

WESTERN AUSTRALIA

**NAVIGABLE
WATERS
REGULATIONS**

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WESTERN AUSTRALIA

SHIPPING AND PILOTAGE ACT 1967
JETTIES ACT 1926 AND
WESTERN AUSTRALIAN MARINE ACT 1982

NAVIGABLE WATERS
REGULATIONS

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WESTERN AUSTRALIA

SHIPPING AND PILOTAGE ACT 1967
JETTIES ACT 1926 AND
WESTERN AUSTRALIAN MARINE ACT 1982

**NAVIGABLE WATERS
REGULATIONS**

PART I — PRELIMINARY

Citation and commencement

1. These regulations may be cited as the *Navigable Waters Regulations*, and shall come into force one month after the publication thereof in the *Government Gazette*.¹

Interpretation

2. In these regulations, subject to the context —

“**authorized person**” means a person appointed under section 117 (2) of the *Western Australian Marine Act 1982*;

“**department**” means the Department of Marine and Harbours of the State;

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“diving operations” means any activity where any person is engaged in diving, skin diving, scuba diving, snorkelling or any similar activity whether from a vessel or not;

“inspector” means a person appointed under section 117 (1) of the *Western Australian Marine Act 1982*;

“motor boat” means a vessel propelled by any means other than oars or sail and includes a speed boat and a sailing vessel which is equipped with propelling machinery and propelled by mechanical power;

“navigable waters” means rivers, lakes, inlets and other inland waters on which any vessel or any type of marine craft can be navigated and also means the territorial sea adjacent to the State and the sea on the landward side of the territorial sea adjacent to the State that is not within the limits of the State;

“officer of the department” means an officer of the department and includes any Government officer or other person acting for or on behalf of or with the authority of the department;

“owner” in relation to a vessel includes the master or person in charge of the vessel;

“personal powered watercraft” means any vessel which is propelled by means of an inboard or outboard motor or is air cushion supported and which is designed to be steered by means of handlebars by a person sitting, standing or kneeling in or on the vessel;

“protected waters” means the waters contained in any lake, river or estuary, or by any breakwater, but does not include the waters of Cambridge Gulf or Lake Argyle;

“public jetty” means “public jetty” as defined in the *Jetties Act 1926*, section 3;

“**speed boat**” means a motor boat designed for, or capable of, a speed in excess of 12 knots;

“**the Acts**” means Act 18, Vict. No. 15, Act 37, Vict. No. 14, the *Jetties Act 1926*, the *Western Australian Marine Act 1982*, and all Acts amending or substituted for the same.

[Regulation 2 amended in Gazettes 19 December 1962 p.4014; 23 March 1965 p.900; 7 June 1972 p.1721; 22 December 1972 p.4777; 12 July 1974 p.2624; 1 July 1983 p.2263; 28 August 1992 p.4239.]

Responsibility of Master and owner

3. (1) Where by these regulations any act is required or forbidden to be done in relation to any vessel, it is the duty of the master and owner of the vessel to do the act or to refrain from doing the act as the case may be except where otherwise expressly provided by these regulations.

(2) For the purposes of this regulation, the provisions of regulations 51B, 51C and 52A to 52D, inclusive apply to every vessel being a vessel within the meaning of the Acts or to every owner or person in charge of any such vessel, as the case may be.

[Regulation 3 amended in Gazette 19 December 1962 p.4014.]

When emergency vessels exempt

- 3A. A provision of these regulations does not apply to a vessel if it —
- (a) has been declared to be an emergency vessel under regulation 19H;
 - (b) is being used as an emergency vessel in accordance with the terms of that declaration; and
 - (c) the provision is one from which the vessel is exempt under regulation 19H (2) (b).

[Regulation 3A inserted in Gazette 3 August 1990 p.3753.]

PART II — GENERAL GOOD ORDER REGULATIONS

Application of regulations

4. Unless the contrary intention appears these regulations apply to and in relation to —

- (a) commercial vessels and pleasure vessels to which Parts II and VI of the *Western Australian Marine Act 1982* apply, in or upon navigable waters; and
- (b) persons in or upon navigable waters.

[Regulation 4 inserted in Gazette 28 May 1969 p.1568; amended in Gazette 1 July 1983 p.2263.]

Inspection of vessels

5. (a) Any officer of the department and any police officer may at any hour of the day or night enter upon and inspect any vessel and the equipment, machinery and gear in or about the vessel.

(b) Any person who obstructs, threatens or interferes with an officer of the department or police officer when acting under the last preceding subregulation shall be guilty of an offence.

(c) No person on or about a vessel shall, on demand by an officer of the department, refuse to furnish the officer with the person's name and address.

(d) The department may cancel or suspend any certificate granted by the department under any of the Acts to a person convicted of an offence under this regulation.

Lifesaving equipment

6. No person shall interfere with, remove or damage any lifesaving equipment which has been placed in a public place for use in saving life from drowning.

[Regulation 6 amended in Gazette 28 May 1969 p.1568.]

Owner of vessel shall comply with directions

6A. The owner of a vessel shall, at all times, comply with any directions given by an officer of the department, an authorized person, an inspector or a police officer.

Penalty: \$500

[Regulation 6A inserted in Gazette 28 August 1992 p.4239.]

Aids to navigation

7. (a) No person shall interfere with, remove or damage any beacon, buoy or other artificial aid to navigation.

(b) No person shall, except with permission in writing from the department, make fast any vessel to any beacon, buoy, seamark or other aid to navigation.

Rubbish

8. (a) No person shall throw into or cause to be placed in any port or harbour or navigable waters any matter or thing except with the permission of the department.

(b) A person convicted of an offence under this regulation shall within 10 days after demand by the department remove or cause to be removed from the port or harbour or navigable waters the matter or thing thrown or placed therein. Where the matter or thing is not so removed within the period of 10 days, the department may remove it or cause it to be removed and all costs incurred in or about such removal shall be deemed to be a debt payable to the department by the person offending and may be recovered by action in law in a court of competent jurisdiction.

*[Regulation 8 amended in Gazettes 28 May 1969 p.1568;
22 December 1972 p.4777.]*

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Sand below high water mark

9. (a) Except as provided by subregulation (b) of the last preceding regulation, no person shall, except with permission of the department, remove any sand or other material from below high water mark in any port or harbour.

(b) No person shall interfere with or cause damage or erosion to the sea shore or to any natural or artificial river bank within a port or harbour.

Conduct on or near vessels, public jetties or bridges

10. No person shall —

- (a) while using or swimming from or near any public jetty or bridge obstruct, impede or interfere with the passage of any vessel approaching or leaving the public jetty or bridge; or
- (b) cause a nuisance to any person on, in or about a vessel, public jetty or bridge.

[*Regulation 10 amended in Gazette 12 July 1974 p.2624.*]

Areas for swimming

10A. The department may, by notice published in the *Government Gazette* —

- (a) define and set aside any area of navigable waters as an area that shall not be used for any purpose other than swimming;
- (b) prohibit swimming from or near any public jetty or bridge specified in the notice or within any area of navigable waters defined in the notice;
- (c) vary or cancel any previous notice under this regulation.

[*Regulation 10A inserted in Gazette 12 July 1974 p.2625; amended in Gazette 16 March 1979 p.750.*]

Swimming at own risk

11. A person using or swimming from a public jetty shall do so at his own risk so far as liability of the Crown or the department is concerned for any injury, loss or damage incurred by that person in his use of the jetty.

Regattas

12. (a) No person shall navigate a vessel in such a manner or in such a position as to obstruct, impede or otherwise interfere with, or endanger the safety of boats or persons assembled or competing in events on the occasion of any form of aquatic sport, boat race, swimming carnival, regatta or other assembly for the purpose of entertainment within any navigable waters, for which permission has been granted pursuant to regulation 51C.

[(b) *deleted*]

(c) Notwithstanding paragraph (a) the person in charge of any sailing vessel or motor boat competing in an organized event shall comply with regulation 13.

[Regulation 12 amended in Gazettes 3 October 1967 p.2592; 18 December 1981 p.5219; 28 August 1992 p.4239.]

Prevention of Collisions at Sea Regulations 1983 apply

13. It is the duty of every person in charge of a motor boat or sailing vessel to be conversant with, and to abide at all times by, these regulations and the *Prevention of Collisions at Sea Regulations 1983* made under the *Western Australian Marine Act 1982*.

[Regulation 13 inserted in Gazette 18 December 1981 p.5219; amended in Gazette 1 July 1983 p.2263.]

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Nuisance

14. No vessel shall travel at such a speed or in such a manner as to cause nuisance or damage to any person or to any other vessel whether moored or not or to cause damage or erosion to any bank or property.

Safe navigation of vessels

14A. No person shall navigate a vessel in such a manner as to —

- (a) endanger the safety of that or any other vessel or any person; or
- (b) obstruct, impede or otherwise interfere with any other vessel.

[Regulation 14A inserted in Gazette 22 September 1978 p.3504.]

Passengers to keep within certain limits of vessel during navigation

14B. The person in charge of a vessel shall not permit any other person not engaged in activities required by the navigation of the vessel or the purposes for which that vessel is being used to remain in a position where any portion of his body is exposed to the risk of injury beyond the limits of the hull of that vessel.

[Regulation 14B inserted in Gazette 22 August 1975 p.3044.]

Towing vessels

15. (1) No motor boat shall pass through or under any bridge with more than one vessel in tow.

