
TTRANSPORT

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SHIPPING AND PILOTAGE ACT 1967
JETTIES ACT 1926
WESTERN AUSTRALIAN MARINE ACT 1982
NAVIGABLE WATERS AMENDMENT REGULATIONS 1998

Made by the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Navigable Waters Amendment Regulations 1998*.

Principal regulations

2. In these regulations the *Navigable Waters Regulations** are referred to as the principal regulations.

[* Reprinted as at 3 July 1995.

For amendments to 7 April 1998 see 1997 Index to Legislation of Western Australia, Table 4, pp. 250-51.]

Regulation 2 amended

3. Regulation 2 of the principal regulations is amended —

(a) by deleting the definition of “department” and substituting the following definition —

“

“**department**” means the department principally assisting the Minister in the administration of the Acts;

”;

(b) by deleting the definition of “personal powered watercraft”; and

(c) by deleting the definition of “the Acts” and substituting the following definition —

“

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

”.

Regulation 17 amended

4. Regulation 17 of the principal regulations is amended by deleting “under weigh” in both places where it occurs and substituting the following —

“ under way ”.

Regulation 19 amended

5. (1) Regulation 19 (1) of the principal regulations is amended by deleting paragraph (b) and substituting the following paragraph —

“

(b) a boat licensed or required to be licensed under the *Fish Resources Management Act 1994*.

”.

(2) Regulation 19 (3) of the principal regulations is amended by deleting paragraph (a) and substituting the following paragraph —

“

(a) within the limits of any port or port authority port as defined in the *Shipping and Pilotage Act 1967*;

”.

Regulation 19E amended

6. Regulation 19E of the principal regulations is amended by repealing subregulation (2) and substituting the following subregulations —

“

(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 aide appointed under section 38A of the *Police Act 1892*,

who is the master or person in charge of a vessel may, in the course of his or her duties, approach a personal buoy or another vessel displaying the International Code Flag “A”.

(3) The master or person in charge of a vessel under subregulation (2) must, while in the vicinity of the vessel or personal buoy —

(a) proceed at a safe speed; and

(b) maintain a proper lookout for persons in the water.

”.

Regulation 27 amended

7. Regulation 27 of the principal regulations is amended by deleting “section 4 of the *Explosives Act 1895*” and substituting the following —

“ section 7 (1) of the *Explosives and Dangerous Goods Act 1961* ”.

Regulation 34 amended

8. Regulation 34 of the principal regulations is amended by deleting “the Minister for Works and Services” and substituting the following —

“ the Minister to whom the administration of the *Public Works Act 1902* is committed ”.

Regulation 35 amended

9. Regulation 35 of the principal regulations is amended by deleting “the Department of Works” in both places where it occurs and substituting in each case the following —

“ the department principally assisting the Minister to whom the administration of the *Public Works Act 1902* is committed in the administration of that Act ”.

Regulation 45E amended

10. Regulation 45E (2) (b) of the principal regulations is amended by deleting “the vessel the consent” and substituting the following —

“ the vessel, the consent ”.

Regulation 46 amended

11. Regulation 46 of the principal regulations is amended by inserting after the definition of “para-sailing” the following definitions —

“ **personal watercraft**” means any vessel designed for the transport of one, 2 or 3 persons that —

- (a) is propelled by means of an inboard motor powering a water jet pump; and
- (b) is designed to be steered by means of handlebars 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;

“ **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;

”.

Regulation 49M amended

12. Regulation 49M (1) of the principal regulations is amended —

- (a) by deleting the subregulation designation “(1)”; and
- (b) by deleting paragraph (c) and substituting the following paragraph —

“ (c) slalom ski-ing unless that person is wearing a PFD Type 2 or PFD Type 3; ”.

Regulations 50A and 50B inserted

13. After regulation 50 of the principal regulations, the following regulations are inserted —

“ **Restrictions on freestyle driving, surfing and wave jumping on a personal watercraft**

50A. (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.

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

50B. (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 52 repealed and a regulation substituted

14. Regulation 52 of the principal regulations is repealed and the following regulation is substituted —

Certain vessels to be equipped with fire extinguishers

52. (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 52A repealed and a regulation substituted

15. Regulation 52A of the principal regulations is repealed and the following regulation is substituted —

Vessels to be equipped with personal flotation devices or life jackets

52A. (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, appropriate in terms of the buoyancy and size to the body mass of every such person.

(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 52B amended

16. (1) Regulation 52B (2) of the principal regulations is amended by deleting "subregulation (1)" and substituting the following —

" subregulations (1) and (1a) ".

(2) Regulation 52B (2) of the principal regulations is amended by inserting after subregulation (2) the following subregulation —

"

(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.

".

Regulation 52BAA amended

17. Regulation 52BAA (2) of the principal regulations is amended by deleting "underway" and substituting the following —

" under way ".

Regulation 52C repealed and a regulation substituted

18. Regulation 52C of the principal regulations is repealed and the following regulation is substituted —

"

Vessels to be equipped with efficient anchor and lines

52C. (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 52CAB repealed

19. Regulation 52CAB of the principal regulations is repealed.

Regulation 54 amended

20. Regulation 54 of the principal regulations is amended by deleting "proclaimed under the *Ports and Harbours Act 1917*" and substituting the following —

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

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
