



Western Australia

Shipping and Pilotage Act 1967
Jetties Act 1926
Western Australian Marine Act 1982

Navigable Waters Regulations 1958

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Navigable Waters Regulations 1958

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Defined Terms

Western Australia

Shipping and Pilotage Act 1967
Jetties Act 1926
Western Australian Marine Act 1982

Navigable Waters Regulations 1958

Part I — Preliminary

1. Citation and commencement

These regulations may be cited as the *Navigable Waters Regulations 1958*, and shall come into force one month after the publication thereof in the *Government Gazette*¹.

[Regulation 1 amended in Gazette 10 Feb 2006 p. 667.]

2. Terms used

In these regulations, subject to the context —

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

department means the department principally assisting the Minister in the administration of the Acts;

diving means diving using compressed gas for breathing by means of either surface supplied breathing apparatus or self-contained underwater breathing apparatus;

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 —

- (a) the territorial sea adjacent to the State; and
- (b) the sea on the landward side of the territorial sea adjacent to the State that is not within the limits of the State; and
- (c) waters within the limits of the State on which any vessel or any type of marine craft can be navigated;

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;

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;

territorial sea means the territorial sea determined under the *Seas and Submerged Lands Act 1973* (Commonwealth);

the Acts means the *Shipping and Pilotage Act 1967*, the *Jetties Act 1926* and the *Western Australian Marine Act 1982*.

[Regulation 2 amended in Gazette 19 Dec 1962 p. 4014; 23 Mar 1965 p. 900; 7 Jun 1972 p. 1721; 22 Dec 1972 p. 4777; 12 Jul 1974 p. 2624; 1 Jul 1983 p. 2263; 28 Aug 1992 p. 4239; 24 Apr 1998 p. 2161; 11 Mar 2003 p. 752; 24 Oct 2008 p. 4669-70; 11 Dec 2009 p. 5059; 25 Nov 2011 p. 4873.]

3. Responsibility of master and owner

- (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 51C and 52B 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 Dec 1962 p. 4014;
10 Feb 2006 p. 667; 27 Aug 2010 p. 4113.]*

3A. When emergency vessels exempt

A provision of these regulations does not apply to a vessel if —

- (a) the vessel has been declared to be an emergency vessel under regulation 19H;
- (b) the vessel 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 Aug 1990 p. 3753;
amended in Gazette 20 Jun 2000 p. 3038.]*

Part II — General good order regulations

4. Application of regulations

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 Jul 1983 p. 2263.]

5. Inspection of vessels

- (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.

6. Lifesaving equipment

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.]

6A. Owner of vessel shall comply with directions

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

Penalty: a fine of \$500.

*[Regulation 6A inserted in Gazette 28 Aug 1992 p. 4239;
amended in Gazette 17 Nov 2009 p. 4630.]*

7. Aids to navigation

- (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.

8. Rubbish

- (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 Gazette 28 May 1969 p. 1568;
22 Dec 1972 p. 4777.]*

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9. Sand below high water mark not to be interfered with

- (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.

10. Conduct on or near vessels, public jetties or bridges

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 Jul 1974 p. 2624.]

10A. Areas for swimming

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 Jul 1974 p. 2625; amended in Gazette 16 Mar 1979 p. 750.]

11. Swimming from public jetty to be at own risk

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.

12. Regattas

- (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 subregulation (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 Gazette 3 Oct 1967 p. 2592; 18 Dec 1981 p. 5219; 28 Aug 1992 p. 4239.]

13. Prevention of Collisions at Sea Regulations 1983 apply

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 Dec 1981 p. 5219; amended in Gazette 1 Jul 1983 p. 2263.]

r. 14

14. Vessel not to be used to cause nuisance or damage

No vessel shall travel at such a speed or in such a manner as to cause —

- (a) nuisance to any person or to any other vessel whether moored or not; or
- (b) damage to any person or to that or any other vessel whether moored or not; or
- (c) damage or erosion to any bank or property.

[Regulation 14 amended in Gazette 17 Nov 2009 p. 4628]

14A. Safe navigation of vessels

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 Sep 1978 p. 3504.]

14B. Passengers to keep within certain limits of vessel during navigation

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 Aug 1975 p. 3044.]

15. Towing vessels

- (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 Sep 1978 p. 3504.]

16. Inflammable liquid

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.

17. Two vessels leaving adjacent berths at the same time

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

[Regulation 17 amended in Gazette 24 Apr 1998 p. 2161.]

18. Right of way when approaching jetties

- (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.

r. 18A

- (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.

18A. At least 2 persons must man sea going vessel

- (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 Dec 1966 p. 3465.]

19. Certain vessels to remain within 5 nautical miles

- (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 boat licensed or required to be licensed under the *Fish Resources Management Act 1994*.
- (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: a fine of \$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 or port authority port as defined in the *Shipping and Pilotage Act 1967*; or

(b) within a distance of one nautical mile from any island.

*[Regulation 19 inserted in Gazette 4 Nov 1965 p. 3803-4;
amended in Gazette 14 Feb 1975 p. 572; 28 Aug 1992 p. 4242;
24 Apr 1998 p. 2161; 17 Nov 2009 p. 4630.]*

19A. Speed limit in Swan and Canning Rivers

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 Mar 1972 p. 699.]

19B. Use of signals and flares etc.

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: a fine of \$1 000.

*[Regulation 19B inserted in Gazette 24 Mar 1972 p. 699;
amended in Gazette 28 Aug 1992 p. 4242; 17 Nov 2009 p. 4629
and 4630.]*

19C. Master to display diving signals during diving

- (1) Except as provided by subregulation (3), the master or person in charge of a vessel from which a person is diving must, at all times during which the vessel is being so used, 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) must be —
 - (a) a flag of size 6 of the International Flag Code; or

r. 19D

- (b) not less than 750 millimetres in length and not less than 600 millimetres in width.
- (3) The master or person in charge of a vessel from which a person is diving during the hours of darkness shall cause to be displayed on the vessel, in a vertical line and so as to be clearly visible to all approaching vessels at all times, 3 all round lights (having a visibility of not less than 200 metres) the highest and lowest of which must be red and the middle light must be white.

[Regulation 19C inserted in Gazette 22 Dec 1972 p. 4777; amended in Gazette 9 Feb 1979 p. 375; 28 Aug 1992 p. 4239; 11 Mar 2003 p. 752-3.]

19D. Person to display certain signals when diving otherwise than from vessel

- (1) A person who is diving otherwise than from a vessel must ensure that there is displayed at the place where he or she is diving, so as to be clearly visible to all approaching vessels at all times —
 - (a) the International Code Flag “A”; or
 - (b) if diving is taking place during the hours of darkness, a yellow or orange flashing light with a visibility of not less than 200 metres.
- (2) The International Code Flag “A” referred to in subregulation (1) must be —
 - (a) if displayed from a buoy, not less than 300 millimetres in length and not less than 200 millimetres in width; or
 - (b) if otherwise displayed —
 - (i) a flag of size 6 of the International Flag Code; or
 - (ii) not less than 750 millimetres in length and not less than 600 millimetres in width.

[Regulation 19D inserted in Gazette 11 Mar 2003 p. 753-4.]

19E. Precautions when approaching diving operations

- (1) Subject to subregulation (2), the master or person in charge of a vessel approaching a place or another vessel displaying International Code Flag “A” or, during the hours of darkness, the appropriate signal must —
- (a) keep his vessel at least 50 metres clear of that place or vessel; or
 - (b) where it is not possible to keep 50 metres clear of that place 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 place or vessel displaying the flag or the appropriate signal.

Penalty: a fine of \$1 000.

- (2) Notwithstanding subregulation (1) —
- (a) an officer of the Department;
 - (b) an officer of a department principally assisting a Minister to whom the administration of the *Conservation and Land Management Act 1984*, the *Fish Resources Management Act 1994* or the *Wildlife Conservation Act 1950* is committed in the administration of that Act; or
 - (c) a police officer, or an Aboriginal police liaison officer appointed under the *Police Act 1892* section 38B(1),

who is the master or person in charge of a vessel may, in the course of his or her duties, approach a place or another vessel displaying the International Code Flag “A” or, during the hours of darkness, the appropriate signal.

r. 19F

- (3) The master or person in charge of a vessel under subregulation (2) must, while within 50 metres of the vessel or place —
- (a) proceed at a safe speed; and
 - (b) maintain a proper lookout for persons in the water.
- (4A) The master or person in charge of a vessel in the vicinity of a place or another vessel displaying International Code Flag “A” or, during the hours of darkness, the appropriate signal, but at least 50 metres clear of that place or vessel, must, while in such a position —
- (a) proceed at a safe speed; and
 - (b) maintain a proper lookout for persons in the water.
- Penalty: a fine of \$1 000.
- (4B) For the purposes of subregulation (4A), a vessel is in the vicinity as described in subregulation (4A) if the flag or signal is or would be visible to a person on the vessel maintaining a proper lookout.
- (4) In this regulation —
- appropriate signal*** means, as the case requires —
- (a) the 3 all round lights referred to in regulation 19C(3); or
 - (b) the yellow or orange flashing light referred to in regulation 19D(1)(b).

[Regulation 19E inserted in Gazette 22 Dec 1972 p. 4778; amended in Gazette 24 Jul 1987 p. 2830; 16 Oct 1987 p. 3893; 2 Nov 1990 p. 5470; 24 Apr 1998 p. 2161; 11 Mar 2003 p. 754-5; 13 Mar 2009 p. 762; 17 Nov 2009 p. 4629.]