(2) A person shall not use a vessel for the purposes of towing unless he is at least 17 years of age and is accompanied, in the vessel, by a person of at least 14 years of age.

(3) A person in control of a towing vessel shall maintain a constant look-out ahead and the person accompanying him, in the vessel, shall maintain a constant watch over the vessel or object being towed by that vessel.

(4) Subregulations (2) and (3) do not apply where —

- (a) a distressed vessel is being towed in an emergency situation and no other person is available as an observer; or
- (b) the person in control of a vessel is unaccompanied at the time he finds a drifting vessel or object in any navigable waters and is towing the vessel or object away in order to prevent a danger arising to vessels using those waters.

*[Regulation 15 amended in Gazette 22 September 1978
p.3504.]*

Inflammable liquid

16. No person shall carry or attempt to carry or cause to be carried any inflammable liquid in any vessel licensed to carry passengers whether or not the liquid is carried with cargo or in passenger's baggage or otherwise.

Two vessels leaving adjacent berths at the same time

17. Where 2 or more vessels are scheduled to leave the same or adjoining jetties or berths at the same time, the vessel first under weigh shall have the right of way and the other vessel or vessels shall remain stationary until the vessel first under weigh is well clear.

Right of way when approaching jetties

18. (a) Where 2 motor boats approach the same public jetty from different directions under such circumstances that if they proceed on their courses a dangerous situation is likely to arise, the motor boat bound down a river shall give way to the motor boat bound up a river.

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(b) Where 2 motor boats approach the same public jetty in the same direction under circumstances that if they proceed on their course a dangerous situation is likely to arise, the motor boat on the outer course shall give way to the motor boat on the inner course.

At least 2 persons must man sea going vessel

18A. (1) In this regulation "vessel" means any vessel held for the purpose of pleasure privately and not for hire or reward.

(2) A person shall not cause or permit a vessel to go to sea and to remain outside the limits of any port for a period exceeding 12 hours unless the vessel is manned by not less than 2 persons.

[Regulation 18A inserted in Gazette 30 December 1966 p.3465.]

Vessels less than 3.75 metres in length to remain within 5 nautical miles

19. (1) In this regulation "vessel" means —

- (a) a vessel not solely propelled by oars, held for the purpose of pleasure privately and not for hire or reward;
- (b) a vessel licensed or required to be licensed under the *Fisheries Act 1905*.

(2) Subject to subregulation (3), a person in charge of a vessel of less than 3.75 metres in length shall not cause or permit the vessel to be navigated at a greater distance than 5 nautical miles from the nearest point at low water mark on the mainland shore.

Penalty: \$500.

(3) Nothing in this regulation prevents the navigation of a vessel of less than 3.75 metres in length —

- (a) within the limits of any port fixed by or under the *Ports and Harbours Act 1917*, or the *Fremantle Port Authority Act 1902*; or
- (b) within a distance of one nautical mile from any island.

[Regulation 19 inserted in Gazette 4 November 1965 pp.3803-4; amended in Gazettes 14 February 1975 p.572; 28 August 1992 p.4242.]

Speed limit in Swan and Canning Rivers

19A. Subject to regulations 48 and 48A, a person shall not cause a vessel to travel at a speed exceeding 10 knots in the waters of the Swan and Canning Rivers between the hours of sunset and sunrise.

[Regulation 19A inserted in Gazette 24 March 1972 p.699.]

Use of signals and flares, etc.

19B. A person shall not, except in the case of an emergency, or where a vessel is in distress and requires assistance, use or set off any signal, flare, rocket or other distress signal without having first obtained the written permission of the department.

Penalty: \$500.

*[Regulation 19B inserted in Gazette 24 March 1972 p.699;
amended in Gazette 28 August 1992 p.4242.]*

Master to display diving signals during diving

19C. (1) The master or person in charge of a vessel that is engaged in diving operations shall, at all times during which the vessel is so engaged, cause to be exhibited on the vessel so as to be clearly visible to all approaching vessels at all times, the International Code Flag "A" (a swallowed tailed flag having 2 vertical halves; the inner being white and the outer blue, indicating "diver below").

(2) The International Code Flag "A" referred to in subregulation (1) shall be of the following dimensions: —

- (a) in the case of a flag displayed on a vessel not exceeding 12 metres in length, a flag of size 6 of the International Flag Code, or, not less than 750 millimetres in length and not less than 600 millimetres in width.
- (b) in the case of a flag displayed on a vessel exceeding 12 metres in length, a flag of size 3 of the International Flag Code, or, not less than 900 millimetres in length and not less than 750 millimetres in width.

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(3) The master or person in charge of a vessel that is engaged in diving operations during the hours of darkness shall cause to be displayed on the vessel, in a vertical line where they can best be seen, 3 all round lights (having a visibility of not less than 2 miles) the highest and lowest of which shall be red and the middle light shall be white.

[Regulation 19C inserted in Gazette 22 December 1972 p.4777; amended in Gazettes 9 February 1979 p.375; 28 August 1992 p.4239.]

Person shall display signal from buoy

19D. (1) Where a person is engaged in diving operations other than from a vessel, the person shall cause to be displayed from a personal buoy, so as to be clearly visible to all approaching vessels, the International Code Flag "A".

(2) The International Code Flag "A" referred to in subregulation (1) shall be not less than 300 millimetres in length and not less than 200 millimetres in width.

[Regulation 19D inserted in Gazette 28 August 1992 p.4240.]

Precautions when approaching diving operations

19E. (1) Subject to subregulation (2), the master or person in charge of a vessel approaching a personal buoy or another vessel displaying International Code Flag "A" shall —

- (a) keep his vessel at least 50 metres clear of such buoy or vessel; or
- (b) where it is not possible to keep 50 metres clear of such buoy or vessel —
 - (i) proceed at the slowest speed at which his vessel can be safely navigated; and

- (ii) maintain a proper lookout for persons in the water, whilst passing within 50 metres of the buoy or vessel displaying the flag.

(2) Notwithstanding subregulation (1) an officer of the Fisheries Department, Department of Marine and Harbours, Department of Conservation and Land Management or Police Department who is the master or person in charge of a vessel may, for the purposes of the *Fisheries Act 1905*, the *Jetties Act 1926*, the *Shipping and Pilotage Act 1967*, the *Conservation and Land Management Act 1984*, the *Wildlife Conservation Act 1950*, and the *Western Australian Marine Act 1982*, approach a vessel or personal buoy displaying the International Code Flag "A" and the master or person in charge of the approaching vessel shall while in the vicinity of the vessel or personal buoy —

- (a) proceed at a safe speed; and
(b) maintain a proper lookout for persons in the water.

[Regulation 19E inserted in Gazette 22 December 1972 p.4778; amended in Gazettes 24 July 1987 p.2830; 16 October 1987 p.3893; 2 November 1990 p.5470.]

Owner of vessel to supply name and address

19F. (1) When it is alleged that a vessel has been involved in the commission of an offence against any of the provisions of these regulations, an officer of the department may demand from the owner or person for the time being in charge of the vessel, the name and address of the driver of the vessel at the time of the alleged offence.

(2) If the owner, or person for the time being in charge of the vessel, refuses on demand to identify or supply the name and address of the driver of the vessel he commits an offence unless he can prove there are reasonable grounds for him not having knowledge of the driver's identity.

Penalty: \$500.

[Regulation 19F inserted in Gazette 22 December 1972 p.4778; amended in Gazette 28 August 1992 p.4242.]

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Certificate of appointment

19G. The form of certificate of appointment for the purpose of sections 117 and 118 of the *Western Australian Marine Act 1982* is a form in the form in the Schedule.

*[Regulation 19G inserted in Gazette 17 March 1978;
amended in Gazette 1 July 1983 p.2263.]*

Declaration of emergency vessel

19H. (1) The chief executive officer may, by notice published in the *Government Gazette*, declare a specific vessel to be an emergency vessel for the purposes of these regulations.

(2) A declaration under subregulation (1) may specify —

- (a) the areas within which the vessel may operate as an emergency vessel;
- (b) that these regulations, or specified provisions of these regulations, do not apply, in any circumstances or in specified circumstances, to that vessel while it is being used as an emergency vessel;
- (c) when a lamp displaying intermittent blue flashes may be used on that vessel;
- (d) the persons entitled to operate the vessel under emergency conditions; and
- (e) such other matters as the chief executive officer considers expedient.

(3) The chief executive officer may amend or revoke a declaration made under subregulation (1) by the publication of a subsequent notice in the *Government Gazette*.

*[Regulation 19H inserted in Gazette 3 August 1990 p.3753;
amended in Gazette 11 August 1992 pp.3975-6.]*

Flashing blue lamps

19I. (1) A person shall not fit to a vessel a lamp that is capable of intermittent blue flashes unless that vessel has been declared to be an emergency vessel under regulation 19H.

Penalty: \$500.

(2) A person shall not cause a lamp displaying intermittent blue flashes to be used on a vessel unless —

- (a) that vessel has been declared to be an emergency vessel under regulation 19H; and
- (b) the lamp is used in accordance with the terms of that declaration.

Penalty: \$500.

[Regulation 19I inserted in Gazette 3 August 1990 p.3753; amended in Gazette 28 August 1992 p.4242.]

Penalties

20. Every person who by act or omission contravenes the provisions of any regulation in this Part, or the provisions of any notice published under, and by virtue of, this Part, commits an offence and is liable on conviction to a penalty of \$500.

