



WESTERN
AUSTRALIAN
GOVERNMENT
Gazette

6659



PERTH, FRIDAY, 11 DECEMBER 1998 No. 243 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.45 PM

SHIPPING AND PILOTAGE ACT 1967
WESTERN AUSTRALIAN MARINE ACT 1982
[Mooring Regulations 1998](#)

**MOORING
REGULATIONS 1998**

Western Australia

Shipping and Pilotage Act 1967

Western Australian Marine Act 1982

Mooring Regulations 1998

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Shipping and Pilotage Act 1967

Western Australian Marine Act 1982

Mooring Regulations 1998

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Mooring Regulations 1998*.

2. Interpretation

In these regulations, unless the contrary intention appears —

“**additional vessel**” means a vessel authorized to use a mooring under regulation 26;

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

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

“**Director General**” means —

- (a) the Director General of Transport referred to in section 8 of the *Transport Co-ordination Act 1966*; or
- (b) an officer of the Department authorized in writing by the person referred to in paragraph (a) to carry out the functions of Director General under these regulations;

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

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

and

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

“licensed vessel” means a vessel authorized to use a mooring site under regulation 24;

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

“mooring control area” means a mooring control area to which these regulations apply;

“mooring licence” means a licence granted —

- (a) under section 65 of the *Western Australian Marine Act 1982* in respect of waters in a mooring control area; and
- (b) after the coming into operation of these regulations;

“mooring licensee” means the holder of a mooring licence;

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

“register” means the register referred to in regulation 8;

“registered mooring site” means a mooring site —

- (a) in respect of which a mooring licence is in force; and
- (b) that is recorded in the register;

“waiting list” means the waiting list established under regulation 10.

3. **Application**

These regulations apply to each mooring control area specified in Schedule 1.

Part 2 — Installation and use of moorings

4. **Installation of moorings**

A person must not install a mooring in a mooring control area without the written permission of the Director General.

Penalty: \$2 000.

5. **Removal of unauthorized mooring**

(1) If a mooring —

- (a) is installed contrary to regulation 4; or
- (b) is in a mooring control area on a mooring site that is not licensed under section 65 of the *Western Australian Marine Act 1982*,

the Director General may by notice —

- (c) served on the owner of the mooring; or
- (d) if the identity or whereabouts or both of the owner cannot be ascertained after reasonable inquiry, published once in a newspaper circulating throughout the State,

require the mooring to be removed from the mooring control area within such period (being not less than 7 days after the date of service or publication of the notice) as is specified in the notice.

- (2) If a requirement under subregulation (1) is not complied with, the Director General may remove the mooring at the risk and the expense of the owner of the mooring.
- (3) Any cost incurred under subregulation (2) is a debt due to the State by the owner of the mooring and the Director General may recover that cost —
 - (a) in a court of competent jurisdiction; or
 - (b) by selling the mooring.
- (4) The proceeds of a sale referred to in subregulation (3)(b) are to be applied —
 - (a) first to the expenses of the sale; and
 - (b) second to the costs of removing the mooring,and the balance, if any, of those proceeds is to be paid to the owner of the mooring but, if the identity or whereabouts, or both, of the owner cannot be ascertained after reasonable inquiries, credited to the Consolidated Fund.

6. Use of mooring sites

- (1) A person must not secure a vessel, or allow it to remain secured, to a mooring on a mooring site in a mooring control area unless —
 - (a) a licence granted under section 65 of the *Western Australian Marine Act 1982* is in force in respect of the mooring site;
 - (b) if the licence was granted after the coming into operation of these regulations, the vessel is authorized under regulation 24 or 26 to be secured to that mooring, or is a tender of that vessel; and
 - (c) if the licence was granted after the coming into operation of these regulations and the vessel is not —
 - (i) registered under the *Navigable Water Regulations*; or
 - (ii) a tender,the vessel exhibits, so that it is clearly visible from the exterior of the vessel, identification issued under these regulations for that vessel.

Penalty: \$1 000.

