

PORT AUTHORITIES**PH301****FREMANTLE PORT AUTHORITY ACT 1902****FREMANTLE PORT AUTHORITY AMENDMENT REGULATIONS 1993**

Made by the Fremantle Port Authority and approved by His Excellency the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Fremantle Port Authority Amendment Regulations 1993*.

Principal regulations

2. In these regulations the *Fremantle Port Authority Regulations 1971** are referred to as the principal regulations.

[* Reprinted in the Gazette of 9 August 1979 at pp. 2295-418.
For amendments to 17 September 1993 see 1992 Index to Legislation
of Western Australia, Table 4, pp. 91-6, and Gazettes of 26 January
and 23 July 1993.]

Regulation 3 amended

3. Regulation 3 of the principal regulations is amended by deleting the definitions of "coasting vessel", "interstate vessel", "Pilot" and "vessel" and inserting, in the appropriate alphabetical positions, the following definitions —

“

“**Exemption Certificate**” means a Pilotage Exemption Certificate
issued under regulation 116.

”;

“
“pilot” means a person approved in writing by the Port Authority
as a pilot for the Port.
”

“
“State marine department” means the Department of Marine
and Harbours.
”

Regulation 34 amended

4. Regulation 34 (1) of the principal regulations is amended by deleting “An” and substituting the following —

“ Except with the approval of the Port Authority, an ”.

Regulation 68 repealed and a regulation substituted

5. Regulation 68 of the principal regulations is repealed and the following regulation is substituted —

“
Notice of arrival at Port

68. (1) Subject to subregulation (3), the master of a vessel other than a vessel —

- (a) that is not to be berthed within the Port; and
- (b) that is not to be provided with any services by the Port Authority,

shall —

- (aa) notify the Harbour Master 48, 24 and 2 hours before the estimated time of the vessel's arrival at its appropriate Pilot Boarding Ground; and
- (bb) if the vessel is carrying explosives, or an inflammable or otherwise dangerous cargo, notify the Harbour Master accordingly, by means of the approved form, 48 hours before the estimated time of the vessel's arrival at its appropriate Pilot Boarding Ground.

(2) The appropriate Pilot Boarding Ground for a vessel —

- (a) having a draught of 11 metres or more, is 3 nautical miles north west of the Fairway Buoy (the “Outer Pilot Boarding Ground”); or
- (b) having a draught of less than 11 metres, is one nautical mile west of the Hall Bank Beacon in Gage Roads, unless the Harbour Master directs otherwise.

(3) The master of a vessel that is subject to the tonnage rates prescribed by regulation 130 shall inform the Port Authority of the vessel's movements within the Port by maintaining radio contact with, and in the manner required by, the Port Authority.
”

Regulation 69 amended

6. Regulation 69 of the principal regulations is amended —

(a) in subregulation (1) by deleting “1.05 miles”, “0.6 mile”, “83°” and “1.45 miles” and substituting, respectively, the following —

- “ 2.3 nautical miles ”;
- “ 1.2 nautical miles ”;

“ 80½° ”; and
“ 2.65 nautical miles ”;

and

- (b) by repealing subregulation (2) and substituting the following subregulations —

“

(2) The Port Authority may authorize a vessel to proceed directly to its berthing place instead of anchoring in Gage Roads as required under subregulation (1).

(3) A vessel authorized under subregulation (2) is not, by virtue of that authorization, exempt from pilotage.

(4) A vessel that arrives at the Port —

(a) with explosives on board; or

(b) to load explosives while in the Port, that is unable to be berthed at a dedicated explosives berth, specified as such by the Harbour Master, shall be berthed as directed by the Harbour Master.

”.

Regulation 70 amended

7. Regulation 70 of the principal regulations is amended in paragraphs (a) and (f) by deleting “Berthing Master” and substituting, in each paragraph, the following —

“ Harbour Master ”.

Regulation 99 repealed and a regulation substituted

8. Regulation 99 of the principal regulations is repealed and the following regulation is substituted —

“

Mandatory pilotage

99. Unless it is exempted by regulation 101 or 121B, a vessel shall use the services of a pilot through all waters between the vessel's appropriate Pilot Boarding Ground and its berthing place in the Port.