[Regulation 20 inserted in Gazette 12 July 1974 p.2625; amended in Gazettes 17 September 1976 p.3463; 28 August 1992 p.4242.]

PART III — USE OF PUBLIC JETTIES

Interpretation

21. In this Part, subject to the context —

“jetty” means “public jetty” as defined in section 3 of the *Jetties Act 1926*, and includes all jetties as defined in the said section and public and private jetties within a proclaimed port or harbour;

“vessel” means “vessel” as defined in section 3 of the *Jetties Act 1926*.

Application of this Part

22. Regulations in this Part apply in relation to all persons, in, on, or using navigable waters in or about a jetty.

Jetties to be in accordance with these regulations

23. (a) No person shall land at, use or enter a jetty except in accordance with these regulations.

(b) No person shall land at, use or enter a jetty which is under construction or under repair or is closed under section 6 of the *Jetties Act 1926*.

Vessels moored to jetties

24. (a) No vessel shall be moored or made fast to a jetty or any part thereof except to such mooring piles, ring bolts or other fastenings as are provided and no vessel shall remain alongside any jetty unless so moored or fastened.

(b) No person shall cause any obstruction on or to any public steps or landing place for passengers on or at a jetty or impede the free passage of other persons on or along such steps or places.

Vessels not to remain at jetties

25. (a) Any vessel fastened to or alongside a jetty shall be removed forthwith on order for removal being given by an officer of the department.

(b) Subject to subregulation (a), vessels fastened to or alongside any jetty shall remain so fastened or alongside only while embarking or disembarking passengers or cargo.

(c) No vessel loading or discharging cargo shall come alongside or be fastened to any jetty until the cargo is ready to be loaded or discharged as the case may be.

(d) Except with the written permission of the department, no vessel shall remain alongside a jetty for the purpose of loading or discharging cargo between sunset and the next following sunrise.

Cargo or property not to be left on jetties

26. (a) No property intended for shipment on to a vessel shall be placed on a jetty unless and until the vessel is alongside the jetty, and such property shall be removed from the jetty as soon as practicable after being placed thereon.

(b) Property unloaded from a vessel on to a jetty shall be removed from the jetty as soon as practicable.

(c) Property on a jetty shall be forthwith removed therefrom upon demand by an officer of the department.

(d) Property left on a jetty shall be removed before the next sunrise.

(e) A person who leaves property or is in charge of property left on a jetty contrary to this regulation commits an offence.

(f) Property which remains on a jetty contrary to this regulation may be removed by an officer of the department, and the cost of removal and of any subsequent storage of the property shall be deemed to be a debt to the department payable jointly and severally by the owner, consignor and consignee of the property, and may be recovered by action in a court of competent jurisdiction.

Explosives not to be landed on jetties

27. Without the permission of the department, no person shall land, place or handle on a jetty an explosive as defined in section 4 of the *Explosives Act 1895*⁴.

Vehicles and bicycles on jetties

28. (a) No vehicle shall be driven on to or be or remain on a jetty without permission of an officer of the department.

(b) No person shall ride or have a bicycle on any jetty.

Written permission required for bulk cargoes

29. (a) No bulk cargo shall be tipped from a vehicle or deposited from a vessel on to a public jetty: Provided that this subregulation shall not apply to the tipping or depositing of sand, stone, gravel, soil or manure which is tipped or deposited by permission in writing of an officer of the department.

(b) All property tipped or deposited on to a jetty shall be so tipped or deposited gently and carefully.

Damage to jetties

30. (a) Without prejudice to the liability of other persons, if any, the owner of a vessel is personally responsible for all damage to a jetty caused by a person employed by him.

(b) Where damage to a jetty is caused by an owner or by a person employed by him, the department may repair the damage and the cost of such repairs shall be a debt due to the department and payable by the owner and may be recovered in a court of competent jurisdiction.

Fishing from jetties

31. (1) A person shall not fish in or under a navigation arch of a public bridge or fish from any jetty so as to obstruct or interfere with

the free movement of vessels approaching or leaving the jetty or so as to cause a nuisance on the jetty.

(2) A person shall not hang or spread a fishing net from, on or over any part of a jetty.

[Regulation 31 inserted in Gazette 23 March 1967 p.814.]

Hawking, meetings, etc., prohibited

32. A person shall not —

- (a) without the consent of the department, offer goods for sale on a jetty;
- (b) by any means, tout or solicit anyone to proceed as a passenger by any vessel or vehicle;
- (c) without the consent of the department, display any sign or advertisement or use any loud speaking device, on a jetty; or
- (d) so conduct himself as to interfere with free movement of persons entering upon or leaving a jetty.

[Regulation 32 inserted in Gazette 23 March 1967 p.815.]

Gangways to be provided

33. (a) Any licensed passenger motor boat using a jetty for the purpose of embarking or disembarking passengers shall provide between the vessel and the jetty at least one safe gangway of not less than 800 millimetres in width and having a hand rail on both sides.

(b) Where passengers are embarking or disembarking between sunset and the next following sunrise, the gangway referred to in the last preceding subregulation shall be sufficiently lighted.

[Regulation 33 amended in Gazette 14 February 1975 p.572.]

Material not to be removed

34. No person shall remove or cause to be removed from any jetty or from the approaches thereto any gravel, stone, timber, trees, shrubs, grasses or other material without the written permission of the Minister for Works and Services⁵ or his representative.

Obstruction of jetties or officer

35. (a) No person shall place or cause to be placed on a jetty any obstruction without the written permission of the department or the Department of Works⁶.

(b) No person shall obstruct any representative, officer or workman of the department or the Department of Works⁶ in constructing, repairing, adding to or working on any jetty.

Penalties

36. A person who by act or omission contravenes the provisions of any regulation in this Part commits an offence and is liable on conviction to a penalty not exceeding \$500.

[Regulation 36 amended in Gazettes 17 September 1976 p.3463; 28 August 1992 p.4242.]

PART IV — BERTHING AND MOORING

Application of this Part

37. Subject to the context, the regulations in this Part apply in relation to all vessels referred to in any of the Acts in any port, harbour, or navigable waters.

Vessels to be moored, berthed or take their departure as directed

38. (a) The owner of a vessel shall moor or berth his vessel in such a place and in such a manner as directed by an officer of the department and shall, if so directed by an officer of the department, forthwith remove his vessel or mooring in accordance with such directions.

(b) Where the owner of a vessel neglects or refuses to remove his vessel or his mooring as directed by an officer of the department, the officer may move or cause to be moved the vessel or moorings or both, as the case may be, and the cost of such moving shall be deemed to be a debt due to the department payable by the owner and may be recovered by action in a court of competent jurisdiction, but without prejudice to the liability of the owner to conviction and penalty under the last preceding subregulation.

(c) An officer of the department may, without the knowledge or consent of the owner of the vessel, move or cause to be moved the vessel or its moorings or both as found necessary from time to time.

(d) An officer of the department may direct that a vessel take its departure from a berth at such time or times as he may stipulate, so as to provide for the departure of the vessel at a time or times on a particular day or at times over a period of days; and a person in charge of a vessel who fails to comply with any such direction commits an offence.

[Regulation 38 amended in Gazette 23 March 1967 p.815.]

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Interference with vessels

39. No person shall, without the consent of the department, or of the owner of a vessel, move, let go or otherwise interfere with a vessel or its moorings.

Penalties

40. A person who by act or omission contravenes the provisions of any regulation in this Part commits an offence and is liable on conviction to a penalty not exceeding \$500 or imprisonment not exceeding one month with or without hard labour.

*[Regulation 40 amended in Gazettes 17 September 1976
p.3463; 28 August 1992 p.4242.]*

PART V — OBSTRUCTION AND WRECKS

Application of this Part

41. Subject to the context, regulations in this Part apply within ports, harbours and navigable waters and in relation to vessels, owners and persons referred to in the Acts.

Vessels not to be moored in fairway or channel

42. (a) No person shall anchor or moor any vessel in any fairway or channel, unless the vessel is in distress.

(b) Where an anchor has been slipped or let go from a vessel in distress in a fairway or channel, the owner of the vessel shall, as soon as possible, recover and lift the anchor and place it in a position where it will not interfere with the free passage of any other vessel.

(c) No person shall place a cable, rope or other obstruction in or across a fairway or channel without the permission in writing of the department.

(d) No person who causes an obstruction in any fairway or channel shall allow the obstruction to remain in the fairway or channel.

(e) A vessel detained by engine failure or similar cause in a fairway or channel shall be moved close to one side of and where possible out of the fairway or channel.

Channels or fairways not to be obstructed by nets, etc.

43. (a) No crab drop net, fishing net, marker buoy or other buoyed object shall be placed or allowed to remain in any channel or fairway in any port or harbour, or in any channel, fairway or passage in any navigable waters except by permission of the department.

(b) No person shall sink, set adrift or abandon any vessel, wreck or thing liable to obstruct the passage of or to cause damage to any vessel in any port, harbour or navigable waters.

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(c) The owner of any vessel, wreck or thing which has been sunk, set adrift or abandoned in any port, harbour or navigable waters, shall raise and remove the same and where directions as to the removal are given to him by an officer of the department, the owner shall carry out the directions within such time as is specified by the officer.

(d) Where any vessel, wreck or thing is not removed in accordance with paragraph (c), or where the officer of the department is unable, after making reasonable enquiries, to ascertain the identity or whereabouts of the owner, the department may remove the same or cause it to be removed and the cost of such removal shall be deemed to be a debt due to the department by the owner of the vessel, wreck or thing and may be recovered by action in a court of competent jurisdiction.