19F. Owner of vessel to supply driver’s name and address

- (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: a fine of \$500.

[Regulation 19F inserted in Gazette 22 Dec 1972 p. 4778; amended in Gazette 28 Aug 1992 p. 4242; 17 Nov 2009 p. 4630.]

19G. Certificate of appointment

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 Mar 1978 p. 816-17; amended in Gazette 1 Jul 1983 p. 2263.]

19H. Declaration of emergency vessel

- (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;

r. 19I

- (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 Aug 1990 p. 3753; amended in Gazette 11 Aug 1992 p. 3975-6.]

19I. Flashing blue lamps

- (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: a fine of \$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: a fine of \$500.

[Regulation 19I inserted in Gazette 3 Aug 1990 p. 3753; amended in Gazette 28 Aug 1992 p. 4242; 17 Nov 2009 p. 4630.]

20. Penalties

Unless otherwise provided, 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 fine of \$500.

*[Regulation 20 inserted in Gazette 12 Jul 1974 p. 2625;
amended in Gazette 17 Sep 1976 p. 3463; 28 Aug 1992 p. 4242;
17 Nov 2009 p. 4630.]*

Part III — Use of public jetties

21. Terms used

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*.

22. Application of this Part

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

23. Jetties to be in accordance with these regulations

- (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*.

24. Vessels moored to jetties

- (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.

25. Vessels not to remain at jetties

- (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.

26. Cargo or property not to be left on jetties

- (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

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property, and may be recovered by action in a court of competent jurisdiction.

27. Explosives not to be landed on jetties

Without the permission of the department, no person shall land, place or handle on a jetty an explosive as defined in section 7(1) of the *Explosives and Dangerous Goods Act 1961*².

[Regulation 27 amended in Gazette 24 Apr 1998 p. 2161.]

28. Vehicles and bicycles on jetties

- (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.

29. Written permission required for bulk cargoes

- (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.

30. Damage to jetties

- (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.

31. Fishing from public bridges and jetties

- (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 Mar 1967 p. 814.]

32. Hawking, meetings etc. prohibited

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 Mar 1967 p. 815.]

33. Gangways to be provided

- (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 Feb 1975 p. 572.]

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34. Material not to be removed

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 to whom the administration of the *Public Works Act 1902* is committed or his representative.

[Regulation 34 amended in Gazette 24 Apr 1998 p. 2162.]

35. Obstruction of jetties or officer

- (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 principally assisting the Minister to whom the administration of the *Public Works Act 1902* is committed in the administration of that Act.
- (b) No person shall obstruct any representative, officer or workman of the department or the department principally assisting the Minister to whom the administration of the *Public Works Act 1902* is committed in the administration of that Act in constructing, repairing, adding to or working on any jetty.

[Regulation 35 amended in Gazette 24 Apr 1998 p. 2162.]

36. Penalties

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 fine not exceeding \$500.

[Regulation 36 amended in Gazette 17 Sep 1976 p. 3463; 28 Aug 1992 p. 4242; 17 Nov 2009 p. 4630.]

Part IV — Berthing and mooring

37. Application of this Part

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.

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

- (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 Mar 1967 p. 815.]

39. Interference with vessels

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.

40. Penalties

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 fine not exceeding \$500.

[Regulation 40 amended in Gazette 17 Sep 1976 p. 3463; 28 Aug 1992 p. 4242; 20 Jun 2000 p. 3038; 14 May 2004 p. 1447; 17 Nov 2009 p. 4630.]

Part V — Obstruction and wrecks

41. Application of this Part

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.

42. Vessels not to be moored in fairway or channel

- (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.

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

- (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 subregulation (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 Gazette 30 Oct 1967 p. 2593;
22 Sep 1978 p. 3504.]*

44. Beached vessels to be removed by owner or officer

- (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.

45. Penalties

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 fine not exceeding \$500 or to imprisonment not exceeding one month.

[Regulation 45 amended in Gazette 17 Sep 1976 p. 3463; 28 Aug 1992 p. 4242; 20 Jun 2000 p. 3038; 17 Nov 2009 p. 4630.]

Part VA — Registration of private pleasure boats

45A. Terms used in, and application of, this Part

- (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 —

ABP standard has the meaning given to the term in regulation 8 of the *Fair Trading (Product Information Standard) Regulations 2005*;

hull identification number, in relation to a vessel, means a number —

- (a) approved by the chief executive officer; and
- (b) affixed to the hull of the vessel by a person, and in a form and manner, approved by the chief executive officer;

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 Dec 1971 p. 5230-1; amended in Gazette 14 Feb 1975 p. 572; 17 Sep 1976 p. 3464; 22 Sep 1978 p. 3504; 1 Jul 1983 p. 2263; 12 Oct 1984 p. 3273; 21 Feb 1986 p. 566; 1 Dec 2000 p. 6763-4; 14 Jun 2002 p. 2324; 1 Sep 2006 p. 3597.]

45B. Registration of vessels

- (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.
- (1a) A person who contravenes subregulation (1) commits an offence.

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- (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 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 —
 - (a) subject to paragraph (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) the hull identification number of the vessel;
 - (ac) the engine number of any motor fitted to the vessel;
 - (ad) whether or not an Australian Builders Plate is attached to the vessel in accordance with the ABP standard;
 - (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.
- (3a) An application under subregulation (3) is to be accompanied by —
- (a) such proof of the particulars referred to in subregulation (3) as the department may require; and
 - (b) the appropriate fee ascertained in accordance with the following Table —

Table of fees

Length of vessel	Fee (\$)
(i) less than 5 m	77.70
(ii) 5 m or more but less than 10 m	165.00
(iii) 10 m or more but less than 20 m	331.20
(iv) 20 m or more	484.50

- (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 (3a)(b) and a recording fee of \$19.60.

- (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.

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- (5a) On an application under this regulation the department is to register a vessel if and only if it is satisfied that —
- (a) the vessel has a hull identification number; and
 - (b) the particulars provided in the application are true and correct; and
 - (c) if the vessel has not been registered in Western Australia before and the vessel —
 - (i) is a vessel to which regulation 9 of the *Fair Trading (Product Information Standard) Regulations 2005* applies; or
 - (ii) is a vessel to which regulation 9 of the *Fair Trading (Product Information Standard) Regulations 2005* does not apply solely because of regulation 9(2)(a) of those regulations and in respect of which a certificate of survey has not been issued,the vessel has an Australian Builders Plate attached in accordance with the ABP standard.
- (5b) The requirement to have an Australian Builders Plate under subregulation (5a)(c) does not apply to a vessel imported from a State or Territory if —
- (a) the vessel has an Australian Builders Plate or an equivalent plate that complies with a requirement of the State or Territory that corresponds to the requirement to have an Australian Builders Plate under subregulation (5a)(c); or
 - (b) the vessel is exempt from that corresponding requirement by or under a law of the State or Territory; or
 - (c) the State or Territory does not have a requirement that corresponds to the requirement to have an Australian Builders Plate under subregulation (5a)(c) and the vessel is imported within 18 months after the day on which the

Navigable Waters Amendment Regulations (No. 2) 2006
came into operation ¹.

- (5c) The chief executive officer may, on application, exempt a particular vessel from the requirement to have an Australian Builders Plate under subregulation (5a)(c) if satisfied that —
- (a) the vessel complies with some other appropriate safety standard and, in the circumstances of the case, it would be unreasonable for the vessel to be required to have an Australian Builders Plate; or
 - (b) the vessel is of a type for which appropriate safety standards do not exist and for which other safety standards cannot reasonably be adapted and, in the circumstances of the case, it would be unreasonable for the vessel to be required to have an Australian Builders Plate; or
 - (c) the vessel is of a type that closely resembles a vessel of a type that is not covered by regulation 9 of the *Fair Trading (Product Information Standard) Regulations 2005* because of regulation 9(2) of those regulations and, in the circumstances of the case, it would be unreasonable for the vessel to be required to have an Australian Builders Plate; or
 - (d) the vessel is to be used for only a short period of time, its use is unlikely to endanger the lives of its occupants or occupants of other vessels and, in the circumstances of the case, it would be unreasonable for the vessel to be required to have an Australian Builders Plate.
- (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 not a vessel to which paragraph (b) or (c) applies, 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;
- and
- (c) where the vessel is a personal watercraft, 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 be positioned so as to be easily visible;
 - (ii) each digit of the number shall be not less than 100 millimetres in height, and not less than 25 millimetres in width;
 - (iii) 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;
 - (iv) each digit of the number shall be of plain block design and not script and be vertical and not slanting.
- (7a) A person who contravenes subregulation (7) commits an offence.

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- (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.
- (8a) A person who contravenes subregulation (8) commits an offence.

[Regulation 45B inserted in Gazette 12 Oct 1984 p. 3273-5; amended in Gazette 2 Nov 1984 p. 3523; 30 Aug 1985 p. 3079; 21 Feb 1986 p. 566; 16 May 1986 p. 1661; 16 Apr 1987 p. 1370; 12 Aug 1988 p. 2715; 13 Jan 1989 p. 75; 30 Jun 1989 p. 1926; 1 Aug 1990 p. 3646; 26 Jul 1991 p. 3924; 10 Apr 1992 p. 1597; 30 Jun 1992 p. 2900; 28 Aug 1992 p. 4240; 29 Jun 1993 p. 3187; 14 Jun 1994 p. 2482; 30 Jun 1995 p. 2706; 25 Jun 1996 p. 2992; 27 Jun 1997 p. 3150; 12 May 1998 p. 2796; 20 Jun 2000 p. 3039; 1 Dec 2000 p. 6764-5; 27 Jul 2001 p. 3800; 14 Jun 2002 p. 2324-5; 27 Jun 2003 p. 2536; 25 Jun 2004 p. 2264; 24 Jun 2005 p. 2778; 23 Jun 2006 p. 2207; 1 Sep 2006 p. 3597-9; 12 Jun 2007 p. 2727; 24 Jun 2008 p. 2894; 9 Jan 2009 p. 37; 12 Jun 2009 p. 2130; 27 Aug 2010 p. 4115; 21 Jun 2011 p. 2241.]

