the Authority;
 - (iv) who is the owner of at least 25% of the net worth of the vessel nominated under paragraph (d);
 - (v) who does not already have an application recorded on the waiting list; and
 - (vi) who does not hold another mooring site licence;
 - (c) be accompanied by the application fee set out in Schedule 7;
 - (d) nominate a suitable vessel which has not been nominated under any other application recorded on a waiting list and is not a licensed vessel or an additional vessel for any other mooring site; and
 - (e) nominate a mooring area.
- (4) The applicant shall supply such further information as the Authority may require.
- (5) An applicant may by written notice to the Authority amend any part of the application other than —
- (a) the date of the application;
 - (b) the name of the applicant; and
 - (c) the nominated mooring area.

- (6) If an application is withdrawn or amended, or the applicant's name is removed from the waiting list under subregulation (9) or (10), the Authority is not required to refund the application fee or any part of it.
- (7) The applicant shall give written notice to the Authority of any alteration to the particulars provided by the applicant in the application as soon as it is practicable to do so.
Penalty: \$300.
- (8) If the applicant's interest in a vessel nominated in the application is sold or disposed of, the applicant —
- (a) shall give written notice to the Authority of the sale or disposal, and the date of the sale or disposal, as soon as is practicable after that date; and
 - (b) may, by written notice given to the Authority, nominate another suitable vessel for the purposes of subregulation (3)(d) —
 - (i) in respect of which the applicant is named on the certificate of registration as the owner or in respect of which the applicant produces evidence of ownership satisfactory to the Authority; and
 - (ii) of which the applicant is the owner of at least 25% of the net worth.
- Penalty applicable to paragraph (a): \$300.
- (9) If an applicant who has given notice of the date of a sale or disposal under subregulation (8) does not nominate a vessel under subregulation (8)(b) within 6 months of that date, the Authority may remove the applicant's name from the waiting list without further notice.
- (10) The Authority may —
- (a) at any time by written notice require an applicant to confirm or update the particulars provided by the

- applicant in an application or to provide further particulars;
- (b) if an applicant fails to respond to a notice given to the applicant under paragraph (a) within the time specified in the notice, remove the applicant's name from the waiting list without further notice; and
 - (c) if the Authority is satisfied that an applicant listed on a waiting list, or a vessel nominated by that applicant, no longer meets the requirements of subregulation (3)(b) or (d), give notice to that effect to the applicant and remove the applicant's name from the waiting list.
- (11) To the extent permitted by law, Part VII of the *Property Law Act 1969* does not apply to a mooring site licence.
- [Regulation 20 inserted in Gazette 4 Jul 1997 p. 3515-17; amended in Gazette 19 Jun 1998 p. 3302.]*

21. Lists of applicants

- (1) The Authority shall —
- (a) maintain a waiting list specifying the particulars of applicants for mooring site licences in each mooring area; and
 - (b) on receipt of an application for a mooring site licence in a mooring area, place the applicant at the end of the waiting list for that mooring area.
- (2) A copy of —
- (a) each waiting list; and
 - (b) a list setting out the name of every applicant for a mooring site licence and the date of the application,
- shall be kept at the office of the Authority.
- (3) The Authority shall, on written request by an applicant, provide that applicant with a copy of his or her application particulars as set out in a waiting list.

- (4) The list referred to in subregulation (2)(b) shall be available for inspection by the public during office hours free of charge.

[Regulation 21 inserted in Gazette 4 Jul 1997 p. 3517.]

22. Offer of mooring site licence

- (1) If the Authority is satisfied that a mooring site is available for allocation in a mooring area the Authority shall, by written notice —
- (a) offer a mooring site licence in respect of the mooring site to the first applicant recorded at the time on the waiting list for that mooring area as having made an application that, having regard to the specifications of the vessel in the application, is appropriate for that mooring site; and
 - (b) give the applicant contact details of the previous licensee of the mooring site to allow the applicant, if he or she so wishes, to negotiate with that licensee for the purchase of the mooring on the mooring site to which the licence relates.
- (2) The Authority shall send the notice to the address specified in the application.
- (3) When accepting an offer, the applicant shall —
- (a) give the Authority written notice as to whether the applicant has, or has not, reached an agreement with the previous licensee to acquire the mooring; and
 - (b) pay to the Authority —
 - (i) the annual mooring site licence fee set out in Schedule 7; and
 - (ii) the annual admission payment in respect of the vessel to be licensed.
- (4) When —
- (a) the Authority is notified of acceptance of an offer;

- (b) the prescribed payments are made under subregulation (3);
- (c) the Authority has received evidence satisfactory to the Authority that the applicant has acquired the mooring on the mooring site or that the applicant does not intend to acquire the mooring; and
- (d) if the applicant has acquired the mooring, the Authority has received a mooring inspection report in respect of the mooring,

the Authority shall grant the mooring site licence to the applicant.

- (5) If, for any reason —
 - (a) the applicant does not accept the offer in accordance with its terms within 14 days of receiving notice of the offer, or such further time as the Authority may by written notice allow; or
 - (b) the applicant accepts the offer under paragraph (a) but the evidence referred to in subregulation (4)(c) and, if required, the mooring inspection report referred to in subregulation (4)(d) are not provided to the Authority within 28 days of receiving notice of the offer, or such further time as the Authority may by written notice allow,

then —

- (c) the offer lapses;
 - (d) the Authority shall remove the name of the applicant from the waiting list; and
 - (e) the Authority may make the offer to another applicant.
- (6) Nothing in subregulation (5) prevents an applicant from making a further application for a mooring site licence.

[Regulation 22 inserted in Gazette 4 Jul 1997 p. 3517-18; amended in Gazette 19 Jun 1998 p. 3303; 7 Dec 2001 p. 6188.]

23. Authority not obliged to offer licence

Nothing in these regulations imposes an obligation on the Authority to offer a mooring site licence in respect of a mooring site, and the Authority may deal with a mooring site in respect of which there is no licence in force as it thinks fit.

[Regulation 23 inserted in Gazette 4 Jul 1997 p. 3518.]

24. Mooring site licence

- (1) When a mooring site licence is granted, the Authority shall issue a licence to the licensee.
- (2) The licence shall specify —
 - (a) the licence number of the mooring site;
 - (b) the full name of the licensee;
 - (c) the name and registration number (if any) under the *Navigable Waters Regulations* of the licensed vessel; and
 - (d) such other particulars as the Authority determines.

[Regulation 24 inserted in Gazette 4 Jul 1997 p. 3519.]

25. Register

- (1) The Authority shall cause to be kept a register of mooring sites in such manner and form as the Authority determines.
- (2) The register shall specify in respect of each mooring site —
 - (a) its location and number;
 - (b) the particulars of the mooring site licensee (if any), including the full name, address, contact telephone numbers, date of birth and the particulars of the person nominated by the licensee to be contacted in an emergency;
 - (c) the particulars of the licensed vessel (if any) and any additional vessel, including any name of the vessel, any

registration number under the *Navigable Waters Regulations*, the owner or owners of the vessel, the length and overall length of the vessel, the weight in metric tonnes, the draft, the vessel type, the name of the vessel's insurers and the percentage of the licensee's interest in the net worth of the vessel;

- (d) the date of the last mooring inspection report provided to the Authority for the mooring site; and
 - (e) the particulars of any authorised users, and their vessels, as given to the Authority under regulation 31.
- (3) The mooring site licensee must give the Authority written notice of any alteration to the particulars referred to in subregulation (2)(b), (c) and (d) as soon as it is practicable to do so.
- Penalty: \$300.
- (4) The Authority shall, on written request by a mooring site licensee, provide that licensee with a copy of particulars of that mooring site as set out in the register.
- (5) A list setting out the number of every mooring site and the name of the mooring site licensee for that mooring site, shall be —
- (a) kept at the office of the Authority; and
 - (b) available for inspection by the public during office hours free of charge.

[Regulation 25 inserted in Gazette 4 Jul 1997 p. 3519; amended in Gazette 7 Dec 2001 p. 6188.]

26. Licensed vessels

- (1) A vessel is authorised to be secured to a mooring on a mooring site if it is recorded in the register, and on the mooring site licence, as the licensed vessel for that mooring site.
- (2) Only one vessel shall be recorded as a licensed vessel for any mooring site.

- (3) The Authority shall issue to each mooring site licensee an adhesive sticker designed to identify the licensed vessel for that mooring site.
- (4) A mooring site licensee may, by written notice to the Authority, request the Authority to —
- (a) delete the particulars of the licensed vessel from the register and licence; and
 - (b) substitute as a licensed vessel in the register and on the licence another suitable vessel nominated by the mooring site licensee —
 - (i) which is not a licensed vessel, an additional vessel for any other mooring site or a vessel nominated under any application recorded on a waiting list;
 - (ii) in respect of which the licensee is named on the certificate of registration as the owner, or in respect of which the licensee has produced evidence of ownership satisfactory to the Authority; and
 - (iii) of which the licensee is the owner of at least 25% of the net worth.
- (5) A notice referred to in subregulation (4) shall be accompanied by —
- (a) the mooring site licence;
 - (b) the sticker issued in respect of the licensed vessel;
 - (c) full particulars of the nominated vessel;
 - (d) certificates of insurance showing that the nominated vessel has adequate insurance cover; and
 - (e) if the nominated vessel has a length that is more than that of the longest vessel specified in the last mooring inspection report for the mooring, a fresh mooring inspection report certifying that the mooring is suitable

for the use of a vessel up to and including the specifications of the nominated vessel.