”.

Regulation 101 repealed and a regulation substituted

9. Regulation 101 of the principal regulations is repealed and the following regulation is substituted —

“

Vessels exempt from pilotage

101. (1) Subject to subregulation (2) and regulation 121, a vessel is exempt from pilotage if it has a draught of less than 11 metres and —

(a) the vessel is less than 150 gross registered tons; or

(b) the vessel —

(i) is registered, or is required to be registered, under the *Shipping Registration Act 1981* of the Commonwealth; or

- (ii) is wholly-owned, or solely operated, by persons who are entitled to reside permanently in Australia under an Act of the Commonwealth,
- and the master of the vessel holds —
- (iii) a current Exemption Certificate issued under regulation 116; or
- (iv) a current Certificate of Local Knowledge issued under regulation 122.

(2) For the purposes of subregulation (1) (b), a person is deemed not to be the master —

- (a) of an inward bound vessel unless the person has been in charge of the vessel, and the person's name entered as master on the vessel's register, from prior to its departure from the last port of call until after its arrival at its berthing place in the Port; or
- (b) of an outward bound vessel unless the person has been in charge of the vessel, and the person's name entered as master on the vessel's register, from prior to its departure from its berthing place until its arrival at its next port of call.

(3) If the services of a pilot are used by a vessel that would otherwise be exempt from pilotage under subregulation (1) (b), the pilotage charges prescribed by regulation 102 apply.

(4) A vessel exempt from pilotage under subregulation (1) (b) is subject to the charge prescribed by regulation 102 (f) or (g), as the case requires.

(5) Regardless of any other provision of these regulations, the Harbour Master may exempt any vessel from pilotage in any waters of the Port if the Harbour Master considers that to do so is justified for the convenience of shipping.

Regulation 102 amended

10. Regulation 102 (f) of the principal regulations is amended by deleting "coastal or interstate".

Regulations 115 to 121 repealed and regulations 115 to 121B substituted

11. Regulations 115, 116, 117, 118, 119, 120 and 121 of the principal regulations are repealed and the following regulations are substituted —

“

Eligibility for Exemption Certificate

115. (1) A person is not eligible to apply for an Exemption Certificate unless the person is entitled to reside permanently in Australia under an Act of the Commonwealth and the person —

- (a) holds —
 - (i) a Master Class 1 Certificate of Competency issued under the Navigation Act;
 - (ii) a Foreign Going Masters Certificate of Competency issued under the Navigation Act;
 - (iii) a Certificate of Service as Master issued under the Navigation Act; or
 - (iv) a certificate issued outside Australia that is recognized by the Department of Transport and Communications of the Commonwealth or by the State marine department as equivalent to one of those certificates,

and the person —

- (v) subject to regulation 116 (2), within the 2 years preceding the date of the application, has been the master of a vessel, with a pilot on board, on at least 4 occasions when the vessel was navigated into, and on at least 4 occasions when the vessel was navigated out of, the Port;

or

(b) holds —

- (i) a certificate as first mate issued under the Navigation Act; or
- (ii) a certificate issued outside Australia that is recognised by the Department of Transport and Communications of the Commonwealth or by the State marine department as equivalent to that certificate,

and the person has —

- (iii) subject to regulation 116 (2), within the 2 years preceding the date of the application, been the first mate of a vessel, with a pilot on board, on at least 4 occasions when the vessel was navigated into, and on at least 4 occasions when the vessel was navigated out of, the Port, on each occasion remaining on duty on the bridge of the vessel while it was being navigated within the Port; and
- (iv) a written statement, signed by the pilot or master of the vessel on each occasion referred to in subparagraph (iii), verifying that the person complied with the requirements of that subparagraph on that occasion.

(2) In this regulation “**Navigation Act**” means the *Navigation Act 1912* of the Commonwealth.