45BAA. Registration of foreign pleasure vessels

- (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;

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.
- (2a) A person who contravenes subregulation (2) commits an offence.
- (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 \$19.60 and the

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

- (6a) A person who contravenes subregulation (6) commits an offence.
- (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 Feb 1986 p. 566-7; amended in Gazette 2 Mar 1990 p. 1328; 1 Aug 1990 p. 3647; 10 Apr 1992 p. 1597; 30 Jun 1992 p. 2900; 29 Jun 1993 p. 3188; 14 Jun 1994 p. 2482; 27 Jun 1997 p. 3151; 12 May 1998 p. 2796; 1 Dec 2000 p. 6765; 27 Jul 2001 p. 3800; 14 Jun 2002 p. 2325; 27 Jun 2003 p. 2536; 25 Jun 2004 p. 2264; 24 Jun 2005 p. 2778; 23 Jun 2006 p. 2207; 12 Jun 2007 p. 2727; 24 Jun 2008 p. 2895; 12 Jun 2009 p. 2130; 27 Aug 2010 p. 4115; 21 Jun 2011 p. 2241.]

45BA. Dealers plates

- (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;

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- (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) \$280.90 for the issue of the first set of plates; and
 - (b) \$76.50 for the issue of each additional set of plates.
- (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 renewal fees of \$211.30 for the first set of plates and 10% of that fee for each additional set of plates are 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 50m 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.

- (4a) A person who contravenes subregulation (4) commits an offence.
- (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.
- (b) A person served with a notice pursuant to paragraph (a) commits an offence if the person uses the plates after service of that notice.
- (6) Where any dealers plate or set of dealers plates issued under this regulation is lost the person to whom it was issued commits an offence if the person does not, as soon as practicable, notify the department of that fact.
- (6a) The department may issue a further dealers plate or set of dealers plates in replacement for that lost —
 - (a) on being notified under subregulation (6); and
 - (b) on the payment of a fee of \$76.50.
- (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 authorised by the provisions of this regulation.

[Regulation 45BA inserted in Gazette 14 Mar 1975 p. 899; amended in Gazette 20 Jun 1980 p. 1831; 5 Aug 1983 p. 2837; 12 Oct 1984 p. 3275; 16 Oct 1987 p. 3893; 12 Aug 1988 p. 2715; 30 Jun 1989 p. 1927; 1 Aug 1990 p. 3647; 26 Jul 1991 p. 3925; 30 Jun 1992 p. 2901; 29 Jun 1993 p. 3188; 14 Jun 1994 p. 2482-3; 27 Jun 1997 p. 3151; 12 May 1998 p. 2796; 20 Jun 2000 p. 3039; 1 Dec 2000 p. 6765-6; 27 Jul 2001 p. 3800; 27 Jun 2003 p. 2537; 25 Jun 2004 p. 2265; 24 Jun 2005 p. 2779; 23 Jun 2006 p. 2208; 12 Jun 2007 p. 2727; 1 Jul 2008 p. 3154; 12 Jun 2009 p. 2130; 21 Jun 2011 p. 2241.]

r. 45C

45C. Duration of registration etc.

- (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 Oct 1984 p. 3275.]

45D. Owners to furnish particulars of changes of address etc.

- (1) The owner of a registered vessel commits an offence if the owner does not —
 - (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; and
 - (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 commits an offence if the person does not, as soon as practicable, notify the department of that fact and of the circumstances which gave rise to that fact.
- (3) On being notified under subregulation (2), the department may issue a duplicate certificate of registration or a replacement boat registration label, as the case requires.

[Regulation 45D inserted in Gazette 16 Dec 1971 p. 5232; amended in Gazette 21 Feb 1986 p. 567; 1 Aug 1990 p. 3647; 10 Apr 1992 p. 1597-8; 30 Jun 1992 p. 2901; 28 Aug 1992 p. 4240; 27 Jun 1997 p. 3151; 12 May 1998 p. 2796; 20 Jun 2000 p. 3039; 1 Dec 2000 p. 6766.]

45E. Transfers of vessels

- (1) Where the owner of a registered vessel sells or otherwise disposes of the vessel, the owner commits an offence if the owner does not —
 - (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.
- (2) Subject to subregulation (5), a person to whom a registered vessel has been sold or disposed of commits an offence if the person does not, 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 \$19.60; and

r. 45E

- (b) produce to the department —
 - (i) the certificate of registration of the vessel;
 - (ii) the consent in writing of all the parties named in the application and such other proof of the sale or disposal of the vessel as the department may require; and
 - (iii) the particulars referred to in regulation 45B(3), and such proof of the particulars as the department may require.
- (2a) On an application under subregulation (2) the department is to transfer the registration, and return to the person by whom the application was made the certificate of registration, suitably endorsed, if and only if the department is satisfied that —
 - (a) the vessel has a hull identification number; and
 - (b) the particulars provided in the application are true and correct.
- (3) The owner of a registered vessel commits an offence if the owner does not 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 commits an offence if the person does not, within 15 days of the sale or disposal, produce to the department the certificate of registration of the vessel and such other proof of the sale or disposal of the vessel as the department may require.
- (6) On receiving the certificate or registration and proof of sale or disposal referred to in subregulation (5), the department is to —
 - (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 Dec 1971 p. 5232; amended in Gazette 12 Jul 1974 p. 2625; 9 Feb 1979 p. 375; 7 Aug 1981 p. 3230; 12 Oct 1984 p. 3275; 2 Nov 1984 p. 3523; 21 Feb 1986 p. 567-8; 2 Mar 1990 p. 1329; 1 Aug 1990 p. 3647; 10 Apr 1992 p. 1598; 30 Jun 1992 p. 2901; 24 Apr 1998 p. 2162; 1 Dec 2000 p. 6766-8; 14 Jun 2002 p. 2325; 27 Jun 2003 p. 2537; 30 Nov 2007 p. 5938; 27 Aug 2010 p. 4115; 21 Jun 2011 p. 2242.]

45EA. Altering, removing or rendering illegible a hull identification number prohibited

A person who, without the approval of the chief executive officer, alters, removes or renders illegible the hull identification number of a registered vessel commits an offence.

[Regulation 45EA inserted in Gazette 1 Dec 2000 p. 6768.]

45EB. Duty of owner to reaffix a hull identification number altered, removed or rendered illegible

Where a hull identification number of a registered vessel has, without the approval of the chief executive officer, been altered, removed or rendered illegible (whether accidentally or deliberately), the owner of the vessel commits an offence if the owner does not, as soon as practicable after becoming aware that the number has been altered, removed or rendered illegible, ensure that the number approved by the chief executive officer is reaffixed to the hull of the vessel by a person, and in a form and manner, approved by the chief executive officer.

[Regulation 45EB inserted in Gazette 1 Dec 2000 p. 6768.]

r. 45F

45F. Penalties

A person who commits an offence under this Part is liable to a fine of \$500.

*[Regulation 45F inserted in Gazette 1 Dec 2000 p. 6768;
amended in Gazette 17 Nov 2009 p. 4630.]*

Part VI — Private pleasure boats

46. Terms used in, and application of, this Part

- (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 —
 - Level 50*** means a personal flotation device classified as such by the Australian Standard AS 4758;
 - Level 50S (Special)*** means a personal flotation device classified as such by the Australian Standard AS 4758;
 - Level 100*** means a personal flotation device classified as such by the Australian Standard AS 4758;
 - Level 150*** means a personal flotation device classified as such by the Australian Standard AS 4758;
 - Level 275*** means a personal flotation device classified as such by the Australian Standard AS 4758;
 - 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;
 - personal watercraft*** means any vessel that —
 - (a) is propelled by means of an inboard motor powering a water jet pump; and
 - (b) is designed to be steered by a person sitting, standing or kneeling on the vessel and not within it;
 - PFD Type 1*** means a personal flotation device that bears the stamp of Standards Australia and conforms to standard AS 1512 issued by that body;
 - PFD Type 2*** means a personal flotation device that bears the stamp of Standards Australia and conforms to standard AS 1499 issued by that body;

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PFD Type 3 means a personal flotation device that bears the stamp of Standards Australia and conforms to standard AS 2260 issued by that body;

SOLAS jacket means a jacket that meets the standards of the current International Convention for the Safety of Life at Sea;

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 other apparatus, 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, regulation 52A applies to or in relation to all vessels except commercial vessels and regulations 51C, 52B to 52D, 52G and 52H apply to or in relation to all vessels.

[Regulation 46 inserted in Gazette 19 Dec 1962 p. 4014-15; amended in Gazette 12 Jul 1974 p. 2625; 16 May 1986 p. 1661; 10 Apr 1992 p. 1598; 28 Aug 1992 p. 4240-1; 24 Apr 1998 p. 2162; 8 May 2001 p. 2273; 1 Sep 2006 p. 3599; 9 Jan 2009 p. 37; 27 Aug 2010 p. 4113.]