- (6) A mooring site licensee who sells or otherwise disposes of his or her interest in a licensed vessel —
- (a) shall give written notice of the sale or disposal, and the date of the sale or disposal, to the Authority as soon as is practicable after the sale or disposal; and
 - (b) may, within 6 months of the date of the sale or disposal, by written notice request the Authority to substitute as a licensed vessel in the register and on the licence another suitable vessel nominated by the licensee —
 - (i) in respect of which the licensee is named on the certificate of registration as the owner, or in respect of which the owner has produced evidence of ownership satisfactory to the Authority; and
 - (ii) of which the licensee is the owner of at least 25% of the net worth.

Penalty applicable to paragraph (a): \$300.

- (7) A notice referred to in subregulation (6)(a) shall be accompanied by —
- (a) the mooring site licence; and
 - (b) the sticker issued in respect of the licensed vessel.
- (8) A request referred to in subregulation (6)(b) shall be accompanied by —
- (a) full particulars of the nominated vessel;
 - (b) certificates of insurance showing that the nominated vessel has adequate insurance cover; and
 - (c) if the nominated vessel has a length that is more than that of the longest vessel specified in the last mooring inspection report for the mooring, a fresh mooring inspection report certifying that the mooring is suitable

for the use of a vessel up to and including the specifications of the nominated vessel.

- (9) If a notice is given in accordance with subregulations (4) and (5), or subregulations (6)(b) and (8), the Authority shall amend the licence and register as requested.
- (10) A mooring site licensee shall maintain any mooring on the mooring site, irrespective of whether or not there is a licensed vessel recorded on the register for that mooring site.

[Regulation 26 inserted in Gazette 4 Jul 1997 p. 3519-21.]

27. Additional vessels

- (1) A mooring site licensee may, by written notice given to the Authority, nominate vessels other than the licensed vessel to use the mooring site if —
 - (a) the mooring site licensee is named on the certificate of registration of each nominated vessel as the owner of that vessel, or produces evidence of ownership satisfactory to the Authority; and
 - (b) each nominated vessel has adequate insurance cover.
- (2) A vessel is authorised to be secured to a mooring on a mooring site if it is recorded in the register as being an additional vessel in respect of that mooring site.
- (3) A notice under subregulation (1) shall be accompanied by —
 - (a) the annual admission payment in respect of the nominated vessel;
 - (b) a copy of the nominated vessel's certificate of registration or, if the vessel does not have a certificate of registration, evidence of ownership of the vessel;
 - (c) a copy of insurance certificates showing that the nominated vessel has adequate insurance cover; and
 - (d) if the nominated vessel has a length that is more than that of the longest vessel specified in the last mooring inspection report for the mooring, a fresh mooring

inspection report certifying that the mooring is suitable for the use of a vessel up to and including the specifications of the nominated vessel.

- (4) If a notice is given in accordance with subregulations (1) and (3), the Authority shall —
 - (a) enter the details of the nominated vessel in the register; and
 - (b) issue to the mooring site licensee an adhesive sticker designed to identify the additional vessel as being so registered.
- (5) A mooring site licensee may, by written notice to the Authority accompanied by the relevant adhesive sticker, request the Authority to delete the particulars of an additional vessel from the register.
- (6) If particulars of an additional vessel are removed from the register pursuant to a request under subregulation (5), the Authority is not required to refund the annual admission payment or any portion of it.
- (7) A mooring site licensee may have more than one additional vessel registered in respect of a mooring site at any time.

[Regulation 27 inserted in Gazette 4 Jul 1997 p. 3521-2.]

28. Mooring and mooring inspection report

- (1) A mooring site licensee shall ensure that any mooring on the mooring site of the licensee complies at all times with the approved mooring specifications.
Penalty: \$500.
- (2) A mooring site licensee is responsible for any cost incurred by the mooring site licensee in ensuring that the mooring complies with the mooring specifications.

r. 28A

- (3) A mooring site licensee shall at all times have a mooring inspection report in respect of a mooring on the mooring site of the licensee.
Penalty: \$500.
- (4) A mooring site licensee shall give to the Authority a copy of any mooring site inspection report made for the licensee within 7 days of receiving the report.
Penalty: \$300.
- (5) A mooring site licensee shall not use a mooring on the mooring site of the licensee, or cause or permit the mooring to be used, unless a mooring inspection report in respect of the mooring has been provided to the Authority.
Penalty: \$500.

[Regulation 28 inserted in Gazette 4 Jul 1997 p. 3522.]

28A. Authority may reject mooring inspection report

- (1) The Authority may reject a mooring inspection report provided to the Authority by any person under these regulations, and require that person to provide another mooring inspection report.
- (2) A mooring inspection report that is rejected by the Authority is to be taken not to have been provided to the Authority for the purposes of these regulations.

[Regulation 28A inserted in Gazette 7 Dec 2001 p. 6189.]

29. Unattended vessels

- (1) A person shall not, without permission, cause or permit an unattended vessel to remain secured to a mooring on a mooring site for a period of longer than 24 hours.
- (2) The Authority may, if it is satisfied that a person has contravened subregulation (1), by written notice served on the mooring site licensee or, if the vessel is an authorised user's

vessel, the authorised user, direct that the vessel be removed from the mooring within the period specified in the notice.

- (3) A person on whom a notice is served under subregulation (2) shall comply with the notice.

Penalty: \$500.

- (4) If a notice served under subregulation (3) is not complied with, the Authority may take possession of the vessel and deal with it as if it were abandoned, and for that purpose the notice given under subregulation (3) is taken to be a notice given under regulation 74(2)(b).

[Regulation 29 inserted in Gazette 4 Jul 1997 p. 3522.]

30. Dealing with mooring site licence and mooring

- (1) A mooring site licence is a licence to occupy the mooring site specified in the licence and does not apply in respect of the mooring on that mooring site.
- (2) Rights conferred on a mooring site licensee under these regulations are not assignable and shall not pass by will or on intestacy or vest by operation of law in any person.
- (3) Nothing in subregulation (2) prohibits the sale or disposal, in accordance with these regulations, of a mooring.
- (4) Subject to subregulation (8), if a mooring site licence ceases to have effect, the person who was the mooring site licensee immediately before the licence ceased to have effect (or, if that person has died, his or her personal representative) (“**the previous licensee**”) shall —
- (a) remove the mooring; or
 - (b) dispose of the mooring to the person to whom the Authority has offered the mooring site licence.

Penalty: \$500.

- (5) The Authority may, by written notice given to the previous licensee, direct the previous licensee to comply with subregulation (4) within a time specified in the notice.
- (6) If a previous licensee does not comply with a direction given under subregulation (5), the Authority may take possession of the mooring and deal with it as if it were abandoned.
- (7) If the Authority determines on reasonable grounds that removing a mooring on a mooring site, or any part of the mooring, will have an adverse effect on the environment, the Authority may, by written notice given to the owner of the mooring and, if that person is not the owner, the mooring site licensee —
 - (a) notify those persons that the mooring, or any part of the mooring, may not be removed; and
 - (b) take possession of the mooring.
- (8) A mooring site licensee or owner of a mooring shall not remove, or cause to be removed, a mooring, or a part of a mooring, in respect of which a notice has been issued under subregulation (7).

Penalty: \$500.
- (9) No compensation is payable in respect of a mooring that is the subject of a notice under subregulation (7).
- (10) The Authority may, by written notice given to both mooring site licensees, approve the exchange of mooring sites between mooring site licensees if —
 - (a) the mooring sites are within the same mooring area; and
 - (b) both mooring site licensees have complied with the directions of the Authority in respect of the exchange.
- (11) If the Authority approves the exchange of mooring sites under subregulation (10), it shall cause the register to be amended accordingly.

[Regulation 30 inserted in Gazette 4 Jul 1997 p. 3522-3.]

31. Authorised users

- (1) A person other than a mooring site licensee may occupy a mooring site if —
 - (a) the mooring site licensee of the mooring site has authorised, in the approved form, that person to occupy the mooring site;
 - (b) the person so authorised has —
 - (i) given the authorisation to the Authority; and
 - (ii) by written notice given to the Authority, nominated a vessel that complies with subregulation (3) to use the mooring site;and
 - (c) particulars of the authorisation and nominated vessel are recorded in the register for that mooring site.
- (2) A vessel is authorised to be secured to a mooring on a mooring site if it is recorded in the register as being an authorised user's vessel for that mooring site.
- (3) A vessel complies with this subregulation if —
 - (a) the authorised person is named on the certificate of registration of the nominated vessel as the owner of that vessel or produces evidence of ownership satisfactory to the Authority; and
 - (b) the nominated vessel has adequate insurance cover.
- (4) An authorisation given to the Authority under subregulation (1)(b)(i) shall be accompanied by —
 - (a) the annual admission payment in respect of the authorised vessel;
 - (ab) the annual authorised user payment in respect of the authorised vessel set out in Schedule 7; and

- (b) if the nominated vessel has a length that is more than that of the longest vessel specified in the last mooring inspection report for the relevant mooring, a fresh mooring inspection report certifying that the mooring is suitable for the use of a vessel up to and including the specifications of the nominated vessel.
- (5) If an authorisation and notice of nominated vessel are given to the Authority in accordance with this regulation, the Authority shall —
 - (a) record the particulars of the authorisation and nominated vessel in the register; and
 - (b) issue to the authorised user an adhesive sticker designed to identify the authorised user's nominated vessel as the vessel so recorded in the register.
- (6) The Authority shall delete the particulars of an authorised user and authorised user's vessel from the register if —
 - (a) the mooring site licensee who gave the authorisation gives the Authority written notice that the licensee withdraws the authorisation; or
 - (b) the mooring site licence of the mooring site licensee who gave the authorisation ceases to have effect.
- (7) The Authority may delete the particulars of an authorised user and authorised user's vessel from the register if the authorised user —
 - (a) fails to comply with a direction under regulation 34(4); or
 - (b) fails to make an annual admission payment or annual authorised user payment in respect of the authorised user's vessel.
- (8) The Authority shall not delete particulars under subregulation (6)(a) or (7) until the Authority has given the authorised user written notice, sent to the address recorded on the register, that the particulars are to be deleted.