- (2) A person must not secure a vessel, or allow it to remain secured, to —
 - (a) a mooring to which a vessel is already secured; or

- (b) a vessel that is secured to a mooring,
on a mooring site in respect of which a mooring licence is in
force.
Penalty: \$1 000.
- (3) Subregulation (2) does not apply so as to prohibit a tender from
being secured to another vessel.
- (4) In this regulation —
“**tender**” means an auxiliary vessel that —
 - (a) is not more than 3.1 metres in length;
 - (b) is propelled by motored power not exceeding
3.73 kilowatts;
 - (c) is marked in accordance with regulation 45A(3) of
the *Navigable Waters Regulations* or is registered
under those regulations; and
 - (d) 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.

7. **Moving vessels**

- (1) The Director General may direct the owner of a vessel to move
the vessel from a mooring in a mooring control area if the
Director General is of the opinion that —
 - (a) the vessel is a threat to safe and unimpeded navigation
within the mooring control area; or
 - (b) the vessel is impeding the use of a mooring site in the
mooring control area.
- (2) If the owner of a vessel does not move the vessel within a
reasonable time after receiving a direction under
subregulation (1) —
 - (a) the Director General may cause the vessel to be moved;
and
 - (b) the owner commits an offence.

Penalty: \$2 000.

Part 3 — Mooring licences

8. **Register**

- (1) The Director General is to keep a register of mooring licences
and mooring sites.
- (2) The register is to specify in respect of each mooring licence —
 - (a) the location and number of the mooring site for which
the licence is granted;

- (b) the particulars of the mooring licensee, including the full name, address, contact telephone numbers and date of birth, and of any person nominated by the owner to be contacted in an emergency;
 - (c) the maximum overall length of vessel approved for the mooring site;
 - (d) the particulars of the licensed vessel authorized to use the mooring site; and
 - (e) the particulars of any additional vessels authorized to use the mooring site, and their owners.
- (3) The Director General must, on written request by a mooring licensee, provide the licensee with a copy of particulars of the mooring licence as set out in the register.
- (4) A list setting out the number of every registered mooring site and the name of the licensee is to be —
 - (a) kept at the head office of the Maritime Division of the Department in Fremantle; and
 - (b) available for inspection by the public during office hours free of charge.
- (5) A mooring licensee must give the Director General written notice of any alteration to the particulars referred to in subregulation (2)(b) and (e) within 7 days of the alteration occurring.
Penalty: \$500.
- (6) If a mooring licence ceases to be in force the Director General is to delete the details of the licence and the mooring site for which the licence was granted from the register.

9. Application for mooring licence

- (1) An application to the Minister for a mooring licence in a mooring control area is to —
 - (a) be in an approved form that is duly completed;
 - (b) be made by an individual over the age of 17 years whose principal place of residence is in the State;
 - (c) be accompanied by the application fee specified in Schedule 2;
 - (d) specify the maximum overall length of the vessel proposed to be the licensed vessel for the proposed mooring site (whether or not the applicant owns the vessel at the time of making the application); and
 - (e) nominate a general location or area for the proposed mooring site.
- (2) The applicant must supply such further information as the Minister may require.

10. List of applicants for mooring licences

- (1) The Minister may divide a mooring control area into different areas for the purpose of establishing waiting lists.
- (2) If insufficient mooring sites are available in an area the Minister may —
 - (a) maintain a waiting list specifying the particulars of applicants for mooring licences in that area; and
 - (b) subject to subregulation (3), on notification of an application for a mooring licence in that area, place the applicant at the end of the waiting list for that area.
- (3) The Minister is not to place an application on the waiting list if the maximum overall length of the vessel specified under regulation 9(1)(d) is less than 5 metres.
- (4) The Minister may —
 - (a) at any time by written notice require an applicant to confirm or update the particulars provided by the applicant in an application or to provide further particulars; and
 - (b) if an applicant fails to respond to a notice given to the applicant under paragraph (a) within the time specified in the notice, remove the applicant's name from the waiting list.

