

Western Australia

Port Authorities Regulations 2001

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Port Authorities Regulations 2001

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Port Authorities Regulations 2001

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Port Authorities Regulations 2001* ¹.

2. Commencement

These regulations come into operation on 1 June 2001.

3. Definitions

In these regulations, unless the contrary intention appears —

“authorised member of staff of the port authority”, in relation to the performance of a function by the member of staff, means a member of staff who is authorised by the port authority to perform the function;

“collector of port charges”, in relation to a port, means a person authorised by the port authority under section 119 of the Act to collect port charges on its behalf at the port;

“length overall”, in relation to a vessel, means the length of the vessel measured parallel to the static load waterline from the fore side of the stem to the after side of the stern or transom, excluding rubbing strakes and other projections;

“Marine Act” means the *Western Australian Marine Act 1982* or any Act that, on the repeal of the Marine Act, replaces that Act;

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“motor vehicle” has the same meaning as it has in the *Road Traffic Act 1974*;

“Navigation Act” means the *Navigation Act 1912* of the Commonwealth;

“pilot” means a pilot approved by a port authority under section 96 of the Act;

“pilotage provider’s licence” means a licence issued under regulation 28 to provide pilotage services in a port;

“private vessel” means a vessel used solely for private purposes and not for hire or reward;

“property of the port authority” or **“property of a port authority”** means property vested in or acquired by the, or a, port authority, as set out in section 25 of the Act;

“the port authority”, in relation to a port, means the port authority established for the port;

“vehicle” has the same meaning as it has in the *Road Traffic Act 1974*.

Part 2 — Vessels in ports

Division 1 — Vessels arriving at ports

4. Notice of arrival at port

The master of a vessel is to notify the harbour master of the vessel's estimated time of arrival at a port 24 hours before that arrival or as otherwise required by the harbour master.

5. Vessel in port to maintain contact with port authority

- (1) The master of a vessel, other than an Australian fishing vessel or a private vessel, that enters a port is to inform the port authority of the vessel's movements while it is in the port by —
- (a) maintaining radio contact with the port authority; or
 - (b) communicating with the port authority by another means approved by the port authority.

- (2) In subregulation (1) —

“Australian fishing vessel” means a vessel used for commercial fishing that is an Australian boat within the meaning of the *Fisheries Management Act 1991* of the Commonwealth.

Division 2 — Matters relating to safety

6. Vessel in port not to exceed maximum safe speed

The master of a vessel in a port must not cause or permit the vessel to move at a speed that exceeds the maximum speed at which the vessel can be safely moved in the port.

Penalty: \$12 000.

7. Procedure for notifying outbreak of fire

On discovering a fire in or on a vessel in a port —

- (a) the master or a member of the crew of the vessel; or

(b) a member of staff of the port authority,

is to give an appropriate alarm and notify the harbour master or the CEO.

8. Propellers of moored vessel not to be operated

Unless authorised by the harbour master, the master of a vessel that has a propeller must not cause or permit the propeller to be operated while the vessel is moored to a wharf in a port.

Penalty: \$5 000.

9. Owners of dangerous things to notify harbour master

(1) The owner of a dangerous thing in a port or, if the dangerous thing is a vessel, the owner or master of the vessel —

- (a) must immediately after becoming aware of the dangerous thing notify the harbour master or the CEO of its location in the port; and
- (b) must cause to be displayed on or near the dangerous thing any flags, masts, lights or other things as directed by the harbour master.

(2) A person who does not comply with subregulation (1)(a), or with a direction under subregulation (1)(b), commits an offence.

Penalty: \$12 000.

(3) If neither the owner nor master of a vessel in a port complies with subregulation (1)(a), or with a direction under subregulation (1)(b), both the owner and the master of the vessel commit an offence under subregulation (2).

(4) In this regulation —

“**owner**”, in relation to —

- (a) a vessel or part of a vessel; or
 - (b) a thing in the water that was in or on a vessel,
- has the meaning given in section 105(1) of the Act.

Division 3 — Matters relating to revenue

10. Collector of port charges may enter vessel

A collector of port charges, either alone or with other persons, may enter a vessel in a port to determine any port charges payable in respect of the vessel or any goods on the vessel.

11. Port charges payable before vessel leaves port

- (1) All port charges payable to a port authority in respect of a vessel are to be paid before the vessel leaves the port, unless the port authority has entered into or been given a written agreement or written guarantee with or by the master or an agent of the vessel that provides for the payment of the unpaid port charges within a period specified by the port authority.
- (2) If port charges payable to a port authority in respect of a vessel have not been paid, the port authority may cause the vessel to be detained at the port until —
 - (a) the charges are paid; or
 - (b) a written agreement or written guarantee referred to in subregulation (1) has been entered into or given by the master or an agent of the vessel.

Division 4 — General

12. General berthing provisions

- (1) The master or an agent of a vessel that requires a berth in a port is to apply to the harbour master in the manner approved by the port authority.
- (2) The master of a vessel in a port is to ensure that the vessel is not moored or secured to any part of a wharf other than the bollards or other securing places provided for that purpose.
- (3) The master of a vessel in a port is to ensure that the vessel is moored or secured to a wharf in a manner that, to the extent practicable, relieves the wharf from the weight of the vessel.

- (4) The master of a vessel in a port that is moored or secured to a wharf is to ensure that appropriate precautions (such as regular checks of mooring lines) are taken to prevent damage to the wharf.
- (5) Nothing in this regulation limits a direction given by the harbour master under section 104 of the Act.

13. Authorised member of staff may give directions to keep wharf clear

- (1) To enable the lines of a vessel that is being moved alongside a berth in a port to be worked, an authorised member of staff of the port authority may direct a person to leave or keep off the part of the wharf where the vessel is being moored.
- (2) A person who does not comply with a direction under subregulation (1) commits an offence.
Penalty: \$2 000.
- (3) This regulation does not limit regulation 76.

[14. Repealed in Gazette 13 Feb 2004 p. 546.]

15. Vessel moored in port to be kept clear of cranes and other plant on wharves

- (1) The master of a vessel that is moored in a port must ensure that at all times —
 - (a) the vessel;
 - (b) the vessel's boats, rigging, lines, ropes, hawsers and other equipment; and
 - (c) any gangway used or intended to be used in connection with the vessel,

are kept clear of any crane, plant or other thing on a wharf in the port.

- (2) A person who does not comply with subregulation (1) commits an offence.

Penalty: \$5 000.

16. Vessel moored in port to have at least one person on watch

- (1) The master of a vessel of more than 500 gross registered tonnes that is moored in a port must ensure that at all times there is at least one person on watch on the vessel.

- (2) A person who does not comply with subregulation (1) commits an offence.

Penalty: \$2 000.

17. Discharging waste substances on to wharf or into waters of port prohibited

Unless authorised by a member of staff of the port authority, the master of a vessel must not cause or permit any waste water or waste substances of any kind to be discharged from the vessel on to any part of a wharf or into the waters of a port.

Penalty: \$5 000.

18. Discharge of ballast contrary to directions of harbour master prohibited

- (1) The master of a vessel must not cause or permit any ballast to be discharged from the vessel into the waters of a port contrary to a direction given to the master by the harbour master.

Penalty: \$5 000.

- (2) Without limiting subregulation (1), a direction under that subregulation may require —

- (a) the ballast to be inspected or tested before or while the ballast is discharged; or
- (b) the ballast to be discharged in places, or in quantities,

in accordance with the direction.

19. Unauthorised loading or unloading of livestock prohibited

- (1) Unless authorised by the port authority, the master of a vessel must not cause or permit livestock to be loaded on to or unloaded from the vessel at a port.
Penalty: \$5 000.
- (2) The master of a vessel is to obtain authorisation under subregulation (1) at least 24 hours before the proposed time of loading livestock on to or unloading livestock from the vessel.
- (3) The master of a vessel must not cause or permit livestock to be unloaded from the vessel at a port unless the master has arranged for the livestock to be tended and controlled on being unloaded.
Penalty: \$5 000.
- (4) Subregulation (3) does not limit subregulation (1).

[20. Repealed in Gazette 22 Mar 2002 p. 1655.]

21. Powers of harbour master to ensure compliance with regulations

- (1) For the purposes of ensuring that these regulations are complied with in relation to a vessel in a port, the harbour master may —
 - (a) cause the vessel to be moored, unmoored or moved;
 - (b) cause any line or other tackle to be attached to, or detached or cast off from, the vessel; or
 - (c) require the master and crew of the vessel to provide any help necessary for the purposes of paragraph (a) or (b).
- (2) A person must not —
 - (a) unless authorised by the harbour master, detach or cast off from a vessel any line or other tackle caused to be attached to the vessel under subregulation (1)(b); or

- (b) refuse to provide any help reasonably required by the harbour master under subregulation (1)(c).

Penalty: \$5 000.

- (3) The harbour master may employ any persons or hire any equipment necessary for the purposes of subregulation (1)(a) or (b), and the owner and the master of the vessel are jointly and severally liable for the expenses reasonably incurred by the harbour master in doing so.
- (4) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

Part 3 — Pilotage

Division 1 — Definitions

22. Definitions

In this Part —

“exempt master” means —

- (a) the master or first mate of a vessel; or
- (b) in relation to the Port of Fremantle — the master of a vessel,
who holds a pilotage exemption certificate;

“pilotage exemption certificate” means —

- (a) a pilotage exemption certificate issued under regulation 51; or
- (b) in relation to the Port of Fremantle — a pilotage exemption certificate issued under Schedule 1 clause 76 or a certificate of local knowledge issued under Schedule 1 clause 89.

Division 2 — Approval of pilots

23. Eligibility to be approved as a pilot

- (1) A port authority may approve a person under section 96 of the Act as a pilot for its port if the person —
 - (a) produces evidence that satisfies the harbour master that the person meets the medical and eyesight requirements in Part 9 of the Marine Orders made under section 425(1AA) of the Navigation Act; and
 - (b) satisfies the harbour master in the manner approved by the port authority —
 - (i) that the person has an adequate knowledge of those matters that the port authority considers relevant to the safe movement of vessels into, within and out of the port; and

- (ii) in relation to any other matter that the port authority considers relevant to show that the person is competent and suitably qualified to be approved as a pilot for the port.

- (2) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subregulation (1).

24. Approval of pilots

- (1) When approving a person as a pilot for its port, a port authority may approve the person —
 - (a) subject to no conditions or restrictions; or
 - (b) subject to conditions or restrictions relating to sizes or types of vessels, or to areas of the port, as set out by the port authority in the approval.

- (2) A person must not act as a pilot in a port contrary to a condition or restriction to which the person's approval as a pilot for the port is subject and that is set out in the approval.

Penalty: \$5 000.

- (3) To retain approval as a pilot for a port under subregulation (1), a person is to comply with regulation 25 and perform the duties of a pilot for the port —
 - (a) on vessels of the sizes and types;
 - (b) on the number of occasions;
 - (c) within the period; and
 - (d) in the circumstances,

that the port authority requires and sets out in the approval.

- (4) If a person does not perform the duties of a pilot in accordance with the requirements that the port authority sets out in the approval, the port authority may, by written notice given to the person, impose conditions or restrictions, or additional

conditions or restrictions, on the approval relating to sizes or types of vessels or to areas of the port.

- (5) Nothing in this regulation limits the port authority's power to revoke an approval under section 96(2) of the Act.

25. Requirements that apply while person is approved as pilot

A person who is approved as a pilot for a port complies with this regulation if the person —

- (a) produces to the port authority evidence of the kind referred to in regulation 23(1)(a) before the expiry of each successive period of not more than 2 years, as approved by the port authority, from the date when the person was approved; and
- (b) satisfies the harbour master that he or she continues to be competent and suitably qualified to be approved as a pilot for the port —
 - (i) before the expiry of each successive period of not more than 5 years, as approved by the port authority, from the date when the person was approved; and
 - (ii) in the manner approved by the port authority.

Division 3 — Providers of pilotage services to be licensed

26. Interpretation

Nothing in this Division limits the operation of Division 2.

27. Unlicensed persons not to provide pilotage services in ports

Subject to section 143(3) of the Act, a person must not provide pilotage services in a port except —

- (a) under the authority of a pilotage provider's licence issued by the port authority; and

- (b) in accordance with any conditions or restrictions to which the licence is subject under regulation 28(3).

Penalty: \$12 000.

28. Pilotage provider's licence

- (1) An application for a pilotage provider's licence in relation to a port is to be made to, and in the form approved by, the port authority and is to be accompanied by a fee of \$1 000.
- (2) If satisfied that an applicant has appropriate qualifications and experience to provide pilotage services in the port, the port authority may issue a pilotage provider's licence to the applicant.
- (3) A pilotage provider's licence has effect for the period set out in the licence subject to —
 - (a) payment to the port authority (except in respect of the year in which the fee referred to in subregulation (1) is paid) by the person who holds the licence of an annual fee of \$1 000; and
 - (b) any conditions or restrictions that the port authority imposes and sets out in the licence.
- (4) The fees referred to in subregulation (1) and (3)(a) are not payable by a person in relation to an application for a pilotage provider's licence to the Dampier Port Authority or a pilotage provider's licence issued by that Authority.

29. Cancellation and suspension of pilotage provider's licence

- (1) If the port authority considers that a condition or restriction to which a pilotage provider's licence is subject has been breached, the port authority may by written notice given to the person who holds the licence —
 - (a) suspend the operation of the licence for any period that the port authority considers appropriate; or
 - (b) cancel the licence.

- (2) A pilotage provider's licence is to set out procedures determined by the port authority that enable the person who holds the licence to appeal if the licence is suspended or cancelled under subregulation (1).
- (3) A notice under subregulation (1) has effect on the day on which the person who holds the pilotage provider's licence is given the notice or on any later day specified in the notice.
- (4) A person whose pilotage provider's licence is suspended or cancelled by notice under subregulation (1) must return the licence to the port authority within 7 days after the notice has effect, whether or not the person intends to appeal against the suspension or cancellation.
- (5) A person who does not comply with subregulation (4) commits an offence.
Penalty: \$2 000.

Division 4 — Pilots and pilotage

30. When pilotage is not compulsory

- (1) For the purposes of section 97(1) of the Act and subject to subregulations (2) and (3) and regulation 31, a vessel moving in a port is not required to use pilotage services if the vessel —
 - (a) is a vessel operated by a defence force of Australia, other than a vessel used primarily to transport troops, fuel oil, stores or equipment;
 - (b) is a vessel used for commercial fishing that is registered in Australia and has a length overall not greater than 35 m;
 - (c) is of not more than 150 gross registered tonnes;
 - (d) is a vessel that —
 - (i) is under the command of an exempt master; and
 - (ii) may be moved under the authority of the exempt master's pilotage exemption certificate;

- (e) is being led by another vessel that is under the control of a pilot in the circumstances described in regulation 40; or
 - (f) is, for the convenience of shipping in the port or because the vessel is engaged in dredging operations, exempted by the harbour master from using pilotage services.
- (2) Subregulation (1)(d) applies to a vessel in the Port of Fremantle only if it has a draught of less than 12.5 m.
- (3) A vessel that is to be moved in the Port of Fremantle under the authority of a pilotage exemption certificate is to be regarded as being under the command of an exempt master for the purposes of subregulation (1)(d) only if the exempt master is recorded in the vessel's register as the master of the vessel.

31. Harbour master may direct exempt master to ensure vessel uses pilotage services

- (1) The harbour master may direct the master of a vessel that, under regulation 30 or Schedule 1 clause 5, is not required to use pilotage services to ensure that the vessel uses pilotage services when moving in a port, if the harbour master considers that it is necessary for the vessel to use those services —
- (a) because of local tidal or local current conditions;
 - (b) because of major works being carried out in the port;
 - (c) because the vessel, or another vessel in the port, is carrying a noxious or otherwise hazardous cargo; or
 - (d) because of any other circumstances that the harbour master considers may endanger the safety of the vessel or another vessel or any port facilities or any person in the port.
- (2) A person who does not comply with a direction under subregulation (1) commits an offence.
- Penalty: \$12 000.

32. Notification to be given to port authority when pilot is required

- (1) The master, owner or an agent of a vessel who requires a pilot to move the vessel into, within or out of a port is to notify the port authority of the time when the pilot is required —
 - (a) in writing or as otherwise approved by the port authority; and
 - (b) at least 2 hours before that time.
- (2) If any change takes place to the time notified to a port authority under subregulation (1), notification of the new time a pilot is required is to be given to the port authority —
 - (a) in writing or as otherwise approved by the port authority; and
 - (b) if the new time is —
 - (i) earlier than the time previously notified — at least 2 hours before the new time; or
 - (ii) later than the time previously notified — at least 2 hours before the time previously notified.
- (3) A person giving notification under this regulation outside the normal business hours of a port authority is to give the notification to —
 - (a) the signal station for the port; or
 - (b) if the port does not have an operating signal station, the harbour master or duty pilot.

33. Port authority may recover expenses if vessel is not ready for pilot at notified time

- (1) If —
 - (a) a port authority provides a pilot in response to notification given under regulation 32; and

- (b) the vessel concerned is not ready to be moved by the pilot within 30 minutes after the time notified,

the person who gave the notification is liable for any expenses reasonably incurred by the port authority in providing the pilot.

- (2) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

34. Positioning of vessel when pilot boards or leaves vessel

The master of a vessel that is to be under the control of a pilot is to position the vessel so as to provide the best possible lee for the pilot when boarding or leaving the vessel.

35. Provision of ladders, hoists etc. when pilot boards or leaves vessel

The master of a vessel is to ensure that appropriate facilities for boarding or leaving the vessel are provided for a pilot who is to board or leave it.

36. Requirements when pilot has boarded vessel

- (1) When a person has boarded a vessel to act as its pilot, the master of the vessel —
 - (a) must produce, as applicable to the vessel, the certificate of registry, certificate of tonnage and certificate of pratique of the vessel on demand to the pilot;
 - (b) must inform the pilot of the vessel's draught, its manoeuvring characteristics and any defects in its equipment that could affect the safe movement of the vessel;
 - (c) must reach agreement with the pilot in relation to the proposed movement of the vessel; and
 - (d) must ensure that the vessel displays the International Code Flag "H" during daylight hours.