- (9) If the particulars of an authorisation and authorised user's vessel are deleted from the register, the Authority is not required to refund the annual admission payment, annual authorised user payment or any portion of them.

[Regulation 31 inserted in Gazette 4 Jul 1997 p. 3523-4; amended in Gazette 27 Jun 2003 p. 2407.]

32. Term of mooring site licence

- (1) Subject to these regulations, a mooring site licence has effect for a period expiring on 31 August next following the grant of the licence.
- (2) A mooring site licence ceases to have effect —
- (a) on the death of the mooring site licensee;
 - (b) upon receipt by the Authority of a written request from the mooring site licensee that the licence be cancelled;
 - (c) upon cancellation of the licence by the Authority under subregulation (3); and
 - (d) subject to regulation 33, upon the expiration of the licence.
- (3) The Authority may, by written notice served on a mooring site licensee, cancel or refuse to renew the mooring site licence of the licensee if —
- (a) the Authority is satisfied that —
 - (i) the mooring site licence was obtained by deception or fraud;
 - (ii) the mooring site licensee has committed an offence under the Act or these regulations, or caused or permitted another person to do so; or
 - (iii) the mooring site licensee has failed to comply with a condition of the mooring site licence or caused or permitted another person to do so;

- (b) the mooring site licensee has given notice under regulation 26(6) of the date of the sale or disposal of a licensed vessel and has not nominated a substitute vessel within 6 months of that date;
 - (c) the mooring site licensee has failed to comply with a notice under regulation 34;
 - (d) the mooring site licensee —
 - (i) does not have a mooring inspection report in respect of the mooring on the mooring site; or
 - (ii) has failed to provide the mooring inspection report to the Authority under regulation 28;
- or
- (e) the Authority considers that it is in the public interest or in the best interests of good management of the waters of the Island to do so.
- (4) If the Authority cancels or refuses to renew a mooring site licence under subregulation (3)(e), the Authority may, despite regulation 22(1)(a), offer under that regulation to the mooring site licensee another mooring site that is available for allocation.

[Regulation 32 inserted in Gazette 4 Jul 1997 p. 3524-5.]

33. Renewal of licence

- (1) The Authority may, on application by the licensee for renewal and subject to regulation 32(3), renew a mooring site licence from time to time for a period of 12 months.
- (2) A renewal of a licence takes effect from the day next succeeding the day of its expiry.
- (3) An application for renewal shall be —
 - (a) made by the mooring site licensee in the approved form within one month before, or within one month after, the expiry of the licence; and
 - (b) accompanied by —

- (i) the annual mooring site licence fee set out in Schedule 7; and
- (ii) the annual admission fee in respect of the licensed vessel and each additional vessel of the licensee.

[Regulation 33 inserted in Gazette 4 Jul 1997 p. 3525-6.]

34. Notices

- (1) The Authority may, if it satisfied that a mooring does not comply with the approved mooring specifications, by written notice served on the relevant mooring site licensee, direct that licensee to obtain a fresh mooring inspection report in respect of the mooring within the period specified in the notice and at the licensee's expense.
- (2) The Authority may give a direction under subregulation (1) notwithstanding that the mooring site licensee already has a mooring inspection report in respect of the mooring.
- (3) The Authority may, by written notice served on a mooring site licensee, direct the licensee to provide to the Authority, within the period specified in the notice, evidence satisfactory to the Authority that —
 - (a) the licensee meets all or any of the requirements of an applicant under regulation 20(3)(b);
 - (b) a licensed vessel of the licensee is a suitable vessel; or
 - (c) the licensee meets the ownership requirements of these regulations in respect of a licensed or additional vessel of the licensee.
- (4) The Authority may, by written notice served on an authorised user direct the authorised user to provide to the Authority, within the period specified in the notice, evidence satisfactory to the Authority that the authorised user's vessel complies with regulation 31(3).

[Regulation 34 inserted in Gazette 4 Jul 1997 p. 3526.]

35. Fees

The Authority may, on granting a mooring site licence, or on receiving an authorisation under regulation 31, allow a rebate (to be calculated on a pro rata basis) of any fee, annual admission payment or annual authorised user payment where the mooring site licence, annual admission payment or annual authorised user payment will be of effect for a period of less than 6 months.

[Regulation 35 inserted in Gazette 4 Jul 1997 p. 3526; amended in Gazette 27 Jun 2003 p. 2407.]

35A. Net worth of vessel

If there is a dispute as to the net worth of a vessel between the Authority and a person claiming to be the owner of at least 25% of the net worth of the vessel, the Authority shall accept an independent valuation by a valuer nominated by the President of the Institute of Valuers.

[Regulation 35A inserted in Gazette 4 Jul 1997 p. 3526.]

35B. Notices may be affixed to vessel, etc.

Without limiting sections 75 and 76 of the *Interpretation Act 1984*, a notice or direction may be given by the Authority under these regulations —

- (a) to a mooring site licensee by affixing it to the licensee's licensed or additional vessel; and
- (b) to an authorised user by affixing it to the authorised user's nominated vessel.

[Regulation 35B inserted in Gazette 4 Jul 1997 p. 3526.]

Division 4 — Transitional provisions

[Heading inserted in Gazette 14 Jul 1997 p. 3527 (Correction in Gazette 18 Jul 1997 p. 3782).]

- (a) any certificate of registration issued to the registered owner will cease to be in force on 1 September 1997; and
 - (b) if the registered owner is an eligible applicant, the registered owner or, if the registered owner is not a natural person, an eligible applicant nominated by or on behalf of the registered owner, may apply under regulation 20 for a mooring site licence to occupy one mooring site in respect of which that registered owner has an existing certificate of registration.
- (3) An application referred to in subregulation (2)(b) shall be made not later than 15 August 1997 or such later date as the Authority may by written notice, in any particular case, allow.
- (4) Despite any other provision of these regulations, on receiving —
- (a) an application that is made in accordance with subregulations (2)(b) and (3) and meets all of the requirements of regulation 20(3);
 - (b) the annual mooring site licence fee specified in Schedule 7; and
 - (c) the annual admission payment in respect of the vessel to be licensed,
- the Authority shall grant to the applicant a mooring site licence in respect of the mooring site nominated by the applicant.
- (5) A mooring site licence referred to in subregulation (4) comes into force on 1 September 1997.
- (6) This Part applies to and in respect of a mooring site licence granted under subregulation (4) as if the licence were granted under regulation 20.
- (7) If a registered owner in respect of a mooring site is not granted a mooring site licence under subregulation (4) in respect of that mooring site —

- (a) the Authority may offer another person a mooring site licence in respect of the mooring site under regulation 22; and
- (b) any references in regulations 22 and 30 to the previous licensee shall be taken to be references to the registered owner.

[Regulation 35D inserted in Gazette 4 Jul 1997 p. 3527-8.]

35E. Moorings in Little Armstrong Bay and Eagle Bay

- (1) The Authority may include in the register any mooring site in Little Armstrong Bay or Eagle Bay in respect of which immediately before commencement a registered owner holds a certificate of registration but shall not grant a mooring site licence in respect of that mooring site other than pursuant to an application referred to in subregulation (2).
- (2) A registered owner who —
 - (a) holds a certificate of registration in respect of a mooring site in Little Armstrong Bay or Eagle Bay immediately before commencement; and
 - (b) is an eligible applicant,may apply in accordance with regulations 20 and 35D(2) and (3) for a mooring site licence in respect of that mooring site.
- (3) A person granted a mooring site licence in respect of a mooring site in Little Armstrong Bay or Eagle Bay may, with the permission of the Authority and subject to such conditions as the Authority may impose, exchange that mooring site licence for a mooring site licence in respect of another mooring site that is available for allocation.
- (4) The Authority may allocate a mooring site under subregulation (3) despite regulation 22(1)(a).

[Regulation 35E inserted in Gazette 4 Jul 1997 p. 3528.]

35F. Waiting lists

- (1) Subject to subregulation (3), the Authority shall transfer, in the same order, entries on any waiting list maintained by it immediately before commencement to the waiting lists required to be maintained under regulation 21(1)(a).
- (2) The Authority shall, as soon as practicable after commencement, by written notice require each applicant on a waiting list immediately before commencement —
 - (a) to confirm or update the particulars provided by the applicant; and
 - (b) to provide such further particulars as the Authority may require, including the nomination of a single mooring area and the nomination of a suitable vessel,within the time specified in the notice.
- (3) The Authority may remove an applicant's name from the waiting list if —
 - (a) the applicant fails to respond to a notice given to the applicant under subregulation (2) within the time specified in the notice;
 - (b) the applicant does not meet all of the requirements of an applicant under regulation 20(3)(b); or
 - (c) the applicant does not nominate a vessel that meets all of the requirements of a vessel nominated under regulation 20(3)(d).

[Regulation 35F inserted in Gazette 4 Jul 1997 p. 3528-9.]

35G. Moorings in Porpoise Bay — waiting list

Despite regulation 20(3)(b)(vi), a person who —

- (a) was the registered owner of a mooring site in Porpoise Bay immediately before commencement;
- (b) is granted a mooring licence in respect of that mooring site pursuant to an application under regulation 35D; and

- (c) was listed on a waiting list as an applicant for a mooring site in another mooring area immediately before commencement,

shall not be removed from the waiting list by reason only of holding a mooring site licence.

[Regulation 35G inserted in Gazette 4 Jul 1997 p. 3529.]