11. Offer of mooring licence

- (1) If the Minister is satisfied that a mooring site is available the Minister, by written notice to the applicant or, if there is a waiting list in respect of the area in which the mooring site is available, to the first applicant on the waiting list who has specified a vessel of appropriate length for the site, may —
 - (a) offer a mooring licence to that applicant; and
 - (b) if there is already a mooring on the site, give the applicant contact details of the name of the person in whose name the mooring site was previously registered to allow the applicant, if he or she so wishes, to negotiate with that person for the purchase of the mooring.
- (2) The Minister is to send the notice to the address specified in the application.
- (3) When accepting an offer in respect of a mooring site on which there was already a mooring, the applicant is to give the Minister written notice as to whether the applicant has, or has not, reached an agreement with the person in whose name the mooring site was previously registered to acquire the mooring.
- (4) If, for any reason —
 - (a) the applicant does not accept the offer in accordance with its terms within 14 days of being given notice of

the offer, or such further time as the Minister may by written notice allow; or

- (b) the applicant accepts the offer under paragraph (a) but does not meet the requirements of regulation 12(1)(b), (c), (d) and (e) within 28 days of receiving notice of the offer, or such further time as the Minister may by written notice allow,

then —

- (c) the offer lapses;
 - (d) the name of the applicant is to be removed from the waiting list; and
 - (e) the Minister may make the offer to another applicant.
- (5) Nothing in subregulation (4) prevents an applicant from making a further application for a mooring licence.
 - (6) The Minister is not obliged to offer a mooring licence in respect of any mooring site.

12. Mooring licence and registration of mooring site

(1) If —

- (a) the Minister is notified of acceptance of an offer;
- (b) the applicant nominates a suitable vessel as the licensed vessel;
- (c) the annual mooring licence fee specified in Schedule 2 is paid;
- (d) if there is a mooring on the mooring site, the Minister has received evidence satisfactory to the Minister that the applicant has acquired the mooring or that the applicant does not intend to acquire the mooring; and
- (e) if the applicant has acquired the mooring, the applicant has notified the Minister in the approved form that the mooring is safe for its intended purpose,

the Minister is to grant the mooring licence.

- (2) If the Minister grants a mooring licence, the Director General is to register the mooring site for which the licence is granted.
- (3) A vessel is a suitable vessel for the purposes of subregulation (1)(b) if —
 - (a) the applicant is named on the certificate of registration of the vessel as the owner of that vessel, or produces evidence of ownership satisfactory to the Minister;
 - (b) the overall length of the vessel does not exceed the length specified in the application; and
 - (c) the vessel is not the licensed vessel for any other registered mooring site.

- (4) A mooring licence may be granted on conditions as to —
 - (a) the location of any mooring to be installed on the mooring site;
 - (b) the form and maintenance of any mooring to be installed on the mooring site;
 - (c) the size, shape and colour of any mooring float used on the mooring site;
 - (d) the display of a mooring number or other identification data on any mooring to be installed on the mooring site;
 - (e) the inspection of any mooring to be installed on the mooring site; and
 - (f) such other matters as the Minister thinks fit.

13. Annual fee

- (1) A mooring licensee must pay to the Minister, in respect of each year, the annual mooring licence fee specified in Schedule 2.
- (2) Payment of the fee must be made not more than 28 days after each anniversary of the grant of the licence.
- (3) If a mooring licensee fails to pay the fee, the Minister is to give notice in writing to the licensee that, unless the annual mooring licence fee and the late fee specified in Schedule 2 are paid by the licensee before a day specified in the notice, being a day that is not earlier than 14 days after the giving of the notice, the licence will be cancelled under regulation 14(1)(c).

14. Cancellation of mooring licence

- (1) Subject to this regulation, the Minister may, by written notice served on a mooring licensee, cancel the mooring licence if —
 - (a) the Minister is of the opinion that the mooring licensee has committed an offence under these regulations or has caused or permitted another person to do so;
 - (b) the Minister is of the opinion that the mooring licensee has failed to comply with a condition of the licence or has caused or permitted another person to do so;
 - (c) the annual mooring licence fee or the late fee has not been paid in accordance with a notice given under regulation 13(3);
 - (d) the licensed vessel of the mooring licensee has been sold or disposed of and the mooring licensee has not nominated a substitute vessel under regulation 25(3); or
 - (e) the Minister is of the opinion that it is in the public interest or the best interest of good management of the mooring control area to do so.
- (2) If the Minister proposes to cancel a mooring licence under subregulation (1)(a) or (b), the Minister is to give to the mooring licensee notice of the proposal and the reasons for the proposal.