- (2) A person who does not comply with subregulation (1)(a), (b), (c) or (d) commits an offence.

Penalty: \$5 000.

37. Master of tug to comply with directions of pilot

- (1) The master of a vessel that is towing, or otherwise assisting the manoeuvring of, a vessel that is under the control of a pilot must comply with a direction given to the master by the pilot.

- (2) A person who does not comply with a direction under subregulation (1) commits an offence.

Penalty: \$5 000.

38. Harbour master may require second pilot to be used

- (1) If the harbour master considers that because of the structure of a vessel, or for any other reason, the vessel might not be safely moved by one pilot, the harbour master may direct the master of the vessel to use a second pilot to assist in the control of the vessel.

- (2) A person who does not comply with a direction under subregulation (1) commits an offence.

Penalty: \$5 000.

39. Pilots to carry evidence of approval

- (1) A person who is acting as a pilot in a port is to carry —
 - (a) the written approval given to the person by the port authority under section 96 of the Act; or
 - (b) any other document given to the pilot by the port authority as evidence that the pilot is approved by the port authority under that section.

- (2) A person who is acting as a pilot in a port is to produce the written approval or other document if asked to do so by the

master of a vessel that is, or is to be, under the control of the person as pilot.

40. Vessel being led is under control of pilot and liable to pay for pilotage services

(1) If for any reason —

- (a) a vessel (“**the first vessel**”) is unable to be boarded by a pilot for the purpose of being moved in a port; and
- (b) the first vessel is moved in the port by being led by another vessel that is under the control of a pilot,

the first vessel is taken to be under the control of a pilot for the purposes of these regulations.

(2) The owner and the master of the first vessel are liable for any charges for pilotage services to the same extent as the owner and the master would have been if, otherwise than in the circumstances described in subregulation (1), the first vessel had been moved in the port while under the control of a pilot.

Division 5 — Charges for pilotage services

41. Liability to pay charges for pilotage services

The owner and the master of a vessel are jointly and severally liable to pay a charge for pilotage services set out in Schedule 2 that is payable in respect of the vessel.

42. Charges for pilotage services — Port of Broome

- (1) The charges for pilotage services provided in the Port of Broome and payable in respect of a vessel are set out in Schedule 2 Division 1.
- (2) The payment of a charge set out in any of items 1 to 3 of Schedule 2 Division 1 provides for the movement of a vessel of the appropriate gross registered tonnage under the control of a pilot both into and out of the Port of Broome.

- (3) The charge set out in Schedule 2 Division 1 item 6 is payable if —

- (a) the services of a pilot are arranged for a vessel; and
- (b) the arrangement is cancelled with less than 2 hours notice being given to the pilot.

[Regulation 42 amended in Gazette 2 Oct 2007 p. 4971.]

43. Charges for pilotage services — Port of Bunbury

- (1) The charges for pilotage services provided in the Port of Bunbury and payable in respect of a vessel are set out in Schedule 2 Division 2.

[(2) repealed]

- (3) The payment of the charge set out in Schedule 2 Division 2 item 1 provides for the movement of a vessel under the control of a pilot both into and out of the Port of Bunbury.

- (4) The charge set out in Schedule 2 Division 2 item 4 is payable if —

- (a) the services of a pilot are arranged for a vessel; and
- (b) the arrangement is cancelled with less than 2 hours notice being given to the pilot.

[Regulation 43 amended in Gazette 2 Oct 2007 p. 4971.]

44. Charges for pilotage services — Port of Esperance

- (1) The charges for pilotage services provided in the Port of Esperance and payable in respect of a vessel are set out in Schedule 2 Division 3.

- (2) The payment of a charge set out in any of items 1 to 9 of Schedule 2 Division 3 provides for the movement of a vessel of the appropriate gross registered tonnage under the control of a pilot both into and out of the Port of Esperance.

- (3) The charge set out in Schedule 2 Division 3 item 12 is payable if —
 - (a) the services of a pilot are arranged for a vessel; and
 - (b) the arrangement is cancelled with less than 2 hours notice being given to the pilot.

45. Charges for pilotage services — Port of Fremantle

- (1) The charges for pilotage services provided in the Port of Fremantle and payable in respect of a vessel are set out in Schedule 2 Division 4.
- (2) The payment of a charge set out in item 1 or a paragraph of item 2 of Schedule 2 Division 4 provides for the movement of a vessel of the appropriate gross registered tonnage under the control of a pilot either to or from a place mentioned in that item or paragraph.
- (3) The charge set out in Schedule 2 Division 4 item 7 is payable if —
 - (a) the services of a pilot are arranged for a vessel; and
 - (b) the arrangement is cancelled with less than 2 hours notice being given to the pilot.

46. Charges for pilotage services — Port of Geraldton

- (1) The charges for pilotage services provided in the Port of Geraldton and payable in respect of a vessel are set out in Schedule 2 Division 5.
- (2) The payment of the charge set out in Schedule 2 Division 5 item 1 provides for the movement of a vessel under the control of a pilot both into and out of the Port of Geraldton.

47. Charges for pilotage services — Port of Port Hedland

- (1) The charges for pilotage services provided in the Port of Port Hedland and payable in respect of a vessel are set out in Schedule 2 Division 6.

- (2) The payment of a charge set out in any of items 1 to 5 of Schedule 2 Division 6 provides for the movement of a vessel of the appropriate gross registered tonnage under the control of a pilot either into or out of the Port of Port Hedland.

48. Charges for detention of pilot — Ports of Bunbury, Esperance, Fremantle and Geraldton

- (1) The charge set out in —
- (aa) Division 1 item 5; or
 - (a) Division 2 item 3; or
 - (b) Division 3 item 11; or
 - (c) Division 4 item 6; or
 - (d) Division 5 item 3,

of Schedule 2 is payable if the services of a pilot are arranged for a vessel and the pilot is for any reason detained for a period greater than reasonably required to provide pilotage services for the vessel.

- (2) Without limiting subregulation (1), a pilot is taken to have been detained for a period greater than reasonably required to provide pilotage services for a vessel if the services of the pilot are arranged for the vessel and the pilot is —
- (a) detained because the vessel is not ready to leave its berth at the arranged time;
 - (b) detained because the vessel does not arrive at the pilot boarding ground at the arranged time;
 - (c) required to be taken into and detained in quarantine, whether afloat or ashore; or
 - (d) without the pilot's consent, taken to sea in the vessel.

[Regulation 48 amended in Gazette 2 Oct 2007 p. 4971.]

Division 6 — Pilotage exemption certificates

Note: This Division is displaced by Schedule 1 Division 5 Subdivision 2 in relation to the Fremantle Port Authority and the Port of Fremantle.

49. Eligibility for pilotage exemption certificates

- (1) A person may apply to the harbour master for a pilotage exemption certificate in respect of a port if the person is entitled to reside permanently in Australia under an Act of the Commonwealth and the person complies with subregulations (2), (3) and (4).
- (2) A person complies with this subregulation if the person holds —
 - (a) a Master Class 1 or Class 2 certificate of competency issued under the Navigation Act; or
 - (b) a Master Class 3 or Class 4 certificate of competency issued under the Marine Act,or a certificate of competency or other qualification recognised by the port authority as equivalent to a certificate of competency mentioned in this subregulation.
- (3) A person complies with this subregulation if, within 12 months before the date of the application, the person —
 - (a) has been the master of a vessel under the control of a pilot on at least the approved number of occasions when the vessel was moved into, and on at least the approved number of occasions when the vessel was moved out of, the port; or
 - (b) has been the first mate of a vessel under the control of a pilot or under the command of an exempt master on at least the approved number of occasions when the vessel was moved into, and on at least the approved number of occasions when the vessel was moved out of, the port, on each occasion remaining on duty on the bridge of the vessel while it was so moved.
- (4) A person complies with this subregulation if the person has a written record, verified by the signature of the harbour master,

for each occasion referred to in subregulation (3)(a) or (b), as the case requires, of —

- (a) the name of the vessel;
- (b) the length overall and gross registered tonnage of the vessel; and
- (c) the time and date when the vessel was moved.

- (5) In this regulation —

“approved” means approved by the port authority.

50. Application for pilotage exemption certificates

An application for a pilotage exemption certificate is to be in the form approved by the harbour master and is to be accompanied by —

- (a) a fee of \$660.00; and
 - (b) evidence that satisfies the harbour master that the applicant meets —
 - (i) the requirements set out in regulation 49; and
 - (ii) the medical and eyesight requirements in Part 9 of the Marine Orders made under section 425(1AA) of the Navigation Act;
- and
- (c) the written record referred to in regulation 49(4).

[Regulation 50 amended in Gazette 22 Jun 2007 p. 2850; 2 Oct 2007 p. 4971.]

51. Issue of pilotage exemption certificates

- (1) The harbour master is to issue a pilotage exemption certificate to an applicant who —
- (a) applies in accordance with regulation 50; and
 - (b) satisfies the harbour master —
 - (i) in an examination approved by the port authority, that the applicant has an adequate knowledge of those matters that the port authority considers

relevant to the safe movement of vessels into, within and out of its port; and

- (ii) in relation to any other matter that the port authority considers relevant to show that the applicant is competent and suitably qualified to move a vessel under the authority of a pilotage exemption certificate.

- (2) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subregulation (1)(b) and regulation 50(b).

52. Conditions endorsed on pilotage exemption certificates

- (1) When issuing a pilotage exemption certificate, the harbour master is to endorse on the certificate a condition relating to the —
 - (a) maximum length overall; or
 - (b) maximum gross registered tonnage,of a vessel that may be moved under the authority of the certificate.
- (2) The harbour master is to take into account the applicant's written record referred to in regulation 49(4) in determining the appropriate condition to be endorsed on a pilotage exemption certificate under subregulation (1).
- (3) If, in relation to an application for a pilotage exemption certificate —
 - (a) at least one of the occasions referred to in regulation 49(3)(a) or (b), as the case requires, did not take place at night; or
 - (b) for any other reason associated with the application the harbour master considers it appropriate to do so,

the harbour master may endorse a prescribed condition on a pilotage exemption certificate.

- (4) An exempt master who does not comply with a condition endorsed on the master's pilotage exemption certificate under this regulation commits an offence.

Penalty: \$5 000.

- (5) In subregulation (3) —

“prescribed condition”, in relation to a pilotage exemption certificate, means —

- (a) in relation to subregulation (3)(a) — the condition that the certificate is not valid during the period from sunset to sunrise;
- (b) in relation to subregulation (3)(b) — any other condition or conditions relating to the movement of a vessel under the authority of the certificate.

53. Applications for variation or deletion of conditions endorsed on pilotage exemption certificates

- (1) An exempt master may apply to the harbour master for the variation or deletion of a condition endorsed on the exempt master's pilotage exemption certificate.
- (2) An application under subregulation (1) is to be in the form approved by the harbour master.
- (3) If an application under subregulation (1) relates —
 - (a) to the maximum length overall or maximum gross registered tonnage of a vessel that may be moved under the authority of the certificate; or

- (b) to the condition that the pilotage exemption certificate is not valid during the period from sunset to sunrise,
- the application is also to be accompanied by a written record that complies with subregulation (4).
- (4) A written record complies with this subregulation if it is verified by the signature of the harbour master and contains the information referred to in regulation 49(4)(a), (b) and (c) for each occasion within 12 months before the date of the application that the applicant has been —
 - (a) the master of a vessel under the control of a pilot; or
 - (b) the first mate of a vessel under the control of a pilot or under the command of an exempt master,when the vessel was moved into or out of the port concerned.
- (5) The harbour master is to consider an application under subregulation (1) and, if applicable, take into account the written record referred to in subregulation (3), and the harbour master may then vary or delete a condition endorsed on a pilotage exemption certificate, or refuse to do so, as the harbour master thinks fit.

54. Validity and expiry of pilotage exemption certificates

- (1) A pilotage exemption certificate, including a pilotage exemption certificate revalidated under regulation 56, is valid unless it expires under subregulation (2) or is revoked under regulation 57.
- (2) If an exempt master does not move a vessel under the authority of the master's pilotage exemption certificate for a period of 6 months, the certificate expires at the end of that period.

55. Application for revalidation of pilotage exemption certificates

- (1) A person whose pilotage exemption certificate expires under regulation 54(2) may apply to the harbour master to have it revalidated if —
 - (a) the applicant complies with subregulation (2); and
 - (b) the application is made in accordance with subregulation (3) within 6 months after the certificate expires.
- (2) An applicant complies with this subregulation if, within the period of 6 months referred to in subregulation (1)(b), the applicant has been —
 - (a) the master of a vessel under the control of a pilot; or
 - (b) the first mate of a vessel under the control of a pilot or under the command of an exempt master,on at least one occasion when the vessel was moved into, and at least one occasion when the vessel was moved out of, the port concerned.
- (3) An application under subregulation (1) is to be in the form approved by the harbour master and is to be accompanied by a written record, verified by the signature of the harbour master, that contains the information referred to in regulation 49(4)(a), (b) and (c) for each occasion referred to in subregulation (2).

56. Revalidation of pilotage exemption certificates

- (1) The harbour master is to revalidate the expired pilotage exemption certificate of an applicant who —
 - (a) applies in accordance with regulation 55; and
 - (b) satisfies the harbour master —
 - (i) in an examination approved by the port authority, that the applicant has an adequate knowledge of those matters that the port authority considers

relevant to the safe movement of vessels into, within and out of its port; and

- (ii) in relation to any other matter that the port authority considers relevant to show that the applicant is competent and suitably qualified to move a vessel under the authority of a pilotage exemption certificate.
- (2) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subregulation (1)(b).
 - (3) A pilotage exemption certificate that is revalidated under this regulation has the same effect as it did immediately before it expired.
 - (4) A person whose pilotage exemption certificate —
 - (a) expires under regulation 54; and
 - (b) is not revalidated within 6 months after that expiry,may apply for a new pilotage exemption certificate under regulation 50 if the person is eligible under regulation 49.

57. Suspension and revocation of pilotage exemption certificates

- (1) This regulation applies if the harbour master considers that a person who holds a pilotage exemption certificate —
 - (a) has contravened the Act or these regulations; or
 - (b) is unable to move a vessel safely in the port concerned.
- (2) If subregulation (1)(a) applies, the harbour master may give the person written notice —
 - (a) suspending the operation of the pilotage exemption certificate for any period that the harbour master considers appropriate; or
 - (b) revoking the pilotage exemption certificate.

- (3) If subregulation (1)(b) applies, the harbour master is to give the person written notice revoking the pilotage exemption certificate.
- (4) A notice under subregulation (2) or (3) has effect on the day on which the person who holds the pilotage exemption certificate is given the notice or on any later day specified in the notice.
- (5) A person whose pilotage exemption certificate is suspended or revoked under subregulation (2) or (3) must return it to the harbour master within 14 days after being given notice of its suspension or revocation, whether or not the person intends to appeal against the suspension or revocation.
- (6) A person who does not comply with subregulation (5) commits an offence.
Penalty: \$2 000.

58. Appeals

- (1) A person may appeal to the port authority against a decision of the harbour master to suspend or revoke the person's pilotage exemption certificate under regulation 57.
- (2) An appeal under subregulation (1) —
 - (a) is to be in writing, signed by the appellant;
 - (b) is to set out fully and in detail the grounds of the appeal; and
 - (c) is to be lodged with the port authority within 30 days —
 - (i) after the appellant is given written notice of the suspension or revocation of the pilotage exemption certificate under regulation 57; or
 - (ii) if applicable, after the later day specified in the notice.
- (3) An appellant is to give to the port authority in writing any further information that the port authority reasonably requires from the appellant for the purposes of determining the appeal.

- (4) Within 21 days after an appeal is lodged with the port authority, and after considering the grounds of the appeal, any further information given by the appellant under subregulation (3) and any other material that the port authority considers relevant to a proper determination of the appeal, the port authority is to determine the appeal by —
 - (a) in the case of a decision of the harbour master to suspend the appellant's pilotage exemption certificate — confirming or varying the period of suspension or setting aside the decision; or
 - (b) in the case of a decision of the harbour master to revoke the appellant's pilotage exemption certificate — confirming or setting aside the decision.
- (5) The port authority is to give written notice to the appellant and the harbour master of the port authority's determination of the appeal under subregulation (4).
- (6) If the port authority sets aside a decision of the harbour master to revoke or suspend the appellant's pilotage exemption certificate, the harbour master is to return the certificate to the appellant as soon as practicable.

59. Use of pilotage exemption certificates to be recorded

An exempt master is to maintain a written record, verified by the signature of the harbour master, of —

- (a) the name of the vessel;
- (b) the length overall and gross registered tonnage of the vessel; and
- (c) the time and date when the vessel is moved,

for each occasion when the exempt master moves a vessel under the authority of a pilotage exemption certificate.

Part 4 — Goods and cargo

60. Details of cargo on board a vessel arriving at a port to be given to port authority

- (1) In this regulation and regulation 61 —
 “documents or information” means documents or information as, and in the form, required by the port authority.
- (2) The master of a vessel that arrives at a port must give to the port authority, before any cargo is unloaded from the vessel, documents or information specifying any cargo that is to be unloaded from the vessel (**“details of cargo”**).
- (3) The master of the vessel from which cargo is unloaded must give to the port authority documents or information, within the period specified by the port authority, setting out any necessary corrections to the details of cargo.
- (4) A person who does not comply with subregulation (2) or (3) commits an offence.
Penalty: \$2 000.
- (5) Documents or information setting out any necessary corrections to the details of cargo are or is taken not to have been given to the port authority within the period referred to in subregulation (3) in relation to any cargo that is removed from the port before the documents are, or information is, given.

61. Details of cargo and fuel on board a vessel leaving a port to be given to port authority

- (1) The master of a vessel that has been loaded with any cargo at a port must give to the port authority, before the vessel leaves the port, documents or information setting out details of the cargo with which the vessel has been loaded and of any fuel bunkered by the vessel at the port.

- (2) A person who does not comply with subregulation (1) commits an offence.

Penalty: \$2 000.

62. Loading and unloading to be continuous

The master of a vessel that is being loaded or unloaded at a port is to ensure that the loading or unloading proceeds continuously until it is completed, subject to any lawful directions given by an authorised member of staff of the port authority in relation to the hours to be worked.