Part 5 — General management

Division 1 — Control and regulation of access

36. Restricted areas etc.

- (1) A person shall not, without permission —
 - (a) be in an area of the Island specified in Schedule 2 (in this regulation called a “**restricted area**”);
 - (b) be in a protected area for the time being set aside under subregulation (3); or
 - (c) use a track or path that is for the time being closed under subregulation (4).

Penalty: \$500.

- (2) The powers in subregulations (3) and (4) may only be exercised for the purpose of protecting or repairing the natural environment, fauna or flora or man-made resources of the Island.
- (3) The Authority may by the erection or establishment of signs and fencing set aside an area as a protected area for the purposes of this regulation.
- (4) The Authority may by the erection or establishment of signs close a track or path to pedestrians or vehicles or to both.
- (5) Sufficient signs shall be erected and maintained by the Authority in or in the vicinity of a restricted area, a protected area or a track or path that is closed under this regulation indicating that entry to that area or use of that track or path, as the case may be, is prohibited without permission.
- (6) The inscription on a sign erected under this regulation operates according to its tenor.
- (7) It is a defence to a charge of an offence under subregulation (1) for a person to show that entry to a restricted area or a protected

area or use of a track or path without permission was necessary to prevent or mitigate injury to a person or damage to property.

[Regulation 36 amended in Gazette 9 Nov 1990 p. 5590.]

Division 1A — Vessels

[Heading inserted in Gazette 4 Jul 1997 p. 3529.]

36A. Anchoring of vessels

A person shall not —

- (a) secure a vessel to a fence or other land-based structure that is not designed principally for the purpose of securing vessels; or
- (b) use any apparatus as a beach anchor unless that apparatus is designed principally for use as a beach anchor.

Penalty: \$500.

[Regulation 36A inserted in Gazette 4 Jul 1997 p. 3529.]

37. Beaching of boats

- (1) A person shall not, without permission —

- (a) beach a vessel; or
- (b) anchor a vessel by placing the anchor on a beach,

in Thomson Bay, Longreach Bay or Geordie Bay, during any period when there is a permitted area in that Bay, except in such a permitted area.

Penalty: \$500.

- (2) In subregulation (1) —

- (a) in paragraph (b) “**beach**” includes any part of the foreshore that is above the low water mark whether it is covered by water or not; and

- (b) **“permitted area”** means an area that is between 2 signs for the time being, erected or established by the Authority and inscribed with words indicating that the beaching or beach-anchoring of vessels is permitted and each having an arrow pointing generally towards the other sign.
- (3) The Authority may, if it is satisfied that a vessel is beached or anchored in contravention of subregulation (1), direct the owner or person in charge, or apparently in charge, or a user of the vessel to remove immediately the vessel from the place where it is beached or anchored.
- (4) A person given a direction under subregulation (3) shall comply with the direction.
Penalty: \$500.
- (5) If —
- (a) a person to whom a direction is given under subregulation (3) fails to comply with the direction; or
 - (b) a vessel beached or anchored in contravention of subregulation (1) is unattended,
- the Authority may —
- (c) cause the vessel to be removed to a place where the beaching or beach anchoring of vessels is permitted; or
 - (d) take possession of the vessel and deal with it as if the vessel were abandoned and, for that purpose, if the direction under subregulation (3) is given in writing, that direction shall be taken to be a notice given under regulation 74(2)(b).

[Regulation 37 amended in Gazette 4 Jul 1997 p. 3529-30.]

38. Boats on lakes

A person shall not, without permission, have or use a boat on any lake on the Island.

Penalty: \$300.

38A. Speed restrictions — vessels

- (1) The Authority may, by notice published in the *Gazette*, limit the speed of any specified class or classes of vessel in any area of the waters of the Island defined in the notice.
- (2) The Authority may vary or cancel a notice under this regulation.
- (3) A person shall not drive a vessel in an area defined in a notice under subregulation (1) at a speed exceeding the limit specified for a vessel of that class in the notice.

Penalty: \$1 000.

[Regulation 38A inserted in Gazette 4 Jul 1997 p. 3530.]

38B. Restricted areas for certain vessels

- (1) The Authority may, by notice published in the *Gazette*, define and set aside, and impose conditions on the use of, any area of the waters of the Island for the purposes of vessels of a class or classes specified in the notice.
- (2) The Authority may vary or cancel a notice under this regulation.
- (3) A person shall not use a vessel of a class specified in a notice under subregulation (1) except —
 - (a) in the area set aside under the notice for that purpose;
and
 - (b) in accordance with the conditions specified in the notice.

Penalty: \$1 000.

[Regulation 38B inserted in Gazette 4 Jul 1997 p. 3530-1.]

38C. Sullage from vessels

- (1) In this regulation —
“liquid waste” means faecal matter or urine and any waste composed wholly or in part of liquid;

“**sullage**” means liquid waste from bathrooms, laundries and galleys including floor waste from those sources.

- (2) A person shall not discharge or deposit within the limits of the Island any sullage from a vessel other than by means of an approved treatment system.

Penalty: \$1 000.

[Regulation 38C inserted in Gazette 4 Jul 1997 p. 3531.]

Division 2 — Protection of flora, fauna, etc.

39. Protection of flora

- (1) A person shall not without permission or under the authority of a written law injure, destroy or take any flora living or dead within the limits of the Island or remove any stake supporting, or any label on or near, any such flora.

Penalty: \$1 000.

- (2) In subregulation (1) —

- (a) “**flora**” means any form of plant life, and any part or seeds or spores of such flora;
- (b) “**take**” includes gather, pluck, cut, pull up and dig up.

40. Protection of fauna

- (1) A person shall not without permission or under the authority of a written law —

- (a) interfere with, take or destroy any fauna within the limits of the Island; or
- (b) interfere with or destroy any nest, spawning ground or habitat of any such fauna.

Penalty: \$1 000.

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

- (a) the taking of fish in accordance with the *Fisheries Act 1905*³; or

(b) the removal or destruction of feral or stray animals or birds.

(3) In this regulation —

“**fauna**” means any living thing that is not a human being or a plant and includes the eggs and immature stages of fauna; and

“**fish**” means any marine or fresh water fish or crustacean or any other form of marine animal life.

41. No animal or bird to be landed on island

(1) A person shall not without permission cause or allow any animal or bird to enter within the limits of the Island.

Penalty: \$1 000

(2) Nothing in this regulation applies to fauna that is indigenous to the Island, whether seasonally or otherwise.

(3) A ranger may take and destroy any animal or bird that he believes to be within the limits of the Island as a result of a contravention of this regulation.

41A. Feeding of fauna

(1) The Authority may by resolution determine that the feeding of fauna of a kind specified in the resolution is prohibited within the limits of the Island.

(2) A person shall not feed fauna in respect of which a resolution has been made under subregulation (1) within the limits of the Island if the Authority has —

(a) erected signs on the Island notifying the public that feeding fauna of that kind is prohibited; or

(b) otherwise notified that person that the feeding of fauna of that kind is prohibited.

Penalty: \$500.

[Regulation 41A inserted in Gazette 4 Jul 1997 p. 3531.]

42. Protection of rocks, soil, etc.

- (1) A person shall not without permission cause damage to the Island by —
 - (a) removing, damaging, interfering with, or marking any rock; or
 - (b) removing or displacing any soil,within the limits of the Island.
Penalty: \$500.
- (2) Nothing in subregulation (1) applies to things done in the reasonable use and enjoyment of the Island.

Division 3 — Vehicles

43. Application of *Road Traffic Act 1974*

- (1) For the avoidance of doubt it is declared that —
 - (a) roads on the Island are roads within the meaning of the *Road Traffic Act 1974*; and
 - (b) that Act applies on the Island, subject to these regulations and so far as the circumstances will allow, in the same way as it applies in other parts of the State.
- (2) Nothing in this regulation shall have the effect of prohibiting the use on roads on the Island of any wheeled vehicle that is designed to be propelled solely by human power.

44. Traffic signs and directions

- (1) The Authority may erect or establish any traffic sign, that is a sign, mark, structure or device for the purpose of prohibiting, regulating or controlling the use, standing or parking of vehicles on the Island.
- (2) The inscription on a traffic sign operates according to its tenor.

- (3) A person shall comply with —
- (a) the inscription on a traffic sign erected or established under subregulation (1); or
 - (b) a signal or direction by a ranger as to the use, parking or movement of a vehicle that is addressed to him and that is reasonably required for the regulation of traffic.

Penalty: \$500.

45. Restriction on bringing vehicles to Island

- (1) A person shall not, without permission, bring on to the Island any vehicle other than —
- (a) a bicycle or other wheeled vehicle that is designed to be propelled solely by human power; or
 - (b) a wheelchair designed to be propelled solely by human power for the exclusive use of a person whose physical condition requires the use of a wheelchair.

Penalty: \$1 000.

- (2) A ranger may —
- (a) require a person to remove from the Island within a specified time any vehicle brought on to the Island in contravention of subregulation (1); and
 - (b) if such a requirement is not complied with, remove the vehicle from the Island.

- (3) A person shall comply with a requirement made of him under subregulation (2)(a).

Penalty: \$1 000.

- (4) A ranger may do all such things as may be reasonably necessary to remove a vehicle under subregulation (2)(b) including breaking into, driving, or towing it, and neither he, nor the Authority, shall be liable for any loss of or damage to the vehicle which occurs without negligence or wilful misconduct on his part.

- (5) The Authority may, in a court of competent jurisdiction, recover from the owner of a vehicle all costs and expenses reasonably incurred in removing a vehicle under this regulation and any person may, on the instructions of a ranger, refuse to deliver possession of the vehicle to the owner until such costs and expenses are paid.

[Regulation 45 amended in Gazette 19 Jun 1998 p. 3303.]