(e) An officer of the department may remove any buoyed object (including floats and attachments) found in any channel or fairway. A buoyed object so removed may be retained in the possession of the department until claimed by the owner or person entitled to possession thereof. If no such claim is made within 3 months after possession by the department, the object so possessed shall be deemed to have been abandoned by the owner and may be disposed of accordingly.

*[Regulation 43 amended in Gazettes 30 October 1967
p.2593; 22 September 1978 p.3504.]*

Beached vessels to be removed by owner

44. (a) No person shall remove or otherwise interfere with a vessel which has been beached except with the consent of the owner of the vessel.

(b) The owner of a beached vessel shall remove it to another place if and when directed by an officer of the department and in accordance with such directions.

(c) An officer of the department may remove any beached vessel from any place to any other place.

Penalties

45. Any person who by act or omission contravenes the provisions of any regulation in this Part commits an offence and is liable on conviction to a penalty not exceeding \$500 or to imprisonment not exceeding one month with or without hard labour.

[Regulation 45 amended in Gazettes 17 September 1976 p.3463; 28 August 1992 p.4242.]

PART VA — REGISTRATION OF PRIVATE PLEASURE BOATS

Application and interpretation of this Part

- 45A.** (1) The provisions of this Part apply to and in relation to —
- (a) the use in navigable water of any registrable vessel on or after 1 January 1972;
 - (b) the registration of any registrable vessel that is effected on or after 1 January 1972;
 - [(c) *deleted*]
 - (d) the transfer, on or after 1 January 1972, of the ownership and registration of any registered vessel.
- (2) In this Part —
- “owner”** in relation to a registered vessel, means the person stated to be the owner in the application for registration or transfer thereof, of the vessel, last received by the department;
- “registered interstate pleasure vessel”** means a registrable vessel which is currently registered in any State or Territory under a system of registration equivalent to that under this Part;
- “registered vessel”** means a vessel for the time being registered under this Part;
- “registrable vessel”** subject to subregulation (3) means any pleasure vessel, within the meaning of section 98 of the *Western Australian Marine Act 1982*, which is or may be propelled by mechanical power, including such a vessel which is ordinarily propelled by sail only;
- “tender”** means an auxiliary vessel that —
- (a) is not more than 3.1 metres in length; and

- (b) is propelled by motored power not exceeding 3.73 kilowatts,

that is used as a life boat or means of transportation between the parent vessel and the shore, or for both those purposes, but for no other purpose.

(3) A tender is not a registrable vessel for the purposes of this Part if the tender is marked with the registration number of its parent vessel in black numerals not less than 50 millimetres in height and 12 millimetres in width with a white surround not less than 7 millimetres immediately forward of the transom on each side of the vessel.

[Regulation 45A inserted in Gazette 16 December 1971 pp.5230-1; amended in Gazettes 14 February 1975 p.572; 17 September 1976 p.3464; 22 September 1978 p.3504; 1 July 1983 p.2263; 12 October 1984 p.3273; 21 February 1986 p.566.]

Registration of vessels

45B. (1) Subject to subregulations (2) and (2a) and to regulation 45BAA, a person shall not use or have in any navigable waters a registrable vessel unless —

- (a) the vessel is registered with the department in accordance with this Part; and
- (b) the current boat registration label for the vessel is fixed to the port side of the vessel, next to the registration number required by subregulation (7), in a manner which makes it clearly visible.

(2) A person may, within the period of 30 days immediately succeeding the day of expiry of the registration of the vessel, use or have in navigable waters a vessel that is not registered with the department in accordance with this Part.

(2a) A person may, within the period of 3 months immediately succeeding the day of entry of a registered interstate pleasure vessel into any navigable waters, use or have in navigable waters a registered

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interstate pleasure vessel that is not registered with the department in accordance with this regulation.

(3) Every application for the registration of a registrable vessel shall be made to the department in writing on a form specified by the Minister and shall include particulars of —

(a) subject to subparagraph (aa) the full name and residential address of the owner of the vessel and the telephone number of any telephone installed at that address for the owner;

(aa) where the owner of a registered vessel is —

(i) a company, the full name of a natural person nominated by the company; or

(ii) a partnership, the full name of each partner,

together with the addresses and telephone numbers at which the natural person or partners, as the case may be, may be contacted both during normal business hours and outside of those hours;

(ab) where applicable to the hull of the vessel, the manufacturer's serial number;

(ac) the engine number of any motor fitted to the vessel;

(b) the overall length of the vessel expressed in metres expressed to 2 decimal places;

(c) the type of construction of the vessel and its colour; and

(d) the power in kilowatts and name of the manufacturer of the engine fitted to the vessel or carried as an auxiliary in the vessel and a statement as to whether the engine is of the inboard or outboard type,

and the application shall be accompanied by the appropriate fee ascertained in accordance with the following table —

TABLE

Where the length of the vessel is —	\$
(i) less than 5 metres	30
(ii) 5 metres or over but less than 10 metres	60
(iii) 10 metres or over but less than 20 metres	111
(iv) 20 metres or over	151

(4) Where an application for registration is made for a vessel —

- (a) not previously registered under these regulations; or
- (b) for which the registration last issued under these regulations expired more than 30 days prior to the date of the application,

the application shall be accompanied by the appropriate fee prescribed in subregulation (3) and a recording fee of \$15.00.

(5) A vessel owned and operated solely for sea search and rescue operations by a properly constituted volunteer organization is exempted from fees prescribed in this regulation.

(6) When the department registers a vessel under this Part, other than under regulation 45BAA, the department shall —

- (a) if the vessel has not previously been registered, allot a registration number for the vessel; and
- (b) in every case, issue to the owner for whom the application was made a certificate of registration for the vessel and a boat registration label.

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(7) A person shall not use or have in any navigable waters a registrable vessel, other than a foreign pleasure vessel as defined in regulation 45BAA (1), unless —

- (a) where the vessel is a vessel other than a yacht which is or may be propelled by mechanical power, the registration number allotted to the vessel is legibly marked on each side of the vessel in accordance with the following provisions —
 - (i) the number shall not be positioned under a flared bow of the vessel and shall at all times be easily visible, whether or not the vessel is under way;
 - (ii) where a vessel has the number marked on the hull the digits of the number shall be positioned so that the highest part of each digit commences at a point that is not lower than 75 millimetres below the gunwale of the vessel;
 - (iii) each digit of the number shall be not less than 150 millimetres in height, and not less than 25 millimetres in width;
 - (iv) where the background, of each digit is not white, each digit of the number shall have a white surround not less than 7 millimetres in width; and
 - (v) each digit of the number shall be of plain block design and not script and be vertical and not slanting;

and

- (b) where the vessel is a yacht which is or may be propelled by mechanical power, the registration number allotted to the vessel is legibly marked on each side of the hull of the vessel in accordance with the following provisions —
 - (i) the number shall be positioned immediately forward of the transom so as to be easily visible;
 - (ii) the digits of the number shall be positioned so that the highest part of each digit commences at a point that is not lower than 75 millimetres below the gunwale of the vessel;

- (iii) each digit of the number shall be black and shall be not less than 50 millimetres in height and 12 millimetres in width;
- (iv) where the background of each digit is not white, each digit of the number shall have a white surround not less than 7 millimetres in width; and
- (v) each digit of the number shall be of plain block design and not script and be vertical and not slanting.

(8) Every registrable vessel, other than a foreign pleasure vessel as defined in regulation 45BAA (1), proceeding to sea on voyages north of Geraldton, shall have painted in black letters and figures at least 0.61 metres in height and 0.1 metres in width upon a yellow background, the registration number allotted to the vessel under this Part, prefixed by the letter "W" in the same dimensions, either —

- (a) upon the top of the wheelhouse; or
- (b) upon a canvas sheet carried upon the vessel and displayed when required for identification of the vessel.

[Regulation 45B inserted in Gazette 12 October 1984 pp.3273-5; amended in Gazettes 2 November 1984 p.3523; 30 August 1985 p.3079; 21 February 1986 p.566; 16 May 1986 p.1661; 16 April 1987 p.1370; 12 August 1988 p.2715; 13 January 1989 p.75; 30 June 1989 p.1926; 1 August 1990 p.3646; 26 July 1991 p.3924; 10 April 1992 p.1597; 30 June 1992 p.2900; 28 August 1992 p.4240; 29 June 1993 p.3187; 14 June 1994 p.2482; 30 June 1995 p.2706.]

Registration of Foreign Pleasure Vessels

45BAA. (1) In this regulation —

"foreign pleasure vessel" means a registrable vessel which is owned by a person who is not a permanent resident of the State and which is temporarily within navigable waters but does not include a registered interstate pleasure vessel;

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“proposed departure date” in relation to a foreign pleasure vessel means the date notified to the department pursuant to subregulation (4) (g) in respect of that vessel.

(2) Subject to subregulation (3), a person shall not use or have in any navigable waters a foreign pleasure vessel unless the vessel is registered with the department in accordance with this regulation.

(3) A person may, within the period of 30 days immediately succeeding the day of entry of the foreign pleasure vessel into any navigable waters, use or have in navigable waters a foreign pleasure vessel that is not registered with the department in accordance with this regulation.