46A. Personal flotation devices

- (1) In this Part, where a personal flotation device of a particular type is described as an appropriate personal flotation device, an equivalent or a higher buoyancy personal flotation device defined in regulation 46(2) is also appropriate for the particular circumstance.
- (2) For the purposes of this Part —
- (a) a Level 100, a Level 150, a Level 275 and a SOLAS jacket all have a buoyancy equivalent to or higher than a PFD Type 1; and

- (b) a Level 50, a Level 100, a Level 150, a Level 275 and a SOLAS jacket all have a buoyancy equivalent to or higher than a PFD Type 2; and
- (c) a Level 50S, a Level 100, a Level 150, a Level 275 and a SOLAS jacket all have a buoyancy equivalent to or higher than a PFD Type 3; and
- (d) a PFD Type 3 has a buoyancy equivalent to a PFD Type 2.

[Regulation 46A inserted in Gazette 27 Aug 2010 p. 4114.]

[Heading deleted in Gazette 1 Jul 1983 p. 2263.]

47. Interpretation and terms used in r. 47 to 47I

- (1) In regulations 47 to 47I —

CEO means the chief executive officer of the department;

examiner means a person or body approved for the purpose of regulation 47C(2)(a);

foreign skipper's ticket means an equivalent of a recreational skipper's ticket granted outside Western Australia the prerequisites for which, in the CEO's opinion, require a person to meet or exceed the recreational skipper's competency requirements;

[Note: **owner** is defined in regulation 2 to include the master or person in charge of a vessel.]

recreational skipper's ticket means a ticket granted by the CEO under regulation 47C;

RST vessel means a vessel that —

- (a) is a registrable vessel for the purposes of Part VA; and
- (b) is propelled by motored power that exceeds 4.5 kilowatts.

- (2) For the purposes of regulations 47 to 47I a person meets the recreational skipper's competency requirements if he or she has knowledge of, and is able to demonstrate, the minimum competencies set out in the *Guidelines for Recreational Boat*

r. 47AA

Operator Competencies published by the National Marine Safety Committee in 2000.

- (3) For the purposes of regulation 47 to 47I, an applicant for a recreational skipper's ticket is taken to have lodged an application if he or she has —
- (a) lodged an application with the CEO; or
 - (b) given a completed application to the examiner to be lodged in accordance with regulation 47C(3)(c)(ii).

[Regulation 47 inserted in Gazette 10 Feb 2006 p. 667-8.]

47AA. Who may drive motor boat — before 1 April 2007

- (1) This regulation ceases to apply on 1 April 2007.
- (2) A person who is under 10 years of age must not drive a motor boat.
- (3) A person who is at least 10, but under 16, years of age must not drive an RST vessel unless he or she is under the direct supervision of a person who is at least 18 years of age.
- (4) The owner of an RST vessel must not knowingly permit it to be driven in contravention of subregulation (2) or (3).
- (5) A person who contravenes this regulation commits an offence.

[Regulation 47AA inserted in Gazette 10 Feb 2006 p. 668.]

47AB. Who may drive motor boat — 1 April 2007 to 31 March 2008

- (1) This regulation applies on and after 1 April 2007 and ceases to apply on 1 April 2008.
- (2) A person who is under 10 years of age must not drive a motor boat.
- (3) A person who is at least 10, but under 14, years of age must not drive an RST vessel unless he or she is under the direct supervision of a person —

- (a) who is at least 25 years of age; or
 - (b) who is at least 18, but under 25, years of age and holds a recreational skipper's ticket.
- (4) A person who is at least 14, but under 16, years of age must not drive an RST vessel unless he or she —
- (a) holds a recreational skipper's ticket and is driving the vessel —
 - (i) at a speed not exceeding 8 knots; and
 - (ii) between sunrise and sunset;
 - or
 - (b) is under the direct supervision of a person —
 - (i) who is at least 25 years of age; or
 - (ii) who is at least 18, but under 25, years of age and holds a recreational skipper's ticket.
- (5) A person who is at least 16, but under 25, years of age must not drive an RST vessel unless he or she —
- (a) holds a recreational skipper's ticket; or
 - (b) is under the direct supervision of a person —
 - (i) who is at least 25 years of age; or
 - (ii) who is at least 18, but under 25, years of age and holds a recreational skipper's ticket.
- (6) The owner of an RST vessel must not knowingly permit it to be driven in contravention of subregulations (2) to (5).
- (7) A person who contravenes this regulation commits an offence.
[Regulation 47AB inserted in Gazette 10 Feb 2006 p. 669.]

47A. Who may drive motor boat — from 1 April 2008

- (1) This regulation applies on and after 1 April 2008.
- (2) A person who is under 10 years of age must not drive a motor boat.

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- (3) A person who is at least 10, but under 14, years of age must not drive an RST vessel unless he or she is under the direct supervision of a person who holds a recreational skipper's ticket and is at least 18 years of age.
- (4) A person who is at least 14, but under 16, years of age must not drive an RST vessel unless he or she —
 - (a) holds a recreational skipper's ticket and is driving the vessel —
 - (i) at a speed not exceeding 8 knots; and
 - (ii) between sunrise and sunset;
 - or
 - (b) is under the direct supervision of a person who holds a recreational skipper's ticket and is at least 18 years of age.
- (5) A person who is at least 16 years of age must not drive an RST vessel unless he or she —
 - (a) holds a recreational skipper's ticket; or
 - (b) is under the direct supervision of a person who holds a recreational skipper's ticket and is at least 18 years of age.
- (6) The owner of an RST vessel must not knowingly permit it to be driven in contravention of subregulations (2) to (5).
- (7) A person who contravenes this regulation commits an offence.
[Regulation 47A inserted in Gazette 10 Feb 2006 p. 669-70.]

47B. Learner deemed to be directly supervised

- (1) If a learner is driving an RST vessel under the supervision of an examiner, the learner is taken to be under the direct supervision of the examiner —
 - (a) if the vessel is within 400 metres of the examiner; and

(b) even if the examiner is also instructing or assessing one or more other learners.

(2) In this regulation —

learner means a person who is learning to drive an RST vessel or is being assessed for the purpose of seeking to obtain a recreational skipper's ticket.

[Regulation 47B inserted in Gazette 10 Feb 2006 p. 670.]

47C. Recreational skipper's ticket

- (1) Subject to regulation 47G, the CEO is to grant a recreational skipper's ticket to a person who applies in accordance with subregulation (3), if satisfied that the person meets the recreational skipper's competency requirements.
- (2) The CEO may, in satisfaction of the requirement imposed by subregulation (1) —
 - (a) accept evidence from a person or body approved by the CEO for that purpose; or
 - (b) accept possession by the applicant of a higher qualification or a foreign skipper's ticket.
- (3) An application for a recreational skipper's ticket —
 - (a) is to be made to the CEO in writing in a form specified by the Minister;
 - (b) is to be accompanied by evidence that the applicant meets the recreational skipper's competency requirements; and
 - (c) may be lodged —
 - (i) by the applicant; or
 - (ii) if lodged with evidence of the kind referred to in subregulation (2)(a), by the examiner on behalf of the applicant.
- (4) If an applicant has lodged an application together with evidence of the kind referred to in subregulation (2)(a), the applicant is

r. 47CA

taken to hold a recreational skipper's ticket until he or she receives —

- (a) a recreational skipper's ticket; or
 - (b) written notice that the CEO has refused the application.
- (5) The CEO is to issue a replacement recreational skipper's ticket —
- (a) when the CEO is notified under regulation 47I of a change to the ticket holder's name or address; or
 - (b) at the request of the ticket holder, if the CEO is satisfied that the original ticket has been lost or destroyed.
- (6) The CEO may issue a replacement recreational skipper's ticket at any other time if the CEO considers it appropriate.

- (7) In this regulation —

higher qualification means —

- (a) a certificate of competency or certificate of proficiency granted or recognised under the *W.A. Marine (Certificates of Competency and Safety Manning) Regulations 1983* other than a certificate of competency as —
 - (i) Coxswain Instructor of commercial ski-boat;
 - (ii) Marine Engineer Class III;
 - (iii) Marine Engine Driver Grade I; or
 - (iv) Marine Engine Driver Grade II;
- or
- (b) any other qualification the prerequisites for which, in the CEO's opinion, require a person to meet or exceed the recreational skipper's competency requirements.

[Regulation 47C inserted in Gazette 10 Feb 2006 p. 671-2.]

47CA. Transitional — prior ownership or qualifications

- (1) If a person —

- (a) has been the owner, or one of the owners, of a registered vessel for all of the 5 years immediately preceding the commencement date; and
- (b) lodges an application for a recreational skipper's ticket —
 - (i) before 1 April 2007; and
 - (ii) together with evidence from an examiner that the applicant has a theoretical knowledge of the recreational skipper's competency requirements,

the CEO may accept that ownership and evidence of theoretical knowledge as evidence in satisfaction of the requirement imposed by regulation 47C(1).

- (2) For the purposes of regulation 47C(2)(b) a person who lodges an application for a recreational skipper's ticket before 1 April 2007 is taken to possess a higher qualification if the person holds one of the following qualifications, which he or she obtained before the commencement date —
 - (a) a certificate granted by the CEO certifying that the holder has completed the boating safety course known as "BoatSmart";
 - (b) a National Power Boat Scheme TL3 Certificate granted by the Australian Yachting Federation;
 - (c) a National Motor Cruising Scheme TL5 Certificate granted by the Australian Yachting Federation.