46. Use of vehicles

- (1) A person shall not, without permission, use a vehicle on the Island.
Penalty: \$1 000.
- (2) In subregulation (1) “**vehicle**” does not include a wheelchair or a bicycle or other vehicle that is designed to be propelled solely by human power.

47. Speed restrictions

- (1) A person shall not drive or ride a vehicle at a speed exceeding —
- (a) 20 kilometres per hour, within the settlement; or
 - (b) 40 kilometres per hour outside the settlement,
- and the Authority has no power under regulation 44 to authorise any higher speed limit.
Penalty: \$1 000.
- (2) Subregulation (1) does not justify the driver of a vehicle driving at a speed that may constitute driving carelessly, recklessly or at a speed, or in a manner, that is dangerous to the public, having regard to all the circumstances.
- (3) In subregulation (1) “**settlement**” has the meaning assigned to it by section 14(3) of the Act.

48. Motor vehicles to give way

- (1) The driver of a motor vehicle on a road on the Island shall give way to other road users.
Penalty: \$1 000.
- (2) In subregulation (1) —
 “other road users” means pedestrians and any person riding or using a bicycle or wheeled vehicle that is designed to be propelled solely by human power.
- (3) The requirement to give way takes effect in the circumstances described in regulation 7 of the *Road Traffic Code 2000* and is to be complied with as described in that regulation.

[Regulation 48 amended in Gazette 7 Dec 2001 p. 6189.]

49. Vehicles on beaches

A person shall not, without permission, drive a motor vehicle on any beach of the Island.

Penalty: \$1 000.

50. Emergency vehicles

- (1) Notwithstanding anything in these regulations the driver of an emergency vehicle may, in the course of his duties and when it is expedient and safe to do so —
 - (a) stop, stand or park the vehicle at any place and at any time; or
 - (b) exceed the speeds prescribed by regulation 47.
- (2) In subregulation (1) **“emergency vehicle”** means a motor vehicle being used in connection with —
 - (a) urgent police duties;
 - (b) the fighting of fire or the answering of a fire call;
 - (c) assistance to a sick or injured person;
 - (d) any other emergency in which human life is reasonably believed by the driver of the vehicle to be in danger.

51. Possession of hired bicycles

- (1) A person shall not be in possession of —
- (a) a hired bicycle without the consent of the hirer; or
 - (b) any other bicycle or a wheeled vehicle that is designed to be propelled solely by human power without the consent of the owner or person lawfully in charge of the same.

Penalty: \$300.

- (2) In subregulation (1) “**hired bicycle**” means a bicycle for the time being let out on hire —
- (a) by the Authority in the course of operating a business of hiring bicycles; or
 - (b) by any person in the course of operating such a business under an arrangement made with the Authority.
- (3) Subregulation (1) does not apply to a ranger acting in the course of duty.

Division 4 — Control of certain activities

52. Erection of structures

- (1) A person shall not without permission erect any structure within the limits of the Island.

Penalty: \$1 000.

- (2) A person shall not without permission erect a tent within the limits of the Island except on a site in the camping ground and in accordance with a licence granted under regulation 8.

Penalty: \$500

- (3) The Authority may remove and dispose of any structure or tent that has been erected in contravention of subregulation (1) or (2).

- (4) The cost incurred by the Authority under subregulation (3) is a debt due to the Authority by a person who is shown to have erected the structure or tent and is recoverable in a court of competent jurisdiction.
- (5) In this regulation “**structure**” means a building and any other thing that is fixed to land or to anything that is fixed to land.

53. Organized events and meetings

- (1) A person shall not without permission organize, advertise or participate in —
 - (a) any fete, concert, picnic or spectator event within the limits of the Island;
 - (b) any race, game or sporting event that is of a dangerous nature, is likely to constitute an inconvenience or annoyance to persons, or affect the natural surface of the Island; or
 - (c) any public meeting or public speaking within the limits of the Island.

Penalty: \$1 000.

- (2) Nothing in subregulation (1)(a) applies to persons recreating as a family or group of families.

54. Photography for commercial purposes

A person shall not, without permission take still or motion pictures within the limits of the Island by photographic or electronic means if the pictures are to be used for advertising or promotional purposes.

Penalty: \$500.

[Regulation 54 amended in Gazette 9 Nov 1990 p. 5590.]

55. Bill sticking, advertising, etc.

- (1) A person shall not without permission —
- (a) post, stick, stamp, stencil or otherwise affix any notice, handbill, placard, advertisement, paper or other document on or to any rock, tree, fence, post, gate, wall, pavement, road, footway, or building or other structure within the limits of the Island;
 - (b) write, draw or paint on or deface any rock, tree, fence, post, gate, wall, pavement, road, footway, or building or other structure within the limits of the Island; or
 - (c) cause any of the acts prohibited by paragraph (a) or (b) to be done by any person.

Penalty: \$500.

- (2) Nothing in subregulation (1)(a) applies to the use of a notice board set up by the Authority for public use.

56. Distribution of printed matter

- (1) A person shall not without permission sell or distribute or carry or expose for sale or distribution within the limits of the Island any printed or written matter.

Penalty: \$500.

- (2) It is immaterial for the purposes of subregulation (1) that any matter is distributed or carried or exposed for distribution free of charge.

57. Unauthorised trading

A person shall not within the limits of the Island, without permission, sell, offer or expose for sale, or provide by way of sale, any goods or services.

Penalty: \$500.

[Regulation 57 inserted in Gazette 9 Nov 1990 p. 5590.]

58. Exception to regulations 55 and 56

Regulations 55 and 56 do not apply to any person, or the agent or employee of any person with whom the Authority has made an arrangement under section 13(d) of the Act so far as he, or his agent or employee, is acting in accordance with that arrangement.

59. Weapons, etc.

- (1) A person shall not without permission —
- (a) carry or discharge any firearm, speargun, gidgie or any other offensive weapon, device or means for the taking of fauna;
 - (b) throw or release any missile or dangerous object or material of any kind;
 - (c) carry, make or set any trap or snare for any fauna,

within the limits of the Island.

Penalty: \$1 000.

- (2) A person shall not without permission have any explosive device in his possession, or discharge an explosive device, within the limits of the Island.

Penalty: \$1 000.

- (3) In subregulation (1) **“fauna”** has the meaning assigned to it by regulation 40(3).

- (3a) In subregulation (2) —
“explosive device” includes a marine flare.

- (4) Nothing in this regulation applies to —
- (a) a speargun or gidgie that is carried in waters of the Island in which the speargun or gidgie may be used under the *Fisheries Act 1905*³;
 - (b) the carrying or use of a firearm by a police officer in the course of duty;

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- (c) the carrying of a marine flare in the waters of the Island;
or
- (d) the discharge of a marine flare in the waters of the Island
in the case of an emergency, or where a vessel is in
distress and requires assistance.

*[Regulation 59 amended in Gazette 4 Jul 1997 p. 3531;
7 Dec 2001 p. 6189.]*

60. Lighting of fires

- (1) A person shall not without permission light make or use a fire
on the Island other than in —
 - (a) a gas cooking stove; or
 - (b) an indoor fireplace provided by the Authority.

Penalty: \$1 000.

- (2) Nothing in subregulation (1) shall be read as authorising a
person to light a fire in an open fireplace in contravention of the
Bush Fires Act 1954.

[Regulation 60 amended in Gazette 4 Jul 1997 p. 3532.]

60A. Sandboarding

- (1) A person shall not use a board or other object to slide down
sandhills on the Island.

Penalty: \$1 000.

- (2) A person shall not possess a sandboard on the Island.

Penalty: \$500.

- (3) In this regulation —

“sandboard” means a board designed to be used for sliding
down a slope of land.

[Regulation 60A inserted in Gazette 4 Jul 1997 p. 3532.]

60B. Litter

- (1) A person shall not deposit litter, or cause litter to be deposited, within the limits of the Island unless the litter is deposited in a place or receptacle set aside or provided for that purpose.

Penalty: \$1 000.

- (2) In this regulation —

“**litter**” has the same meaning as in the *Litter Act 1979*.

[Regulation 60B inserted in Gazette 4 Jul 1997 p. 3532.]

Division 5 — Protection of certain undertakings

61. Pollution of water supply

- (1) A person shall not throw, deposit or leave any refuse or any noxious or polluting substance or thing —

(a) in any —

- (i) reservoir or tank that holds or is intended to hold water for human consumption or use on the Island;
- (ii) pipe, conduit or fitting through which such water is passed or intended to be passed; or
- (iii) pit, manhole or other structure containing valves, meters, fittings or connections for the distribution of such water;

or

(b) on any water catchment area on the Island.

Penalty: \$1 000.

- (2) A person shall not swim, bathe or wash in any reservoir or tank containing water stored for human consumption or use on the Island.

Penalty: \$1 000.

- (3) In subregulation (1) “**water catchment area**” means any area within which surface water is collected into a storage reservoir or tank for human consumption or use and —
- (a) which is by order of the Authority published in the *Gazette* declared to be a water catchment area for the purposes of that subregulation; and
 - (b) in or in the vicinity of which there are sufficient signs indicating to the public that the area is a water catchment area.

62. Interference with power supply, etc.

A person shall not, without permission —

- (a) draw electricity or gas from the Authority’s supply;
- (b) remove, or interfere with, any component of, or appliance or fitting attached to, the Authority’s system for gas or electricity supply, street lighting, or sewerage disposal;
- (c) put gas or electricity, or any appliance or fitting attached to the Authority’s system for the supply of gas or electricity, to any use other than that for which it was provided or installed; or
- (d) attempt to replace or repair any appliance or fitting installed by the Authority that has become unserviceable or ineffectual.

Penalty: \$1 000.