Application and examination for Exemption Certificate

116. (1) An application for an Exemption Certificate shall be on the form approved by the Port Authority and shall be accompanied by —

- (a) a fee of \$595, that is not refundable whether the applicant passes or fails the examination referred to in subregulation (3);
- (b) evidence, satisfactory to the Port Authority, that the applicant has satisfied the qualification and navigation requirements of regulation 115 (1) (a) or (b), as the case requires;
- (c) a current medical certificate providing evidence of the applicant's health;
- (d) a current certificate of visual acuity as required for seagoing masters by the Department of Transport and Communications of the Commonwealth or the State marine department; and
- (e) if the case requires, the written statement referred to in regulation 115 (1) (b) (iv).

(2) An application under this regulation is not valid unless at least one of the occasions referred to in regulation 115 (1) (a) (v) or (b) (iii), as the case requires, was within —

- (a) the 12 months preceding the date of the application, if the application is for a Certificate valid for vessels of a category to which regulation 117 (3) (a) or (b) applies; or
- (b) the 6 months preceding the date of the application, if the application is for a Certificate valid for vessels of a category to which regulation 117 (3) (c) or (d) applies.

(3) If an applicant satisfies the Harbour Master, in an examination, that the applicant has an adequate knowledge of those matters considered by the Port Authority to be necessary for the safe navigation of vessels within the Port, including the ability to speak English, the Port Authority shall issue an Exemption Certificate to the applicant.

(4) A person who fails the examination is not eligible to be examined again until, after the examination, the person has been the master or first mate of a vessel, as the case requires, with a pilot on board, on at least one occasion when the vessel was navigated into or out of the Port, or into or out of a particular area of the Port with respect to which the person's knowledge was found to be deficient in the examination.

Vessels for which Exemption Certificates are valid

117. (1) The Port Authority shall endorse an Exemption Certificate with the category of vessels for which it is valid, being one of the categories specified in subregulation (3), and the Certificate is valid for —

- (a) vessels having a length overall appropriate to that category; and
- (b) vessels having a length overall less than is appropriate to that category.

(2) The category of vessels that is to be endorsed on an Exemption Certificate under subregulation (1) is the category that is appropriate to the vessel having the shortest length overall of the vessels of which the applicant for the Certificate was master or first mate, as the case requires, when complying with regulation 115 (1) (a) (v) or (b) (iii).

(3) The categories of vessels for which an Exemption Certificate may be valid are vessels having a length overall of —

- (a) less than 50 metres;
- (b) 50 metres or more but less than 155 metres;
- (c) 155 metres or more but less than 215 metres; or
- (d) 215 metres or more.

Exemption Certificates valid only during daylight hours unless otherwise endorsed

118. (1) Subject to subregulation (2), the Port Authority shall endorse an Exemption Certificate as valid only during the hours of daylight.

(2) If a person who holds an Exemption Certificate applies to the Port Authority to have the Certificate endorsed to be valid during the hours of darkness, the Port Authority, subject to subregulation (3), shall endorse the Certificate accordingly if it is satisfied that the applicant, within the 12 months preceding the date of the application, has been in charge of a vessel with a pilot on board —

- (a) on at least 1 occasion when the vessel was navigated into the Port; and
- (b) on at least 1 occasion when the vessel was navigated out of the Port,

the vessel on each occasion being navigated during the hours of darkness.

(3) If an Exemption Certificate is valid for vessels of a category to which regulation 117 (3) (c) or (d) applies, the Port Authority shall not endorse the Certificate under subregulation (2) unless at least one of the occasions referred to in paragraphs (a) and (b) of that subregulation was within the 6 months preceding the date of the application.

Endorsement of Exemption Certificates for vessels of greater length

119. (1) If a person who holds an Exemption Certificate applies to the Port Authority to have the Certificate endorsed to be valid for vessels having a length overall greater than is appropriate to the category to which the Certificate applies, the Port Authority, subject to subregulation (2), shall endorse the Certificate accordingly if it is satisfied that the applicant, within the 12 months preceding the date of the application, has been in charge of a vessel with a pilot on board —

- (a) on at least 2 occasions when the vessel was navigated into the Port; and
- (b) on at least 2 occasions when the vessel was navigated out of the Port,

the vessel on each occasion having a length overall not less than is appropriate to the category for which the applicant is applying to have the Certificate endorsed.