(4) Every application for the registration of a foreign pleasure vessel shall be made to the department in writing on a form specified by the Minister and shall include particulars of —

- (a) the full name and residential address of the owner of the vessel and the telephone number of any telephone installed at that address for the owner;
- (b) the full name and residential address of the master of the vessel;
- (c) the overall length of the vessel expressed in metres expressed to 2 decimal places;
- (d) the type of construction of the vessel and its colour;
- (e) the power in kilowatts and name of the manufacturer of the engine fitted to the vessel or carried as an auxiliary in the vessel and a statement as to whether the engine is of the inboard or outboard type;
- (f) the date of entry of the vessel into navigable waters; and
- (g) the proposed date of departure of the vessel from navigable waters, and the application shall be accompanied by a

recording fee of \$15.00 and the appropriate fee ascertained in accordance with the following table for each 3 month period or part of a 3 month period for which it is proposed the vessel will be in navigable waters —

TABLE

Where the length of the vessel is —	\$
(i) less than 5 metres	4.00
(ii) 5 metres or over but less than 10 metres	7.25
(iii) 10 metres or over but less than 20 metres	9.50
(iv) 20 metres or over but less than 30 metres	19.00
(v) 30 metres or over but less than 40 metres	38.00
(vi) 40 metres or over	76.00

(5) When the department registers a foreign pleasure vessel under this regulation the department shall, if the vessel has not previously been registered under this regulation, allot a registration number for the vessel and issue to the owner for whom the application was made —

- (a) a boat registration label; and
- (b) a certificate of registration for the vessel, which certificate shall indicate the date of expiry of the registration of the vessel.

(6) A person shall not use or have in any navigable waters a foreign pleasure vessel unless —

- (a) the current boat registration label for the vessel is fixed to the port side of the vessel in a manner and position which makes it clearly visible; and

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- (b) the certificate of registration referred to in subregulation (5) is carried upon the vessel.

(7) Where an application for registration as a foreign pleasure vessel is duly made under this regulation and is accompanied by the prescribed fees the department shall issue a certificate of registration for a period commencing on the date shown on the receipt imprinted on the certificate and expiring on the proposed departure date.

(8) Where a foreign pleasure vessel previously registered under this regulation does not leave navigable waters on the proposed departure date and application for registration of the vessel under this regulation is duly made under subregulation (4) and is accompanied by the prescribed fee before that registration expires or within 30 days immediately succeeding the day on which that registration expires the department shall register the vessel for a period expiring on the proposed departure date shown in that application and the registration shall be deemed to be a continuation of the previous registration and to have effect on and from the day next succeeding the day on which that registration expires.

[Regulation 45BAA inserted in Gazette 21 February 1986 pp.566-7; amended in Gazettes 2 March 1990 p.1328; 1 August 1990 p.3647; 10 April 1992 p.1597; 30 June 1992 p.2900; 29 June 1993 p.3188; 14 June 1994 p.2482.]

Dealers plates

45BA. (1) Any person who is carrying on the business of —

- (a) manufacturing vessels;
- (b) buying or selling new vessels;
- (c) buying or selling used vessels;
- (d) repairing vessels; or
- (e) buying or selling trade articles used on vessels,

may apply in writing to the department for the issue to him of one or more sets of dealers plates.

(2) An application under subregulation (1) shall be made in writing in a form approved by the Department and be accompanied by a fee of —

- (a) \$200.00 for the issue of the first set; and
- (b) \$200.00 for the issue of any further set.

(3) A person to whom a set of dealers plates is issued by the department pursuant to an application made in accordance with subregulation (2) is entitled, subject to subregulation (5) to use those dealers plates in accordance with the provisions of this regulation for a period of 12 months from the date of issue to him of the dealers plates and thereafter the person may so use the dealers plates for successive periods of 12 months if a renewal fee of \$150.00 for that set is paid to the department prior to the commencement of each such successive period of 12 months.

(4) A person shall not use a vessel, or cause or permit a vessel to be used, while dealers plates are affixed on the vessel unless —

- (a) the vessel is being used by or with the consent of the person to whom the dealers plates have been issued;
- (b) the vessel is being used for purposes connected with the manufacture, alteration, repair, testing, sale or demonstration for a commercial purpose of the vessel or of a trade article used on the vessel; and
- (c) the plates are securely affixed to the vessel and are visible at a distance of 50 m while the vessel is under way,

and no payment or valuable consideration of any kind shall be made, given or demanded for the use of a vessel while dealers plates are affixed on the vessel.

(5) (a) The department may by notice served on a person to whom dealers plates have been issued, require him to immediately or within 7 days deliver up the plates to the department.

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(b) A person served with a notice pursuant to paragraph (a) shall not use the plates after service of that notice.

(6) When any dealers plates or set of dealers plates issued under this regulation is lost the person to whom it was issued shall forthwith notify the department and the department may on payment to it by that person of a fee of \$55.00 issue a further dealers plate or set of dealers plates in replacement for that lost.

(7) The provisions of regulation 45B (1) do not apply to the use of a vessel to which dealers plates are affixed in the manner prescribed by this regulation on any occasion when the use of the vessel with dealers plates so affixed is authorized by the provisions of this regulation.

[Regulation 45BA inserted in Gazette 14 March 1975 p.899; amended in Gazettes 20 June 1980 p.1831; 5 August 1983 p.2837; 12 October 1984 p.3275; 16 October 1987 p.3893; 12 August 1988 p.2715; 30 June 1989 p.1927; 1 August 1990 p.3647; 26 July 1991 p.3925; 30 June 1992 p.2901; 29 June 1993 p.3188; 14 June 1994 pp.2482-3.]

Duration of registration, etc.

45C. (1) Subject to subregulation (2), where an application for registration is duly made under regulation 45B and is accompanied by the prescribed fees the department shall issue a certificate of registration for a period of 12 months, which period shall commence on the date shown on the receipt imprinted on the application.

(2) Where application for registration of a vessel previously registered under this Part is duly made under regulation 45B and is accompanied by the prescribed fee —

- (a) within the period of 30 days immediately preceding the day on which the registration expires; or
- (b) within the period of 30 days immediately succeeding the day on which the registration expires,

the department shall register the vessel for a period of 12 months and the registration shall be deemed to be a continuation of the previous registration and to have effect on and from the day next succeeding the day on which that registration expires.

[Regulation 45C inserted in Gazette 12 October 1984 p.3275.]

Owners to furnish particulars of changes of address, etc.

45D. (1) The owner of a registered vessel shall —

- (a) produce to an officer of the department or a member of the police force the certificate of registration of the vessel within the time specified by the officer or member;
- (b) notify the department in a form approved by the Minister of any change in any of the registered particulars of the vessel or the address of the owner or any of the nominated persons referred to in regulation 45B (3) (aa), within 15 days of any such change occurring.

(2) Where a certificate of registration or a boat registration label issued under this Part in respect of a vessel has been lost, stolen, destroyed, mislaid, defaced, mutilated or rendered illegible, the owner of the vessel shall forthwith advise the department of that fact and of the circumstances which gave rise thereto and thereupon the department may, on payment of a fee of \$5.00, issue a duplicate certificate of registration or a replacement boat registration label, as the case requires.

[Regulation 45D inserted in Gazette 16 December 1971 p.5232; amended in Gazettes 21 February 1986 p.567; 1 August 1990 p.3647; 10 April 1992 pp.1597-8; 30 June 1992 p.2901; 28 August 1992 p.4240.]

Transfers of vessels

45E. (1) Where the owner of a registered vessel sells or otherwise disposes of the vessel, he shall —

- (a) forthwith furnish to the person to whom the vessel has been sold or disposed of the certificate of registration issued in respect of the vessel; and
- (b) within 7 days of the sale or disposal, give notice to the department in writing of the sale or disposal of the vessel of the consent to the sale or disposal of the vessel of all registered owners of the vessel and the name and address of the person to whom the vessel has been sold or disposed of.

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(2) Subject to subregulation (5), a person to whom a registered vessel has been sold or disposed of shall, within 15 days of the sale or disposal —

- (a) apply to the department for the transfer of the vessel and include with his application a recording fee of \$12.00; and
- (b) produce to the department the certificate of registration of the vessel the consent in writing of all parties named in the application and such other proof of his acquisition of the vessel as the department may require,

and thereupon the department shall transfer the registration of the vessel and return to the person by whom the application was made the certificate of registration, suitably endorsed.

(3) The owner of a registered vessel shall notify the department in writing of the loss of that vessel, however occasioned, within 15 days of his learning of that loss.

(4) Subregulation (3) does not apply if the department has already been notified of the loss of the vessel pursuant to regulation 52H.

(5) A person to whom a vessel registered under regulation 45BAA has been sold or disposed of shall, within 15 days of the sale or disposal, produce to the department the certificate of registration of the vessel and such other proof of his acquisition of the vessel as the department may require and thereupon the department shall —

- (a) transfer the registration of the vessel and return to that person the certificate of registration, suitably endorsed; or
- (b) where the department considers the vessel is no longer a foreign pleasure vessel, direct that person to make application for registration of the vessel under regulation 45B.

[Regulation 45E inserted in Gazette 16 December 1971 p.5232; amended in Gazettes 12 July 1974 p.2625; 9 February 1979 p.375; 7 August 1981 p.3230; 12 October 1984 p.3275; 2 November 1984 p.3523; 21 February 1986 pp.567-8; 2 March 1990 p.1329; 1 August 1990 p.3647; 10 April 1992 p.1598; 30 June 1992 p.2901.]

Penalties

45F. A person who, by act or omission, contravenes or fails to comply with any provision of a regulation in this Part of these regulations commits an offence and is liable on conviction to a penalty not exceeding \$500.

