



New South Wales

Marine Safety Amendment Regulation 2025

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Marine Safety Act 1998* and the *Ports and Maritime Administration Act 1995*.

JENNY AITCHISON, MP
Minister for Roads

Explanatory note

The object of this regulation is to amend the *Marine Safety Regulation 2016* consequent on the commencement of the *Marine Safety Amendment Act 2025* to—

- (a) require the marking and lighting of hazards that are in or over navigable waters, and
- (b) provide for marine safety licences, including the suspension and cancellation of licences, and
- (c) clarify the form of certain directions, and
- (d) provide for the disposal of unsafe vessels, and
- (e) prescribe fees, and
- (f) prescribe certain offences as penalty notice offences, and
- (g) update terminology and cross-references.

This regulation also makes a consequential amendment to the *Ports and Maritime Administration Regulation 2021*.

Marine Safety Amendment Regulation 2025

1 Name of regulation

This regulation is the *Marine Safety Amendment Regulation 2025*.

2 Commencement

This regulation commences on the day on which this regulation is published on the NSW legislation website.

Schedule 1 Amendment of Marine Safety Regulation 2016

[1] Whole regulation

Omit “responsible licensing official” wherever occurring.

Insert instead “responsible regulator”.

[2] Clause 3 Definitions

Omit clause 3(1), definitions of *aquatic activity*, *aquatic licence*, *boat driving licence*, *hull identification number*, *marine legislation* and *special event*.

[3] Clause 3(1)

Insert in alphabetical order—

certificate of competency, for Part 5, Division 9—see clause 118A.

[4] Clause 23 Lighting and marking obstructions to navigation

Omit the clause.

[5] Clause 40 Minimum distances to be maintained

Omit clause 40, penalty.

[6] Clause 40(1), penalty

Insert after clause 40(1)—

Maximum penalty—50 penalty units.

[7] Clause 40(2), penalty

Insert after clause 40(2)—

Maximum penalty—50 penalty units.

[8] Clause 40(3), penalty

Insert after clause 40(3)—

Maximum penalty—50 penalty units.

[9] Clauses 55H and 55I

Insert after clause 55G—

55H Marking and lighting hazards—the Act, ss 10(1) and 19(2)(d2)

- (1) The owner of a hazard that is in or over navigable waters must ensure the hazard is marked and lit so it does not cause a danger to the safe navigation of vessels.
Maximum penalty—50 penalty units.
- (2) Transport for NSW or the Port Authority of New South Wales (each a *regulator*) may give the owner of a hazard a written direction to—
 - (a) mark or light the hazard in the time and manner specified in the direction, and
 - (b) keep the marking or lighting in good condition.
- (3) However, the Port Authority of New South Wales may only give a direction under subclause (2) in relation to a hazard that is in a port for which the Port Authority of New South Wales holds an operating licence.

- (4) A person who is given a direction under subclause (2) must comply with the direction.
Maximum penalty—50 penalty units.
- (5) A person who is given a direction under subclause (2) must notify the regulator that gave the direction as soon as the person becomes aware of a defect in relation to the marking or lighting of the hazard.
Maximum penalty—50 penalty units.
- (6) If a person fails to comply with a direction under subclause (2), the regulator that gave the direction may take action to mark or light the hazard.
- (7) A regulator may recover as a debt in a court of competent jurisdiction the reasonable costs and expenses incurred by the regulator in the exercise of its powers under subclause (6) from the owner of the hazard.
- (8) In this clause—
operating licence has the same meaning as in the *Ports and Maritime Administration Act 1995*.

55I Disturbance or interference with bed of relevant ports

For the Act, section 19Z(7), an application to the harbour master of a relevant port for approval to disturb or interfere with the bed of the port must be accompanied by the fee specified in Schedule 11.

[10] Clause 73 Declaration of certain marine safety licences

Omit the clause.

[11] Clause 76 Refusal to issue marine safety licence

Omit the clause.

[12] Clause 78

Omit the clause. Insert instead—

78 Suspension or cancellation of certain licences

- (1) This clause applies to a marine safety licence other than—
 - (a) an aquatic licence, or
 - (b) a vessel registration certificate.
- (2) For the Act, sections 37(2)(l) and 38(2)(b), the responsible regulator may suspend or cancel a marine safety licence if—
 - (a) the holder of the licence fails to provide a medical or eyesight assessment as required by the responsible regulator, or
 - (b) the holder of the licence fails to satisfactorily complete a course or training as required by the responsible regulator, or
 - (c) the holder of the licence has had a similar licence or authorisation suspended or cancelled under a law of the Commonwealth or another State or Territory for disciplinary reasons, or
 - (d) for a prescribed licence, certificate or permit—the holder of the licence does not hold a relevant qualification within the meaning of clause 108.
- (3) In this clause—
prescribed licence, certificate or permit means the following—

- (a) a marine pilot's licence,
- (b) a certificate of local knowledge,
- (c) a marine pilotage exemption certificate,
- (d) a special recreational vessel permit.