(2) If an application is made under subregulation (1) to have an Exemption Certificate endorsed to be valid for a category of vessels to which regulation 117 (3) (c) or (d) applies, the Port Authority shall not endorse the Certificate unless at least one of the occasions referred to in subregulation (1) (a) and (b) was within the 6 months preceding the date of the application.

Validity, lapse and renewal of Exemption Certificates

120. (1) Unless it lapses or is revoked under this regulation, an Exemption Certificate is valid for 2 years but may be renewed under subregulation (2).

(2) If a person who holds an Exemption Certificate, including an Exemption Certificate that has been previously renewed under this subregulation or revalidated under subregulation (5), makes an application —

- (a) before the Certificate lapses; and
- (b) accompanied with evidence, satisfactory to the Port Authority, of the applicant's health and visual acuity,

the Certificate may be renewed for a period, in the discretion of the Port Authority, not exceeding 2 years.

(3) If, in the case of a Certificate that is endorsed to be valid —

- (a) for a category of vessels referred to in regulation 117 (3) (a) or (b), the holder of the Certificate does not navigate a vessel, under the authority of the Certificate, anywhere in the Port for a period of 12 months; or
- (b) for a category of vessels referred to in regulation 117 (3) (c) or (d), the holder of the Certificate does not navigate a vessel, under the authority of the Certificate, anywhere in the Port for a period of 6 months,

the Certificate lapses on the expiry of that 12 months or 6 months period, as the case requires.

(4) If an Exemption Certificate lapses —

- (a) not having been renewed under subregulation (2); or
- (b) under subregulation (3),

the holder of the Certificate may apply to the Port Authority to have the Certificate revalidated if the application is made within 2 years after the date the applicant last navigated a vessel under the authority of the Certificate.

(5) If an application is made under subregulation (4), the Port Authority shall revalidate the Certificate for a period, in the discretion of the Port Authority, not exceeding 2 years if the applicant satisfies the Port Authority that —

- (a) the applicant has been in charge of a vessel having a length overall not less than is appropriate to the category to which the lapsed Certificate applied, with a pilot on board, on at least one occasion when the vessel was navigated into or out of the Port —
 - (i) within the 12 months preceding the date of the application, if the lapsed Certificate was valid for vessels of a category to which regulation 117 (3) (a) or (b) applies; or
 - (ii) within the 6 months preceding the date of the application, if the lapsed Certificate was valid for vessels of a category to which regulation 117 (3) (c) or (d) applies;

and

- (b) the applicant has an adequate knowledge of those matters considered by the Port Authority to be necessary for the safe navigation of vessels within the Port.

(6) If a lapsed Exemption Certificate is not revalidated within the 2 year period referred to in subregulation (4), the person who holds the lapsed Certificate may be issued with a new Certificate if —

- (a) the person satisfies the eligibility requirements of regulation 115; and
- (b) makes an application under regulation 116.

(7) The Port Authority may —

- (a) issue an Exemption Certificate that applies to all the waters of the Port or to the specific areas of the Port that are endorsed on the Certificate; or
- (b) revoke an Exemption Certificate in its absolute discretion.

Exemption Certificates may be declared not to apply to certain areas

121. The Port Authority may at any time declare an area of the Port to be an area to which Exemption Certificates do not apply.

Use of Exemption Certificates to be recorded

121A. On each occasion when a person navigates a vessel under the authority of an Exemption Certificate, the person shall make a written record of —

- (a) the name and length overall of the vessel; and
- (b) the date on which, and the areas of the Port in which, the person navigates the vessel.

Port Authority may exempt dredges from pilotage

121B. The Port Authority may —

- (a) exempt a vessel engaged in dredging operations within the Port from pilotage; and
- (b) in respect of a vessel exempt from pilotage under paragraph (a), waive payment of the charge prescribed by regulation 102 (g).

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The Common Seal of the Fremantle Port Authority was affixed on the 23rd day of September 1993 by order and in the presence of—

W. I. McCULLOUGH, Commissioner.
KERRY G. SANDERSON, Commissioner.
ALEC MEYER, Secretary.

—
By His Excellency's Command,

D. G. BLIGHT, Clerk of the Council.