Part 6 — Rottnest aerodrome

63. Terms used in this Part

In this Part, unless the contrary intention appears —

“**aircraft**” means any machine or craft that can derive support in the atmosphere from reaction with the air;

“**the aerodrome**” means that part of the Island described in Schedule 3.

64. Use by aircraft

- (1) Subject to this regulation, the aerodrome may be used for the landing, servicing and departure of aircraft, the embarkation and disembarkation of passengers and the transport of freight.
- (2) The Authority may close the aerodrome to aircraft movements if it considers the surface of the aerodrome to be unsafe.
- (3) A person in control of an aircraft shall not land at or depart from the aerodrome while it is closed under subregulation (2).
Penalty: \$1 000.

65. Access to aerodrome

- (1) A person shall not without permission be within the limits of the aerodrome, except within the terminal building, unless he is authorised by subregulation (2).
Penalty: \$1 000.
- (2) A person is authorised for the purposes of subregulation (1) if he —
 - (a) is required to be within the aerodrome in the course of his employment, trade or business; or
 - (b) is a passenger on, an intending passenger embarking on, or a person who has disembarked from, an aircraft lawfully using the aerodrome.

66. Aircraft movements restricted to aerodrome

- (1) Except in an emergency, a person in control of an aircraft shall not without permission —
 - (a) land or touch down the aircraft within the limits of the Island except on the aerodrome; or
 - (b) take off or ascend from any part of the Island except the aerodrome.

Penalty: \$1 000.

- (2) In subregulation (1) “**aircraft**” includes a hang-glider and a balloon.

67. Parking of aircraft

- (1) The Authority may erect or establish any sign, mark, structure or device for the purpose of prohibiting, regulating or controlling the standing or parking of aircraft within the aerodrome, and the inscription on any such sign operates according to its tenor.
- (2) A person shall comply with the inscription on a sign erected or established under subregulation (1).

Penalty: \$1 000.

68. Removal of persons from aerodrome

- (1) An authorised person may remove from the aerodrome and may refuse admission to, any person, whether or not a passenger or intending passenger, whom he considers to be under the influence of alcoholic liquor, drugs or other substance so as to make his presence within the aerodrome dangerous to himself or others or offensive to others or otherwise undesirable.
- (2) In subregulation (1) “**authorised person**” means a ranger or person employed by the Authority to manage or assist in the operation of the aerodrome.

Part 7 — Offensive behaviour

69. Damage to property

A person shall not without authority destroy or damage any building or other structure within the limits of the Island or any property owned by or under the control and management of the Authority, a public utility, or any person carrying on business on the Island.

Penalty: \$1 000.

[Regulation 69 amended in Gazette 4 Jul 1997 p. 3532.]

70. Assault and other offensive behaviour

- (1) A person shall not within the limits of the Island —
- (a) unlawfully assault any person;
 - (b) use indecent, obscene, threatening, abusive or insulting language;
 - (c) do or engage in any offensive, indecent or improper act, conduct or behaviour; or
 - (d) act in such a way as to cause a nuisance or annoyance to persons within the limits of the Island.

Penalty: \$1 000.

- (2) In subregulation (1)(a) “**assault**” and “**unlawfully**” have the respective meanings assigned to them by sections 222 and 223 of *The Criminal Code*.
- (3) A person shall not write, draw, print, publish, record, broadcast, distribute, or otherwise disseminate within the limits of the Island any indecent or obscene matter of any kind.

Penalty: \$1 000.

[Regulation 70 amended in Gazette 4 Jul 1997 p. 3532-3.]

71. Offensive noises

A person shall not without permission, by the use of any electronic, mechanical or other instrument or machine or by natural means within the limits of the Island cause or produce a noise that unreasonably interferes with the convenience, comfort or amenity of any person.

Penalty: \$1 000.

[Regulation 71 amended in Gazette 4 Jul 1997 p. 3533.]

72. Places where liquor may be consumed

- (1) A person shall not consume alcoholic liquor within the limits of the Island except in licensed premises, in residential accommodation or its surrounds, in a building forming part of Kingstown Environmental Centre, at a campsite for which a licence is granted under regulation 8, on a vessel in the waters of the Island, or in a place for the time being approved for the purposes of this regulation.

Penalty: \$1 000.

- (2) In subregulation (1) “**alcoholic liquor**” and “**licensed premises**” have the meanings assigned to them by the *Liquor Act 1970*⁴.
- (3) Nothing in subregulation (1) shall affect any other written law as to the purchase, supply, consumption or possession of alcoholic liquor.
- (4) In a complaint for an offence against subregulation (1) an averment that any liquid is liquor is deemed to be proved in the absence of evidence to the contrary.

[Regulation 72 amended in Gazette 4 Jul 1997 p. 3533.]

Part 8 — Miscellaneous

72A. Adequate insurance cover

- (1) The Authority may, by notice published in the *Gazette* —
 - (a) specify, in relation to any class or classes of vessel —
 - (i) the type of insurance; and
 - (ii) the amount of indemnity provided by that insurance,
that is adequate insurance cover for the purposes of these regulations; and
 - (b) exempt any vessel, class or classes of vessel from the operation of any of these regulations to the extent that the regulation requires the vessel to have adequate insurance cover.
- (2) An exemption under subregulation (1)(b) —
 - (a) is subject to such conditions and restrictions as the Authority may specify in the notice of exemption; and
 - (b) has effect according to its tenor.
- (3) If the conditions or restrictions to which an exemption is subject are breached, the exemption ceases to have effect.
- (4) The Authority may vary or revoke a notice under subregulation (1).
- (5) A person shall not bring a vessel within the limits of the Island, or allow a vessel to remain within the limits of the Island, unless the vessel has adequate insurance cover.
Penalty: \$500.
- (6) For the purposes of subregulation (5), any person on a vessel (other than a vessel on which persons are usually carried for reward) is taken to allow the vessel to remain within the limits of the Island unless the person shows to the satisfaction of the Authority that —

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- (a) the person does not have responsibility for the vessel;
and
- (b) another person is properly responsible for the vessel.

*[Regulation 72A inserted in Gazette 4 Jul 1997 p. 3533-4;
amended in Gazette 19 Jun 1998 p. 3303.]*

73. Infringement notices

- (1) The offences created by a provision of these regulations specified in column 2 of table set out in Schedule 4 are the offences to which a modified penalty under section 42 of the Act applies.
- (2) Forms 2 and 3 in Schedule 1 are prescribed for the purposes of subsections (1) and (6) respectively of section 42 of the Act.

74. Removal of abandoned or dangerous property

- (1) Subject to this regulation, the Authority may take possession of any property within the limits of the Island if —
 - (a) the Authority has reasonable grounds to believe that it has been abandoned, is derelict or constitutes a danger to persons or property or an environmental risk; or
 - (b) a notice under subregulation (2)(b) relating to that property has not been complied with.
- (2) Before exercising the power in subregulation (1)(a) in respect of property that is abandoned or derelict the Authority shall —
 - (a) make reasonable inquiry as to the identity and whereabouts of the person who is or has been the owner or part owner of the property or has or last had possession of the property; and
 - (b) if the identity and whereabouts of that person become known to the Authority, give written notice to the person requiring the person to remove the property within the time specified in the notice.

- (3) A person to whom a notice is given under subregulation (2)(b) shall comply with the notice.
Penalty: \$1 000.
- (4) Any cost incurred by or on behalf of the Authority under this regulation is a debt due to the Authority by a person who is shown to have been the owner or a part owner, or in the case of abandoned property, the former owner or a former part owner, at the time of removal and is recoverable in a court of competent jurisdiction.
- (5) Subject to subregulations (6), (7) and (8) any property removed under this regulation becomes the property of the Authority and may be disposed of as it thinks fit.
- (6) If the Authority's estimate of the value of the property exceeds the costs referred to in subregulation (4) together with the costs associated with the sale of the property, the Authority shall sell the property and after payment of all of its costs, hold the proceeds in accordance with subregulation (7).
- (7) The proceeds of sale referred to in subregulation (6) shall become part of the funds of the Authority at the expiration of 12 months from the date of the sale unless within that time a person proves to the satisfaction of the Authority that the person is entitled to them or any part of them, in which case the Authority shall pay the proceeds or part of the proceeds in accordance with that entitlement.
- (8) Despite subregulations (5), (6) and (7), the Authority shall give possession of the property to any person who proves that he or she is entitled to the property and who pays to the Authority all costs incurred by it under this regulation.
- (9) If property is owned by more than one person each person shall be jointly and severally liable for any debt due to the Authority under this regulation.

[Regulation 74 inserted in Gazette 4 Jul 1997 p. 3534.]

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74A. False information

A person shall not provide to the Authority information, or authorise or permit the provision to the Authority of information, that the person knows —

- (a) to be false or misleading in a material particular; or
- (b) has omitted from it a matter or thing the omission of which renders the information misleading in a material respect.

Penalty: \$500.

[Regulation 74A inserted in Gazette 4 Jul 1997 p. 3535.]

75. Repeal and transitional provisions

- (1) The *Rottnest Island By-laws* are repealed.
- (2) An authority or consent given by the Board under the repealed by-laws that is in force immediately before the commencement is deemed to be a permission granted under these regulations.
- (3) A licence under by-law 13 that is in force immediately before the commencement is deemed to be a licence under regulation 5.
- (4) The powers in regulation 41(3) may be exercised in respect of a contravention of by-law 11.
- (5) The powers in regulation 45(2) may be exercised in respect of a contravention of by-law 18.
- (6) A person who immediately before the commencement is liable to pay or remit any admission fee under by-law 23 or 24 but has not done so is deemed to be liable to pay or remit the fee under regulation 5 or 6, as the case may be.
- (7) An amount that is paid under by-law 23A in respect of the financial year that is current at the commencement is deemed to be paid for the purposes of regulation 7.