[13] Clause 79 Disqualification of person from holding or obtaining marine safety licence
Omit the clause.

[14] Clause 93
Omit the clause. Insert instead—

93 Transfer of vessel registration certificates

- (1) For the Act, section 55(1)(b), the prescribed fee is the fee specified in Schedule 11.
- (2) For the Act, sections 37(1) and 70, on the transfer of a vessel registration certificate for a vessel under the Act, section 56(1), the responsible regulator may, if the responsible regulator considers it appropriate, issue a new vessel registration number for the vessel.
- (3) If the responsible regulator issues a new vessel registration number for the vessel, the responsible regulator must give written notice of the new vessel registration number to the person acquiring the vessel.
- (4) The person notified under subclause (3) must—
 - (a) within 7 days after receiving the notice—change the vessel registration number on the vessel to the new vessel registration number, and
 - (b) if required by the notice—have the vessel inspected by an authorised officer within the period specified in the notice.

Maximum penalty for subclause (4)—50 penalty units

[15] Part 5, Division 3, heading
Insert “—the Act, s 18(4)” after “licences”.

[16] Clause 97 Aquatic activities to be licensed
Omit the clause.

[17] Clause 99(c)
Omit the paragraph. Insert instead—

- (c) the conduct of an aquatic activity that requires an exclusion zone within the meaning of the Act, section 18B.

[18] Clause 100 Additional requirements for applications
Omit “An application” from clause 100(1).
Insert instead “For the Act, section 37(2)(c), an application”.

[19] Clause 100(2)(a)
Insert “, statutory body or other authority, including a harbour master,” after “agency”.

[20] Clause 100(2)(c)–(e)
Omit “and Transport for NSW.” from clause 100(2)(b). Insert instead—

and Transport for NSW,

- (c) a risk assessment and mitigation plan outlining the following—
 - (i) the nature and extent of the risks involved with the proposed aquatic activity,
 - (ii) the steps that will be taken to mitigate the risks,
- (d) documentary evidence of the insurance coverage for the proposed aquatic activity,
- (e) documentary evidence of the consent of the owners of land the applicant proposes to use in connection with the proposed aquatic activity.

[21] Clause 100(3)

Omit the subclause.

[22] Clause 100A

Insert after clause 100—

100A Change of particulars to aquatic licences

The holder of an aquatic licence must notify the responsible regulator in writing, or in another way specified by the responsible regulator, within 14 days of becoming aware of a material change to the aquatic activity intended to be carried out under the licence.

Examples— a change in the time or location of the activity or a significant change in the number of participants in the activity

[23] Clause 104 Additional requirements for applications for boat driving licences

Omit clause 104(3), note.

[24] Clause 104(6)

Omit “the laws”. Insert instead “a law”.

[25] Clause 108 Additional requirements for applications for marine pilot’s licences

Omit clause 108(1), note.

[26] Clause 109A Recreational vessels exempt from compulsory pilotage

Omit the clause.

[27] Clause 110 Additional requirements for applications for marine pilotage exemption certificates

Omit clause 110, note.

[28] Clause 113 Additional requirements for applications for certificates of local knowledge

Omit clause 113, note.

[29] Clause 116 Application of Part

Omit “passengers.”. Insert instead—

passengers, other than vessels operated on behalf of—

- (a) Transport for NSW, or
- (b) the NSW Police Force, or
- (c) the Port Authority of New South Wales, or

- (d) the Ambulance Service of NSW, or
- (e) a fire service and used to carry out an emergency patrol duty, or
- (f) Volunteer Marine Rescue NSW (ABN 98 138 078 092).

[30] Clause 117 Authorisation required for bar crossings for certain commercial vessels

Omit clause 117(3), note.

[31] Part 5, Division 9

Insert after Division 8—

Division 9 Special recreational vessel permits

118A Definition

In this division—

certificate of competency includes an equivalent qualification issued in a jurisdiction outside Australia.

118B Additional requirements for applications for special recreational vessel permits

For the Act, section 37(2)(d) and (e), a special recreational vessel permit must not be issued unless the applicant for the permit—

- (a) holds a certificate of competency that authorises the applicant to be a master of the type of vessel to which the application relates, and
- (b) has satisfactorily completed the training required by the marine pilotage code, and
- (c) has satisfactorily passed an examination approved by the relevant harbour master for the pilotage port to which the application relates, and
- (d) gives evidence in accordance with the marine pilotage code that the applicant is competent to carry out unsupervised movements of the vessel to which the application relates in the relevant pilotage port.

118C Conditions of special recreational vessel permits

For the Act, section 37(2)(f), it is a condition of each special recreational vessel permit that the holder of the permit—

- (a) must not move a vessel for which pilotage is compulsory in the relevant pilotage port other than a vessel specified in the permit holder's certificate of competency, and
- (b) must not carry out unsupervised vessel movements if the holder becomes aware of a circumstance, condition or injury that might cast doubt on the holder's fitness to carry out unsupervised vessel movements, and
- (c) must comply with a direction given by the relevant harbour master for the pilotage port, and
- (d) must comply with the port procedures published by the relevant harbour master or the responsible regulator.