- (3) In this regulation —

commencement date means the date on which the *Navigable Waters Amendment Regulations (No. 2) 2005* came into operation¹;

owner has the meaning given to that term in regulation 45A.

[Regulation 47CA inserted in Gazette 10 Feb 2006 p. 672.]

r. 47D

47D. Conditions on recreational skipper's ticket

- (1) The CEO may grant a recreational skipper's ticket subject to any conditions the CEO considers appropriate for ensuring the safety of any person or the public generally.
- (2) A person who holds a recreational skipper's ticket that is subject to a condition is taken not to hold a recreational skipper's ticket if the condition is not being complied with.
- (3) The CEO may revoke a condition by giving written notice to the ticket holder.

[Regulation 47D inserted in Gazette 10 Feb 2006 p. 673.]

47E. Interstate or overseas ticket valid for 3 months

A person who holds a foreign skipper's ticket and enters Western Australia, whether as a visitor or with the intention of permanently residing in the State, is taken to hold a recreational skipper's ticket until 3 months have elapsed since the person entered the State.

[Regulation 47E inserted in Gazette 10 Feb 2006 p. 673.]

47F. Exemptions

- (1) The CEO may exempt a person or class of persons from all or any of the provisions of regulation 47AA, 47AB or 47A.
- (2) The CEO may grant an exemption subject to any conditions the CEO considers appropriate for ensuring the safety of any person or the public generally.
- (3) A provision of regulation 47AA, 47AB or 47A in respect of which an exemption has been granted does not apply to a person —
 - (a) to whom the exemption applies; and
 - (b) who is driving a vessel in accordance with the exemption and any conditions to which it is subject.

[Regulation 47F inserted in Gazette 10 Feb 2006 p. 673.]

47G. Power to refuse, cancel or suspend recreational skipper's ticket

- (1) The CEO may refuse an application for, or cancel or suspend, a recreational skipper's ticket if satisfied that the applicant or ticket holder —
 - (a) is seeking to obtain, or obtained, the ticket by fraud, dishonesty or misrepresentation; or
 - (b) should not hold a recreational skipper's ticket because he or she would be likely to be a danger to the public if permitted to be in charge of an RST vessel.
- (2) The CEO must not cancel a recreational skipper's ticket until the ticket holder has been given a reasonable opportunity to satisfy the CEO that the ticket should not be cancelled.
- (3) If the CEO refuses an application for, or cancels or suspends, a recreational skipper's ticket the CEO must give written notice of the refusal, cancellation or suspension, and the reasons for it, to the applicant or ticket holder.
- (4) The power under subregulation (1) to cancel or suspend a recreational skipper's ticket includes a power to cancel or suspend the application of regulation 47E to a person who is taken under that regulation to hold a recreational skipper's ticket.
- (5) A person aggrieved by a decision of the CEO under this regulation may apply to the State Administrative Tribunal for a review of the decision.

[Regulation 47G inserted in Gazette 10 Feb 2006 p. 673-4.]

47H. Ticket to be produced on request

- (1) The holder of a recreational skipper's ticket must produce it for inspection when requested to do so by an authorised person (as defined in section 98 of the *Western Australian Marine Act 1982*).

r. 47I

- (2) A person who is taken under regulation 47C(4) to hold a recreational skipper's ticket complies with subregulation (1) if the person produces written evidence that —
 - (a) the person has demonstrated, to the satisfaction of an examiner, that the person meets the recreational skipper's competency requirements; and
 - (b) the person has lodged an application in accordance with regulation 47C(3).
- (3) A person who is taken under regulation 47E to hold a recreational skipper's ticket complies with subregulation (1) if he or she produces —
 - (a) his or her foreign skipper's ticket; and
 - (b) evidence of the date of his or her entry into Western Australia.
- (4) A person who contravenes this regulation commits an offence.
[Regulation 47H inserted in Gazette 10 Feb 2006 p. 674.]

47I. Ticket holder to notify change of details

- (1) The holder of a recreational skipper's ticket who changes his or her name or address must give written notice of the change to the CEO within 21 days of the change being made.
- (2) A person who contravenes this regulation commits an offence.
[Regulation 47I inserted in Gazette 10 Feb 2006 p. 674-5.]

48. Limitation of speed

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 way;
- (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 Dec 1962 p. 4015; amended in Gazette 9 Feb 1970 p. 377; 22 Dec 1972 p. 4778; 14 Feb 1975 p. 572; 28 Aug 1992 p. 4241; 10 Feb 2006 p. 675.]

48A. Areas for speed boats and water ski-ing

- (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;
 - (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;

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- (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 waters for any but the specified purpose.

[Regulation 48A inserted in Gazette 19 Dec 1962 p. 4016; amended in Gazette 16 Dec 1963 p. 3876; 16 Oct 1970 p. 3206; 12 Jul 1974 p. 2625; 16 May 1986 p. 1661; 11 Aug 1992 p. 3975-6; 28 Aug 1992 p. 4241.]

49. Driver to be accompanied and to be alert

- (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 Dec 1962 p. 4016;
amended in Gazette 16 Oct 1970 p. 3206; 28 Aug 1992
p. 4241.]*

[49A.] Deleted in Gazette 10 Feb 2006 p. 675.]

[49B.] Deleted in Gazette 1 Jul 1983 p. 2263.]

49C. Driving speed boats behind skiers

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 Oct 1970 p. 3206;
amended in Gazette 14 Feb 1975 p. 572.]*

49D. Right of way when landing a water skier

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 Dec 1962 p. 4016.]

49E. Ski ropes

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 Dec 1962 p. 4016;
amended in Gazette 14 Feb 1975 p. 572.]*

49F. Towing trick water skiers

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 Dec 1962 p. 4016;
amended in Gazette 16 Dec 1963 p. 3876; 14 Feb 1975 p. 572.]*

r. 49G

49G. Towing skiers near landing or take-off areas

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 Dec 1963 p. 3876; amended in Gazette 14 Feb 1975 p. 572.]

49H. Ski line to be retrieved

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 Oct 1970 p. 3206; amended in Gazette 14 Feb 1975 p. 572.]

49I. Driver of speed boat not to approach shore where a skier has landed

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 Oct 1970 p. 3206; amended in Gazette 14 Feb 1975 p. 572.]

49J. Sitting on gunwale or back of driver's seat prohibited

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 Oct 1967 p. 2593.]

49K. Water skis to be retrieved immediately

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. Deleted in Gazette 1 Jul 1983 p. 2263.]

49M. Restrictions on slalom ski-ing or ski-jumping

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 a PFD Type 2 or PFD Type 3; 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 Oct 1970 p. 3206; amended in Gazette 14 Feb 1975 p. 572; 24 Apr 1998 p. 2162.]

50. Towing of water skier prohibited at certain times

- (1) Subject to subregulation (2), a person shall not drive a motor boat towing a water skier —
 - (a) before 8 a.m. and after sundown, in the waters of the Swan River; or
 - (b) before 9 a.m. and after sundown in the waters of the Canning River.

r. 50A

- (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 Aug 1981 p. 3340;
amended in Gazette 16 May 1986 p. 1661.]*

50A. Restrictions on freestyle driving, surfing and wave jumping on a personal watercraft

- (1) The chief executive officer may, by notice published in the *Gazette* —
- (a) define and set aside any area of navigable waters where freestyle driving, surfing or wave jumping on a personal watercraft is prohibited;
 - (b) vary or cancel any previous notice under this subregulation.
- (2) A person must not engage in freestyle driving, surfing or wave jumping on a personal watercraft in an area defined and set aside by the chief executive officer under subregulation (1).
- (3) A person must not, in any navigable waters, engage in freestyle driving, surfing or wave jumping on a personal watercraft unless the personal watercraft is —
- (a) 30 metres clear of any other personal watercraft; and
 - (b) 50 metres clear of any other vessel or person.
- (4) In this regulation —
- freestyle driving***, in relation to a personal watercraft, means the practice of driving the personal watercraft in such a manner that the driver of another vessel in sight of the personal watercraft would be unable to determine the intended course or speed of

the personal watercraft so as to take action under the *Prevention of Collisions at Sea Regulations 1983* to avoid a collision;

surfing in relation to a personal watercraft, means the practice of driving the personal watercraft down a breaking wave or swell, whether formed naturally or by the passage of a vessel;

wave jumping, in relation to a personal watercraft, means the practice of driving the personal watercraft over or across a breaking wave or swell, whether formed naturally or by the passage of a vessel, with the aim of becoming airborne.

[Regulation 50A inserted in Gazette 24 Apr 1998 p. 2162-3.]

50B. Personal flotation device to be worn by the driver and passenger of a personal watercraft

- (1) A person must not, in any navigable waters, drive a personal watercraft unless the person and any passenger on the personal watercraft is wearing an appropriate personal flotation device.
- (2) A person must not, in any navigable waters, travel on a personal watercraft as a passenger unless the person is wearing an appropriate personal flotation device.
- (3) In this regulation —
appropriate personal flotation device means —
 - (a) a PFD Type 1, if a personal watercraft is being used —
 - (i) outside of protected waters; and
 - (ii) more than 400 metres from any shore;
 - or
 - (b) a PFD Type 2 or PFD Type 3 in any other case.

[Regulation 50B inserted in Gazette 24 Apr 1998 p. 2163.]

[50C, 50D. Deleted in Gazette 19 Dec 1962 p. 4017.]

r. 51

51. Silencers on motor boats

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 Dec 1962 p. 4017.]