[63-65. Repealed in Gazette 13 Feb 2004 p. 546.]

66. Unclaimed goods may be moved and stored etc.

- (1) In this regulation and regulation 67 —
 “unclaimed goods” means goods unloaded from a vessel at a port that are not claimed by the consignee within 14 days, or any longer period that the port authority may allow in a particular case, after being unloaded.
- (2) A port authority may —
- (a) move unclaimed goods and store them at any premises of the port authority; or
 - (b) cause unclaimed goods to be delivered to the consignee at the consignee's risk and expense.
- (3) A port authority may keep unclaimed goods until any expenses reasonably incurred by the port authority in connection with moving and storing them, and any port charges payable in relation to them, have been paid to the port authority.
- (4) A port authority may sell unclaimed goods by public auction if the port authority is not paid the expenses and charges referred to in subregulation (3) within 7 days —
- (a) after demand has been made on the owner of the unclaimed goods; or

- (b) if the port authority is unable, after reasonable enquiries, to identify or find the owner of the goods — after notice of the proposed sale has been published at least once a week for 2 consecutive weeks in a newspaper circulating in the area where the port authority operates.
- (5) If unclaimed goods are perishable, a port authority may sell them, without complying with subregulation (4), not less than 24 hours after moving and storing them.

67. Proceeds of sale of unclaimed goods

- (1) A port authority is to apply the proceeds of the sale of unclaimed goods under regulation 66 in payment of —
 - (a) the port authority's reasonable expenses in moving, storing and selling them; and
 - (b) any port charges payable in relation to them,and, subject to subregulation (2), is to pay any surplus amount of those proceeds on demand to the owner of the goods.
- (2) If no demand is made by the owner of the goods within 30 days after the sale of the goods, the surplus amount of those proceeds is to be paid to the Treasurer to be credited to the Consolidated Fund, and any claim of the owner of the goods to that amount is extinguished.

68. Goods falling from a vessel in a port

- (1) If any goods or other material fall or falls from a vessel in a port, the master or another officer or an agent of the vessel is to report the matter to the port authority.
- (2) The port authority may take any action it considers appropriate to recover the goods or other material.
- (3) The master, the owner and an agent of the vessel, and any person who caused or permitted the goods or material to fall from the vessel, are jointly and severally liable for any expenses

reasonably incurred by the port authority in taking action under subregulation (2).

- (4) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

Part 5 — Conduct of persons in ports

69. Definition

In this Part —

“designated by notices or signs”, in relation to a port, means designated by notices or signs erected at the port by the port authority.

70. Social functions on board vessel prohibited in certain cases

- (1) Unless authorised in writing by the port authority, the owner, master or an agent of a vessel in a port must not cause or permit a social function or activity to take place on board the vessel that obstructs or interferes with, or is likely to obstruct or interfere with, port services.

Penalty: \$5 000.

- (2) In subregulation (1) —

“port services” has the meaning given in section 35(9) of the Act.

71. Placing or leaving dead animals and waste substances in ports prohibited unless authorised

Unless authorised by the port authority, a person must not cause a dead animal or any litter, rubbish or waste substances of any kind to be placed or left —

- (a) in the waters of a port; or
- (b) on a wharf or jetty or in a building or other structure or any other place in a port.

Penalty: \$5 000.

72. Interfering with port authority notices, signs and notice boards prohibited

A person must not remove, obliterate or otherwise interfere with a notice, sign or notice board erected or placed in a port by the port authority.

Penalty: \$2 000.

73. Placing unauthorised notices etc. prohibited

Unless authorised by the port authority, a person must not write, paint or place a placard, notice or other document on port facilities or other property of a port authority.

Penalty: \$2 000.

74. Interfering with life saving equipment prohibited

A person must not interfere with any life saving equipment provided in a port by the port authority except for the purpose of using the equipment in the appropriate manner.

Penalty: \$5 000.

75. Dragging bed of port prohibited

Unless authorised in writing by the port authority, a person must not use dredges, drags or grapplings in a manner that disturbs the bed of the waters of a port.

Penalty: \$5 000.

76. Persons in ports to comply with reasonable directions of authorised members of staff

- (1) An authorised member of staff of the port authority may give any reasonable direction to a person in a port.
- (2) A person who does not comply with a direction under subregulation (1) commits an offence.

Penalty: \$2 000.

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- (3) Subregulation (2) applies to a person whether or not the person is employed in the port.

77. Unauthorised entry of animals into port prohibited

- (1) Unless authorised by the port authority, a person must not cause or permit an animal that is in the person's possession or under the person's control to enter or remain in a port.

Penalty: \$2 000.

- (2) Subregulation (1) does not limit the operation of section 8 of the *Dog Act 1976*.

Note: Section 8 of the *Dog Act 1976* applies to people accompanied by guide dogs.

78. Disorderly conduct of persons in a port

- (1) A person must not be drunk or behave in a disorderly manner in a port.

Penalty: \$2 000.

- (2) An authorised member of staff of the port authority may prevent a person who appears to the member of staff to be drunk or behaving in a disorderly manner from entering a port or any area of a port.

- (3) An authorised member of staff of the port authority —
- (a) without limiting regulation 76(1), may direct a person who appears to the member of staff to be drunk or behaving in a disorderly manner to leave, or not to enter, a port; and
 - (b) if the person does not comply with the direction, may cause the person to be removed from the port.

- (4) A person who does not comply with a direction under subregulation (3)(a) commits an offence.

Penalty: \$2 000.

79. Certain persons may be prohibited from entering a port

- (1) Subject to subregulation (3), the CEO may, by written notice given to a person, direct the person not to enter a port or not to enter an area of a port specified in the notice.
- (2) A person who does not comply with a direction under subregulation (1) commits an offence.
Penalty: \$2 000.
- (3) The CEO may give a direction to a person under subregulation (1) only if —
 - (a) the person has been convicted of 2 or more offences; or
 - (b) the CEO has reasonable grounds for believing that the person may hinder the efficiency of the operations of the port if the person enters the port or a specified area of the port.
- (4) The CEO may, by written notice given to a person, revoke a direction given to the person under subregulation (1).
- (5) If a person enters a port or a specified area of a port contrary to a direction under subregulation (1), an authorised member of staff of the port authority may cause the person to be removed from the port or that area of the port.
- (6) In this regulation —
“offence” means an offence under the Act or these regulations.

80. Smoking in designated places in a port prohibited

- (1) A port authority may, by erecting signs or notices, designate areas of its port where smoking is not permitted.
- (2) A person must not smoke in an area designated under subregulation (1).
Penalty: \$2 000.

- (3) This regulation does not limit the operation of the *Health (Smoking in Enclosed Public Places) Regulations 2003*².
[Regulation 80 amended in Gazette 10 Dec 2004 p. 5916.]

[81-82. Repealed in Gazette 22 Mar 2002 p. 1655.]

83. Selling or supplying things and soliciting business in a port prohibited

- (1) Unless authorised in writing by the port authority, a person must not sell or supply anything, or offer to sell or supply anything, in a port.
Penalty: \$2 000.
- (2) Unless authorised in writing by the port authority, a person must not solicit business of any kind in a port.
Penalty: \$2 000.

84. Entering wrecks prohibited

- (1) Unless authorised in writing by the port authority, a person must not climb on to or enter a vessel that is sunk, stranded or abandoned in a port.
Penalty: \$2 000.
- (2) If a person is on or in a vessel contrary to subregulation (1), the port authority may cause the person to be removed from the vessel.
- (3) A person is liable for any expenses reasonably incurred by the port authority in removing the person from a vessel under subregulation (2).
- (4) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

85. Interfering with fire alarms prohibited

- (1) A person must not activate, operate, sound, use or interfere with any fire alarm or fire extinguishing equipment or device on port

facilities or other property of a port authority unless the person does so —

- (a) for the purpose of giving a warning of, or extinguishing, a fire; or
- (b) as otherwise authorised by the port authority.

Penalty: \$5 000.

- (2) A person is liable for any expenses reasonably incurred by the port authority as a result of the activation, operation, sounding, use of or interference with anything by the person contrary to subregulation (1).
- (3) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

86. Interfering with water appliances prohibited

Unless authorised by the port authority, a person must not turn a valve or cock, or open or close a hydrant, on port facilities or other property of a port authority.

Penalty: \$5 000.

87. Interfering with electric lights etc. prohibited

Unless authorised by the port authority, a person must not interfere with an electric light, light fitting or power mains on port facilities or other property of a port authority.

Penalty: \$12 000.

88. Stray boats and other abandoned or unattended property

- (1) The port authority may move and store at any premises of the port authority a drifting boat or anything else found abandoned or unattended in a port (the “**abandoned property**”).
- (2) The port authority may keep the abandoned property until it is claimed by its owner, who is liable for the port authority’s reasonable expenses in moving and storing the property and any port charges payable in relation to the property.

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- (3) The port authority may recover those expenses and charges in a court of competent jurisdiction as a debt due to the port authority.
- (4) If the abandoned property is not claimed within 30 days after being found in the port, the port authority may sell the property by public auction after a notice of the proposed sale has been published at least once a week for 2 consecutive weeks in a newspaper circulating in the area where the port authority operates.
- (5) The port authority —
 - (a) is to apply the proceeds of the sale of abandoned property in payment of the port authority's reasonable expenses in moving, storing and selling the property and any port charges payable in relation to the property; and
 - (b) subject to subregulation (6), is to pay any surplus amount of those proceeds on demand to the owner of the property.
- (6) If no demand is made by the owner of the abandoned property within 30 days after the sale of the property, the surplus amount of those proceeds is to be paid to the Treasurer to be credited to the Consolidated Fund, and any claim of the owner of the property to that amount is extinguished.

89. Swimming in designated areas of a port prohibited

Unless authorised by the port authority, a person must not swim in, or dive or jump into, the waters of a port in an area designated by notices or signs as an area where swimming is not permitted.

Penalty: \$2 000.

90. Entering area of port or port facility closed by port authority prohibited

Unless authorised by the port authority, a person must not enter an area of a port, or a port facility, closed by the port authority and designated by notices or signs as being closed.

Penalty: \$2 000.

91. Fishing in designated areas of a port prohibited

- (1) Unless authorised by the port authority, a person must not fish in an area of a port designated by notices or signs as an area where fishing is not permitted.

Penalty: \$2 000.

- (2) A person who does not comply with any condition or restriction that is set out in a notice or sign erected by the port authority for the purpose of controlling fishing in the port commits an offence.

Penalty: \$2 000.

92. Navigable waters of port not to be obstructed by fishing nets etc.

- (1) A person must not place a fishing net, rock lobster pot or other fishing gear in the navigable waters of a port contrary to a notice or sign erected by the port authority.

Penalty: \$5 000.

- (2) A port authority may —

- (a) designate by notices or signs erected by the port authority; or
- (b) define in a notice published in the *Gazette*,

the waters of the port that are navigable waters for the purposes of subregulation (1).

93. Launching boats and bringing boats ashore in unauthorised places etc. prohibited

- (1) A person must not launch a boat or bring a boat ashore in a port except in an area of the port designated by notices or signs as a place where boats may be launched or brought ashore (a “**launching place**”).

Penalty: \$2 000.

- (2) A person must not leave a boat that has been brought ashore in a port anywhere in the port except in an area designated by notices or signs as a place where boats may be left.

Penalty: \$2 000.

- (3) If a road in a port is designated by notices or signs as a road on which a boat may be towed by a motor vehicle to or from a launching place, a person must not use a motor vehicle to tow a boat to or from the launching place otherwise than on that road.

Penalty: \$2 000.

- (4) A person who uses a motor vehicle to tow a boat to a launching place must move the motor vehicle as soon as practicable after the boat is launched —

- (a) to an area set aside by the port authority near the launching place for parking; or
- (b) if no area for parking has been set aside by the port authority — to a public road or public parking area.

- (5) A person who does not comply with subregulation (4) commits an offence.

Penalty: \$2 000.

94. Unauthorised camping prohibited

- (1) Unless authorised by the port authority, a person must not —
- (a) use a tent, hut or any building or other structure in which to sleep overnight in a port; or

- (b) erect a tent, hut or other structure in a port, other than a beach shade or windbreak intended for use during the period from sunrise to sunset.

Penalty: \$2 000.

- (2) A person who erects or uses a beach shade or windbreak in a port is to ensure that it is removed from the port by the end of the period referred to in subregulation (1)(b) on the day on which it is erected or used.

95. Removal of marine life from port prohibited

Unless authorised by the port authority, a person must not remove any form of marine life (whether animal or plant) from —

- (a) a wharf, jetty, pylon, pile light, buoy, beacon or marker in a port; or
- (b) a pile supporting a thing referred to in paragraph (a).

Penalty: \$2 000.

96. Unauthorised building in port prohibited

- (1) Unless authorised in writing by the port authority, a person must not erect a building or other structure in a port.

Penalty: \$12 000.

- (2) Subregulation (1) does not limit the application of any other written law to the erection of a building or other structure in a port.

97. Unauthorised excavation work prohibited

- (1) Unless authorised in writing by the port authority, a person must not carry out any excavation work on port land.

Penalty: \$5 000.

- (2) Subregulation (1) does not limit the application of any other written law to the carrying out of excavation work on port land.

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- (3) In this regulation —

“excavation work” means any work that involves breaking or penetrating the ground surface.

98. Use of motor boats and water skiing in ports

- (1) A person must not drive a motor boat at more than 8 knots or water ski in a port —

- (a) unless authorised by the port authority —

- (i) in any waters having a depth of less than 3 m; or
(ii) within 45 m of a river bank or low water mark;

- (b) in or through an area set aside for vessels to be moored;

- (c) within 15 m of a vessel that is under way;

- (d) within 45 m of —

- (i) a moored vessel;
(ii) a person in the water; or
(iii) a jetty or wharf;

or

- (e) through an arch of a bridge.

Penalty: \$2 000.

- (2) In this regulation —

“motor boat” means a vessel propelled otherwise than by oars or sail and includes a personal watercraft within the meaning of the *Navigable Waters Regulations 1958*³;

“water ski” includes water ski using only the feet for support on the water.

99. Races and regattas etc. prohibited

Unless authorised in writing by the port authority, a person must not organise, promote or conduct in a port —

- (a) a race, display or regatta of any vessels; or

- (b) an exhibition of any form of aquatic sport (including water skiing).

Penalty: \$2 000.

Part 6 — Vehicles in ports

100. Definitions

In this Part —

“no-parking area” means an area referred to in regulation 105(1)(b);

“no-stopping area” means an area referred to in regulation 104(1);

“parking area” means an area referred to in subregulation 105(1)(a);

“traffic sign” means a notice or sign erected by the port authority to control traffic in its port.

101. Road Traffic Act 1974 not limited

The provisions of this Part are in addition to those of the *Road Traffic Act 1974* in relation to a port.

102. Careless driving

A person who drives a motor vehicle in a port without due care and attention commits an offence.

Penalty: \$2 000.

103. Drivers in a port to comply with traffic signs

Subject to this Part, a person driving a motor vehicle in a port who does not comply with a traffic sign commits an offence.

Penalty: \$2 000.

104. Stopping of vehicles in a port

- (1) A port authority may, by marking lines or by erecting notices or signs, designate the areas of the port where vehicles are not to be stopped.

- (2) Subject to subregulations (3) and (4) and regulation 106, a person must not stop a vehicle in a no-stopping area.
Penalty: \$2 000.
- (3) If the person stops the vehicle for no longer than is necessary in the circumstances, subregulation (2) does not apply to a person who stops a vehicle —
 - (a) to avoid a collision;
 - (b) because the vehicle is disabled; or
 - (c) because of a medical or other emergency.
- (4) Subregulation (2) does not apply to a person who stops a vehicle as directed by a police officer or by an authorised member of staff of the port authority.

105. Parking of vehicles in a port

- (1) A port authority may, by marking lines or by erecting notices or signs, designate the areas of the port where —
 - (a) vehicles may be parked; or
 - (b) vehicles are not to be parked.
- (2) A notice or sign referred to in subregulation (1) may state that only vehicles of a particular kind or particular kinds may be parked in a parking area, or that the parking of vehicles in a parking area is otherwise subject to the conditions stated on the notice or sign.
- (3) Subject to subregulation (4) and regulation 106, a person must not park a vehicle —
 - (a) in a parking area otherwise than in accordance with the lines, notices or signs that designate the parking area; or
 - (b) in a no-parking area.

Penalty: \$2 000.

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- (4) Subregulation (3) does not apply to a person who parks a vehicle as directed by a police officer or by an authorised member of staff of the port authority.

106. Emergency vehicles

- (1) If it is expedient and safe to do so, an emergency vehicle may be —
 - (a) driven in a port otherwise than in accordance with a traffic sign;
 - (b) stopped in a port in a no-stopping area; or
 - (c) parked in a port —
 - (i) in a parking area otherwise than in accordance with the lines, notices or signs that designate the parking area; or
 - (ii) in a no-parking area.
- (2) In subregulation (1) —
“emergency vehicle” means a motor vehicle that has entered a port in connection with —
 - (a) urgent police duties;
 - (b) the fighting of fire or the answering of a fire call;
 - (c) providing assistance to a sick or injured person; or
 - (d) any other emergency in which human life is reasonably believed to be in danger.

107. Obstructing vehicles may be removed

- (1) If a port authority considers that a vehicle is obstructing, or may obstruct, traffic in its port, an authorised member of staff of the port authority may direct the driver of the vehicle to move the vehicle out of the port or to another place within it.
- (2) A person who does not comply with a direction under subregulation (1) commits an offence.
Penalty: \$2 000.

(3) If —

- (a) the driver of a vehicle does not comply with a direction under subregulation (1); or
- (b) the port authority is unable, after reasonable enquiries, to locate the driver of the vehicle,

the port authority may cause the vehicle to be moved out of the port or to another place within it, and the driver of the vehicle is liable for any expenses reasonably incurred by the port authority in doing so.

(4) The port authority may recover those expenses in a court of competent jurisdiction as a debt due to the port authority.

Part 7 — Infringement notices and modified penalties

108. Prescribed offences (section 124)

The offences mentioned in Schedule 3 are the offences for which an infringement notice may be given under section 124 of the Act.