118D Vessels for which special recreational vessel permits are not valid

For the Act, section 30(4)(c), the responsible regulator must refuse to grant a special recreational vessel permit to a person if the permit is for the following vessels—

- (a) a vessel that is nuclear powered,
- (b) a vessel carrying dangerous or hazardous goods in bulk,
- (c) a vessel that, in the responsible regulator's opinion, poses a threat to safety or port property.

[32] Clauses 134 and 134A

Insert after clause 133—

134 Direction to use or leave offshore anchorages

For the Act, section 137, a direction given by the Minister under the Act, section 19X may be given orally or in writing.

134A Seizure and disposal of unsafe vessels

- (1) For the Act, section 48(1)(b)(iii), if the Minister considers seizure and disposal reasonable in the circumstances, the vessel may be—
 - (a) destroyed, or
 - (b) sold, if the vessel is first repaired or otherwise made safe, or
 - (c) otherwise disposed of.
- (2) The proceeds of a sale must be used to meet the reasonable costs and expenses incurred by the Minister in—
 - (a) repairing or otherwise making the vessel safe, and
 - (b) selling the vessel.
- (3) The proceeds of a sale remaining after meeting the Minister's reasonable costs must, following a written application from the former owner, be paid to the former owner.
- (4) In this clause—
former owner means the person who owned the vessel immediately before the sale of the vessel by the Minister.
vessel includes a former vessel.

[33] Schedule 9 Penalty notice offences—offences under Marine Safety Act 1998

Omit the matter relating to section 12(6) under the heading **Offences under the *Marine Safety Act 1998***.

[34] Schedule 9

Omit the matter relating to “Section 13 (1) (a) where vessel concerned is a commercial vessel” under the heading **Offences under the *Marine Safety Act 1998***.

Insert instead—

- Section 13(1)(a) if— 5
- (a) the vessel concerned is a commercial vessel, and
 - (b) operation of the vessel does not occasion death or grievous bodily harm.

[35] Schedule 9

Omit the matter relating to “Section 13 (1) (a) where vessel concerned in a recreational vessel” under the heading **Offences under the *Marine Safety Act 1998***.

Insert instead—

- | | |
|--|---|
| Section 13(1)(a) if— | 3 |
| (a) the vessel concerned is a recreational vessel, and | |
| (b) operation of the vessel does not occasion death or grievous bodily harm. | |

[36] Schedule 9

Insert in appropriate order under the heading **Offences under the *Marine Safety Act 1998***—

- | | |
|-----------------------|---|
| Section 19Z(1) or (4) | 3 |
|-----------------------|---|

[37] Schedule 9

Omit “, 47 (1), (2) or (3)” under the heading **Offences under the *Marine Safety Act 1998***.

[38] Schedule 9

Omit the matter relating to section 47(4) under the heading **Offences under the *Marine Safety Act 1998***.

Insert instead—

- | | |
|---------------|---|
| Section 47(4) | 3 |
|---------------|---|

[39] Schedule 9

Omit the matter relating to section 51(1) or (2) under the heading **Offences under the *Marine Safety Act 1998***.

Insert in appropriate order—

- | | |
|----------------------|---|
| Section 49(2) or (4) | 3 |
| Section 51(1) | 3 |
| Section 54(1) | 2 |
| Section 55(1) | 2 |

[40] Schedule 9

Omit the matter relating to clause 23(1), (3) or (4) under the heading **Offences under this Regulation**.

Insert in appropriate order—

- | | |
|---------------------------|---|
| Clause 55H(1), (4) or (5) | 2 |
|---------------------------|---|

[41] Schedule 9

Omit “or 93 (1), (2) or (5) (a)” under the heading **Offences under this Regulation**.

[42] Schedule 9

Insert in appropriate order under the heading **Offences under this Regulation—**

Clause 93(4)(a)

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[43] Schedule 9

Omit “93 (5) (b)” under the heading **Offences under this Regulation**.

Insert instead “93(4)(b)”.

[44] Schedule 9

Omit the matter relating to clause 97(1) under the heading **Offences under this Regulation**.

[45] Schedule 11 Fees relating to State matters

Omit “74(1)(d), 81(2), 92(1)”.

Insert instead “55I, 74(1)(d), 81(2), 92(1), 93(1)”.

[46] Schedule 11, Part 1

Insert at the end of the part—

Application for special recreational vessel permit \$1,600

[47] Schedule 11, Part 3

Insert “certificate” after “Transfer of vessel registration”.

[48] Schedule 11, Part 3

Omit “Registration numbers”. Insert instead “Vessel registration numbers”.

[49] Schedule 11, Part 3

Omit “a special event or”. Insert instead “an”.

[50] Schedule 11, Part 3

Insert at the end of the part—

Application for approval to disturb or interfere with the bed of a relevant port \$265

Schedule 2 Amendment of Ports and Maritime Administration Regulation 2021

Section 110 Disturbance of bed of port—the Act, s 43E

Omit the section.