51A. Motor boats not to emit smoke or vapour

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 Dec 1962 p. 4017.]

[51B. Deleted in Gazette 7 Sep 1979 p. 2735.]

51C. Organized races, displays, regattas and aquatic sports

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 chief executive officer.

[Regulation 51C inserted in Gazette 19 Dec 1962 p. 4017; amended in Gazette 25 Nov 2011 p. 4874.]

51D. Certain vessels to be equipped with bilge pumps

- (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 Dec 1993 p. 6913.]

52. Certain vessels to be equipped with fire extinguishers

- (1) The owner of any vessel fitted with an inboard engine or a hydrocarbon cooling or heating appliance must ensure that the vessel is equipped with a fire extinguisher that bears the stamp of Standards Australia and conforms to one of the following standards issued by that body —
 - (a) AS 1841.1 and AS 1841.4 (foam);
 - (b) AS 1841.1 and AS 1841.5 (powder type);
 - (c) AS 1841.1 and AS 1841.6 (carbon dioxide); or
 - (d) AS 1841.1 and AS 1841.7 (vaporizing liquid).
- (2) Subregulation (1) does not apply to a personal watercraft.
- (3) An owner who contravenes this regulation commits an offence.
[Regulation 52 inserted in Gazette 24 Apr 1998 p. 2163.]

52A. Vessels to be equipped with personal flotation devices or life jackets

- (1) The owner of a vessel must ensure that the vessel, while being navigated outside protected waters, is equipped with —
 - (a) a PFD Type 1; or
 - (b) a life jacket that has been approved by the Australian Maritime Safety Authority established under section 5 of the *Australian Maritime Safety Authority Act 1990* of the Commonwealth,

for each person on board who has reached 12 months of age, appropriate in terms of the buoyancy and size to the body mass of every such person.

r. 52B

- (2) Subregulation (1) does not apply to —
- (a) a personal watercraft; or
 - (b) a sailboard,
- being used within 400 metres of any shore.
- (3) An owner who contravenes this regulation commits an offence.
*[Regulation 52A inserted in Gazette 24 Apr 1998 p. 2163;
amended in Gazette 19 Mar 2010 p. 1036.]*

52B. Vessels to be equipped with certain distress signals

- (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
 - (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 parachute distress rockets required by subregulations (1)(a)(ii) and (1a)(a) must comply with the *Marine Orders Part 25* (Commonwealth).

- (2AA) The other distress signals required by subregulations (1) and (1a) must comply with —
- (a) the *Marine Orders Part 25* (Commonwealth); or
 - (b) Australian Standard 2092-2004 *Pyrotechnic marine distress flares and signals for pleasure craft* published by Standards Australia on 10 May 2004.
- (2a) Subregulations (1) and (2) do not apply to —
- (a) a personal watercraft; or
 - (b) a sailboard,
- being used within 400 metres of any shore.
- (3) An owner who contravenes this regulation commits an offence.
- [Regulation 52B inserted in Gazette 22 Aug 1975 p. 3044; amended in Gazette 11 May 1990 p. 2283; 31 Dec 1993 p. 6913-14; 24 Apr 1998 p. 2164; 24 Oct 2008 p. 4670; 11 Dec 2009 p. 5059.]*

52BAA. Certain vessels must be equipped with a marine transceiver

- (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 under way 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 Dec 1993 p. 6914; amended in Gazette 24 Apr 1998 p. 2164.]*

r. 52BAB

52BAB. Certain vessels must carry Emergency Position Indicating Radio Beacons

(1A) In this regulation —

AS/NZS, followed by a designation means the Australian/New Zealand Standard having that designation that is jointly published by Standards Australia and the Standards Council of New Zealand;

MS 241 means the Ministerial Standard for Emergency Position Indicating Radio Beacons, made by the Federal Minister under the *Radiocommunications Act 1983* of the Commonwealth section 9;

prescribed standard means —

- (a) AS/NZS 4280.1:2003; or
- (b) until 1 February 2009 — MS 241 or AS/NZS 4330:1995.

(1) The owner of a vessel that proceeds more than 2 nautical miles from the mainland, or more than 400 m from an island situated more than 2 nautical miles from the mainland, must ensure that the vessel is equipped with an Emergency Position Indicating Radio Beacon that —

- (a) complies with a prescribed standard; and
- (b) is registered with the Australian Maritime Safety Authority established under the *Australian Maritime Safety Authority Act 1990* of the Commonwealth section 5.

(2) Subject to subregulation (3), an owner who contravenes subregulation (1) commits an offence.

(3) This regulation does not apply to the owner of a vessel while it is operating in the partially smooth waters of Fremantle Area-Central and Fremantle Area-North, as defined in Schedule 1 of the *W.A. Marine (Certificates of Competency and Safety Manning) Regulations 1983*.

*[Regulation 52BAB inserted in Gazette 31 Dec 1993
p. 6914-15; amended in Gazette 3 Apr 1998 p. 1990;
3 Apr 1998 p. 1991; 24 Jun 2008 p. 2892.]*

52BA. Equipment to be maintained in a serviceable condition and readily accessible

- (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
 - (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 Sep 1976 p. 3464;
amended in Gazette 31 Dec 1993 p. 6915.]*

52C. Vessels to be equipped with efficient anchor and lines

- (1) The owner of a vessel must ensure that the vessel, while being navigated outside protected waters, is equipped with an efficient anchor and line.
- (2) Subregulation (1) does not apply to a personal watercraft or a sailboard.
- (3) An owner who contravenes this regulation commits an offence.

[Regulation 52C inserted in Gazette 24 Apr 1998 p. 2164.]

r. 52CA

52CA. Chief executive officer may grant exemption from compliance with regulations 52A, 52B and 52C

- (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 chief executive officer under regulation 51C if —
 - (a) a written exemption has been granted by the chief executive officer 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 chief executive officer.
- (2) The chief executive officer may, upon written application, grant an exemption described in subregulation (1)(a) if he or she 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 chief executive officer may refuse to grant an exemption under subregulation (2), he or she shall not grant an exemption unless he or she 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 Sep 1981 p. 3861-2; amended in Gazette 25 Nov 2011 p. 4874.]

[52CAB. Deleted in Gazette 24 Apr 1998 p. 2164.]

52D. Person in charge of vessel to obey directions of officers of the department in special circumstances

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 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 Dec 1962 p. 4017.]

52E. Storage and use of fuel in motor boats

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 Nov 1965 p. 3804.]

52F. Ventilation of engine compartment

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

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

r. 52G

52G. Navigation lights

- (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 Dec 1993 p. 6915.]

52H. Reporting accidents and fires

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 Jul 1974 p. 2626.]

53. Penalties

- (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 fine not exceeding \$500.

- (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 Dec 1962 p. 4017; amended in Gazette 17 Sep 1976 p. 3464; 4 Sep 1981 p. 3862; 28 Aug 1992 p. 4242; 20 Jun 2000 p. 3039; 14 May 2004 p. 1447; 17 Nov 2009 p. 4630.]

Part VII — Regulations applying to certain areas

Division 1 — Port of Perth

54. Application of Division

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 declared under section 10 of the *Shipping and Pilotage Act 1967*.

[Regulation 54 amended in Gazette 24 Apr 1998 p. 2164.]

[55, 56. Deleted in Gazette 1 Aug 1990 p. 3641.]

57. Permanent berths for exclusive use

- (1) Subject to the payment of the appropriate fee set out in Schedule 2 to the *Jetties 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.

- (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 fine 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 Mar 1978 p. 989-90; amended in Gazette 1 Aug 1990 p. 3641; 11 Aug 1992 p. 3976; 24 Aug 2004 p. 3660; 24 Jun 2005 p. 2779; 17 Nov 2009 p. 4630.]

58. Wharfage dues

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 tonne of such cargo.

[Regulation 58 amended in Gazette 24 Aug 2004 p. 3660.]

[Division II and III (r. 59-66) deleted in Gazette 9 Feb 1970 p. 377.]

67. Penalties

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 fine 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 Mar 1978 p. 990; 17 Nov 2009 p. 4630.]

68. Duty of owner or person navigating a vessel

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 Sep 1987 p. 3545.]

[Schedule 1 deleted in Gazette 25 Aug 1989 p. 2846.]

[Schedule 2 deleted in Gazette 1 Aug 1990 p. 3641.]