109. Prescribed modified penalties (section 125)

The modified penalty mentioned opposite an offence in Schedule 3 is the modified penalty for that offence for the purposes of section 125(2) of the Act.

110. Over-length vehicles

A reference in Schedule 3 to an “**over-length vehicle**” is a reference to a vehicle that has a length greater than 5 m.

111. Prescribed form of infringement notice (section 125)

The form of an infringement notice is set out in Form 1 in Schedule 4 for the purposes of section 125(1) of the Act.

112. Prescribed form of withdrawal of notice (section 127)

The form of a notice to withdraw an infringement notice is set out in Form 2 in Schedule 4 for the purposes of section 127(1) of the Act.

Part 8 — Miscellaneous

113. Effect of breach of condition to which authorisation is subject

An authorisation given to a person by a port authority or harbour master under these regulations ceases to have effect if the person does not comply with any condition or restriction —

- (a) to which the authorisation is subject; and
- (b) if the authorisation is given in writing — that is set out in the authorisation.

114. Master of vessel to produce certificates of tonnage and registry etc. at request of member of staff

- (1) The master of a vessel that is in a port or is to enter a port must produce the certificate of tonnage and certificate of registry or other national papers of the vessel on demand to —
 - (a) a collector of port charges; or
 - (b) an authorised member of staff of the port authority.
- (2) A person who does not comply with subregulation (1) commits an offence.

Penalty: \$5 000.

115. Powers of authorised officers

- (1) An authorised officer may direct a person (an “**offender**”) —
 - (a) who is on port facilities or other property of a port authority; and
 - (b) who the authorised officer reasonably believes is committing or has committed an offence against the Act or these regulations,

to give his or her name and address to the officer and may direct the offender to leave the facilities or property, the port or an area of the port specified by the officer.

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- (2) A person —
- (a) who, when directed to give his or her name and address to an authorised officer, gives a false name or false address to the officer; or
 - (b) who does not comply with a direction under subregulation (1),
- commits an offence.
- Penalty: \$2 000.
- (3) An authorised officer may cause an offender to be removed from port facilities or other property of a port authority, the port or an area of the port.
- (4) A police officer may, without a warrant, arrest an offender.
- (5) In this regulation —
- “authorised officer”** means a police officer or an authorised member of staff of the port authority.

[116. Repealed in Gazette 13 Feb 2004 p. 546.]

117. Certain easements, leases and licences may be granted without the Minister’s approval (section 28(2))

An easement, lease or licence meets the prescribed criteria for the purposes of section 28(2) of the Act if the period for which the easement, lease or licence is granted by a port authority does not exceed 5 years.

118. Prescribed amount of port authority’s liability (section 40(3)(c))

For the purposes of section 40(3)(c) of the Act, the prescribed amount of a port authority’s liability is the amount equal to 20% of the written down value of the port authority’s consolidated fixed assets, as appearing in its latest audited accounts.

118A. Prescribed “port services” (section 35(9))

Under section 35(9) of the Act, “quarantine services” are prescribed for the purposes of the definition of “port services” in that subsection.

[Regulation 118A inserted in Gazette 10 Dec 2004 p. 5916.]

119. Rate of interest on overdue amounts (section 136)

- (1) For the purposes of section 136(1) of the Act, the rate of interest on an amount outstanding to a port authority is 3% greater than the rate of interest published from time to time by the Bank of Western Australia Ltd. as its overdraft reference rate.
- (2) In subregulation (1) —
“overdraft reference rate” means the base rate of interest used by the Bank of Western Australia Ltd. to determine the rates of interest payable on overdraft loans.

120. Rounding off amounts (Schedule 5 clause 31)

- (1) A port authority may insert in any accounts or report under Schedule 5 to the Act, in substitution for an amount —
 - (a) that the port authority would, but for clause 31 of that Schedule, be required or permitted to set out in the accounts or report; and
 - (b) that is not less than \$500,an amount that is ascertained by increasing or decreasing (as the case requires), by not more than \$500, the first-mentioned amount to \$1 000 or the nearest multiple of \$1 000.
- (2) If the first-mentioned amount in subregulation (1) is exactly \$500 greater than \$1 000 or a multiple of \$1 000, the amount is to be increased under that subregulation to \$2 000 or the next multiple of \$1 000, as the case requires.

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121. Provisions for particular port authorities

- (1) If a Division of Schedule 1 applies to a port authority, the provisions of that Division have effect in relation to that port authority and its port even though they override, are inconsistent with or are additional to other provisions of these regulations.
- (2) A provision of these regulations mentioned in the Table to this subregulation does not apply to the Dampier Port Authority or the Port of Dampier.

Table

regulation 5	regulation 73
regulation 7	regulation 74
regulation 8	regulation 77
regulation 10	regulation 78
regulation 13	regulation 79
regulation 15	regulation 80
regulation 17	regulation 83
regulation 18	regulation 84
regulation 19	regulation 85
regulation 32	regulation 86
regulation 33	regulation 87
regulation 41	regulation 89
regulation 42	regulation 90
regulation 43	regulation 91
regulation 44	regulation 93
regulation 45	regulation 94
regulation 46	regulation 95
regulation 47	regulation 96
regulation 48	regulation 97
regulation 60	regulation 98
regulation 61	regulation 103
regulation 62	regulation 104
regulation 66	regulation 105
regulation 67	regulation 106
regulation 70	regulation 114
regulation 72	regulation 119

- (3) Subregulation (2) does not limit the application of subregulation (1) to Schedule 1 Division 4.

[Regulation 121 amended in Gazette 22 Mar 2002 p. 1655.]

[122. Omitted under the Reprints Act 1984 s. 7(4)(f).]

Schedule 1 — Provisions for particular port authorities

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Division 1 — Albany Port Authority

1. Application

This Division applies to the Albany Port Authority and the Port of Albany.

2. Definition

In this Division —

“**fishing vessel**” means a vessel of less than 500 gross registered tonnes that is used for commercial fishing;

“**service provider’s licence**” means a licence issued under clause 5B(2) to provide a towage service, line boat service, bunkering service, stevedoring service, mooring service, transport service, bulk handling service or fish handling service in the port.

[Clause 2 amended in Gazette 12 Jun 2007 p. 2681.]

3. Notice of arrival at port

- (1) The master of a vessel that is to enter the port is to notify the harbour master of the vessel’s estimated time of arrival at the pilot boarding ground —

- (a) 48 hours;
- (b) 24 hours; and
- (c) 2 hours,

before that time.

- (2) Subclause (1) does not apply to —

- (a) a fishing vessel; or
- (b) a vessel that is not to be —
 - (i) berthed in the port; or
 - (ii) provided with any services by the port authority.

4. Unauthorised berthing of fishing vessels prohibited

Unless authorised by the harbour master or an authorised member of staff of the port authority, the master of a fishing vessel must not berth the vessel at the main wharf of the port at berth No. 1, 2 or 3.

Penalty: \$2 000.

5. When pilotage is not compulsory

For the purposes of section 97(1) of the Act and subject to regulation 31, a vessel moving in the port is not required to use pilotage services if the vessel is a fishing vessel that is registered in Australia.

5A. Unlicensed persons not to provide certain services

Subject to section 143(3) of the Act, a person must not provide a towage service, line boat service, bunkering service, stevedoring service, mooring service, transport service, bulk handling service or fish handling service in the port except —

- (a) under the authority of a service provider's licence issued by the port authority; and
- (b) in accordance with any conditions or restrictions to which the licence is subject under clause 5B(3).

Penalty: \$12 000.

[Clause 5A inserted in Gazette 12 Jun 2007 p. 2682.]

5B. Service providers' licences

- (1) An application for a service provider's licence is to be made to, and in the form approved by, the port authority, and is to be accompanied by a fee of an amount determined by the port authority that is not more than \$1 000.
- (2) If satisfied that an applicant has appropriate qualifications and experience to provide, as the case requires, a towage service, line boat service, bunkering service, stevedoring service, mooring service, transport service, bulk handling service or fish handling service in the port, the port authority may issue a service provider's licence to the applicant.

- (3) A service provider's licence has effect in relation to the provision of the service, and for the period, set out in the licence subject to —
- (a) annual payment to the port authority, by the person who is granted or holds the licence, of an amount determined by the port authority that is not more than \$10 000 per annum; and
 - (b) any conditions or restrictions that the port authority imposes and sets out in the licence.
- (4) If the port authority considers that a condition or restriction to which a service provider's licence is subject has been breached, the port authority may by written notice given to the person who holds the licence —
- (a) suspend the operation of the licence for any period that the port authority considers appropriate; or
 - (b) cancel the licence.
- (5) A service provider's licence is to set out procedures determined by the port authority that enable the person who holds the licence to appeal if the licence is suspended or cancelled under subclause (4).
- (6) A notice under subclause (4) has effect on the day on which the person who holds the service provider's licence is given the notice or on any later day specified in the notice.
- (7) A person whose service provider's licence is suspended or cancelled by notice under subclause (4) must return the licence to the port authority within 7 days after the notice has effect, whether or not the person intends to appeal against the suspension or cancellation.
- (8) A person who does not comply with subclause (7) commits an offence.
- Penalty: \$2 000.

[Clause 5B inserted in Gazette 12 Jun 2007 p. 2682-3.]

Division 2 — Broome Port Authority

Subdivision 1 — General matters

6. Application

This Division applies to the Broome Port Authority and the Port of Broome.

7. Notice of arrival at port

- (1) The master of a vessel that is to enter the port is to notify the harbour master of the vessel's estimated time of arrival at the pilot boarding ground —
- (a) 48 hours;
 - (b) 24 hours; and
 - (c) 2 hours,
- before that time.
- (2) Subclause (1) does not apply to —
- (a) a vessel of less than 500 gross registered tonnes that is used for commercial fishing; or
 - (b) a vessel that is not to be —
 - (i) berthed in the port; or
 - (ii) provided with any services by the port authority.

8. Notice of dangerous cargoes

- (1) When notifying the harbour master under clause 7(1)(a), the master of a vessel must also notify the harbour master of any explosives or dangerous goods that are —
- (a) to be loaded on to, or unloaded from, the vessel at the port; or
 - (b) to be kept on board the vessel while it is in the port.
- (2) The master of a vessel who is required to notify the harbour master in relation to explosives or dangerous goods under subclause (1) must also provide to the harbour master any information required by the harbour master about the explosives or dangerous goods.

- (3) A person who does not comply with subclause (1) or (2) commits an offence.

Penalty: \$12 000.

- (4) In this clause —

“**dangerous goods**” means substances or articles prescribed to be dangerous goods under the *Explosives and Dangerous Goods Act 1961*;

“**explosives**” means substances or articles prescribed to be explosives under the *Explosives and Dangerous Goods Act 1961*.

9. Notice of proposed movement of vessel from mooring to be given to harbour master

The master of a vessel moored at a wharf or another place in the port must not cause or permit the vessel to depart from its mooring unless the master has notified the harbour master of the proposed departure.

Penalty: \$5 000.

10. Bunkering

- (1) Unless authorised by the harbour master, the master of a vessel in the port must not cause or permit the vessel to be bunkered.

Penalty: \$5 000.

- (2) If the harbour master authorises a vessel to be bunkered, the master of the vessel must notify the harbour master at the beginning and at the end of bunkering.

- (3) A person who does not comply with subclause (2) commits an offence.

Penalty: \$5 000.

11. Navigation of private vessels

- (1) The master of a private vessel in the port must ensure that the vessel —

- (a) does not impede the passage of a commercial vessel in the port; and
- (b) keeps enough distance from a commercial vessel in the port to allow the commercial vessel to be safely navigated.

- (2) A person who does not comply with subclause (1)(a) or (b) commits an offence.

Penalty: \$12 000.

- (3) In subclause (1) —

“commercial vessel” means a vessel other than a private vessel.

12. Vessels moored in port to have at least one person on watch

- (1) The master of a vessel of more than 150 gross registered tonnes that is moored in the port must ensure that at all times there is at least one person on watch on the vessel.

- (2) A person who does not comply with subclause (1) commits an offence.

Penalty: \$2 000.

Subdivision 2 — Control of moorings

13. Definitions

In this Subdivision —

“mooring” means a structure or apparatus used or proposed to be used to secure a vessel in the port;

“mooring owner” means a person authorised to install or use a mooring under clause 16.

14. Installation and use of moorings

Unless authorised by the harbour master under clause 16, a person must not install or use a mooring.

Penalty: \$5 000.

15. Application for approval

- (1) A person may apply to the harbour master for authorisation to install or use a mooring.

- (2) An application is to be made in the form approved by the harbour master setting out —

- (a) the full name, residential address and telephone number of the applicant;

- (b) the location or proposed location of the mooring, as the case requires;
- (c) whether the vessel to be moored at the mooring will be used for private or commercial purposes and details of those purposes;
- (d) the type, length overall and tonnage of the vessel to be moored at the mooring; and
- (e) if the application is for authorisation to install a mooring — the specifications for the construction of the mooring.

16. Authorisation of mooring

- (1) On an application under clause 15, the harbour master may authorise the installation or use of a mooring, as the case requires, if satisfied that —
 - (a) the location or proposed location of the mooring is appropriate;
 - (b) the mooring is suitable for the vessel that is to be moored at the mooring;
 - (c) the mooring is designed and constructed, or proposed to be constructed, so that the vessel to be moored at the mooring would be securely moored during cyclone conditions; and
 - (d) the vessel to be moored at the mooring would not constitute a danger to, or interfere with, the navigation of other vessels in the port.
- (2) The harbour master is to give an applicant written notice of an authorisation under subclause (1) or a decision not to give an authorisation.

17. Revocation of authorisation

- (1) The harbour master may revoke an authorisation under clause 16 if —
 - (a) a mooring owner does not provide an inspection report as required under clause 20(4); or
 - (b) the harbour master is satisfied that it is in the interests of marine safety at the port to do so.

- (2) The revocation has effect when written notice of it is given to the mooring owner.

[Clause 17 amended in Gazette 2 Oct 2007 p. 4972.]

18. Mooring to be maintained in good condition

- (1) A mooring owner must ensure that the mooring is maintained in good condition.
- (2) A person who does not comply with subclause (1) commits an offence.
Penalty: \$2 000.

19. Requirements for floats

- (1) A mooring owner must ensure that there is connected to the mooring a float or buoy (a “**mooring buoy**”) that —
- (a) has a sufficient size to provide buoyancy when supporting the rope, chain or other connection between the mooring block and the surface float, with at least half of the mooring buoy projecting above the waterline at all times;
 - (b) has a colour approved by the harbour master;
 - (c) is spherical and has a diameter of not less than 300 mm; and
 - (d) is legibly marked with a means of identification approved by the harbour master.
- (2) A person who does not comply with subclause (1)(a), (b), (c) or (d) commits an offence.
Penalty: \$2 000.

20. Inspection reports

- (1) A person who is authorised to install a mooring under clause 16 is to obtain a written report on the condition of the mooring after it is installed.
- (2) A person who is authorised to use a mooring under clause 16 is to obtain a written report on the condition of the mooring in each year in which the person has the use of the mooring after the year in which the report referred to in subclause (1) is obtained.

- (3) A report required to be obtained under this clause is to be prepared by a person approved by the harbour master who has inspected the mooring —
 - (a) for the report referred to in subclause (1) — as soon as practicable after the mooring is installed; or
 - (b) for a report referred to in subclause (2) — during the period from 1 May to 30 October in the relevant year.
- (4) A mooring owner is to provide the harbour master with a copy of a report obtained under this clause —
 - (a) in the case of the report referred to in subclause (1) — as soon as practicable after it is prepared; or
 - (b) in the case of a report referred to in subclause (2) — not later than 14 November in the relevant year.
- (5) A mooring owner is liable for the costs of an inspection made or a report prepared under this clause.

21. Sale or disposal of moorings

- (1) A mooring owner must notify the harbour master if the mooring is sold or otherwise disposed of.
- (2) A person who does not comply with subclause (1) commits an offence.
Penalty: \$2 000.

22. Removal of moorings

The harbour master may remove a mooring from the waters of the port if the harbour master is unable, after reasonable enquiries, to identify or find the mooring owner.

Subdivision 3 — Service providers' licences

23. Definition

In this Subdivision —

“service provider’s licence” means a licence issued under clause 25(2) to provide a towage service, pilot/line boat service,

bunkering service (including pipeline), stevedoring service or
mooring service in the port.

[Clause 23 amended in Gazette 12 Jun 2007 p. 2683.]

24. Unlicensed persons not to provide certain services

Subject to section 143(3) of the Act, a person must not provide a towage service, pilot/line boat service, bunkering service, stevedoring service or mooring service in the port except —

- (a) under the authority of a service provider's licence issued by the port authority; and
- (b) in accordance with any conditions or restrictions to which the licence is subject under clause 25(3).

Penalty: \$12 000.

[Clause 24 inserted in Gazette 12 Jun 2007 p. 2684.]

25. Service providers' licences

- (1) An application for a service provider's licence is to be made to, and in the form approved by, the port authority, and is to be accompanied by a fee of an amount determined by the port authority that is not more than \$1 000.
- (2) If satisfied that an applicant has appropriate qualifications and experience to provide, as the case requires, a towage service, pilot/line boat service, bunkering service, stevedoring service or mooring service in the port, the port authority may issue a service provider's licence to the applicant.
- (3) A service provider's licence has effect in relation to the provision of the service, and for the period, set out in the licence subject to —
 - (a) annual payment to the port authority, by the person who is granted or holds the licence, of an amount determined by the port authority that is not more than \$10 000 per annum; and
 - (b) any conditions or restrictions that the port authority imposes and sets out in the licence.
- (4) If the port authority considers that a condition or restriction to which a service provider's licence is subject has been breached, the port

authority may by written notice given to the person who holds the licence —

- (a) suspend the operation of the licence for any period that the port authority considers appropriate; or
 - (b) cancel the licence.
- (5) A service provider's licence is to set out procedures determined by the port authority that enable the person who holds the licence to appeal if the licence is suspended or cancelled under subclause (4).
- (6) A notice under subclause (4) has effect on the day on which the person who holds the service provider's licence is given the notice or on any later day specified in the notice.
- (7) A person whose service provider's licence is suspended or cancelled by notice under subclause (4) must return the licence to the port authority within 7 days after the notice has effect, whether or not the person intends to appeal against the suspension or cancellation.
- (8) A person who does not comply with subclause (7) commits an offence.