[Regulation 45F inserted in Gazette 16 December 1971 p.5232; amended in Gazettes 17 September 1976 p.3464; 28 August 1992 p.4242.]

PART VI — PRIVATE PLEASURE BOATS

Interpretation and application of this Part

46. (1) Subject to the provisions of regulation 3 (2), a reference in this Part to a motor boat is a reference to a motor boat that is a “pleasure vessel” within the meaning of section 98 (1) of the *Western Australian Marine Act 1982*; and the word “owner” has the meaning provided by that section.

(2) In this Part —

“para-sailing” means the sport or exercise where a person is towed over water by a motor boat and with the aid of a kite, parachute or similar apparatus becomes airborne;

“trick water ski-ing” means the sport or exercise of being towed over the water by a motor boat, without being continuously supported on the surface;

“water ski-ing” means the sport or exercise of being towed over water, at a speed of 8 knots or more, by a motor boat, so as to be supported on the surface by a ski or skis, an aquaplane or the feet; and “water skier” means a person engaging in water ski-ing or in trick water ski-ing.

(3) Regulations 48 to 51A, 52, 52E and 52F apply to or in relation to motor boats and regulations 51C, 52A to 52D, 52G and 52H apply to or in relation to all vessels.

[Regulation 46 inserted in Gazette 19 December 1962 pp.4014-5; amended in Gazettes 12 July 1974 p.2625; 16 May 1986 p.1661; 10 April 1992 p.1598; 28 August 1992 pp.4240-1.]

[47 and heading. Repealed in Gazette 1 July 1983 p.2263.]

[47A. Repealed in Gazette 22 December 1972 p.4778.]

Limitation of speed

48. Subject to regulation 48A a person shall not, in any navigable waters, drive a motor boat at a speed exceeding 8 knots, water ski or para-sail —

- (a) without the approval of the department —
 - (i) in any water having a depth of less than 3 metres; or
 - (ii) within 45 metres of a river bank or low water mark;
- (b) in or through a mooring area;
- (c) within 15 metres of a vessel under weigh;
- (d) within 45 metres of —
 - (i) a moored vessel;
 - [(ii) *deleted*]
 - (iii) a person in the water; or
 - (iv) a jetty or wharf; or
- (e) through an arch of a bridge.

[Regulation 48 inserted in Gazette 19 December 1962 p.4015; amended in Gazettes 9 February 1970 p.377; 22 December 1972 p.4778; 14 February 1975 p.572; 28 August 1992 p.4241.]

Areas for speed boats and water ski-ing

48A. (1) The chief executive officer may, by notice published in the *Government Gazette* —

- (a) limit the speed of any specified class or classes of motor boat, in any navigable waters therein defined;

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- (b) define and set aside any area of navigable waters for the purpose of racing by speed boats of which the owners have been granted permission to race by the chief executive officer;
- (c) define and set aside, and impose conditions on the use of, any area of navigable waters for the purposes of para-sailing or water ski-ing and, where he sees fit, specify times when that area may be so used and may by that notice, permit the use in accordance with that notice of any waters mentioned in regulation 48 (a), for that purpose;
- (d) vary or cancel any previous notice under this subregulation.

(2) A person shall not race a motor boat, or drive a motor boat towing a para-sailor or a water skier in any navigable waters, except in an area defined and set aside by the chief executive officer for the purpose and, where times during which the area may be so used have been specified under subregulation (1) (c), during those times, and where the chief executive officer has imposed any conditions on the racing of speed boats, on para-sailing or on water ski-ing, in any such defined area, a person failing to comply with those conditions commits an offence.

(3) Where, under the provisions of this regulation, the chief executive officer defines and sets aside any area of navigable waters, for a specified purpose, he may, at the same or any other time order that those waters be not used for any but the specified purpose; and a person shall not thereupon, use those water for any but the specified purpose.

[Regulation 48A inserted in Gazette 19 December 1962 p.4016; amended in Gazettes 16 December 1963 p.3876; 16 October 1970 p.3206; 12 July 1974 p.2625; 16 May 1986 p.1661; 11 August 1992 pp.3975-6; 28 August 1992 p.4241.]

Driver to be accompanied and to be alert

49. (1) A person shall not drive a speed boat towing a para-sailor or a water skier unless he is at least 17 years of age and is accompanied, in the boat, by a person of at least 14 years of age.

(2) A person driving a speed boat towing a para-sailor or a water skier shall maintain a constant lookout ahead and the person accompanying him, in the boat, shall maintain a constant watch over the para-sailor or para-sailors or the skier or skiers being towed by that boat.

[Regulation 49 inserted in Gazette 19 December 1962 p.4016; amended in Gazettes 16 October 1970 p.3206; 28 August 1992 p.4241.]

Minimum age for drivers and operators of motor boats

49A. (1) Subject to subregulations (2), (3) and (4) —

- (a) a person under the age of 17 years must not drive or operate a motor boat;
- (b) the owner or person having the control of a motor boat must not knowingly permit or suffer the motor boat to be driven or operated by a person under the age of 17 years otherwise than in accordance with this regulation.

(2) A person who is under the age of 17 years but not under the age of 14 years, who holds a current and valid *Certificate of Proficiency in the Operation of Pleasure Vessels*, issued under regulation 27A of the *W.A. Marine (Certificates of Competency and Safety Manning) Regulations 1983*, may drive or operate a motor boat.

(3) A person who is not under the age of 10 years may drive or operate a motor boat with a motor not exceeding 4.5 kilowatts brakepower.

(4) A person of any age may drive or operate a motor boat provided that if the person is under the age of 17 years and does not hold a certificate referred to in subregulation (2), he or she is under the direct supervision of an adult.

(5) An owner and any person who contravenes this regulation commits an offence.

[Regulation 49A inserted in Gazette 31 December 1993 pp.6912-13.]

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[49B. *Repealed in Gazette 1 July 1983 p.2263.*]

Driving speed boats behind skiers

49C. A person shall not drive a speed boat directly behind a water skier or another boat under way so as to approach within 45 metres of such water skier or other boat.

[Regulation 49C inserted in Gazette 16 October 1970 p.3206; amended in Gazette 14 February 1975 p.572.]

Right of way when landing a water skier

49D. A person driving a boat about to take-off shall yield right of way to a speed boat coming in to land a water skier.

[Regulation 49D inserted in Gazette 19 December 1962 p.4016.]

Ski ropes

49E. A person shall not permit a ski rope to trail within 30 metres of the shore of any area set aside for water ski-ing, unless the rope handles are held by a skier.

[Regulation 49E inserted in Gazette 19 December 1962 p.4016; amended in Gazette 14 February 1975 p.572.]

Towing trick water skiers

49F. A person shall not drive a speed boat towing a person or persons engaged in the exercise of trick water ski-ing so as to approach within 90 metres of any landing or take-off area.

[Regulation 49F inserted in Gazette 19 December 1962 p.4016; amended in Gazettes 16 December 1963 p.3876; 14 February 1975 p.572.]

Towing skiers near landing or take-off areas

49G. Except as otherwise provided by any notice published under the provisions of regulation 48A, a person shall not drive a speed boat towing water skiers within 30 metres of the shore of any landing or take-off area, except for the purpose of landing or taking off water skiers.

[Regulation 49G inserted in Gazette 16 December 1963 p.3876; amended in Gazette 14 February 1975 p.572.]

Ski line to be retrieved

49H. After landing a water skier, the driver of a speed boat that towed the skier shall continue to a distance of not less than 60 metres from the point of dropping such skier, where he shall stop and retrieve the ski line and if coming to shore he shall then drive the boat at a speed not exceeding 8 knots and in a manner so as not to interfere with, or obstruct, any other boat towing a water skier.

[Regulation 49H inserted in Gazette 16 October 1970 p.3206; amended in Gazette 14 February 1975 p.572.]

Driver of speed boat not to approach shore where a skier has landed

49I. The driver of a speed boat landing a water skier shall not approach within 25 metres of the shore where the skier is to be landed.

[Regulation 49I inserted in Gazette 16 October 1970 p.3206; amended in Gazette 14 February 1975 p.572.]

Sitting on gunwale or back of driver's seat prohibited

49J. A person shall not, while driving a speed boat, sit on the gunwale or on the back of the driving seat.

[Regulation 49J inserted in Gazette 3 October 1967 p.2593.]

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Water skis to be retrieved immediately

49K. A water skier shall, immediately upon losing or intentionally discarding a ski, retrieve or cause to be retrieved such ski.

[Regulation 49K inserted in Gazette 1 May 1970 p.1233.]

[49L. Repealed in Gazette 1 July 1983 p.2263.]

Restrictions on slalom ski-ing or ski-jumping

49M. (1) A person shall not use any navigable waters for the purpose of —

- (a) a slalom course or ski-jump unless prior approval in writing has been obtained from the department;
- (b) a slalom course or ski-jump unless a safety zone surrounding such slalom course or ski-jump is defined by red marker buoys, each having a diameter of 200 millimetres and fitted with a 300 millimetre high orange triangular pennant;
- (c) slalom ski-ing unless that person is wearing an approved buoyancy vest and in the event of attempting a ski-jump that person is wearing an approved vest and wet suit rubber pants; and
- (d) slalom ski-ing or ski-jumping unless that person is permitted to use the slalom course or ski-jump by the person or club having the approval of the department to use the water for that purpose.