Notes

¹ This is a compilation of the *Navigable Waters Regulations 1958* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Navigable Waters Regulations</i> ³	2 Apr 1958 p. 622-32	1 May 1958 (see r. 1)
Untitled regulations	23 Dec 1960 p. 4063-4	23 Dec 1960
Untitled regulations	19 Dec 1962 p. 4014-18	28 Dec 1962
Untitled regulations	16 Dec 1963 p. 3875-6	16 Dec 1963
Untitled regulations	9 Dec 1964 p. 3907	9 Dec 1964
Untitled regulations	23 Mar 1965 p. 900	23 Mar 1965
Untitled regulations	4 Nov 1965 p. 3803-4 (erratum 26 Nov 1965 p. 4029)	4 Nov 1965
Untitled regulations	30 Dec 1966 p. 3465	30 Dec 1966
Untitled regulations	23 Mar 1967 p. 814-15	23 Mar 1967
Untitled regulations	3 Oct 1967 p. 2592-3	3 Oct 1967
Untitled regulations	28 May 1969 p. 1568	28 May 1969
Untitled regulations	2 Jul 1969 p. 1954	2 Jul 1969
Untitled regulations	9 Feb 1970 p. 377	9 Feb 1970

Reprint of the *Navigable Waters Regulations* authorised 15 Apr 1970 in *Gazette* 28 Apr 1970 p. 1181-98 (includes amendments listed above except those in *Gazette* 9 Feb 1970)

Navigable Waters Regulations 1958

Citation	Gazettal	Commencement
Untitled regulations	1 May 1970 p. 1233	1 May 1970
Untitled regulations	16 Oct 1970 p. 3205-6	16 Oct 1970
Untitled regulations	16 Dec 1971 p. 5230-2	16 Dec 1971
Untitled regulations	24 Mar 1972 p. 699	24 Mar 1972
Untitled regulations	7 Jun 1972 p. 1721	7 Jun 1972
Reprint of the <i>Navigable Waters Regulations</i> authorised 24 Jul 1972 in <i>Gazette</i> 1 Aug 1972 p. 2901-20 (includes amendments listed above except those in <i>Gazette</i> 7 Jun 1972)		
Untitled regulations	22 Dec 1972 p. 4777-8	22 Dec 1972
Untitled notice under the <i>Metric Conversion Act 1972</i> s. 6	15 Jun 1973 p. 2234	1 Jul 1973
Reprint of the <i>Navigable Waters Regulations</i> authorised 4 Jul 1974 in <i>Gazette</i> 10 Jul 1974 p. 2547-65 (includes amendments listed above)		
Untitled regulations	12 Jul 1974 p. 2624-6	12 Jul 1974
Untitled regulations	14 Feb 1975 p. 572	1 Mar 1975
Untitled regulations	14 Mar 1975 p. 899-900	14 Mar 1975
Untitled regulations	22 Aug 1975 p. 3044	22 Aug 1975
Reprint of the <i>Navigable Waters Regulations</i> authorised 6 Apr 1976 in <i>Gazette</i> 14 Apr 1976 p. 1141-63 (includes amendments listed above)		
Untitled regulations	17 Sep 1976 p. 3463	17 Sep 1976
Untitled regulations	18 Feb 1977 p. 505	18 Feb 1977
Reprint of the <i>Navigable Waters Regulations</i> authorised 24 Aug 1977 in <i>Gazette</i> 7 Sep 1977 p. 3223-45 (includes amendments listed above except those in <i>Gazette</i> 18 Feb 1977)		
Untitled regulations	17 Mar 1978 p. 816-17	20 Mar 1978 (see <i>Gazette</i> 17 Mar 1978 p. 789)

Citation	Gazettal	Commencement
Untitled regulations	31 Mar 1978 p. 989-90	31 Mar 1978
Untitled regulations	22 Sep 1978 p. 3504-5	22 Sep 1978
Untitled regulations	9 Feb 1979 p. 375	9 Feb 1979
Untitled regulations	16 Mar 1979 p. 750-1	16 Mar 1979
Reprint of the <i>Navigable Waters Regulations</i> authorised 25 Jun 1979 in <i>Gazette</i> 23 Jul 1979 p. 2047-69 (includes amendments listed above except those in <i>Gazette</i> 9 Feb and 16 Mar 1979)		
Untitled regulations	7 Sep 1979 p. 2735	7 Sep 1979
Untitled regulations	20 Jun 1980 p. 1831	1 Jul 1980 (see r. 2)
<i>Navigable Waters Amendment Regulations 1980</i>	28 Nov 1980 p. 4050	28 Nov 1980
<i>Navigable Waters Amendment (No. 2) Regulations 1980</i>	28 Nov 1980 p. 4051	1 Dec 1980 (see r. 2)
<i>Navigable Waters Amendment (No. 3) Regulations 1980</i>	28 Nov 1980 p. 4051	28 Nov 1980
<i>Navigable Waters Amendment Regulations 1981</i>	26 Jun 1981 p. 2413	1 Jul 1981 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 2) 1981</i>	7 Aug 1981 p. 3230	7 Aug 1981
<i>Navigable Waters Amendment Regulations (No. 4) 1981</i>	14 Aug 1981 p. 3340	14 Aug 1981
<i>Navigable Waters Amendment Regulations (No. 5) 1981</i>	4 Sep 1981 p. 3861-2	4 Sep 1981
<i>Navigable Waters Amendment Regulations (No. 3) 1981</i>	9 Oct 1981 p. 4257	9 Oct 1981
Reprint of the <i>Navigable Waters Regulations</i> authorised 3 Dec 1981 in <i>Gazette</i> 21 Dec 1981 p. 5283-306 (includes amendments listed above except those in the <i>Navigable Waters Amendment Regulations 1981</i> and the <i>Navigable Waters Amendment Regulations (No. 2), (No. 3), (No. 4) and (No. 5) 1981</i>)		
<i>Navigable Waters Amendment Regulations (No. 6) 1981</i>	18 Dec 1981 p. 5219	18 Dec 1981
<i>Navigable Waters Amendment Regulations 1982</i>	7 May 1982 p. 1454	7 May 1982

Navigable Waters Regulations 1958

Citation	Gazettal	Commencement
<i>Navigable Waters Amendment Regulations (No. 2) 1982</i>	4 Jun 1982 p. 1808	4 Jun 1982
<i>Navigable Waters Amendment Regulations (No. 3) 1982</i>	24 Dec 1982 p. 4920	24 Dec 1982
<i>Navigable Waters Amendment Regulations 1983</i>	1 Jul 1983 p. 2263	1 Jul 1983 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 2) 1983</i>	5 Aug 1983 p. 2837	5 Aug 1983
<i>Navigable Waters Amendment Regulations (No. 3) 1983</i>	25 Nov 1983 p. 4670-1	25 Nov 1983
<i>Navigable Waters Amendment Regulations 1984</i>	6 Jul 1984 p. 2028	6 Jul 1984
<i>Navigable Waters Amendment Regulations (No. 2) 1984</i>	12 Oct 1984 p. 3273-5	1 Nov 1984 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 3) 1984</i>	2 Nov 1984 p. 3523	2 Nov 1984
<i>Navigable Waters Amendment Regulations 1985</i>	30 Aug 1985 p. 3079	30 Aug 1985
<i>Navigable Waters Amendment Regulations 1986</i>	21 Feb 1986 p. 566-8	21 Feb 1986
<i>Navigable Waters Amendment Regulations (No. 3) 1986</i>	16 May 1986 p. 1660-1	16 May 1986
<i>Navigable Waters Amendment Regulations (No. 4) 1986</i>	16 May 1986 p. 1661	16 May 1986
<i>Navigable Waters Amendment Regulations 1987</i>	16 Apr 1987 p. 1370	1 May 1987 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 3) 1987</i>	24 Jul 1987 p. 2830	24 Jul 1987
<i>Navigable Waters Amendment Regulations (No. 2) 1987</i>	11 Sep 1987 p. 3545	11 Sep 1987
<i>Navigable Waters Amendment Regulations (No. 4) 1987</i>	16 Oct 1987 p. 3893	16 Oct 1987
<i>Navigable Waters Amendment Regulations 1988</i>	12 Aug 1988 p. 2715	12 Aug 1988
<i>Navigable Waters Amendment Regulations (No. 2) 1988</i>	28 Oct 1988 p. 4289	28 Oct 1989
<i>Navigable Waters Amendment Regulations (No. 3) 1988</i>	13 Jan 1989 p. 75	13 Jan 1989

Citation	Gazettal	Commencement
<i>Navigable Waters Amendment Regulations (No. 2) 1989</i>	30 Jun 1989 p. 1926-8	1 Jul 1989 (see r. 2)
<i>Navigable Waters Amendment Regulations 1989</i>	25 Aug 1989 p. 2846	25 Aug 1989
Reprint of the Navigable Waters Regulations as at 17 Oct 1989 in Gazette 8 Nov 1989 p. 4001-39 (includes amendments listed above)		
<i>Navigable Waters Amendment Regulations (No. 3) 1989</i>	2 Mar 1990 p. 1328-9	2 Mar 1990
<i>Navigable Waters Amendment Regulations 1990</i>	11 May 1990 p. 2283	11 May 1990
<i>Navigable Waters Amendment Regulations (No. 3) 1990</i>	1 Aug 1990 p. 3640-1	1 Aug 1990 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 3) 1990</i>	1 Aug 1990 p. 3646-7	1 Aug 1990 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 2) 1990</i>	3 Aug 1990 p. 3753	3 Aug 1990
<i>Navigable Waters Amendment Regulations (No. 4) 1990</i>	2 Nov 1990 p. 5469-70	2 Nov 1990
<i>Navigable Waters Amendment Regulations 1991</i>	26 Jul 1991 p. 3924-5	1 Aug 1991 (see r. 2)
<i>Navigable Waters Amendment Regulations 1992⁴</i>	10 Apr 1992 p. 1596-8	1 Jul 1992 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 3) 1992</i>	30 Jun 1992 p. 2900-1	1 Jul 1992 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 3) 1992</i>	11 Aug 1992 p. 3975-6	11 Aug 1992
<i>Navigable Waters Amendment Regulations (No. 4) 1992</i>	28 Aug 1992 p. 4238-42	1 Sep 1992 (see r. 2)
<i>Navigable Waters Amendment Regulations 1993</i>	29 Jun 1993 p. 3187-8	1 Jul 1993 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 2) 1993</i>	31 Dec 1993 p. 6912-15	1 Mar 1994 (see r. 2)
<i>Navigable Waters Amendment Regulations 1994</i>	14 Jun 1994 p. 2482-3	1 Jul 1994 (see r. 2)
<i>Navigable Waters Amendment Regulations 1995</i>	30 Jun 1995 p. 2706	1 Jul 1995 (see r. 2)
Reprint of the Navigable Waters Regulations as at 3 Jul 1995 (includes amendments listed above)		