Penalty: \$2 000.

[Clause 25 inserted in Gazette 12 Jun 2007 p. 2684-5.]

Subdivision 4 — Goods

26. Placing of goods on property of port authority

- (1) Unless authorised by the harbour master, a person must not place any goods on any port facility, port land or other property of the port authority.
- Penalty: \$5 000.
- (2) Without limiting subclause (1), a person must not unload any goods on to, or otherwise place any goods on, a wharf in the port except where directed by the harbour master.
- Penalty: \$5 000.
- (3) Unless otherwise directed by the harbour master, a person must not unload any goods on to, or otherwise place any goods on, a wharf in the port less than one metre from a mooring point, hose connection or electrical fixture.

Penalty: \$5 000.

Subdivision 5 — Things obstructing or interfering with operations of port

27. Things obstructing or interfering with operations of port

- (1) If any container, trailer, equipment or other thing (an “**obstruction**”) in the port is, in the opinion of the port authority, obstructing or interfering with, or is likely to obstruct or interfere with, the efficiency of the operations of the port, the port authority may direct the owner of the obstruction to move it to a specified place in the port or to remove it from the port.
- (2) A person who does not comply with a direction under subclause (1) commits an offence.
Penalty: \$5 000.
- (3) If —
 - (a) the obstruction is not moved in accordance with a direction under subclause (1); or
 - (b) the port authority is unable, after reasonable enquiries, to identify or find the owner of the obstruction,the port authority may move the obstruction and store it at any premises of the port authority.
- (4) The port authority may keep the obstruction until any expenses reasonably incurred by the port authority in connection with moving and storing it, and any port charges payable in relation to it, have been paid to the port authority.
- (5) The port authority is not liable for any loss incurred by the owner of an obstruction that results from moving or storing the obstruction under this clause.

Subdivision 6 — Miscellaneous

28. Damage to property to be reported to harbour master

- (1) A person who is involved in, or who is the master of a vessel that is involved in, an incident that results in damage to any port facility or other property of the port authority, or to a vessel or navigational aid

in the port, must as soon as practicable report details of the incident and damage to the harbour master.

- (2) A person who does not comply with subclause (1) commits an offence.

Penalty: \$12 000.

29. Entering area of port, port facility or wharf closed by port authority prohibited

Unless authorised by the harbour master, a person must not enter —

- (a) an area of the port;
- (b) a port facility; or
- (c) a wharf, or an area of a wharf, operated by the port authority,

closed by the port authority and designated by notices or signs erected by the port authority as being closed.

Penalty: \$2 000.

Division 3 — Bunbury Port Authority

30. Application

This Division applies to the Bunbury Port Authority and the Port of Bunbury.

31. Definition

In this Division —

“**service provider’s licence**” means a licence issued under clause 34(2) to provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port.

32. Vessel in port to maintain contact with port authority

The master of a vessel, other than a private vessel, that enters the port is to inform the port authority of the vessel’s movements while it is in the port by —

- (a) maintaining radio contact with the port authority; or

- (b) communicating with the port authority by another means approved by the port authority.

33. Unlicensed persons not to provide certain services

Subject to section 143(3) of the Act, a person must not provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port except —

- (a) under the authority of a service provider's licence issued by the port authority; and
- (b) in accordance with any conditions or restrictions to which the licence is subject under clause 34(3).

Penalty: \$12 000.

34. Service providers' licences

- (1) An application for a service provider's licence is to be made to, and in the form approved by, the port authority, and is to be accompanied by a fee of an amount determined by the port authority that is not more than \$1 000.
- (2) If satisfied that an applicant has appropriate qualifications and experience to provide, as the case requires, a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port, the port authority may issue a service provider's licence to the applicant.
- (3) A service provider's licence has effect in relation to the provision of the service, and for the period, set out in the licence subject to —
 - (a) annual payment to the port authority, by the person who is granted or holds the licence, of an amount determined by the port authority that is not more than \$10 000 per annum; and
 - (b) any conditions or restrictions that the port authority imposes and sets out in the licence.

- (4) If the port authority considers that a condition or restriction to which a service provider's licence is subject has been breached, the port authority may by written notice given to the person who holds the licence —
- (a) suspend the operation of the licence for any period that the port authority considers appropriate; or
 - (b) cancel the licence.
- (5) A service provider's licence is to set out procedures determined by the port authority that enable the person who holds the licence to appeal if the licence is suspended or cancelled under subclause (4).
- (6) A notice under subclause (4) has effect on the day on which the person who holds the service provider's licence is given the notice or on any later day specified in the notice.
- (7) A person whose service provider's licence is suspended or cancelled by notice under subclause (4) must return the licence to the port authority within 7 days after the notice has effect, whether or not the person intends to appeal against the suspension or cancellation.
- (8) A person who does not comply with subclause (7) commits an offence.

Penalty: \$2 000.

[Clause 34 amended in Gazette 12 Jun 2007 p. 2685-6.]

Division 4 — Dampier Port Authority

Subdivision 1 — Preliminary

35. Application

This Division applies to the Dampier Port Authority and the Port of Dampier.

36. Definitions

In this Division —

“commercial vessel” means a vessel other than a private vessel;

“fishing vessel” means a vessel that is used for commercial fishing;

“International Code”, in relation to a designated flag or signal, means the flag or signal so designated in the publication *International Code of Signals*, as amended from time to time and produced by the body known as the International Maritime Organization;

“Iron Ore (Hamersley Range) Agreement” has the same meaning as it has in Schedule 6 Division 1 to the Act;

“pilotage exemption certificate” means a pilotage exemption certificate issued under regulation 51;

“Withnell Bay Loading Terminal” means the Woodside product loading jetties and all works and facilities connected with, or incidental to, those jetties.

Subdivision 2 — Vessels in the port

37. Radio watch

- (1) For the purpose of receiving communications from the harbour master, the master of a commercial vessel must —
- (a) when the vessel is approaching the port — maintain a listening watch on VHF Radio Channel 16 (156.8 K/Hz); or
 - (b) when the vessel is in the port — maintain a listening watch on VHF Radio Channel 11.
- (2) A person who does not comply with subclause (1) commits an offence.
Penalty: \$5 000.

38. Restricted areas

- (1) Unless authorised by the harbour master, the master of a vessel must not cause or permit the vessel to approach —
- (a) within 700 m of the Withnell Bay Loading Terminal; or
 - (b) within 100 m of the Woodside Slug Catcher Vent in Withnell Bay.
- Penalty: \$5 000.

- (2) Unless authorised by the harbour master, the master of a private vessel must not cause or permit the vessel to approach within 50 m of a wharf or trestle in the port.

Penalty: \$5 000.

39. Master of vessel to produce certificates of tonnage and registry etc. at request of harbour master or member of staff

- (1) The master of a vessel in the port must produce the certificate of tonnage and certificate of registry or other national papers of the vessel on demand to —
- (a) the harbour master; or
 - (b) a member of staff of the port authority authorised by the harbour master for the purposes of this clause.

- (2) A person who does not comply with subclause (1) commits an offence.

Penalty: \$5 000.

40. Master of vessel moored to wharf to ensure stowage of anchors

- (1) The master of a vessel that is moored to a wharf in the port must ensure that the vessel's anchors are stowed in the hawse pipe.
- (2) A person who does not comply with subclause (1) commits an offence.

Penalty: \$5 000.

41. Propellers of moored vessel not to be operated

- (1) Unless authorised by the harbour master, the master of a vessel that has a propeller must not cause or permit the propeller to be operated while the vessel is moored to a wharf in the port.

Penalty: \$5 000.

- (2) If the propeller of a vessel is authorised to be operated under subclause (1), the master of the vessel must ensure that no injury to any person or damage to any property is caused by that operation.

- (3) A person who does not comply with subclause (2) commits an offence.

Penalty: \$12 000.

42. Commercial vessels not to be beached in the port

Unless authorised by the harbour master, the master of a commercial vessel must not cause or permit the vessel to be beached in the port.

Penalty: \$5 000.

43. Notice of proposed movement of vessel from mooring to be given to harbour master

The master of a vessel moored at a wharf or another place in the port must not cause or permit the vessel to depart from its mooring unless the master has notified the harbour master of the proposed departure.

Penalty: \$5 000.

44. Outbreak of fire

(1) If there is a fire in or on a vessel in the port —

- (a) the master of the vessel must immediately notify the harbour master or, if the harbour master is unavailable, a member of staff of the port authority; and
- (b) a person on board the vessel or under the authority of the master of the vessel must help extinguish the fire or protect other vessels or property in the port if directed by the harbour master to do so.

(2) A person who does not comply with —

- (a) subclause (1)(a); or
- (b) a direction under subclause (1)(b),

commits an offence.

Penalty: \$12 000.

45. Bunkering

(1) Unless authorised by the harbour master, the master of a vessel in the port must not cause or permit the vessel to be bunkered.

Penalty: \$5 000.

(2) If the harbour master authorises a vessel to be bunkered, the master of the vessel must notify the harbour master at the beginning and at the end of bunkering.

- (3) A person who does not comply with subclause (2) commits an offence.

Penalty: \$5 000.

46. Ballast

- (1) The master of a vessel berthed at a wharf in the port must ensure that there is at all times enough cargo or ballast on board the vessel to keep it stable and capable of departing from the berth.

- (2) A person who does not comply with subclause (1) commits an offence.

Penalty: \$5 000.

47. Navigation of private vessels

- (1) The master of a private vessel in the port must ensure that the vessel —

- (a) does not impede the passage of a commercial vessel in the port; and
- (b) keeps enough distance from a commercial vessel in the port to allow the commercial vessel to be safely navigated.

- (2) A person who does not comply with subclause (1)(a) or (b) commits an offence.

Penalty: \$12 000.

48. Fishing vessels

- (1) The master of a fishing vessel in the port must not cause or permit any fishing to take place from the vessel in a channel, fairway, anchorage area or prohibited anchorage area.

Penalty: \$5 000.

- (2) The master of a fishing vessel in the port must ensure that the vessel —

- (a) does not impede the passage of a commercial vessel in the port; and
- (b) keeps enough distance from a commercial vessel in the port to allow the commercial vessel to be safely navigated.

- (3) A person who does not comply with subclause (2)(a) or (b) commits an offence.

Penalty: \$12 000.

- (4) In this clause —

“prohibited anchorage area” means an area of the port designated by notices or signs erected by the port authority as an area where a vessel is prohibited from anchoring.

Subdivision 3 — Control of moorings

49. Definitions

In this Subdivision —

“mooring” means a structure or apparatus used or proposed to be used to secure a vessel in the port;

“mooring owner” means a person authorised to install or use a mooring under clause 52.

50. Installation and use of moorings

Unless authorised by the harbour master under clause 52, a person must not install or use a mooring.

Penalty: \$5 000.

51. Application for approval

- (1) A person may apply to the harbour master for authorisation to install or use a mooring.
- (2) An application is to be made in the form approved by the harbour master setting out —
- (a) the full name, residential address and telephone number of the applicant;
 - (b) the location or proposed location of the mooring, as the case requires;
 - (c) whether the vessel to be moored at the mooring will be used for private or commercial purposes and details of those purposes;

- (d) the type, length overall and tonnage of the vessel to be moored at the mooring; and
- (e) if the application is for authorisation to install a mooring — the specifications for the construction of the mooring.

52. Authorisation of mooring

- (1) On an application under clause 51, the harbour master may authorise the installation or use of a mooring, as the case requires, if satisfied that —
 - (a) the location or proposed location of the mooring is appropriate;
 - (b) the mooring is suitable for the vessel that is to be moored at the mooring;
 - (c) the mooring is designed and constructed, or proposed to be constructed, so that the vessel to be moored at the mooring would be securely moored during cyclone conditions; and
 - (d) the vessel to be moored at the mooring would not constitute a danger to, or interfere with, the navigation of other vessels in the port.
- (2) The harbour master is to give an applicant written notice of an authorisation under subclause (1) or a decision not to give an authorisation.

53. Revocation of authorisation

- (1) The harbour master may revoke an authorisation under clause 52 if —
 - (a) a mooring owner does not provide an inspection report as required under clause 56(4); or
 - (b) the harbour master is satisfied that it is in the interests of marine safety at the port to do so.
- (2) The revocation has effect when written notice of it is given to the mooring owner.

[Clause 53 amended in Gazette 2 Oct 2007 p. 4972.]

54. Mooring to be maintained in good condition

- (1) A mooring owner must ensure that the mooring is maintained in good condition.
- (2) A person who does not comply with subclause (1) commits an offence.
Penalty: \$2 000.

55. Requirements for floats

- (1) A mooring owner must ensure that there is connected to the mooring a float or buoy (a **“mooring buoy”**) that —
 - (a) has a sufficient size to provide buoyancy when supporting the rope, chain or other connection between the mooring block and the surface float, with at least half of the mooring buoy projecting above the waterline at all times;
 - (b) has a colour approved by the harbour master;
 - (c) is spherical and has a diameter of not less than 300 mm; and
 - (d) is legibly marked with a means of identification approved by the harbour master.
- (2) A person who does not comply with subclause (1)(a), (b), (c) or (d) commits an offence.
Penalty: \$2 000.

56. Inspection reports

- (1) A person who is authorised to install a mooring under clause 52 is to obtain a written report on the condition of the mooring after it is installed.
- (2) A person who is authorised to use a mooring under clause 52 is to obtain a written report on the condition of the mooring in each year in which the person has the use of the mooring after the year in which the report referred to in subclause (1) is obtained.
- (3) A report required to be obtained under this clause is to be prepared by a person approved by the harbour master who has inspected the mooring —

- (a) for the report referred to in subclause (1) — as soon as practicable after the mooring is installed; or
 - (b) for a report referred to in subclause (2) — during the period from 1 May to 30 October in the relevant year.
- (4) A mooring owner is to provide the harbour master with a copy of a report obtained under this clause —
 - (a) in the case of the report referred to in subclause (1) — as soon as practicable after it is prepared; or
 - (b) in the case of a report referred to in subclause (2) — not later than 14 November in the relevant year.
- (5) A mooring owner is liable for the costs of an inspection made or a report prepared under this clause.

57. Sale or disposal of moorings

- (1) A mooring owner must notify the harbour master if the mooring is sold or otherwise disposed of.
- (2) A person who does not comply with subclause (1) commits an offence.
Penalty: \$2 000.

58. Removal of moorings

The harbour master may remove a mooring from the waters of the port if the harbour master is unable, after reasonable enquiries, to identify or find the mooring owner.

Subdivision 4 — Service providers' licences

59. Definition

In this Subdivision —

“service provider’s licence” means a licence issued under clause 61 to provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port.

[Clause 59 amended in Gazette 12 Jun 2007 p. 2686.]

60. Unlicensed persons not to provide certain services

Subject to section 143(3) of the Act, a person must not provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port except —

- (a) under the authority of a service provider's licence issued by the port authority; and
- (b) in accordance with any conditions or restrictions to which the licence is subject under clause 61(3).

Penalty: \$12 000.

[Clause 60 amended in Gazette 12 Jun 2007 p. 2686.]

61. Service providers' licences

- (1) An application for a service provider's licence is to be made to, and in the form approved by, the port authority, and is to be accompanied by a fee of an amount determined by the port authority that is not more than \$1 000.
- (2) If satisfied that an applicant has appropriate qualifications and experience to provide, as the case requires, a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port, the port authority may issue a service provider's licence to the applicant.
- (3) A service provider's licence has effect in relation to the provision of the service, and for the period, set out in the licence subject to —
 - (a) annual payment to the port authority, by the person who is granted or holds the licence, of an amount determined by the port authority that is not more than \$10 000 per annum; and
 - (b) any conditions or restrictions that the port authority imposes and sets out in the licence.
- (4) If the port authority considers that a condition or restriction to which a service provider's licence is subject has been breached, the port authority may by written notice given to the person who holds the licence —
 - (a) suspend the operation of the licence for any period that the port authority considers appropriate; or
 - (b) cancel the licence.

- (5) A service provider's licence is to set out procedures determined by the port authority that enable the person who holds the licence to appeal if the licence is suspended or cancelled under subclause (4).
- (6) A notice under subclause (4) has effect on the day on which the person who holds the service provider's licence is given the notice or on any later day specified in the notice.
- (7) A person whose service provider's licence is suspended or cancelled by notice under subclause (4) must return the licence to the port authority within 7 days after the notice has effect, whether or not the person intends to appeal against the suspension or cancellation.
- (8) A person who does not comply with subclause (7) commits an offence.

Penalty: \$2 000.

[Clause 61 amended in Gazette 12 Jun 2007 p. 2686-7.]

Subdivision 5 — Goods

62. Placing of goods on property of port authority

- (1) Unless authorised by the harbour master, a person must not place any goods on any port facility, port land or other property of the port authority.
Penalty: \$5 000.
- (2) Without limiting subclause (1), a person must not unload any goods on to, or otherwise place any goods on, a wharf in the port except where directed by the harbour master.
Penalty: \$5 000.
- (3) Unless otherwise directed by the harbour master, a person must not unload any goods on to, or otherwise place any goods on, a wharf in the port less than one metre from a mooring point, hose connection or electrical fixture.
Penalty: \$5 000.

Subdivision 6 — Miscellaneous

63. Damage to property to be reported to harbour master

- (1) A person who is involved in, or who is the master of a vessel that is involved in, an incident that results in damage to any port facility or other property of the port authority, or to a vessel or navigational aid in the port, must as soon as practicable report details of the incident and damage to the harbour master.
- (2) A person who does not comply with subclause (1) commits an offence.
Penalty: \$12 000.

64. Entering area of port, port facility or wharf closed by port authority prohibited

Unless authorised by the harbour master, a person must not enter —

- (a) an area of the port;
- (b) a port facility; or
- (c) a wharf, or an area of a wharf, operated by the port authority,

closed by the port authority and designated by notices or signs erected by the port authority as being closed.

Penalty: \$2 000.

Division 4A — Esperance Port Authority

[Heading inserted in Gazette 31 Jan 2003 p. 295.]