- (3) A notice given under subregulation (2) is to state that within 14 days after the notice is given, the person to whom it is given may make written representations to the Minister concerning the matter, and the Minister is not to determine the matter without considering any representations received within that period of 14 days.
- (4) If the Minister cancels a mooring licence under subregulation (1)(e), the Minister may, despite regulation 11(1), offer the mooring licensee a mooring licence for any other mooring site.
- (5) If a mooring licence is cancelled, the mooring licensee must return to the Minister, within the time specified in the notice of cancellation, any buoy or other identification material issued by the Minister in respect of the mooring licence.
Penalty: \$1 000.

15. Exchange of mooring sites

- (1) A mooring licensee may, with the permission of the Minister and subject to such conditions as the Minister may impose, exchange the registered mooring site of that licensee for another registered mooring site.
- (2) If —
 - (a) the Minister permits the exchange of mooring sites under subregulation (1);
 - (b) the fee specified in Schedule 2 is paid by each of the mooring licensees; and
 - (c) the conditions imposed by the Minister are met,the register and relevant mooring licences are to be amended accordingly.
- (3) The Minister must not permit the exchange of mooring sites if an applicant is on the waiting list who could be granted a mooring licence in respect of either of the sites if it were available.

16. Transfer of mooring licence

- (1) A mooring licensee may apply to the Minister to transfer the mooring licence to a person specified in the application who is —
 - (a) an individual over the age of 17 years whose principal place of residence is in the State; and
 - (b) the owner of the licensed vessel nominated on the mooring licence.
- (2) An application to transfer a mooring licence is to be —
 - (a) in an approved form that is duly completed;
 - (b) accompanied by the transfer fee specified in Schedule 2.

- (3) Regulations 11 and 12 apply to the transfer of a mooring licence under these regulations as if the person to whom the licence is proposed to be transferred were the applicant for the mooring licence.
- (4) The transfer takes effect on the day specified in the endorsement of the transfer.
- (5) The Minister is not to grant the transfer of a mooring licence if an applicant is on the waiting list who could be granted a mooring licence if the mooring site specified in the licence proposed to be transferred were available.

17. Mooring licences not otherwise transferable

- (1) Except as provided in regulations 15 and 16 —
 - (a) a mooring licence is not transferable; and
 - (b) rights conferred on a person in respect of a mooring licence under these regulations are not assignable and may not pass by will or intestacy or vest by operation of law in any other person.
- (2) No person is entitled to the transfer of a mooring licence as of right.
- (3) Nothing in this regulation prohibits the sale or disposal of a mooring installed on a registered mooring site.

Part 4 — Registered mooring sites

Division 1 — Use of registered mooring sites

18. Installation of mooring

- (1) A mooring licensee may install a mooring on the mooring site specified in the mooring licence in accordance with the written directions of the Director General.
- (2) A mooring licensee who does not comply with the written directions of the Director General under subregulation (1) commits an offence.
Penalty: \$2 000.
- (3) A mooring on a mooring site specified in a mooring licence is the property and responsibility of the mooring licensee.
- (4) A vessel secured to a mooring on a mooring site specified in a mooring licence is secured at the risk of the owner of the vessel.

19. Maintenance of mooring

A mooring licensee must maintain any mooring on a mooring site specified in the mooring licence —

- (a) in the position assigned by the Director General; and
- (b) in a condition of good repair.

Penalty: \$2 000.

20. Inspection of mooring

- (1) The Director General may inspect a mooring on a registered mooring site at any time.
- (2) The mooring licensee must afford a person carrying out an inspection under subregulation (1) reasonable access to the mooring and such other assistance as that person may reasonably require.

Penalty: \$2 000.

21. Dealing with mooring

- (1) If a mooring licence ceases to be in force, the mooring licensee immediately before the licence ceased to be in force or, if that person has died, his or her personal representative, (**“the previous licensee”**) must —
 - (a) remove any mooring on the mooring site; or
 - (b) dispose of the mooring to the person to whom the Minister has offered the mooring licence.