Navigable Waters Regulations 1958

Citation	Gazettal	Commencement
<i>Navigable Waters Amendment Regulations 1996</i>	25 Jun 1996 p. 2992	1 Jul 1996 (see r. 2)
<i>Navigable Waters Amendment Regulations 1997</i>	27 Jun 1997 p. 3150-1	1 Jul 1997 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 2) 1997</i>	3 Apr 1998 p. 1990	3 Apr 1998
<i>Navigable Waters Amendment Regulations (No. 3) 1997</i>	3 Apr 1998 p. 1991	1 Oct 1998 (see r. 2)
<i>Navigable Waters Amendment Regulations 1998</i>	24 Apr 1998 p. 2160-4	24 Apr 1998
<i>Navigable Waters Amendment Regulations (No. 2) 1998</i>	12 May 1998 p. 2796	1 Jul 1998 (see r. 2)
Reprint of the Navigable Waters Regulations as at 3 Mar 2000 (includes amendments listed above)		
<i>Navigable Waters Amendment Regulations 2000</i>	20 Jun 2000 p. 3038-9	1 Jul 2000 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 2) 2000</i>	1 Dec 2000 p. 6763-8	28 Feb 2001 (see r. 2)
<i>Navigable Waters Amendment Regulations 2001</i>	8 May 2001 p. 2273	8 May 2001
<i>Navigable Waters Amendment Regulations (No. 2) 2001</i>	27 Jul 2001 p. 3799-800	1 Aug 2001 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 2) 2002</i>	14 Jun 2002 p. 2324-5	1 Jul 2002 (see r. 2)
<i>Navigable Waters Amendment Regulations 2002</i>	11 Mar 2003 p. 752-5	11 Mar 2003
Reprint 11: The Navigable Waters Regulations as at 21 Mar 2003 (includes amendments listed above)		
<i>Navigable Waters Amendment Regulations (No. 2) 2003</i>	27 Jun 2003 p. 2536-7	1 Jul 2003 (see r. 2)
<i>Sentencing Legislation (Short Sentences) Amendment Regulations 2004 r. 7</i>	14 May 2004 p. 1445-7	15 May 2004 (see r. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Navigable Waters Amendment Regulations 2004</i>	25 Jun 2004 p. 2264-5	1 Jul 2004 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 2) 2004</i>	24 Aug 2004 p. 3659-60	24 Aug 2004

Citation	Gazettal	Commencement
<i>Navigable Waters Amendment Regulations 2005</i>	24 Jun 2005 p. 2778-9	1 Jul 2005 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 2) 2005</i>	10 Feb 2006 p. 667-75	10 Feb 2006
<i>Navigable Waters Amendment Regulations 2006</i>	23 Jun 2006 p. 2207-8	1 Jul 2006 (see r. 2)
Reprint 12: The Navigable Waters Regulations 1958 as at 4 Aug 2006 (includes amendments listed above)		
<i>Navigable Waters Amendment Regulations (No. 2) 2006</i>	1 Sep 2006 p. 3596-9	2 Sep 2006 (see r. 2(a) and <i>Gazette</i> 1 Sep 2006 p. 3591)
<i>Navigable Waters Amendment Regulations 2007</i>	12 Jun 2007 p. 2726-7	1 Jul 2007 (see r. 2)
<i>Navigable Waters Amendment Regulations (No. 2) 2007</i>	30 Nov 2007 p. 5938	r. 1 and 2: 30 Nov 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Dec 2007 (see r. 2(b))
<i>Navigable Waters Amendment Regulations (No. 2) 2008</i>	24 Jun 2008 p. 2891-2	r. 1 and 2: 24 Jun 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Feb 2009 (see r. 2(b))
<i>Navigable Waters Amendment Regulations (No. 4) 2008</i>	24 Jun 2008 p. 2894-5	r. 1 and 2: 24 Jun 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2008 (see r. 2(b))
<i>Navigable Waters Amendment Regulations (No. 3) 2008</i>	1 Jul 2008 p. 3154	r. 1 and 2: 1 Jul 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 2 Jul 2008 (see r. 2(b))
Reprint 13: The Navigable Waters Regulations 1958 as at 3 Oct 2008 (includes amendments listed above except those in the <i>Navigable Waters Amendment Regulations (No. 2) 2008</i>)		
<i>Navigable Waters Amendment Regulations (No. 5) 2008</i>	24 Oct 2008 p. 4669-70	r. 1 and 2: 24 Oct 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Oct 2008 (see r. 2(b))
<i>Navigable Waters Amendment Regulations (No. 6) 2008</i>	9 Jan 2009 p. 36-7	r. 1 and 2: 9 Jan 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 10 Jan 2009 (see r. 2(b))

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Citation	Gazettal	Commencement
<i>Navigable Waters Amendment Regulations 2009</i>	13 Mar 2009 p. 761-2	r. 1 and 2: 13 Mar 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 14 Mar 2009 (see r. 2(b))
<i>Navigable Waters Amendment Regulations (No. 2) 2009</i>	12 Jun 2009 p. 2129-30	r. 1 and 2: 12 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2009 (see r. 2(b))
<i>Navigable Waters Amendment Regulations (No. 3) 2009</i>	17 Nov 2009 p. 4628-30	r. 1 and 2: 17 Nov 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 18 Nov 2009 (see r. 2(b))
<i>Navigable Waters Amendment Regulations (No. 4) 2009</i>	11 Dec 2009 p. 5058-9	r. 1 and 2: 11 Dec 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 12 Dec 2009 (see r. 2(b))
<i>Navigable Waters Amendment Regulations 2010</i>	19 Mar 2010 p. 1036	r. 1 and 2: 19 Mar 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 20 Mar 2010 (see r. 2(b))
Reprint 14: The Navigable Waters Regulations 1958 as at 14 May 2010 (includes amendments listed above)		
<i>Navigable Waters Amendment Regulations (No. 3) 2010</i>	27 Aug 2010 p. 4112-14	r. 1 and 2: 27 Aug 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 28 Aug 2010 (see r. 2(b))
<i>Navigable Waters Amendment Regulations (No. 4) 2010</i>	27 Aug 2010 p. 4114-15	r. 1 and 2: 27 Aug 2010 (see r. 2(a)); r. 3, 4(2), 5 and 6: 28 Aug 2010 (see r. 2(b)) r. 4(1): 1 Sep 2010 (see r. 2(c))
<i>Navigable Waters Amendment Regulations 2011</i>	21 Jun 2011 p. 2240-2	r. 1 and 2: 21 Jun 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2011 (see r. 2(b))
<i>Navigable Waters Amendment Regulations (No. 2) 2011</i>	25 Nov 2011 p. 4873-4	r. 1 and 2: 25 Nov 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 26 Nov 2011 (see r. 2(b))

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included

in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Citation	Gazettal	Commencement
<i>Navigable Waters Amendment Regulations (No. 3) 2011</i> r. 3 and 4 ⁵	4 Nov 2011 p. 4634	1 Dec 2011 (see r. 2(b))

² Repealed by the *Dangerous Goods Safety Act 2004*.

³ Now known as the *Navigable Waters Regulations 1958*; citation changed (see note under r. 1).

⁴ The *Navigable Waters Amendment Regulations 1992* r. 9 is a transitional provision that has no further effect.

⁵ On the date as at which this compilation was prepared, the *Navigable Waters Amendment Regulations (No. 3) 2011* r. 3 and 4 had not come into operation. They read as follows:

3. Regulations amended

These regulations amend the *Navigable Waters Regulations 1958*.

4. Regulation 45B amended

In regulation 45B(3a)(b) delete the Table and insert:

Table of fees

Length of vessel	Fee (\$)
(i) less than 5 m	80.00
(ii) 5 m or more but less than 10 m	170.00
(iii) 10 m or more but less than 20 m	341.20
(iv) 20 m or more	499.10

Defined Terms

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
ABP standard	45A(2)
AS/NZS.....	52BAB(1A)
appropriate personal flotation device	50B(3)
appropriate signal.....	19E(4)
authorised person	2
CEO	47(1)
commencement date.....	47CA(3)
department	2
diving.....	2
examiner.....	47(1)
foreign pleasure vessel.....	45BAA(1)
foreign skipper's ticket	47(1)
freestyle driving	50A(4)
higher qualification	47C(7)
hull identification number.....	45A(2)
inspector.....	2
jetty	21
learner	47B(2)
motor boat.....	2
MS 241.....	52BAB(1A)
navigable waters.....	2
officer of the department.....	2
owner	2, 45A(2), 46(1), 47CA(3)
para-sailing.....	46(2)
personal watercraft.....	46(2)
PFD Type 1	46(2)
PFD Type 2.....	46(2)
PFD Type 3.....	46(2)
prescribed standard	52BAB(1A)
proposed departure date	45BAA(1)
protected waters	2
public jetty	2
recreational skipper's ticket	47(1)
registered interstate pleasure vessel	45A(2)
registered vessel.....	45A(2)
registrable vessel.....	45A(2)
RST vessel	47(1)
speed boat	2
surfing	50A(4)

Defined Terms

tender	45A(2)
territorial sea	2
the Acts	2
trick water ski-ing	46(2)
vessel.....	18A(1), 19(1), 21
water skier.....	46(2)
water ski-ing	46(2)
wave jumping.....	50A(4)