64A. Application

This Division applies to the Esperance Port Authority and the Port of Esperance.

[Clause 64A inserted in Gazette 31 Jan 2003 p. 295.]

64AA. Definition

In this Division —

“**service provider’s licence**” means a licence issued under clause 64F(2) to provide a towage service, line boat service,

bunkering service, stevedoring service or mooring service in the port.

[Clause 64AA inserted in Gazette 12 Jun 2007 p. 2687.]

64B. Unauthorised berthing of fishing vessels prohibited

Unless authorised by the harbour master or an authorised member of staff of the port authority, the master of a fishing vessel must not berth the vessel at the main wharf of the port at berth 1, 2 or 3.

Penalty: \$2 000.

[Clause 64B inserted in Gazette 31 Jan 2003 p. 296.]

64C. Unauthorised mooring etc. of vessels prohibited

Unless authorised in writing by the harbour master, a person must not moor, anchor, land or beach a vessel in the port.

Penalty: \$2 000.

[Clause 64C inserted in Gazette 31 Jan 2003 p. 296.]

64D. Unauthorised placing of fishing gear in port waters prohibited

Unless authorised in writing by the harbour master, a person must not place a fishing net, pot or other fishing gear in the waters of the port.

Penalty: \$2 000.

[Clause 64D inserted in Gazette 31 Jan 2003 p. 296.]

64E. Unlicensed persons not to provide certain services

Subject to section 143(3) of the Act, a person must not provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port except —

- (a) under the authority of a service provider's licence issued by the port authority; and
- (b) in accordance with any conditions or restrictions to which the licence is subject under clause 64F(3).

Penalty: \$12 000.

[Clause 64E inserted in Gazette 12 Jun 2007 p. 2687-8.]

64F. Service providers' licences

- (1) An application for a service provider's licence is to be made to, and in the form approved by, the port authority, and is to be accompanied by a fee of an amount determined by the port authority that is not more than \$1 000.
- (2) If satisfied that an applicant has appropriate qualifications and experience to provide, as the case requires, a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port, the port authority may issue a service provider's licence to the applicant.
- (3) A service provider's licence has effect in relation to the provision of the service, and for the period, set out in the licence subject to —
 - (a) annual payment to the port authority, by the person who is granted or holds the licence, of an amount determined by the port authority that is not more than \$10 000 per annum; and
 - (b) any conditions or restrictions that the port authority imposes and sets out in the licence.
- (4) If the port authority considers that a condition or restriction to which a service provider's licence is subject has been breached, the port authority may by written notice given to the person who holds the licence —
 - (a) suspend the operation of the licence for any period that the port authority considers appropriate; or
 - (b) cancel the licence.
- (5) A service provider's licence is to set out procedures determined by the port authority that enable the person who holds the licence to appeal if the licence is suspended or cancelled under subclause (4).
- (6) A notice under subclause (4) has effect on the day on which the person who holds the service provider's licence is given the notice or on any later day specified in the notice.
- (7) A person whose service provider's licence is suspended or cancelled by notice under subclause (4) must return the licence to the port authority within 7 days after the notice has effect, whether or not the person intends to appeal against the suspension or cancellation.

- (8) A person who does not comply with subclause (7) commits an offence.

Penalty: \$2 000.

[Clause 64F inserted in Gazette 12 Jun 2007 p. 2688-9.]

Division 5 — Fremantle Port Authority

Subdivision 1 — General matters

65. Application

This Division applies to the Fremantle Port Authority and the Port of Fremantle.

66. Definitions

In this Division —

“**department**” means the department of the Public Service principally assisting the Minister in the administration of the Marine Act;

“**Inner Harbour**” means the area of the port the boundaries of which are delineated on Department of Land Administration⁴ Plan 19473.

67. Location of signal station

The signal station for the port is on the port authority’s building located at latitude 32° 3’ 20” south and longitude 115° 44’ 23” east.

68. Requirements for small vessel in Inner Harbour Entrance Channel

- (1) Before a small vessel enters the Inner Harbour Entrance Channel (the “**Entrance Channel**”), the person in charge of the vessel is to make certain that there are no other vessels in or approaching the Entrance Channel.
- (2) If a small vessel and another vessel are approaching each other in the Entrance Channel, the person in charge of the small vessel must move the vessel —
- (a) as close as practicable to the side of the Entrance Channel on the starboard side of the small vessel;

- (b) so that the small vessel avoids the navigation beacons along the sides of the Entrance Channel; and
- (c) at a speed slow enough to ensure that a safe distance is maintained from any diving operations or wharf maintenance operations that are taking place.

- (3) A person who does not comply with subclause (2)(a), (b) or (c) commits an offence.

Penalty: \$12 000.

- (4) In this clause —

“**small vessel**” means a vessel with a length overall of less than 25 m —

- (a) that is used solely for private purposes, and not for hire or reward, and is not propelled solely by oars; or
- (b) in respect of which a fishing boat licence is, or is required to be, in force under the *Fish Resources Management Regulations 1995*.

69. Notice of arrival at port

- (1) Subject to subclause (2), the master of a vessel that is to enter the port is to notify the harbour master of the estimated time of the vessel's arrival at the appropriate pilot boarding ground —

- (a) 48 hours;
- (b) 24 hours; and
- (c) 2 hours,

before that time.

- (2) Subclause (1) does not apply to a vessel that is not to be —

- (a) berthed in the port; or
- (b) provided with any services by the port authority.

- (3) The appropriate pilot boarding ground for a vessel having a draft —

- (a) of 11 m or more is 3 nautical miles north west of the Fairway Buoy; or

- (b) of less than 11 m is, unless the harbour master otherwise directs the master of the vessel, one nautical mile west of the Hall Bank Beacon in Gage Roads.

70. Notice of dangerous cargoes

- (1) When notifying the harbour master under clause 69(1)(a), the master of a vessel must also notify the harbour master of any explosives or dangerous goods that are —
 - (a) to be loaded on to, or unloaded from, the vessel at the port; or
 - (b) to be kept on board the vessel while it is in the port.
- (2) The master of a vessel who is required to notify the harbour master in relation to explosives or dangerous goods under subclause (1) must also provide to the harbour master any information required by the harbour master about the explosives or dangerous goods.
- (3) A person who does not comply with subclause (1) or (2) commits an offence.
Penalty: \$12 000.
- (4) In this clause —
 - “**dangerous goods**” means substances or articles prescribed to be dangerous goods under the *Explosives and Dangerous Goods Act 1961*;
 - “**explosives**” means substances or articles prescribed to be explosives under the *Explosives and Dangerous Goods Act 1961*.

71. Where vessel is to be anchored on entering port

- (1) Subject to subclauses (2) and (3) and clause 72, the master of a vessel that enters the port is to anchor the vessel in Gage Roads, south of latitude 32° 01' south.
- (2) The master of a vessel must not anchor the vessel in the shipping route that extends on a bearing of 180° from Deepwater Channel to the area described in clause 72.
Penalty: \$5 000.
- (3) The port authority may authorise a vessel to be moved directly to its berthing place in the port without it first being anchored as required by subclause (1).

- (4) A vessel authorised to be moved under subclause (3) is not by virtue of that authorisation exempt from pilotage.

72. Vessels not to enter certain areas of port

- (1) Unless the vessel is being moved into or out of the Inner Harbour, the master of a vessel must not cause or permit the vessel to enter the area of the port to which subclause (2) applies.

Penalty: \$5 000.

- (2) This subclause applies to the area of the port bounded by lines starting from the light tower on the North Mole and extending on a bearing of $286\frac{1}{2}^{\circ}$ for 2.3 nautical miles; then on a bearing of 180° for 1.2 nautical miles; then on a bearing of $80\frac{1}{2}^{\circ}$ for 2.65 nautical miles to the light tower on the South Mole.

- (3) Unless authorised by the port authority, the master of a vessel must not cause or permit the vessel to enter the area of the Outer Harbour to which subclause (4) applies.

Penalty: \$5 000.

- (4) This subclause applies to the area of the Outer Harbour bounded by lines starting at the shoreline from

Position A Latitude $32^{\circ} 11.172' S$, Longitude $115^{\circ} 46.439' E$,
then in a westerly direction to

Position B Latitude $32^{\circ} 11.168' S$, Longitude $115^{\circ} 45.987' E$,
then in a south westerly direction to

Position C Latitude $32^{\circ} 13.333' S$, Longitude $115^{\circ} 44.855' E$,
then in a southerly direction to

Position D Latitude $32^{\circ} 15.000' S$, Longitude $115^{\circ} 44.833' E$,
then in an easterly direction to the shoreline to

Position E Latitude $32^{\circ} 15.000' S$, Longitude $115^{\circ} 45.310' E$

then in a northerly and north-easterly direction along the shoreline at the high water mark to return to

Position A Latitude $32^{\circ} 11.172' S$, Longitude $115^{\circ} 46.439' E$.

Subdivision 2 — Pilotage exemption certificates

73. Definition

In this Subdivision —

“AMSA” means the Australian Maritime Safety Authority established under the *Australian Maritime Safety Authority Act 1990* of the Commonwealth;

“in charge of a vessel” means in charge of a vessel as the master or first mate.

74. Eligibility for pilotage exemption certificates

- (1) A person may apply to the harbour master for a pilotage exemption certificate if the person is entitled to reside permanently in Australia under an Act of the Commonwealth and the person complies with —
 - (a) subclause (2); and
 - (b) subclause (3) or (4).
- (2) A person complies with this subclause if the person holds —
 - (a) a Master Class 1 or Class 2 certificate of competency issued under the Navigation Act;
 - (b) a Master Class 3 certificate of competency issued under the Marine Act;
 - (c) a Foreign Going Masters Certificate of Competency issued under the Navigation Act; or
 - (d) a certificate of competency or other qualification recognised by AMSA as equivalent to a certificate of competency mentioned in paragraph (a), (b) or (c).
- (3) A person complies with this subclause if, subject to clause 75(2), within 2 years before the date of the application the person has been the master of a vessel under the control of a pilot —
 - (a) on at least 4 occasions when the vessel was moved into the port; and
 - (b) on at least 4 occasions when the vessel was moved out of the port.

- (4) A person complies with this subclause if —
- (a) subject to clause 75(2), within 2 years before the date of the application the person has been the first mate of a vessel under the control of a pilot —
 - (i) on at least 4 occasions when the vessel was moved into the port; and
 - (ii) on at least 4 occasions when the vessel was moved out of the port,and on each occasion remained on duty on the bridge of the vessel while it was being moved; and
 - (b) the person has a written statement, signed by the pilot or master of the vessel on each occasion referred to in paragraph (a), verifying that the person complied with the requirements of that paragraph on that occasion.

75. Application for pilotage exemption certificates

- (1) An application for a pilotage exemption certificate is to be in the form approved by the harbour master and is to be accompanied by —
- (a) the fee set out in item 1 of the Table to clause 93; and
 - (b) evidence that satisfies the harbour master that —
 - (i) the application is valid under subclause (2);
 - (ii) the applicant has complied with the provisions of clause 74 that apply to the applicant;
 - (iii) the applicant meets the medical and eyesight requirements in Part 9 of the Marine Orders made under section 425(1AA) of the Navigation Act; and
 - (iv) the applicant has complied with clause 76(3), if that provision applies to the applicant.
- (2) An application is valid under this subclause if at least one of the occasions referred to in clause 74(3) or 74(4)(a), as the case requires, was —
- (a) if the application is for a pilotage exemption certificate that has effect in relation to the category of vessels to which clause 77(4)(a) or (b) applies — within 12 months before the date of the application; or

- (b) if the application is for a pilotage exemption certificate that has effect in relation to the category of vessels to which clause 77(4)(c) or (d) applies — within 6 months before that date.

76. Issue of pilotage exemption certificates

- (1) The harbour master may issue a pilotage exemption certificate to an applicant who —
 - (a) applies in accordance with clause 75; and
 - (b) satisfies the harbour master —
 - (i) in an examination approved by the port authority, that the person has an adequate knowledge of those matters that the port authority considers relevant to the safe movement of vessels into, within and out of the port; and
 - (ii) in relation to any other matter that the port authority considers relevant to show that the person is competent and suitably qualified to move a vessel under the authority of a pilotage exemption certificate.
- (2) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subclause (1)(b) and clause 75(1)(b).
- (3) A person who fails the examination referred to in subclause (1)(b)(i) is not eligible to apply again under clause 75 until, after the examination, the person has been, as the case requires, the master or first mate of a vessel under the control of a pilot on at least one occasion when the vessel was moved —
 - (a) into or out of the port; or
 - (b) into or out of a particular area of the port in relation to which the person's knowledge was found to be deficient in the examination,

as determined by the harbour master.

77. Vessels to which pilotage exemption certificates apply

- (1) When issuing a pilotage exemption certificate, the harbour master is to endorse a category of vessels on the certificate in accordance with subclause (3).
- (2) A pilotage exemption certificate has effect in relation to —
 - (a) vessels with a length overall appropriate to the category endorsed in accordance with subclause (3) or clause 79(2); and
 - (b) vessels with a length overall less than is appropriate to that category.
- (3) Subject to clause 79, the category of vessels that is to be endorsed on a pilotage exemption certificate is the category that the harbour master considers appropriate having regard to the length overall of the vessels of which the applicant for the certificate was master or first mate, as the case requires, for the purposes of complying with clause 74(3) or 74(4)(a).
- (4) The categories of vessels that apply for the purposes of this clause are —
 - (a) vessels with a length overall of less than 80 m;
 - (b) vessels with a length overall of 80 m or more but less than 155 m;
 - (c) vessels with a length overall of 155 m or more but less than 215 m; and
 - (d) vessels with a length overall of 215 m or more.

78. Pilotage exemption certificates have effect only during daylight hours unless otherwise endorsed

- (1) Unless a pilotage exemption certificate is endorsed under subclause (3), the certificate has effect only during the period from sunrise to sunset.
- (2) A person who holds a pilotage exemption certificate may apply to the harbour master, in a form approved by the harbour master, for the certificate to be endorsed to have effect at all times.

- (3) The harbour master is to endorse the certificate to have effect at all times if satisfied by evidence given with the application that the applicant complies with subclause (4).
- (4) An applicant complies with this subclause if, within 12 months before the date of the application, the applicant has been in charge of a vessel under the control of a pilot —
 - (a) on at least one occasion when the vessel was moved into the port; and
 - (b) on at least one occasion when the vessel was moved out of the port,

with the vessel on each occasion being moved during the period from sunset to sunrise.

- (5) If a pilotage exemption certificate is endorsed to have effect in relation to the category of vessels to which clause 77(4)(c) or (d) applies, the harbour master is not to endorse the certificate under subclause (3) unless satisfied that at least one of the occasions referred to in subclause (4) was within 6 months before the date of the application.

79. Endorsement of pilotage exemption certificates for vessels of greater length overall

- (1) A person who holds a pilotage exemption certificate may apply to the harbour master, in a form approved by the harbour master, for the certificate to be endorsed to have effect in relation to a category of vessels (“**the application category**”) with a length overall greater than is appropriate to the category of vessels in relation to which the certificate has effect at the time the application is made.
- (2) The harbour master is to endorse the certificate to have effect in relation to the application category if satisfied by evidence given with the application that the applicant complies with subclause (3).
- (3) An applicant complies with this subclause if, within 12 months before the date of the application, the applicant has been in charge of a vessel under the control of a pilot —
 - (a) on at least 2 occasions when the vessel was moved into the port; and

- (b) on at least 2 occasions when the vessel was moved out of the port,

with the vessel on each occasion having a length overall appropriate to the application category.

- (4) If an application is made under subclause (1) to have a pilotage exemption certificate endorsed to have effect in relation to the category of vessels to which clause 77(4)(c) or (d) applies, the harbour master is not to endorse the certificate under subclause (2) unless satisfied that at least one of the occasions referred to in subclause (3) was within 6 months before the date of the application.

80. Validity and renewal of pilotage exemption certificates

- (1) A pilotage exemption certificate is valid for 2 years and expires at the end of that period unless it sooner —
 - (a) expires under clause 81; or
 - (b) is revoked under clause 84.
- (2) If a person who holds a pilotage exemption certificate (including a pilotage exemption certificate previously renewed under this subclause or revalidated under clause 82) applies to the harbour master, in a form approved by the harbour master —
 - (a) before the certificate expires; and
 - (b) with evidence that satisfies the harbour master in relation to the applicant's health and eyesight,

the harbour master may renew the certificate for a period that, in the discretion of the harbour master, does not exceed 2 years.

81. Expiry of pilotage exemption certificates

If a pilotage exemption certificate is endorsed to have effect in relation to the category of vessels to which —

- (a) clause 77(4)(a) or (b) applies, and the person who holds the certificate does not move a vessel under the authority of the certificate for 12 months; or

- (b) clause 77(4)(c) or (d) applies, and the person who holds the certificate does not move a vessel under the authority of the certificate for 6 months,

the certificate expires at the end of the period of 12 months or 6 months, as the case requires.

82. Revalidation of expired pilotage exemption certificates

- (1) A person whose pilotage exemption certificate expires under clause 80(1) or 81 may apply to the harbour master, in a form approved by the harbour master, to have the certificate revalidated if the application is made within 2 years after the applicant last moved a vessel under the authority of the expired certificate.
- (2) The harbour master is to revalidate the pilotage exemption certificate for a period that, in the discretion of the harbour master, does not exceed 2 years if satisfied by evidence given with the application that the applicant has applied in accordance with subclause (1) and complies with subclause (4).
- (3) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subclause (2).
- (4) An applicant complies with this subclause if the applicant —
 - (a) has been in charge of a vessel, under the control of a pilot, with a length overall not less than is appropriate to the category of vessels to which the expired certificate applied, on at least one occasion when the vessel was moved into or out of the port —
 - (i) if the expired certificate had effect in relation to the category of vessels to which clause 77(4)(a) or (b) applies — within 12 months before the date of the application; or
 - (ii) if the expired certificate had effect in relation to the category of vessels to which clause 77(4)(c) or (d) applies — within 6 months before the date of the application;and

- (b) has an adequate knowledge of those matters that the port authority considers relevant to the safe movement of vessels into, within and out of the port.
- (5) A pilotage exemption certificate that is revalidated under this clause has the same effect as it did immediately before it expired.
- (6) A person whose pilotage exemption certificate expires and is not revalidated within the period referred to in subclause (1) may apply for a new pilotage exemption certificate under clause 75 if the person is eligible under clause 74.