Penalty: \$2 000.

- (2) The Director General may, by written notice given to the previous licensee, direct the previous licensee to comply with subregulation (1) within a time specified in the notice.
- (3) If a previous licensee does not comply with a direction given under subregulation (1), the mooring may be dealt with under regulation 5.

22. Relocation or removal of mooring

- (1) The Minister may direct a mooring licensee —
 - (a) to move the mooring to another position on the mooring site specified in the mooring licence or to another mooring site; or
 - (b) if the mooring is a safety hazard, to remove the mooring.

- (2) A mooring licensee must comply with a direction under subregulation (1) within 30 days of being given the direction.

Penalty: \$2 000.

- (3) If the mooring licensee does not comply with a direction under subregulation (1) within 30 days of being given the direction, the Minister may cause the mooring to be moved or removed in accordance with the direction.
- (4) If the mooring licensee moves a mooring to another mooring site in accordance with a direction, or the mooring is moved to another mooring site under subregulation (3), the register and mooring licence are to be amended accordingly.

23. Vessel to be maintained in seaworthy condition

The owner of a vessel moored on a registered mooring site must maintain the vessel in a seaworthy condition so that the vessel is capable of undertaking a voyage.

Penalty: \$2 000.

Division 2 — Licensed vessels**24. Licensed vessels**

- (1) A vessel is authorized to use a registered mooring site if it is recorded in the register and on the mooring licence in respect of the mooring site as the licensed vessel for that mooring site.
- (2) Only one vessel may be recorded as the licensed vessel for any registered mooring site.
- (3) The Minister is to issue to the owner of each licensed vessel that is not required to be registered under the *Navigable Waters Regulations* an adhesive sticker designed to identify it as the licensed vessel for a registered mooring site.

25. Substitution of licensed vessel

- (1) A mooring licensee may, by written notice to the Minister, request that —
 - (a) the particulars of the licensed vessel be deleted from the register and mooring licence of the licensee; and
 - (b) another suitable vessel nominated by the mooring licensee be substituted as the licensed vessel.
- (2) A mooring licensee who sells or otherwise disposes of his or her interest in a licensed vessel must give written notice of the sale or disposal, and the date of the sale or disposal, to the Minister within 7 days after the sale or disposal.

Penalty: \$2 000.
- (3) A mooring licensee who gives notice under subregulation (2) may, within 6 months after the date of the sale or disposal, by written notice request the Minister to substitute as a licensed vessel in the register and on the mooring licence another suitable vessel nominated and owned by the mooring licensee.
- (4) A request referred to in subregulation (1) or (3) is to be accompanied by full particulars of the nominated vessel.
- (5) If —
 - (a) a notice is given in accordance with subregulation (1) or (3);
 - (b) the fee specified in Schedule 2 is paid; and
 - (c) the Minister is satisfied that the nominated vessel is a suitable vessel,

the register and mooring licence are to be amended accordingly.

- (6) For the purposes of this regulation a vessel is a suitable vessel if —
- (a) the mooring licensee is named on the certificate of registration of the vessel as the owner of that vessel or produces evidence of ownership satisfactory to the Minister;
 - (b) the vessel is not a licensed vessel for any other mooring site; and
 - (c) the length of the vessel does not exceed the maximum length approved for the mooring site.

Division 3 — Additional vessels

26. Additional vessels authorized to use mooring site

A vessel other than a licensed vessel is authorized to use a mooring site if particulars of the additional vessel are recorded in the register and on the mooring licence in respect of that mooring site.

27. Application for registration of additional vessel

An application to register an additional vessel is to —

- (a) be in an approved form that is duly completed;
- (b) be made by an individual —
 - (i) over the age of 17 years;
 - (ii) whose principal place of residence is in the State; and
 - (iii) who is named on the certificate of registration as the owner of the vessel or who produces evidence of ownership satisfactory to the Minister;
- (c) specify the particulars of the vessel in respect of which the application is made;
- (d) be accompanied by a notice in the approved form from the mooring licensee nominating the vessel as an additional vessel; and
- (e) be accompanied by the application fee specified in Schedule 2.