- (8) Nothing in this regulation shall be construed to limit the operation of the *Interpretation Act 1984*.
- (9) In this regulation —
- “**Board**” means the Rottnest Island Board dissolved by clause 2 of Schedule 2 of the Act;
 - “**by-law**” means a by-law of the repealed by-laws;
 - “**commencement**” means the commencement of these regulations;
 - “**repealed by-laws**” means the by-laws repealed by subregulation (1).

[Regulation 75 amended in Gazette 19 Jun 1998 p. 3303.]

Schedule 1

[regs. 14 and 73(2)]

[Form 1 deleted in Gazette 4 Jul 1997 p. 3535.]

Form 2

Rottnest Island Authority Act 1987

INFRINGEMENT NOTICE

Serial No.

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

To: ⁽¹⁾
of: ⁽²⁾
It is alleged that on/...../..... at ⁽³⁾
at ⁽⁴⁾
you committed the offence indicated below by a cross (X).

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 as shown may be paid to the Rottnest Island Authority, 1st floor, E Shed, Victoria Quay, or PO Box 693, Fremantle, 6959 within a period of 21 days after the giving of this notice.

If this modified penalty is not paid within 21 days of the date of this notice, court proceedings may be taken against you.

.....
Ranger

- (1) Name of alleged offender
- (2) Address of alleged offender
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed

		OFFENCE	PENALTY
<input type="checkbox"/>		Regulation 5(4) — failing or refusing to pay admission fee, not being a passenger on commercial transport	\$50
	<input type="checkbox"/>	Regulation 9(1) — taking up unauthorised casual residence	\$100
<input type="checkbox"/>		Regulation 11(2)(a) — securing vessel to mooring without authority	\$50
	<input type="checkbox"/>	Regulation 38A(3) — exceeding speed limit for vessel in defined area	\$100
<input type="checkbox"/>		Regulation 40 — interfering etc. with fauna or habitat etc. of fauna	\$100
	<input type="checkbox"/>	Regulation 41(1) — without permission causing or allowing animal or bird to enter Island	\$100
<input type="checkbox"/>		Regulation 41A(2) — feeding fauna contrary to sign or notice	\$50
	<input type="checkbox"/>	Regulation 59(1)(a) — without permission carrying or discharging firearm, speargun, gidgie etc.	\$100
<input type="checkbox"/>		Regulation 60(1) — without permission lighting, making or using fire other than in gas stove or indoor fireplace	\$100
	<input type="checkbox"/>	Regulation 60B(1) — littering	\$100
<input type="checkbox"/>		Regulation 70(1)(c) — doing or engaging in any offensive, indecent or improper act, conduct or behaviour	\$80
	<input type="checkbox"/>	Regulation 72(1) — consuming alcohol in an unauthorised place	\$80
<input type="checkbox"/>		Other (specify)	\$

[Form 2 inserted in Gazette 7 Dec 2001 p. 6189-90.]

Form 3

Rottnest Island Authority Act 1987

WITHDRAWAL OF INFRINGEMENT NOTICE

No.
Date.....

To ⁽¹⁾
Infringement Notice No. dated
for the alleged offence of ⁽²⁾
.....
..... (Modified penalty \$ ⁽³⁾) is hereby
withdrawn.

No further action will be taken. ⁽⁴⁾

OR

It is proposed to institute court proceedings for the alleged offence. ⁽⁴⁾

.....
Chief Executive Officer,
Rottnest Island Authority.

- ⁽¹⁾ Insert name and address of alleged offender.
- ⁽²⁾ Insert short particulars of offence alleged.
- ⁽³⁾ Insert amount of penalty prescribed.
- ⁽⁴⁾ Delete whichever does not apply.

Schedule 2

[reg. 36(1)]

Note: Maps showing the approximate boundaries of the areas described in this Schedule are available for inspection at the office of the Authority on the Island.

Part A — Water catchment area

All that part of the Island containing approximately 16 hectares that is bounded generally to the west and south by the road from Geordie Bay to Bovell Highway, to the north by the cycle track from Longreach settlement to the Basin, and to the east by the golf course, and that is enclosed by a wire netting fence 1 800 mm in height and topped with barbed wire.

Part B — Waste-water treatment facility

All that part of the Island containing approximately one hectare that is situated to the south of the Point between Pinky Beach and the Basin and to the north of the road between Thomson Bay settlement and the Basin and that is enclosed by a chain mesh fence 1 800 mm in height.

Schedule 3

[reg. 63]

Rottnest aerodrome

All that part of the Island containing approximately 21 hectares that is situated to the south of Government House Lake and bounded by a line commencing where a fence adjoins the west side of the terminal building and following the line of that fence to the edge of Government House Lake and following the edge of that lake for approximately 80 metres to a point where it merges with a line of white conical markers and following that line westwards, then southwards, then eastwards, then northwards and then westwards to the edge of the sealed taxi-way and following the edge of that taxi-way northwards for approximately 15 metres and then westwards for approximately 200 metres to the point where it intersects a line drawn through 2 blue conical markers on the east side of the helicopter parking area and following that line for approximately 60 metres to the point where it intersects a fence line and following that fence line eastwards, then northwards, then westwards, then southwards and then westwards to the terminal building, and including the terminal building.

A map showing the approximate boundaries of the aerodrome is available for inspection at the office of the Authority on the Island.

Schedule 4

Offences to which modified penalties apply

[Reg. 73]

Item	Regulation	Matter to which regulation relates	Modified penalty \$
1.	5(4)	Failing or refusing to pay admission, not being a passenger on commercial transport	50
2.	9(1)	Taking up unauthorised casual residence	100
3.	11(1)(a)	Installing mooring without permission	100
4.	11(1)(b)	Securing vessel to mooring installed without permission	100
5.	11(2)(a)	Securing vessel to mooring without authority	50
6.	11(2)(b)	Securing vessel not displaying sticker or licence to mooring	50
7.	11(3)(a)	Securing vessel to mooring where vessel already secured	50
8.	11(3)(b)	Securing vessel to vessel secured to mooring	50
9.	12(1)	Anchoring vessel closer than 50 metres to mooring or so that it obstructs mooring	50
10.	28(3)	Licensee failing to have mooring inspection report	50
11.	28(5)	Licensee using mooring in respect of which Authority does not have mooring inspection report	50
12.	29(3)	Failing to comply with notice to move unattended vessel	50
13.	30(8)	Removing mooring that is subject to notice prohibiting removal	50
14.	36(1)(a)	Being in a restricted area without permission	50
15.	36(1)(b)	Being in a protected area without permission	50

Rottnest Island Regulations 1988
Schedule 4

Item	Regulation	Matter to which regulation relates	Modified penalty \$
16.	36(1)(c)	Using a closed track or path without permission	50
17.	36A(a)	Securing vessel to structure not designed for that use	50
18.	36A(b)	Using apparatus other than beach anchor as a beach anchor	50
19.	37(1)(a)	Beaching vessel in Thomson, Longreach or Geordie Bay without permission and not in permitted area	50
20.	37(1)(b)	Beach-anchoring a vessel in Thomson, Longreach or Geordie Bay without permission and not in permitted area	50
21.	38A(3)	Exceeding speed limit set for vessel in defined area	100
22.	38B(3)	Using vessel contrary to notice setting aside area and imposing conditions for use of that vessel	100
23.	38C(2)	Discharging or depositing sullage from vessel other than by approved system	100
24.	39(1)	Injuring etc. flora or removing stake or label relating to flora	100
25.	40	Interfering etc. with fauna or habitat etc. of fauna	100
26.	41(1)	Without permission causing or allowing animal or bird to enter Island	100
27.	41A(2)	Feeding fauna contrary to sign or notice	50
28.	42(1)	Causing damage to any rock or soil without permission	50
29.	44(3)	Failing to comply with traffic sign or with ranger's signal or direction relating to vehicle	50
30.	47(1)	Exceeding speed limit	100
31.	53	Without permission organizing, advertising or participating in any event or meeting	100

Item	Regulation	Matter to which regulation relates	Modified penalty \$
32.	55(1)	Without permission affixing notice etc., defacing rock, tree, pavement, structure etc. or causing any such act to be done	50
33.	56(1)	Without permission selling, distributing etc. printed or written matter	50
34.	59(1)(a)	Without permission carrying or discharging firearm, speargun, gidgie etc.	100
35.	59(2)	Without permission having, or discharging, explosive device within limits of Island	100
36.	60(1)	Without permission lighting, making or using fire other than in gas stove or indoor fireplace	100
37.	60A(1)	Sandboarding	100
38.	60A(2)	Possessing sandboard	50
39.	60B(1)	Littering	100
40.	65(1)	Being within aerodrome limits without permission or authority	100
41.	69	Without authority destroying or damaging building or structure	100
42.	70(1)(a)	Unlawfully assaulting a person	100
43.	70(1)(b)	Using indecent, obscene, threatening, abusive or insulting language	80
44.	70(1)(c)	Doing or engaging in any offensive, indecent or improper act, conduct or behaviour	80
45.	70(1)(d)	Acting in such a way as to cause a nuisance or annoyance to persons	80
46.	70(3)	Writing etc. or distributing or otherwise disseminating indecent or obscene matter	80
47.	71	Causing or producing noise that unreasonably interferes with convenience, comfort or amenity of any person	80

Rottnest Island Regulations 1988
Schedule 4

Item	Regulation	Matter to which regulation relates	Modified penalty \$
48.	72(1)	Consuming alcoholic liquor in unauthorised place	80

*[Schedule 4 inserted in Gazette 4 Jul 1997 p. 3535-8; amended in
Gazette 7 Dec 2001 p. 6190.]*

Schedule 5 — Annual payment by fishing or diving charter operator

[reg. 7A(1)(a)]

~~Annual payment by fishing or diving charter operator~~

[Heading inserted in Gazette 24 Jul 2007 p. 3666.]