83. Application of pilotage exemption certificates

- (1) The harbour master may issue a pilotage exemption certificate that is endorsed to have effect —
 - (a) in relation to all waters of the port or only in relation to a specified area or specified areas of the port;
 - (b) only in relation to a vessel with a draught that does not exceed the specified maximum draught.
- (2) A pilotage exemption certificate that is endorsed under subclause (1) has effect in accordance with that endorsement.

84. Revocation of pilotage exemption certificates

- (1) The harbour master may, in the discretion of the harbour master, revoke a pilotage exemption certificate by written notice given to the person who holds the certificate.
- (2) A notice under subclause (1) has effect on the day on which the person who holds the pilotage exemption certificate is given the notice or on any later day specified in the notice.

85. Movement of vessel under authority of pilotage exemption certificate to be recorded

- (1) A person who holds a pilotage exemption certificate is to keep a written record of each occasion when the person moves a vessel under the authority of the certificate that specifies —
 - (a) the name and length overall of the vessel; and

(b) the date on which, and the areas of the port in which, the vessel was moved.

- (2) A person who holds a pilotage exemption certificate is to make available, on the request of the harbour master or an authorised member of staff of the port authority, the written record kept under subclause (1).

86. Port authority may declare compulsory pilotage areas

- (1) The port authority may, by notice published in the *Gazette*, declare that an area of the port specified in the notice is a compulsory pilotage area.
- (2) A pilotage exemption certificate does not have effect in a compulsory pilotage area.
- (3) The port authority may, by notice published in the *Gazette*, revoke or amend a notice under subclause (1).

Subdivision 3 — Certificates of local knowledge

87. Eligibility for certificates of local knowledge

- (1) A person may apply for a certificate of local knowledge if the person complies with subclauses (2) and (4).
- (2) A person complies with this subclause if the person has been the master or first mate of a vessel of more than 150 gross registered tonnes —
- (a) for at least 3 months during the 12 months before the date of the application; and
 - (b) on at least 4 occasions within those 3 months when the vessel was moved in the area or areas of the port in relation to which the application is to be made.
- (3) The reference in subclause (2) to a vessel of more than 150 gross registered tonnes includes, in relation to a vessel that does not have a recorded gross registered tonnage, a reference to a vessel with a length overall of more than 24 m.

- (4) A person complies with this subclause if on any of the occasions referred to in subclause (2)(b) when the person was, as the case requires —
- (a) the master of the vessel — the person held at that time a Master Class 4 certificate of competency issued under the Marine Act, or a higher certificate of competency, and the vessel was under the control of a pilot; or
 - (b) the first mate of the vessel — the master of the vessel held at that time a certificate of local knowledge relating to the area or areas of the port in which the vessel was moved.

88. Application for certificates of local knowledge

An application for a certificate of local knowledge is to be made to the harbour master, in a form approved by the harbour master, and is to be accompanied by —

- (a) the fee set out in item 2 of the Table to clause 93;
- (b) details of the area or areas of the port in relation to which the application is made; and
- (c) evidence that satisfies the harbour master that the applicant has complied with clause 87(2) and (4).

89. Issue of certificates of local knowledge

- (1) The harbour master may issue a certificate of local knowledge to an applicant who —
- (a) applies in accordance with clause 88; and
 - (b) satisfies the harbour master, in an examination approved by the port authority, that the applicant —
 - (i) is capable of safely moving a vessel of more than 150 gross registered tonnes in the area or areas of the port in relation to which the application is made; and
 - (ii) has an adequate knowledge of those matters that the port authority considers relevant to the safe movement of vessels into, within and out of the port.
- (2) The harbour master is to make available to a person who requests it written information explaining what is required to satisfy the harbour master under subclause (1)(b) and clause 88(c).

- (3) A certificate of local knowledge issued by the harbour master is to be —
 - (a) endorsed to have effect in relation to a specified area or specified areas of the port; and
 - (b) signed by the harbour master.
- (4) A certificate of local knowledge that is endorsed under subclause (3)(a) has effect in accordance with that endorsement.

90. Revocation and expiry of certificates of local knowledge

- (1) The harbour master may, in the discretion of the harbour master, revoke a certificate of local knowledge by written notice given to the person who holds the certificate.
- (2) A notice under subclause (1) has effect on the day on which the person who holds the certificate of local knowledge is given the notice or on any later day specified in the notice.
- (3) If a person who holds a certificate of local knowledge does not, as master of the vessel, move a vessel of more than 150 gross registered tonnes in the port under the authority of the certificate within any period of 12 months, the certificate expires at the end of that period.
- (4) A person whose certificate of local knowledge has been revoked or has expired may apply for a new certificate under clause 88 if the person is eligible under clause 87.

91. Effect of certificates of local knowledge

- (1) A vessel may be moved under the authority of a certificate of local knowledge in the area or areas of the port in relation to which the certificate has effect if —
 - (a) the vessel is undergoing a trial conducted by or on behalf of the builder of the vessel in accordance with a permit issued by the chief executive officer of the department; or
 - (b) the vessel has a length overall of not more than 80 m and is a vessel that —
 - (i) plies between the port and Rottnest Island or between the port and Hillarys Boat Harbour; or
 - (ii) has entered the port from, or is leaving the port to move into, the Swan River.

- (2) A certificate of local knowledge does not have effect in a compulsory pilotage area declared under clause 86(1).

Subdivision 4 — Things obstructing or interfering with operations of port

92. Things obstructing or interfering with operations of port

- (1) If any container, trailer, equipment or other thing (an “**obstruction**”) in the port is, in the opinion of the port authority, obstructing or interfering with, or is likely to obstruct or interfere with, the efficiency of the operations of the port, the port authority may direct the owner of the obstruction to move it to a specified place in the port or to remove it from the port.
- (2) A person who does not comply with a direction under subclause (1) commits an offence.
Penalty: \$5 000.
- (3) If —
- (a) the obstruction is not moved in accordance with a direction under subclause (1); or
 - (b) the port authority is unable, after reasonable enquiries, to identify or find the owner of the obstruction,
- the port authority may move the obstruction and store it at any premises of the port authority.
- (4) The port authority may keep the obstruction until any expenses reasonably incurred by the port authority in connection with moving and storing it, and any port charges payable in relation to it, have been paid to the port authority.
- (5) The port authority is not liable for any loss incurred by the owner of an obstruction that results from moving or storing the obstruction under this clause.

Subdivision 5 — Fees and charges

93. Application fees: pilotage exemption certificates and certificates of local knowledge

The application fees referred to in clauses 75(1)(a) and 88(a) are set out in the Table to this clause.

Table

1. Application for pilotage exemption certificate (clause 75(1)(a))	\$660
2. Application for certificate of local knowledge (clause 88(a))	\$55

Subdivision 6 — Licences

94. Definitions

In this Subdivision —

“excavation licence” means a licence to carry out excavation work on port land issued under clause 98;

“excavation work” means work that involves breaking or penetrating the ground surface;

“towage provider’s licence” means a licence issued under clause 96 to provide a towage service in the port.

95. Unlicensed persons not to provide towage services

Subject to section 143(3) of the Act, a person must not provide a towage service in the port except —

- (a) under the authority of a towage provider’s licence issued by the port authority; and
- (b) in accordance with any conditions or restrictions to which the licence is subject under clause 96(4).

Penalty: \$12 000.

96. Towage providers’ licences

- (1) An application for a towage provider’s licence is to be made to, and in the form approved by, the port authority.
- (2) If satisfied that an applicant is an appropriate person to provide a towage service in the port, the port authority may, on payment by the applicant of a fee of an amount determined by the port authority that is not less than \$1 000 and not more than \$10 000, issue a towage provider’s licence to the applicant.

- (3) The port authority is to make available to a person who requests it written information explaining what is required to satisfy the port authority under subclause (2).
- (4) A towage provider's licence has effect for the period set out in the licence, subject to —
 - (a) payment to the port authority (except in respect of the year in which the fee referred to in subclause (2) is paid) by the person who holds the licence of an annual fee of an amount determined by the port authority that is not less than \$1 000 and not more than \$10 000; and
 - (b) any conditions or restrictions that the port authority imposes and sets out in the licence.
- (5) If the port authority considers that a condition or restriction to which a towage provider's licence is subject has been breached, the port authority may by written notice given to the person who holds the licence —
 - (a) suspend the operation of the licence for any period that the port authority considers appropriate; or
 - (b) cancel the licence.
- (6) A towage provider's licence is to set out procedures determined by the port authority that enable the person who holds the licence to appeal if the licence is suspended or cancelled under subclause (5).
- (7) A notice under subclause (5) has effect on the day on which the person who holds the towage provider's licence is given the notice or on any later day specified in the notice.
- (8) A person whose towage provider's licence is suspended or cancelled by notice under subclause (5) must return the licence to the port authority within 7 days after the notice has effect, whether or not the person intends to appeal against the suspension or cancellation.
- (9) A person who does not comply with subclause (8) commits an offence.

Penalty: \$2 000.

[Clause 96 amended in Gazette 12 Jun 2007 p. 2689.]

97. Unlicensed persons not to carry out excavation work

- (1) Subject to section 143(3) to the Act, a person must not carry out any excavation work on port land except —
- (a) under the authority of an excavation licence issued by the port authority in relation to that excavation work; and
 - (b) in accordance with any conditions or restrictions to which the licence is subject under clause 98(6).

Penalty: \$12 000.

- (2) Subclause (1) does not limit the application of any other written law to the carrying out of excavation work on port land.

98. Excavation licences

- (1) An application for an excavation licence is to be made to, and in the form approved by, the port authority, and is to be accompanied by a fee of \$200.
- (2) If the port authority considers that it is appropriate to do so in relation to a particular application, the port authority may waive the fee referred to in subclause (1).
- (3) An applicant is to provide to the port authority any information or documents that the port authority reasonably requires to satisfy itself that there is appropriate public liability insurance in effect for the purposes of the excavation work proposed to be carried out under the authority of the excavation licence.
- (4) The port authority may refuse to consider an application for an excavation licence if the application is made less than 3 days before the excavation work proposed to be carried out under the licence is due to begin.
- (5) On an application under subclause (1) and payment of the fee referred to in that subclause (unless waived under subclause (2)), and if satisfied in relation to the matter referred to in subclause (3), the port authority may issue an excavation licence to the applicant.
- (6) An excavation licence has effect for 7 days or, if another period is set out in the licence, that other period, subject to any conditions or restrictions that the port authority imposes and sets out in the licence.

- (7) If the port authority considers that a condition or restriction to which an excavation licence is subject has been breached, the port authority may by written notice given to the person who holds the licence —
- (a) suspend the operation of the licence for any period that the port authority considers appropriate; or
 - (b) cancel the licence.
- (8) An excavation licence is to set out procedures determined by the port authority that enable the person who holds the licence to appeal if the licence is suspended or cancelled under subclause (7).
- (9) A notice under subclause (7) has effect on the day on which the person who holds the excavation licence is given the notice or on any later day specified in the notice.
- (10) A person whose excavation licence is suspended or cancelled by notice under subclause (7) must return the licence to the port authority within 7 days after the notice has effect, whether or not the person intends to appeal against the suspension or cancellation.
- (11) A person who does not comply with subclause (10) commits an offence.
Penalty: \$2 000.

99. Exemption from liability

The port authority is not liable for any damage or loss resulting from excavation work carried out under the authority of an excavation licence.

Subdivision 7 — Miscellaneous

100. Swimming outside designated areas of the port prohibited

Unless authorised by the port authority, a person must not swim in, or dive or jump into, the waters of the port except in an area designated by notices or signs erected by the port authority as an area where swimming is permitted.

Penalty: \$2 000.

101. Unauthorised use of motor boats or water skiing in Inner Harbour prohibited

- (1) Unless authorised by the port authority, a person must not drive a motor boat at more than 8 knots or water ski in the Inner Harbour.
Penalty: \$2 000.
- (2) In subclause (1) —
“**motor boat**” means a vessel propelled otherwise than by oars or sail and includes a personal watercraft within the meaning of the *Navigable Waters Regulations 1958*³;
“**water ski**” includes water ski using only the feet for support.

Division 6 — Geraldton Port Authority

102. Application

This Division applies to the Geraldton Port Authority and the Port of Geraldton.

102A. Definition

In this Division —

“**service provider’s licence**” means a licence issued under clause 106B(2) to provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port.

[Clause 102A inserted in Gazette 12 Jun 2007 p. 2690.]

103. Fishing vessels berthing at Commercial Berth Harbour to maintain contact with port authority

- (1) The master of an Australian fishing vessel that enters the port to berth at the Commercial Berth Harbour is to inform the port authority of the vessel’s movements while it is in the port by —
- (a) maintaining radio contact with the port authority; or
 - (b) communicating with the port authority by another means approved by the port authority.
- (2) Subclause (1) does not limit the operation of regulation 5 in relation to the Geraldton Port Authority and the Port of Geraldton.

- (3) In this clause —

“Australian fishing vessel” means a vessel used for commercial fishing that is an Australian boat within the meaning of the *Fisheries Management Act 1991* of the Commonwealth.

104. Vessel moored in port to have at least one person on watch

- (1) The master of a vessel of more than 150 gross registered tonnes that is moored in the port must ensure that at all times there is at least one person on watch on the vessel.
- (2) A person who does not comply with subclause (1) commits an offence.
Penalty: \$2 000.

105. Use of motor boats and water skiing in the port

- (1) A person must not drive a motor boat at more than 8 knots or water ski in the port —
- (a) unless authorised by the port authority —
 - (i) in any waters having a depth of less than 3 m; or
 - (ii) within 45 m of a river bank or low water mark;
 - (b) in or through an area set aside for vessels to be moored;
 - (c) within 45 m of a vessel that is under way;
 - (d) within 45 m of —
 - (i) a moored vessel;
 - (ii) a person in the water; or
 - (iii) a jetty or wharf;
- or
- (e) through an arch of a bridge.
- Penalty: \$2 000.

- (2) In this clause and clause 106 —

“motor boat” means a vessel propelled otherwise than by oars or sail and includes a personal watercraft within the meaning of the *Navigable Waters Regulations 1958*³;

“water ski” includes water ski using only the feet for support on the water.

106. Certain vessels to leave channel and water ski area of harbour if vessel sounds warning

- (1) If a vessel in, approaching or leaving Geraldton Harbour gives a warning consisting of 3 prolonged blasts of its foghorn, the master of a vessel with a length overall of less than 35 m (a **“small vessel”**) must, unless subclause (3) applies, ensure that —
- (a) the small vessel does not enter the channel or water ski area of Geraldton Harbour for at least 30 minutes after the warning is given; and
 - (b) if the small vessel is in the channel or water ski area of Geraldton Harbour when the warning is given — it leaves the channel or water ski area immediately.
- (2) A person who does not comply with subclause (1)(a) or (b) commits an offence.
Penalty: \$2 000.
- (3) This subclause applies if the master of a small vessel has been authorised by the harbour master for the purposes of this clause.
- (4) In this clause —
“channel”, **“Geraldton Harbour”** and **“water ski area”** are as indicated on Department of Transport Chart WA 939.

106A. Unlicensed persons not to provide certain services

Subject to section 143(3) of the Act, a person must not provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port except —

- (a) under the authority of a service provider’s licence issued by the port authority; and
- (b) in accordance with any conditions or restrictions to which the licence is subject under clause 106B(3).

Penalty: \$12 000.

[Clause 106A inserted in Gazette 12 Jun 2007 p. 2690.]

106B. Service providers' licences

- (1) An application for a service provider's licence is to be made to, and in the form approved by, the port authority, and is to be accompanied by a fee of an amount determined by the port authority that is not more than \$1 000.
- (2) If satisfied that an applicant has appropriate qualifications and experience to provide, as the case requires, a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port, the port authority may issue a service provider's licence to the applicant.
- (3) A service provider's licence has effect in relation to the provision of the service, and for the period, set out in the licence subject to —
 - (a) annual payment to the port authority, by the person who is granted or holds the licence, of an amount determined by the port authority that is not more than \$10 000 per annum; and
 - (b) any conditions or restrictions that the port authority imposes and sets out in the licence.
- (4) If the port authority considers that a condition or restriction to which a service provider's licence is subject has been breached, the port authority may by written notice given to the person who holds the licence —
 - (a) suspend the operation of the licence for any period that the port authority considers appropriate; or
 - (b) cancel the licence.
- (5) A service provider's licence is to set out procedures determined by the port authority that enable the person who holds the licence to appeal if the licence is suspended or cancelled under subclause (4).
- (6) A notice under subclause (4) has effect on the day on which the person who holds the service provider's licence is given the notice or on any later day specified in the notice.
- (7) A person whose service provider's licence is suspended or cancelled by notice under subclause (4) must return the licence to the port authority within 7 days after the notice has effect, whether or not the person intends to appeal against the suspension or cancellation.

- (8) A person who does not comply with subclause (7) commits an offence.

Penalty: \$2 000.

[Clause 106B inserted in Gazette 12 Jun 2007 p. 2690-1.]

Division 7 — Port Hedland Port Authority

107. Application

This Division applies to the Port Hedland Port Authority and the Port of Port Hedland.

107A. Definition

In this Division —

“**service provider’s licence**” means a licence issued under clause 110B(2) to provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port.

[Clause 107A inserted in Gazette 12 Jun 2007 p. 2692.]

108. Unauthorised riding and driving on wharves prohibited

- (1) Unless authorised by an authorised member of staff of the port authority, a person must not —

- (a) ride a horse or any other animal; or
- (b) except as stated in subclause (2), drive or move a vehicle,

on or across a wharf in the port.

Penalty: \$2 000.

- (2) A person may drive or move a vehicle on or across a wharf in the port if the vehicle —

- (a) is being used, or is returning after being used, to carry cargo to be loaded on to a vessel moored at the wharf; or
- (b) is to be used, or is being used, to carry cargo unloaded from a vessel moored at the wharf.

109. Horse riding etc. in designated areas of the port prohibited

A person must not ride a horse or any other animal in an area of the port designated by notices or signs erected by the port authority as an area where riding animals is not permitted.

