

CE301\*

Fair Trading Act 1987

## Fair Trading (Product Information Standard) Amendment Regulations 2006

Made by the Governor in Executive Council.

### 1. Citation

These regulations are the *Fair Trading (Product Information Standard) Amendment Regulations 2006*.

### 2. Commencement

These regulations come into operation on the day after the day on which they are published in the *Gazette*.

### 3. The regulations amended

The amendment in these regulations is to the *Fair Trading (Product Information Standard) Regulations 2005\**.

[\* Published in *Gazette* 29 June 2005, p. 2971-81.]

### 4. Part 4 inserted

After Part 3 the following Part is inserted —

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## Part 4 — Builders plates for recreational vessels

### 8. Definitions

(1) In this Part —

“**ABP standard**” means the “National Standard for the Australian Builders Plate for Recreational Boats”, published by The National Marine Safety Committee, as it applied on 21 November 2005, as varied by subregulation (2);

“**certificate of survey**” means a certificate issued under the *W.A. Marine (Surveys and Certificates of Survey) Regulations 1983*;

**“classification society”** means the following bodies for the survey of shipping —

- (a) the American Bureau of Shipping;
- (b) the Bureau Veritas;
- (c) the Det Norske Veritas;
- (d) the Germanischer Lloyd;
- (e) the Lloyds Register of Shipping;
- (f) the Nippon Kaiji Kyokai;

**“owner builder”**, of a vessel, means an individual who builds the vessel for his or her own use;

**“personal watercraft”** has the meaning given in the *Navigable Waters Regulations* regulation 46;

**“second hand vessel”** means a vessel that has been used otherwise than as follows —

- (a) in the course of being built or tested;
- (b) by the builder;
- (c) for the purpose of transporting it for the purpose of sale;
- (d) for the purposes of demonstrating it to a purchaser;
- (e) by the owner builder;

**“vessel”** has the meaning given to that term in the *Western Australian Marine Act 1982* section 3(1).

- (2) For the purposes of the definition of “ABP standard”, the standard referred to in the definition is varied as follows —
  - (a) a requirement to the effect that information on a builders plate for a vessel must include the name of the builder of the vessel is to be read as a requirement that the information must include the name of the person who approved the information, and the capacity in which the person approved the information; and
  - (b) by deleting clauses 3.1 and 3.2.

**9. Product information standard for builders plates for certain vessels**

- (1) The ABP standard is prescribed for the purposes of section 59 of the Act as a product information standard for vessels to which this regulation applies.
- (2) This regulation applies to all vessels other than the following vessels —
  - (a) a vessel for which a certificate of survey has been issued or which is to be, or has been, submitted for survey for the purposes of obtaining a certificate of survey;

- (b) a vessel for which a permit under the *Western Australian Marine Act 1982* section 26(2) has been issued;
- (c) a second hand vessel;
- (d) a vessel that was built for export from Australia;
- (e) a vessel that was imported into Australia from New Zealand;
- (f) a vessel that was built exclusively for racing in organised events;
- (g) an amphibious vehicle;
- (h) a canoe, kayak or surf ski or similar vessel designed to be powered by paddle;
- (i) a pedal powered boat;
- (j) a personal watercraft that is designed to carry no more than 2 persons;
- (k) a personal watercraft that is designed to carry 3 or more persons if it complies with subregulation (4);
- (l) a rowing shell used for racing or training for racing;
- (m) a sailboard or sail kite or other similar vessel;
- (n) a surf row boat;
- (o) a hydrofoil or hovercraft;
- (p) a sailing vessel, being a vessel that has sail as the primary means of propulsion, with or without an auxiliary means of mechanical propulsion;
- (q) a submersible;
- (r) an aquatic toy, being an object designed primarily for play in or on water, for example —
  - (i) an object designed solely to be towed behind a recreational vessel; or
  - (ii) an inflatable boat to which ISO 6185 *Inflatable boats* (as in force on the day on which this Part came into operation) does not apply;
- (s) an inflatable boat —
  - (i) to which ISO 6185 *Inflatable boats* (as in force on the day on which this Part came into operation) applies; and
  - (ii) which complies with subregulation (5);
- (t) a vessel that was partly constructed (as described in subregulation (6)) before this Part came into operation.

- (3) The chief executive officer (as defined in the *Western Australian Marine Act 1982* section 3(1)) may, on application, exempt a particular vessel from the application of this regulation 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 this regulation to apply to the vessel; 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 this regulation to apply to the vessel; or
  - (c) the vessel is of a type that closely resembles a vessel of a type that is not covered by this regulation because of subregulation (2) and, in the circumstances of the case, it would be unreasonable for this regulation to apply to the vessel; 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 this regulation to apply to the vessel.
- (4) For the purposes of subregulation (2)(k), a personal watercraft complies with this subregulation if the following information is written on or attached to the craft in a clearly visible place —
- (a) the total weight of persons and equipment that the vessel may carry (expressed in kilograms), as recommended by the builder of the craft; and
  - (b) the maximum number of persons the craft may carry, as recommended by the builder of the craft.
- (5) For the purposes of subregulation (2)(s)(ii), an inflatable boat complies with this subregulation if the boat has a plate attached to it in accordance with —
- (a) European Directive 94/25/EC — Recreational Craft Directive (as in force on the day on which this Part came into operation) that certifies that the boat complies with the requirements of that Directive; or
  - (b) the requirements of US National Marine Manufacturers Association set out in the NMMA Certification Handbook (as in force on

the day on which this Part came into operation)  
that certifies that the boat complies with the  
requirements of that Handbook.

- (6) For the purposes of subregulation (2)(t), a vessel is partly constructed if it has reached which ever of the following stages of construction is relevant, or the earlier if both are relevant —
- (a) the keel has been laid;
  - (b) the vessel is identifiable as a vessel of a particular type and a part of the vessel has been fabricated and assembled that has a mass of at least one percent of the mass of all structural material of the proposed completed vessel.

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By Command of the Governor,

G. M. PIKE, Clerk of the Executive Council.