Declared number of visits by a vessel to the Island in respect of a financial year

	Annual payment
Less than 15 visits	\$23.80 <u>24.90</u> multiplied by capacity*
15 to 30 visits	\$47.70 <u>50.00</u> multiplied by capacity
31 to 45 visits	\$71.50 <u>74.90</u> multiplied by capacity
More than 45 visits	\$95.30 <u>99.90</u> multiplied by capacity

* In this Schedule, “**capacity**” means the maximum number of passengers the vessel is certificated to carry in the waters of the Island.

[Schedule 5 inserted in Gazette 14 Dec 1993 p. 6668; amended in Gazette 23 Jun 2000 p. 3211-12; 20 Jun 2003 p. 2252; 29 Jun 2004 p. 2546; 8 Aug 2006 p. 2907; 24 Jul 2007 p. 3666.]

Schedule 6

[Heading inserted in Gazette 30 Dec 1994 p. 7349.]

[regs. 7B and 7C]

Part 1 — Aerodrome usage fees

[Heading inserted in Gazette 30 Dec 1994 p. 7349.]

- | | | |
|----|------------------------------------------------------------------------------------------------------|---------------------------------|
| 1. | Any aircraft (other than a helicopter) with a maximum loaded weight not greater than 2 000 kilograms | \$23.80 <u>24.90</u> |
| 2. | Any aircraft (other than a helicopter) with a maximum loaded weight greater than 2 000 kilograms | \$36.30 <u>38.00</u> |
| 3. | Any helicopter, irrespective of its maximum loaded weight | \$36.30 <u>38.00</u> |

[Part 1 inserted in Gazette 30 Dec 1994 p. 7349; amended in Gazette 23 Jun 2000 p. 3212; 29 Jun 2004 p. 2546-7; 8 Aug 2006 p. 2907; 24 Jul 2007 p. 3666.]

Part 2 — Aerodrome usage fees for calculating annual payment

[Heading inserted in Gazette 30 Dec 1994 p. 7349.]

- | | | |
|----|------------------------------------------------------------------------------------------------------|---------------------------------|
| 1. | Any aircraft (other than a helicopter) with a maximum loaded weight not greater than 2 000 kilograms | \$20 <u>21.70</u> |
| 2. | Any aircraft (other than a helicopter) with a maximum loaded weight greater than 2 000 kilograms | \$31.10 <u>32.60</u> |
| 3. | Any helicopter, irrespective of its maximum loaded weight | \$31.10 <u>32.60</u> |

[Part 2 inserted in Gazette 30 Dec 1994 p. 7349; amended in Gazette 23 Jun 2000 p. 3212; 29 Jun 2004 p. 2547; 8 Aug 2006 p. 2907; 24 Jul 2007 p. 3666.]

Schedule 7 — Miscellaneous fees

[Heading inserted in Gazette 4 Jul 1997 p. 3539.]

Part 1 — Admission fees and payments

[Heading inserted in Gazette 4 Jul 1997 p. 3539.]

1. Admission Fee to Island (r. 5(1)) \$1.00 for a child who has reached 4 years, but is under 13 years of age.
~~\$11.90~~12.50 for every person 13 or more years of age.

2. Annual payment in lieu of admission fee (r. 7)
Length of vessel
8 metres or less ~~\$125~~131.00
More than 8 metres but less than 10 metres ~~\$142.50~~149.30
10 metres or more but less than 15 metres ~~\$171.00~~179.20
15 metres or more ~~\$285.00~~298.70

- 2a. Annual payment in lieu of admission fee for aircraft (r. 7) ~~\$125~~131.40

[Part-1 inserted in Gazette 4 Jul 1997 p. 3539; amended in Gazette 19 Jun 1998 p. 3303; 15 Jun 1999 p. 2574; 23 Jun 2000 p. 3212; 24 Apr 2003 p. 1273; 20 Jun 2003 p. 2252; 27 Jun 2003 p. 2407; 29 Jun 2004 p. 2547; 8 Aug 2006 p. 2907-8; 24 Jul 2007 p. 3666-7.]

Part 2 — Mooring licences

[Heading inserted in Gazette 4 Jul 1997 p. 3539.]

3. Application fee for mooring site licence (reg. 20(3)(c)) ~~\$36.00~~37.70

4. Annual mooring site licence fee (regs. 22(3)(b), 33(3)(b), 35D(4)(b)) ~~\$680~~715, or ~~\$68~~71.30 per metre of length of licensed vessel or vessel to be licensed, whichever is the greater amount

Schedule 8 — Berthing fee for Main Ferry Jetty

[Heading inserted in Gazette 29 Jun 2004 p. 2547.]

[r. 7E]

Method of calculating annual rate

(based on surveyed passenger carrying capacity for the vessel's highest class of survey)

plus —	\$ 4143 .40 per passenger
Vessels less than 35 m:	\$ 295.30 <u>309.50</u> /m x length of vessel
Vessels 35 m and over:	\$ 471.40 <u>494.00</u> /m x length of vessel

Fees for berthing at the Main Ferry Jetty are as follows —

Annual Rate:	Vessel occupying a berth overnight to be at annual rate. Vessel occupying a berth for a portion of the day to be at 50% of the annual rate.
Quarterly Rate:	30% of the annual rate.
Monthly Rate:	12% of the annual rate.
Daily Rate:	1% of the annual rate.

[Schedule 8 inserted in Gazette 29 Jun 2004 p. 2547-8; amended in Gazette 8 Aug 2006 p. 2908; [24 Jul 2007 p. 3667.](#)]

Notes

- ¹ This is a compilation of the *Rottnest Island Regulations 1988* 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>Rottnest Island Regulations 1988</i>	30 May 1988 p. 1825-46	30 May 1988 (see r. 2 and <i>Gazette</i> 30 May 1998 p. 1823)
<i>Rottnest Island Amendment Regulations 1990</i> ⁵	9 Nov 1990 p. 5589-91	9 Nov 1990
<i>Rottnest Island Amendment Regulations 1991</i>	14 Jun 1991 p. 2914-15	14 Jun 1991
<i>Rottnest Island Authority Amendment Regulations 1993</i>	29 Oct 1993 p. 5928	29 Oct 1993
<i>Rottnest Island Amendment Regulations (No. 2) 1993</i>	14 Dec 1993 p. 6666-8	14 Dec 1993
<i>Rottnest Island Amendment Regulations 1994</i>	30 Dec 1994 p. 7347-9	30 Dec 1994
<i>Rottnest Island Amendment Regulations 1995</i>	21 Jul 1995 p. 3115-16	21 Jul 1995
<i>Rottnest Island Amendment Regulations 1997</i> ²	4 Jul 1997 p. 3510-39 (correction 18 Jul 1997 p. 3782)	4 Jul 1997
Reprint of the <i>Rottnest Island Regulations 1988</i> as at 1 Aug 1997 (includes amendments listed above)		
<i>Rottnest Island Amendment Regulations 1998</i>	19 Jun 1998 p. 3302-3	1 Jul 1998 (see r. 2)
<i>Rottnest Island Amendment Regulations 1999</i>	15 Jun 1999 p. 2574-5	15 Jun 1999
<i>Rottnest Island Amendment Regulations 2000</i>	23 Jun 2000 p. 3211-12	1 Jul 2000 (see r. 2)
<i>Rottnest Island Amendment Regulations 2001</i>	7 Dec 2001 p. 6188-90	7 Dec 2001
<i>Rottnest Island Amendment Regulations 2003</i> ⁶	24 Apr 2003 p. 1271-3	24 Apr 2003

Citation	Gazettal	Commencement
<i>Rottnest Island Amendment Regulations (No. 2) 2003</i>	20 Jun 2003 p. 2251-2	1 Jul 2003 (see r. 2)
<i>Rottnest Island Amendment Regulations (No. 3) 2003</i>	27 Jun 2003 p. 2406-8	1 Sep 2003 (see r. 2)
<i>Rottnest Island Amendment Regulations (No. 2) 2004</i>	29 Jun 2004 p. 2545-8	1 Jul 2004 (see r. 2)
Reprint 2: The Rottnest Island Regulations 1988 as at 14 Jan 2005 (includes amendments listed above)		
<i>Rottnest Island Amendment Regulations 2006</i>	8 Aug 2006 p. 2906-8	8 Aug 2006
<u>Rottnest Island Amendment Regulations 2007</u>	<u>24 Jul 2007</u> <u>p. 3665-7</u>	<u>r. 1 and 2: 24 Jul 2007</u> <u>(see r. 2(a));</u> <u>Regulations other than r. 1 and 2:</u> <u>25 Jul 2007 (see r. 2(b))</u>

² The *Rottnest Island Amendment Regulations 1997* r. 5(2) reads as follows:

“

- (2) Any payment made under regulation 7 of the principal regulations in respect of the financial year ending 30 June 1997 is taken to have been made in respect of the period ending 31 August 1997.

”.

³ Repealed by the *Fish Resources Management Act 1994* s. 265.

⁴ Repealed by the *Liquor Licensing Act 1988*.

⁵ Regulations 5, 7 and 18 disallowed on 28 May 1991, see *Gazette* 31 May 1991 p. 2710-11.

⁶ The *Rottnest Island Amendment Regulations 2003* r. 4(3) reads as follows:

“

- (3) For the purposes of regulation 6(1)(b)(ii) of the *Rottnest Island Regulations 1988* as amended by these regulations, the period between the end of the last month immediately before the coming into operation of these regulations and the first Wednesday after the coming into operation of these regulations is taken to be a collection period.

”.