Penalty: \$2 000.

110. Restricted area

- (1) Unless authorised in writing by the harbour master, a person must not —

- (a) moor or anchor a vessel; or
- (b) fish,

in the restricted area.

Penalty: \$2 000.

- (2) In subclause (1) —

“restricted area” means the area defined by a line starting at a point situated approximately 100 m north of the Goldsworthy Mining Limited conveyor groyne and coincident with the high water mark on Finucane Island; then 498 m on a grid bearing of 124° 07' to a point situated on a line parallel to the wharf alignment and 60 m out from the dredged berth toe line; then 527.6 m on a grid bearing of 198° 43' to a point on that same alignment; then 138 m on a grid bearing of 229° 48' to a point coincident with the high water mark on the “UTAH” reclamation promontory on Finucane Island; and then generally north-westerly and north-easterly following the high water mark along the shore line of Finucane Island back to the starting point.

110A. Unlicensed persons not to provide certain services

Subject to section 143(3) of the Act, a person must not provide a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port except —

- (a) under the authority of a service provider's licence issued by the port authority; and

- (b) in accordance with any conditions or restrictions to which the licence is subject under clause 110B(3).

Penalty: \$12 000.

[Clause 110A inserted in Gazette 12 Jun 2007 p. 2692.]

110B. Service providers' licences

- (1) An application for a service provider's licence is to be made to, and in the form approved by, the port authority, and is to be accompanied by a fee of an amount determined by the port authority that is not more than \$1 000.
- (2) If satisfied that an applicant has appropriate qualifications and experience to provide, as the case requires, a towage service, line boat service, bunkering service, stevedoring service or mooring service in the port, the port authority may issue a service provider's licence to the applicant.
- (3) A service provider's licence has effect in relation to the provision of the service, and for the period, set out in the licence subject to —
 - (a) annual payment to the port authority, by the person who is granted or holds the licence, of an amount determined by the port authority that is not more than \$10 000 per annum; and
 - (b) any conditions or restrictions that the port authority imposes and sets out in the licence.
- (4) If the port authority considers that a condition or restriction to which a service provider's licence is subject has been breached, the port authority may by written notice given to the person who holds the licence —
 - (a) suspend the operation of the licence for any period that the port authority considers appropriate; or
 - (b) cancel the licence.
- (5) A service provider's licence is to set out procedures determined by the port authority that enable the person who holds the licence to appeal if the licence is suspended or cancelled under subclause (4).
- (6) A notice under subclause (4) has effect on the day on which the person who holds the service provider's licence is given the notice or on any later day specified in the notice.

Schedule 2 — Charges for pilotage

[r. 41]

Division 1 — Port of Broome

[Heading inserted in Gazette 2 Oct 2007 p. 4972.]

- | | | |
|----|--|---|
| 1. | Pilotage of a vessel of not more than 10 000 gross registered tonnes into and out of the port | \$3 800.00 |
| 2. | Pilotage of a vessel of more than 10 000 but not more than 30 000 gross registered tonnes into and out of the port | \$6 300.00 |
| 3. | Pilotage of a vessel of more than 30 000 gross registered tonnes into and out of the port | \$6 900.00 |
| 4. | Pilotage of a vessel from a place in the port to another place in the port | \$1 535.00 |
| 5. | Detention of pilot, per hour or part of an hour | \$750.00 |
| 6. | Cancellation of pilot | 50% of the charge set out in item 1, 2, 3 or 4, as the case requires. |

[Division 1 inserted in Gazette 2 Oct 2007 p. 4972.]

Division 2 — Port of Bunbury

[Heading inserted in Gazette 22 Jun 2007 p. 2852.]

- | | | |
|----|--|------------|
| 1. | Pilotage of a vessel into and out of the port | \$3 338.50 |
| 2. | Pilotage of a vessel from a place in the port to another place in the port | \$1 669.25 |
| 3. | Detention of pilot, for each hour or part of an hour | \$834.63 |
| 4. | Cancellation of pilot | \$834.63 |
| 5. | Cancellation of pilot boat crew only | \$834.63 |

[Division 2 inserted in Gazette 22 Jun 2007 p. 2852.]

Division 3 — Port of Esperance

1.	Pilotage of a vessel of not more than 5 000 gross registered tonnes into and out of the port	\$2 310.00
2.	Pilotage of a vessel of more than 5 000 but not more than 10 000 gross registered tonnes into and out of the port	\$3 190.00
3.	Pilotage of a vessel of more than 10 000 but not more than 20 000 gross registered tonnes into and out of the port	\$3 520.00
4.	Pilotage of a vessel of more than 20 000 but not more than 30 000 gross registered tonnes into and out of the port	\$3 740.00
5.	Pilotage of a vessel of more than 30 000 but not more than 40 000 gross registered tonnes into and out of the port	\$4 070.00
6.	Pilotage of a vessel of more than 40 000 but not more than 50 000 gross registered tonnes into and out of the port	\$4 400.00
7.	Pilotage of a vessel of more than 50 000 but not more than 60 000 gross registered tonnes into and out of the port	\$4 730.00
8.	Pilotage of a vessel of more than 60 000 but not more than 70 000 gross registered tonnes into and out of the port	\$5 170.00
9.	Pilotage of a vessel of more than 70 000 gross registered tonnes into and out of the port	\$5 500.00
10.	Pilotage of a vessel from a place in the port to another place in the port	\$550.00
11.	Detention of pilot	\$550.00 for each hour or part of an hour
12.	Cancellation of pilot	\$550.00

Division 4 — Port of Fremantle

[Heading inserted in Gazette 22 Jun 2007 p. 2851.]

Item	Service	to 30 June 2008	1 July 2008 to 30 June 2009	on and from 1 July 2009
1.	Pilotage of a vessel of not more than 1 000 gross registered tonnes between Gage Roads and the Inner Harbour	\$648.75	\$697.41	\$749.71
2.	Pilotage of a vessel of more than 1 000 gross registered tonnes —			
(a)	between the sea pilot boarding ground and Gage Roads	\$2 123.18	\$2 282.42	\$2 453.60
(b)	between Gage Roads and Cockburn Sound	\$1 474.43	\$1 585.01	\$1 703.88
(c)	between Gage Roads and the Inner Harbour	\$1 297.50	\$1 394.82	\$1 499.43
(d)	between the sea pilot boarding ground and the Inner Harbour	\$2 595.00	\$2 789.62	\$2 998.84
(e)	between the sea pilot boarding ground and			

Port Authorities Regulations 2001
Charges for pilotage **Schedule 2**
Port of Fremantle **Division 4**

Item	Service	to 30 June 2008	1 July 2008 to 30 June 2009	on and from 1 July 2009
	Cockburn Sound	\$2 830.91	\$3 043.22	\$3 271.46
3.	Pilotage of a vessel from a place in Cockburn Sound to another place in Cockburn Sound	\$648.75	\$697.41	\$749.71
4.	Pilotage of a vessel from a place in the Inner Harbour to another place in the Inner Harbour	\$294.88	\$317.00	\$340.77
5.	Any other pilotage service, per hour or part of an hour	\$176.93	\$190.20	\$204.47
6.	Detention of pilot, per hour or part of an hour	\$294.88	\$317.00	\$340.77
7.	Cancellation of pilot	\$330.27	\$355.04	\$381.67

[Division 4 inserted in Gazette 22 Jun 2007 p. 2851.]

Division 5 — Port of Geraldton

- | | | |
|----|---|--|
| 1. | Pilotage of a vessel into and out of the port | \$0.3373
for each gross
registered
tonne of vessel |
| 2. | Pilotage of a vessel from a place in the port to another
place in the port | \$0.03373
for each gross
registered
tonne of vessel |
| 3. | Detention of pilot | \$595.00
for each hour
or part of an
hour |

[Division 5 amended in Gazette 16 Sep 2005 p. 4327-8.]

Division 6 — Port of Port Hedland

- | | | |
|----|---|------------|
| 1. | Pilotage of a vessel of not more than 20 000 gross
registered tonnes into or out of the port — | |
| | (a) for each gross registered tonne of vessel | \$0.263 |
| | (b) minimum charge | \$2 845.70 |
| 2. | Pilotage of a vessel of more than 20 000 but not more
than 40 000 gross registered tonnes into or out of the
port | \$5 264.60 |
| 3. | Pilotage of a vessel of more than 40 000 but not more
than 60 000 gross registered tonnes into or out of the
port | \$6 261.20 |
| 4. | Pilotage of a vessel of more than 60 000 but not more
than 80 000 gross registered tonnes into or out of the
port | \$6 972.90 |
| 5. | Pilotage of a vessel of more than 80 000 gross
registered tonnes into or out of the port | \$7 398.60 |
| 6. | Additional charge for pilotage of a vessel into the port
from the designated pilotage area or out of the port to
the designated pilotage area | \$1 544.40 |
| 7. | Pilotage of a vessel from a place in the port to another
place in the port — | |
| | (a) for a vessel of not more than 1 000 gross | |

	registered tonnes	\$711.70
(b)	for a vessel of more than 1 000 gross registered tonnes	\$995.50

[Division 6 inserted in Gazette 29 Aug 2006 p. 3580-1.]

Schedule 3 — Prescribed offences and modified penalties

[r. 108 & 109]

	Prescribed offence	Modified penalty
	General	
[1.	<i>deleted</i>	
1A.	Regulation 13(2): failing to comply with a direction of an authorised member of staff to leave or keep off wharf	\$200.00
1AA.	Regulation 71: placing or leaving dead animals or waste substances in a port	\$200.00
1B.	Regulation 72: interfering with port authority notice, sign or notice board	\$200.00
1C.	Regulation 73: unauthorised writing, painting or placing notices on port property	\$200.00
1D.	Regulation 76(2): failing to comply with reasonable direction of authorised member of staff	\$200.00
1E.	Regulation 77(1): unauthorised causing or permitting animal to enter, or remain in, a port	\$200.00
1F.	Regulation 78(1): being drunk or behaving in a disorderly manner	\$200.00
1G.	Regulation 83(1): unauthorised selling or supplying in a port	\$200.00
1H.	Regulation 83(2): unauthorised soliciting of business in a port	\$200.00
1I.	Regulation 90: unauthorised entry to closed area of port or closed port facility	\$200.00
1J.	Regulation 91(1): unauthorised fishing in designated area of a port	\$200.00
1JA.	Regulation 92(1): obstruction of navigable waters by fishing gear	\$200.00
1K.	Regulation 94(1): unauthorised camping in a port	\$200.00
2.	Regulation 103: failing to comply with a traffic sign	\$80.00
3.	Regulation 104(2): stopping a vehicle (other than an over-length vehicle) in a no-stopping area	\$40.00

	Prescribed offence	Modified penalty
4.	Regulation 104(2): stopping an over-length vehicle in a no-stopping area	\$80.00
5.	Regulation 105(3)(a): parking a vehicle (other than an over-length vehicle) in a parking area otherwise than in accordance with a notice, sign, etc.	\$40.00
6.	Regulation 105(3)(a): parking an over-length vehicle in a parking area otherwise than in accordance with a notice, sign, etc.	\$80.00
7.	Regulation 105(3)(b): parking a vehicle (other than an over-length vehicle) in a no-parking area	\$40.00
8.	Regulation 105(3)(b): parking an over-length vehicle in a no-parking area	\$80.00
8A.	Regulation 115(2): giving false name or address to, or failing to comply with direction of, an authorised officer ..	\$200.00
	Dampier Port Authority	
9.	Schedule 1 clause 38(1): vessel approaching within 700 m of Withnell Bay Loading Terminal or within 100 m of Woodside Slug Catcher Vent	\$200.00
10.	Schedule 1 clause 39(2): failing to produce on demand certificate of tonnage and certificate of registry etc.	\$200.00
11.	Schedule 1 clause 41(1): operating propeller of a vessel moored to a wharf	\$200.00
12.	Schedule 1 clause 45(1): unauthorised bunkering of a vessel	\$200.00
13.	Schedule 1 clause 45(3): failing to notify harbour master of beginning and end of bunkering	\$200.00
14.	Schedule 1 clause 47(2): failing to ensure a private vessel does not impede passage of commercial vessel or keeps safe distance from commercial vessel	\$200.00
15.	Schedule 1 clause 48(1): failing to ensure no fishing from a fishing vessel in a channel, fairway, etc.	\$500.00
16.	Schedule 1 clause 48(3): failing to ensure a fishing vessel does not impede passage of commercial vessel or keeps safe distance from commercial vessel	\$200.00

	Prescribed offence	Modified penalty
17.	Schedule 1 clause 50: unauthorised installation or use of mooring	\$200.00
18.	Schedule 1 clause 62(1): unauthorised placing of goods on port facility, port land, etc.	\$200.00
19.	Schedule 1 clause 62(2): unloading goods on to wharf, or placing goods on wharf, otherwise than where directed by harbour master	\$200.00
20.	Schedule 1 clause 62(3): unloading goods on to wharf, or placing goods on wharf, less than 1 m from mooring point, hose connection, etc.	\$200.00
21.	Schedule 1 clause 63(2): failing to report incident resulting in damage to port facility, vessel, navigational aid, etc.	\$200.00
	Esperance Port Authority	
22.	Schedule 1 clause 64B: unauthorised berthing of fishing vessel at main wharf berth 1, 2 or 3	\$200.00
23.	Schedule 1 clause 64C: unauthorised mooring, anchoring, landing or beaching of vessel in port	\$200.00
24.	Schedule 1 clause 64D: unauthorised placing of fishing gear in waters of port	\$200.00
	Fremantle Port Authority	
25.	Schedule 1 clause 100: unauthorised swimming in waters of port outside designated area	\$200.00
26.	Schedule 1 clause 101(1): unauthorised use of motor boats, or water skiing, in Inner Harbour	\$200.00

[Schedule 3 amended in Gazette 31 Jan 2003 p. 298-9; 10 Dec 2004 p. 5916.]

Schedule 4 — Forms

[r. 111, 112]

Form 1

Port Authorities Act 1999

Infringement notice

Serial No

Date/...../.....

To: ⁽¹⁾

of: ⁽²⁾

It is alleged that on/...../..... at ⁽³⁾

at ⁽⁴⁾

you committed the following offence —

.....

contrary to regulation/Schedule 1 clause ⁽⁵⁾ of the *Port Authorities Regulations 2001*.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorised person ⁽⁶⁾

at ⁽⁷⁾

within a period of 28 days after the giving of this notice.

Name of authorised person giving the notice

Signature

- (1) Name of alleged offender
- (2) Address of alleged offender
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Regulation or clause designation
- (6) Description of authorised persons
- (7) Place where modified penalty may be paid

Form 2

Port Authorities Act 1999

Withdrawal of infringement notice

Serial No

Date/...../.....

To: ⁽¹⁾

of: ⁽²⁾

Infringement notice No. dated/...../..... for the alleged
offence of

.....

.....

has been withdrawn.

The modified penalty of \$

- * has been paid and a refund is enclosed.
- * has not been paid and should not be paid.
- * Delete as appropriate

Name and title of authorised person giving this notice

Signature

(1) Name of alleged offender given the infringement notice

(2) Address of alleged offender

Notes

- ¹ This is a compilation of the *Port Authorities Regulations 2001* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Port Authorities Regulations 2001</i>	18 May 2001 p. 2417-545	1 Jun 2001 (see r. 2)
<i>Port Authorities Amendment Regulations 2002</i>	22 Mar 2002 p. 1655	22 Mar 2002
<i>Port Authorities Amendment Regulations 2003</i>	31 Jan 2003 p. 293-9	31 Jan 2003
<i>Port Authorities Amendment Regulations (No. 2) 2003</i>	27 Jun 2003 p. 2501	1 Jul 2003 (see r. 2)
<i>Port Authorities Amendment Regulations 2004</i>	13 Feb 2004 p. 545-6	14 Feb 2004 (see r. 2 and <i>Gazette</i> 13 Feb 2004 p. 537)
<i>Port Authorities Amendment Regulations (No. 2) 2004</i>	10 Dec 2004 p. 5915-16	10 Dec 2004
Reprint 1: The Port Authorities Regulations 2001 as at 20 May 2005 (includes amendments listed above)		
<i>Port Authorities Amendment Regulations 2005</i>	26 Jul 2005 p. 3401-2	26 Jul 2005
<i>Port Authorities Amendment Regulations (No. 2) 2005</i>	30 Aug 2005 p. 4057-8	30 Aug 2005
<i>Port Authorities Amendment Regulations (No. 4) 2005</i>	16 Sep 2005 p. 4327-8	16 Sep 2005
<i>Port Authorities Amendment Regulations (No. 2) 2006</i>	29 Aug 2006 p. 3579-81	29 Aug 2006
<i>Port Authorities Amendment Regulations (No. 3) 2006</i>	29 Aug 2006 p. 3581-2	29 Aug 2006
Reprint 2: The Port Authorities Regulations 2001 as at 10 Nov 2006 (includes amendments listed above)		
<i>Port Authorities Amendment Regulations 2007</i>	12 Jun 2007 p. 2679-94	12 Jun 2007
<i>Port Authorities Amendment Regulations (No. 4) 2007</i>	22 Jun 2007 p. 2849-50	r. 1 and 2: 22 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))

Citation	Gazettal	Commencement
<i>Port Authorities Amendment Regulations (No. 3) 2007</i>	22 Jun 2007 p. 2850-1	r. 1 and 2: 22 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 2) 2007</i>	22 Jun 2007 p. 2852	r. 1 and 2: 22 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))
<i>Port Authorities Amendment Regulations (No. 5) 2007</i>	2 Oct 2007 p. 4970-2	r. 1 and 2: 2 Oct 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 3 Oct 2007 (see r. 2(b))

² Repealed by the *Tobacco Products Control Act 2006*.

³ Formerly referred to the *Navigable Waters Regulations* the citation of which was changed to the *Navigable Waters Regulations 1958* by the *Navigable Waters Amendment Regulations (No. 2) 2005* r. 3. The reference was changed under the *Reprints Act 1984* s. 7(3)(gb).

⁴ Department of Land Administration plans are now being held by the Western Australian Land Information Authority (see the *Land Information Authority Act 2006* s. 100).