[Regulation 49M inserted in Gazette 16 October 1970 p.3206; amended in Gazette 14 February 1975 p.572.]

Prohibited times

50. (1) Subject to subregulation (2), a person shall not drive a motor boat towing a water skier —

- (a) before 8 am and after sundown, in the waters of the Swan River; or

- (b) before 9 am and after sundown in the waters of the Canning River.

(2) Where by notice under regulation 48A an area of the Swan River has been defined and set aside for the purposes of water ski-ing at times specified in the notice and any of the times specified are within the period prescribed in paragraph (a) of subregulation (1), that paragraph does not apply to a person driving a motor boat for the purposes of water ski-ing in that area at times permitted by, and otherwise in accordance with, that notice.

[Regulation 50 inserted in Gazette 14 August 1981 p.3340; amended in Gazette 16 May 1986 p.1661.]

[50A, 50B, 50C, and 50D. Repealed in Gazette 19 December 1962 p.4017.]

Silencers on motor boats

51. A person shall not use a motor boat unless it is fitted with an efficient silencer approved by the department.

[Regulation 51 inserted in Gazette 19 December 1962 p.4017.]

Motor boats not to emit smoke or vapour

51A. Except in the case of an emergency, a person shall not cause or permit a motor boat to emit smoke or vapour to such an extent as to cause danger, nuisance or annoyance to the public.

[Regulation 51A inserted in Gazette 19 December 1962 p.4017.]

[51B. Repealed in Gazette 7 September 1979 p.2735.]

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Organized races, displays, regattas and aquatic sports

51C. A person shall not organize, promote or conduct a race, display or regatta for vessels of any description or an exhibition of any form of aquatic sport, including water ski-ing, in any navigable waters, unless permission therefor has first been granted by the department.

*[Regulation 51C inserted in Gazette 19 December 1962
p.4017.]*

Certain vessels to be equipped with bilge pumps

51D. (1) The owner of a vessel of 7 metres length or over must ensure that the vessel is fitted with an efficient and operational bilge pump.

(2) A pump referred to in subregulation (1) must —

- (a) have the capacity to pump not less than 4 kilolitres per hour; and
- (b) if it is automatic or electric, be wired so that an indicator shows when the pump is working.

(3) The owner of a vessel of under 7 metres length which is not fitted with a bilge pump must ensure that the vessel carries a bucket or bailer.

(4) An owner who contravenes this regulation commits an offence.

*[Regulation 51D inserted in Gazette 31 December 1993
p.6913.]*

Certain vessels shall be equipped with fire extinguishers

52. The owner of —

- (a) any vessel fitted with an inboard engine; or
- (b) any vessel which is fitted with hydrocarbon cooling or heating appliances,

shall ensure that the motor boat or vessel is equipped with a fire extinguisher that bears the stamp of the Standards Association of Australia and conforms to one of the following standards issued by that body —

- (c) AS 1841.1 and AS 1841.4 (foam);
- (d) AS 1841.1 and AS 1841.5 (powder type);
- (e) AS 1841.1 and AS 1841.6 (carbon dioxide); or
- (f) AS 1841.1 and AS 1841.7 (vaporizing liquid).

[Regulation 52 inserted in Gazette 28 August 1992 pp.4241-2; amended in Gazette 31 December 1993 p.6913.]

Vessels to be equipped with sufficient life jackets

52A. (1) Every vessel shall, while being navigated outside protected waters, be equipped with a life jacket for each person on board —

- (a) that bears the stamp of the Standards Association of Australia and conforms to standard AS 1512 of that body; or
- (b) that has been approved by the Department of Transport of the Australian Government, as a marine life jacket.

(2) Life jackets required to be carried on board by subregulation (1) shall be appropriate in terms of buoyancy and size to the body mass of the persons aboard at that time.

[Regulation 52A inserted in Gazette 24 December 1982 p.4920.]

Vessels to be equipped with certain distress signals

52B. (1) The owner of a vessel must ensure that the vessel, while being navigated outside protected waters, is equipped with the following distress signals —

- (a) not less than —
 - (i) 2 red hand held flares; or

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(ii) 2 parachute distress rockets;

and

(b) not less than —

(i) 2 hand held orange smoke signals; or

(ii) one orange smoke canister.

(1a) The owner of a vessel that proceeds more than 5 nautical miles from the mainland, or more than one nautical mile from an island situated more than 5 nautical miles from the mainland, must ensure that the vessel is equipped with the following distress signals —

(a) not less than 2 parachute distress rockets; and

(b) not less than —

(i) 2 hand held orange smoke signals; or

(ii) one orange smoke canister.

(2) The distress signals referred to in subregulation (1) must comply with —

(a) Appendix V of section 10 of the Uniform Shipping Laws Code compiled by the Australian Transport Advisory Council; or

(b) Australian Standard 2092-1977 published by the Standards Association of Australia (except as to parachute distress rockets, which are referred to only in the Code mentioned in paragraph (a)).

(3) An owner who contravenes this regulation commits an offence.

[Regulation 52B inserted in Gazette 22 August 1975 p.3044; amended in Gazettes 11 May 1990 p.2283; 31 December 1993 pp.6913-14.]

Certain vessels must be equipped with a marine transceiver

52BAA. (1) The owner of a vessel that proceeds more than 5 nautical miles from the mainland, or more than one nautical mile from an island situated more than 5 nautical miles from the mainland, must ensure that the vessel is equipped with a marine transceiver approved by the Spectrum Management Authority of the Commonwealth.

(2) Whilst the vessel is underway the transceiver referred to in subregulation (1) must, when not used for other transmission, remain switched on and tuned to the emergency distress calling frequency or the working frequency of the shore station with which the vessel is logged on.

(3) An owner who contravenes this regulation commits an offence.

*[Regulation 52BAA inserted in Gazette 31 December 1993
p.6914.]*

Certain vessels must carry Electronic Position Indicating Radio Beacons

52BAB. (1) The owner of a vessel which proceeds more than 30 nautical miles from the mainland, or more than one nautical mile from an island situated more than 30 nautical miles from the mainland, must ensure that the vessel is equipped with an Electronic Position Indicating Radio Beacon approved by the Spectrum Management Authority of the Commonwealth.

(2) An owner who contravenes this regulation commits an offence.

*[Regulation 52BAB inserted in Gazette 31 December 1993
pp.6914-15.]*

Equipment to be maintained in a serviceable condition and readily accessible

52BA. (1) All items of equipment required to be carried on board any vessel pursuant to regulations 51D, 52, 52A, 52B, 52BAA, 52BAB and 52G shall be —

(a) maintained in a serviceable condition; and

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(b) situated so as to be readily accessible to all persons on board the vessel.

(2) Where any of the items of equipment referred to in regulation 52BA (1) are stored under cover, the position of those items shall be clearly indicated by appropriate markings.

(3) All equipment required to be carried on board any vessel pursuant to regulations 51D, 52, 52A, 52B, 52BAA, 52BAB, 52C and 52G shall be produced to an officer of the department on demand.

[Regulation 52BA inserted in Gazette 17 September 1976 p.3464; amended in Gazette 31 December 1993 p.6915.]

Vessels to be equipped with efficient anchors and lines

52C. Every vessel, when proceeding outside protected waters, shall be equipped with an efficient anchor and line.

[Regulation 52C inserted in Gazette 19 December 1962 p.4017.]

Department may grant exemption from compliance with regulations 52A, 52B and 52C

52CA. (1) A provision of regulations 52A, 52B and 52C does not apply to a vessel while it is taking part in any race or regatta for which permission has been granted by the department under regulation 51C if —

- (a) a written exemption has been granted by the department under subregulation (2) from that provision, for that vessel or description of vessel during that race or regatta; and
- (b) the owner and the person in charge of the vessel comply with the terms and conditions of the exemption imposed on them respectively by the department.

(2) The department may, upon written application, grant an exemption described in subregulation (1) (a) if it is satisfied that the safety of competitors in the race or regatta will not be endangered by

the grant of the exemption; and may impose conditions on the owners and persons in charge of vessels taking part therein and on the person or persons by whom the race or regatta is organized.

(3) Without limiting the other grounds on which the department may refuse to grant an exemption under subregulation (2), it shall not grant an exemption unless it is satisfied that —

- (a) the race or regatta is to commence after sunrise and be completed before sunset; and
- (b) a sufficient number of suitable rescue craft will be available throughout the duration of the event.

[Regulation 52CA inserted in Gazette 4 September 1981 pp.3861-2.]

Personal powered watercraft and sailboards exempted from certain regulations

52CAB. (1) Regulation 52 does not apply to a personal powered watercraft.

(2) Regulations 52A and 52B do not apply to a personal powered watercraft or a sailboard being used within 400 metres of the shore.

(3) Regulation 52C does not apply to a personal powered watercraft or a sailboard.

(4) In any dispute the General Manager shall decide if the relevant vessel is a personal powered watercraft.

[Regulation 52CAB inserted in Gazette 28 August 1992 p.4242.]

Person in charge of vessel to obey directions of officers of the department in special circumstances

52D. When under the circumstances for the time being prevailing, a vessel is unseaworthy, overloaded or insufficiently equipped or is in an unsafe position or locality, the person in charge of the vessel shall

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forthwith obey any demand or instruction given to him by the department or by an officer of the department or any person acting with the authority of the department, relating to the removal of the vessel, to reducing the load thereof or to providing any additional equipment required therefor.