28. Registration of additional vessel

- (1) If the Minister grants an application for registration of an additional vessel —
- (a) the particulars of the additional vessel, and its owner, are to be recorded in the register;
 - (b) the relevant mooring licence is to be endorsed; and
 - (c) if the vessel is not required to be registered under the *Navigable Waters Regulations*, the owner of the additional vessel is to be issued with an adhesive sticker

designed to identify the vessel as an additional vessel for the registered mooring site.

- (2) The Minister may refuse to register an additional vessel on the ground that the length of the vessel exceeds the maximum length approved for the mooring site for which it is proposed to register the vessel.

29. Duration of registration

- (1) Subject to these regulations, the registration of an additional vessel has effect until the particulars of the vessel and its owner are deleted from the register.
- (2) The Minister is to delete the particulars of an additional vessel and its owner from the register if —
 - (a) the owner of the additional vessel makes a written request that the registration be cancelled;
 - (b) the owner of the licensed vessel who nominated the additional vessel gives the Minister written notice that the nomination is withdrawn; or
 - (c) the mooring licence of the person who nominated the additional vessel ceases to be in force.
- (3) The Minister is not to delete the particulars under subregulation (2)(b) or (c) until written notice has been sent to the owner of the additional vessel, at the address recorded in the register, that the particulars are to be deleted.

Part 5 — Transitional provisions

30. Existing moorings

- (1) In this regulation —

“commencement day” means the day on which these regulations come into operation;

“existing mooring” means a mooring —

 - (a) installed prior to the commencement day; and
 - (b) that is in a mooring control area on a mooring site in respect of which a licence has not been granted under section 65 of the *Western Australian Marine Act 1982*.
- (2) Despite Parts 1 to 4 of these regulations —
 - (a) it is not an offence to use an existing mooring at any time up to 5 months after the commencement day;
 - (b) the Director General is not to issue a notice in respect of an existing mooring under regulation 5 within 5 months of the commencement day unless the mooring is a safety hazard; and
 - (c) the Minister is not to grant a mooring licence in respect of a mooring site on which there is an existing mooring

to any person other than the owner of that mooring within 3 months of the commencement day.

- (3) Subject to subregulation (4), if a person applies under regulation 9 within 3 months of the commencement day for a mooring licence in respect of a mooring site on which there is an existing mooring owned by that person, the Minister is to offer the applicant a mooring licence.
- (4) If, for any reason —
- (a) the applicant does not accept the offer in accordance with its terms within 14 days of being given notice of the offer, or such further time as the Minister may allow; or
 - (b) the applicant accepts the offer under paragraph (a) but does not meet the requirement of subregulation (5),
- then —
- (c) the offer lapses; and
 - (d) the Minister may make the offer to another applicant.
- (5) If —
- (a) the Minister is notified of acceptance of an offer;
 - (b) the applicant nominates a suitable vessel (within the meaning of regulation 12(3)) as the licensed vessel;
 - (c) the annual mooring licence fee specified in Schedule 2 is paid;
 - (d) the applicant notifies the Minister in the approved form that the mooring is safe for its intended purpose;
 - (e) the Minister is satisfied that the applicant for the mooring licence is the owner of the mooring on the mooring site; and
 - (f) the Minister is of the opinion that the mooring is not a significant impediment to safe navigation in, or the good management of, the mooring control area,

the Minister is to grant the mooring licence and regulation 12 applies.

Schedule 1 — Mooring control areas to which regulations apply

[r. 3]

The Swan and Canning Rivers Mooring Control Area declared under section 10(2) of the *Shipping and Pilotage Act 1967*.

Schedule 2 — Fees

Item		Fee
1	Application for mooring licence (r. 9(1)(c))	\$40
2	Annual mooring licence fee (r. 12(1)(c), 13)	\$195
3	Late fee (r. 13)	\$40
4	Exchange of mooring licence (r. 15(2)(b))	\$40
5	Application for transfer of mooring licence (r. 16(2)(b))	\$40
6	Substitution of licensed vessel (r.25(5))	\$40
7	Application to register additional vessel (r. 27(e))	\$40

By Command of the Governor,

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



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