*[Regulation 52D inserted in Gazette 19 December 1962
p.4017.]*

Storage and use of fuel in motor boats

52E. The following provisions apply to the storage and use of fuel in all motor boats, namely —

- (a) fuel shall be carried in containers soundly constructed of metal or any other approved materials and shall not, in any event, be carried in plastic containers;
- (b) subject to paragraph (c), the pipes leading from the fuel tank to the engine shall be of steel or copper having all joints brazed and union faces ground and made of metal;
- (c) a short length of flexible piping of some other material may be used with the approval of the department; and
- (d) an efficient valve shall be fitted against the fuel tank outlet.

*[Regulation 52E inserted in Gazette 4 November 1965
p.3804.]*

Ventilation of engine compartment

52F. Any engine compartment of a motor boat shall be adequately ventilated.

*[Regulation 52F inserted in Gazette 4 November 1965
p.3804.]*

Navigation lights

52G. (1) The owner of a vessel must ensure that the vessel, while operating between sunset and sunrise, displays the navigation lights prescribed under the *Prevention of Collisions at Sea Regulations 1983*.

(2) An owner who contravenes this regulation commits an offence.

[*Regulation 52G inserted in Gazette 31 December 1993 p.6915.*]

Reporting accidents and fires

52H. Whenever —

- (a) any vessel (including a vessel propelled solely by sail) is involved in an accident; or
- (b) a fire occurs on board any vessel (including a vessel propelled solely by sail),

and by reason of that accident or fire —

- (c) the vessel is lost or sustains damage rendering it unseaworthy or incapable of being safely navigated; or
- (d) loss of life or serious injury occurs,

the owner or person in charge of the vessel shall within 7 days of the occurrence of that accident or fire notify the department by sending to the department a written report containing particulars of the accident or fire and of any loss, damage, injury or loss of life.

[*Regulation 52H inserted in Gazette 12 July 1974 p.2626.*]

Penalties

53. (1) Every person who by act or omission contravenes the provisions of any regulation in this Part, or the provisions of any notice published under, and by virtue of, this Part, commits an offence and is liable on conviction to a penalty not exceeding \$500 or to imprisonment not exceeding one month, with or without hard labour.

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(2) Every person who by act or omission fails to comply with any condition imposed on him under regulation 52CA (2) commits an offence and is liable on conviction to a fine not exceeding \$500.

(3) It is a defence to a complaint of an offence against subregulation (2) for an owner or a person in charge of a vessel who is charged with the offence to show that he did not know, and could not reasonably be expected to have known, of the condition imposed under regulation 52CA (2).

[Regulation 53 inserted in Gazette 19 December 1962 p.4017; amended in Gazettes 17 September 1976 p.3464; 4 September 1981 p.3862; 28 August 1992 p.4242.]

PART VII — REGULATIONS APPLYING TO CERTAIN AREAS

Division 1 — Port of Perth

Application of Division

54. Regulations in this Division apply in relation to vessels owners and persons as referred to in regulation 4 within the area of the Port of Perth for the time being proclaimed under the *Ports and Harbours Act 1917*³.

[55. *Repealed in Gazette 1 August 1990 p.3641.*]

[56. *Repealed in Gazette 1 August 1990 p.3641.*]

Permanent berths for exclusive use

57. (1) Subject to the payment of the appropriate fee set out in Appendix 1A of the *Jetties Act Regulations 1940* the department may grant to the owner of any vessel licensed to carry passengers a permit for the exclusive use of a berth at a public jetty as a berth for such vessel, subject to accommodation for the time being available.

(2) Where a permit for the exclusive use of a berth is granted under subregulation (1) for a vessel, no other vessel shall use the berth while the permit is current.

(3) Any permit granted under this regulation may specify —

- (a) any other berth or jetty within the Port of Perth at which the vessel may berth to pick up or set down passengers;
- (b) the time or times that the vessel may berth or pick up or set down passengers;
- (c) other conditions which the chief executive officer considers necessary for good order on or about a public jetty or in the interests of safety of the passengers, vessel or jetty.

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(4) Any of the conditions specified in a permit issued under this regulation may be amended or varied by notice in writing served on the person in charge of the vessel subject to the permit or upon the owner of the vessel by letter addressed to his registered office.

(5) A person who, by act or omission, contravenes the conditions of a permit issued under this regulation is liable on conviction to a penalty not exceeding \$200.

(6) The Minister may cancel any permit issued under this regulation if he is satisfied that the holder of a permit has failed to observe the conditions of the permit so issued or has failed to observe any regulation relating to the maintenance of good order or safety on or about a public jetty.

[Regulation 57 inserted in Gazette 31 March 1978 pp.989-90; amended in Gazette 1 August 1990 p.3641; 11 August 1992 p.3976.]

Wharfage dues

58. The owner of any vessel handling or permitting the handling of cargo on any jetty shall pay to the department as wharfage dues the sum of 10 cents per ton of such cargo.

[59, 60, 61, 62, 63, 64, 65 and 66. Repealed in Gazette 9 February 1970 p.377.]

Penalties

67. A person who, by act or omission, contravenes the provisions of a regulation in this Part commits an offence and is liable on conviction to a penalty not exceeding \$40, or, where a particular penalty is provided for that offence by these regulations, that particular penalty.

[Regulation 67 amended in Gazette 31 March 1978 p.990.]

Duty of owner or person navigating a vessel

68. Where by these regulations an act is required to be done, or forbidden to be done in relation to any vessel, the owner or the person causing, permitting or suffering the vessel to be navigated has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

[Regulation 68 inserted in Gazette 11 September 1987 p.3545.]

[Schedule 1. Repealed in Gazette 25 August 1989 p.2846.]

[Schedule 2. Repealed in Gazette 1 August 1990 p.3641.]

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NOTES

¹ This reprint is a compilation as at 3 July 1995 of the *Navigable Waters Regulations* and includes amendments in the reprint published in the *Gazette* on 8 November 1989 and amendments effected by the other regulations referred to in the following Table.

Table of Regulations

Regulation	Gazettal	Commencement	Miscellaneous
<i>Navigable Waters Regulations</i>	2 April 1958 pp.622-32	2 May 1958	
(Regulations effecting amendments included in the previous reprint are not referred to this Table)			
<i>Navigable Waters Amendment Regulations (No. 3) 1989</i>	2 March 1990 pp.1328-9	2 March 1990	
<i>Navigable Waters Amendment Regulations 1990</i>	11 May 1990 p.2283	11 May 1990	
<i>Navigable Waters Amendment Regulations (No. 2) 1990</i>	3 August 1990 p.3753	3 August 1990	
<i>Navigable Waters Amendment Regulations (No. 3) 1990</i>	1 August 1990 pp.3640-1	1 August 1990 (see regulation 2)	
<i>Navigable Waters Amendment Regulations (No. 3) 1990</i>	1 August 1990 pp.3646-7	1 August 1990 (see regulation 2)	
<i>Navigable Waters Amendment Regulations (No. 4) 1990</i>	2 November 1990 pp.5469-70	2 November 1990	
<i>Navigable Waters Amendment Regulations 1991</i>	26 July 1991 pp.3924-5	1 August 1991 (see regulation 2)	

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Regulation	Gazettal	Commencement	Miscellaneous
<i>Navigable Waters Amendment Regulations 1992</i>	10 April 1992 pp.1596-8	1 July 1992 (see regulation 2)	Regulation 9 transitional ⁷
<i>Navigable Waters Amendment Regulations (No. 3) 1992</i>	30 June 1992 pp.2900-01	1 July 1992 (see regulation 2)	
<i>Navigable Waters Amendment Regulations (No. 3) 1992</i>	11 August 1992 pp.3975-6	11 August 1992	
<i>Navigable Waters Amendment Regulations (No. 4) 1992</i>	28 August 1992 pp.4238-42	1 September 1992 (see regulation 2)	
<i>Navigable Waters Amendment Regulations 1993</i>	29 June 1993 pp.3187-8	1 July 1993 (see regulation 2)	
<i>Navigable Waters Amendment Regulations (No. 2) 1993</i>	31 December 1993 pp.6912-15	1 March 1994 (see regulation 2)	
<i>Navigable Waters Amendment Regulations 1994</i>	14 June 1994 pp.2482-3	1 July 1994 (see regulation 2)	
<i>Navigable Waters Amendment Regulations 1995</i>	30 June 1995 p.2706	1 July 1995 (see regulation 2)	

² Note no longer relevant.

³ The *Ports and Harbours Act 1917* was repealed by the *Shipping and Pilotage Act 1967*.

⁴ Now see the *Explosives and Dangerous Goods Act 1961*.

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⁵ Title changed pursuant to section 7 (3) (h) of the *Reprints Act 1984*.

⁶ Title changed pursuant to section 7 (3) (h) of the *Reprints Act 1984*.

⁷ Regulation 9 of *Navigable Waters Amendment Regulations 1992* reads as follows:

“ **Transitional**

9. (1) Notwithstanding regulations 4 and 6 of these regulations, regulations 45B and 45D of the principal regulations, as they were immediately before the commencement of these regulations, continue to apply in relation to a vessel registered with the department in the year ending 30 June 1992, until that vessel's registration expires or is renewed.

(2) Notwithstanding regulation 5 of these regulations, regulation 45BAA of the principal regulations, as it was immediately before the commencement of these regulations, continues to apply in relation to a foreign pleasure vessel registered with the department in the year ending 30 June 1992, until that foreign pleasure vessel's registration expires or is renewed.

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