



New South Wales

# Ports and Maritime Administration Amendment Act 2024 No 67

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New South Wales

# Ports and Maritime Administration Amendment Act 2024 No 67

Act No 67, 2024

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An Act to amend the *Ports and Maritime Administration Act 1995*, the *Ports and Maritime Administration Regulation 2021* and the *Road Transport (Vehicle Registration) Regulation 2017* to implement various recommendations arising from an independent review of the Act; and to amend other Acts and instruments for related purposes. [Assented to 30 September 2024]

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

This Act is the *Ports and Maritime Administration Amendment Act 2024*.

**2 Commencement**

This Act commences as follows—

- (a) for Schedule 1—on a day or days to be appointed by proclamation,
- (b) otherwise—on the date of assent to this Act.

## **Schedule 1      Amendment of Ports and Maritime Administration Act 1995 No 13—amendments relating to provision of licensed services at pilotage ports**

### **[1]    Section 3 Definitions**

Insert in alphabetical order in section 3(1)—

- approved form*, for Part 4B—see section 44.
- bunkering service*, for Part 4B—see section 44.
- bunkering service licence*, for Part 4B—see section 44.
- environment protection licence*, for Part 4B—see section 44.
- information direction*, for Part 4B—see section 44.
- licence*, for Part 4B—see section 44.
- licensed service*, for Part 4B—see section 44.
- licensed service determination*, for Part 4B—see section 44.
- lines handling service*, for Part 4B—see section 44.
- lines handling service licence*, for Part 4B—see section 44.
- seagoing ship*, for Part 4B—see section 44.
- show cause notice*, for Part 4B, Division 5—see section 46L.
- show cause period*, for Part 4B, Division 5—see section 46L.
- towage service*, for Part 4B—see section 44.
- towage service licence*, for Part 4B—see section 44.
- towage vessel*, for Part 4B—see section 44.

### **[2]    Part 4B**

Insert after section 43G—

## **Part 4B Provision of licensed services at pilotage ports**

### **Division 1      Preliminary**

#### **44    Definitions**

In this part—

- approved form* means a form approved by the Port Authority of New South Wales under section 46ZE.
- bunkering service*—see section 46B.
- bunkering service licence*—see section 46E(1)(c).
- environment protection licence* has the same meaning as in the *Protection of the Environment Operations Act 1997*.
- information direction*—see section 46W(1).
- licence* means a licence granted or renewed under this part.
- licensed service* means any of the following services—
  - (a) a bunkering service,
  - (b) a lines handling service,
  - (c) a towage service.
- licensed service determination*—see section 46C(1).
- lines handling service*—see section 46A.

*lines handling service licence*—see section 46E(1)(b).

*seagoing ship* means a vessel that—

- (a) is used or intended to be used to carry cargo or passengers for hire or reward, and
- (b) normally operates on voyages between ports, and
- (c) meets any other criteria prescribed by the regulations.

*towage service*—see section 46.

*towage service licence*—see section 46E(1)(a).

*towage vessel* means a vessel designed, or intended to be used, to assist another vessel's navigation by holding, pushing, pulling, moving, escorting or guiding the other vessel.

#### **45 Application of part**

- (1) This part applies in relation to the provision of a licensed service at a pilotage port.
- (2) However, this part does not apply to the provision of a licensed service in relation to a defence vessel within the meaning of the National law.

#### **46 Meaning of “towage service”**

- (1) In this Act, a *towage service*—
  - (a) means the service of supplying one or more towage vessels to assist in the navigation of other vessels by using the towage vessels to hold, push, pull, move, escort or guide the other vessels into, within or out of port waters, and
  - (b) includes services that are ancillary to the service referred to in paragraph (a).

**Examples of ancillary services**— personnel, stores and water transfers at the port
- (2) However, a towage service does not include anything prescribed by the regulations as not being a towage service.

#### **46A Meaning of “lines handling service”**

- (1) In this Act, a *lines handling service* means the service of handling lines used to secure a vessel, other than the following kinds of vessels, to a commercial berth—
  - (a) a towage vessel,
  - (b) a vessel being used to provide a lines handling service for another vessel,
  - (c) another kind of vessel prescribed by the regulations.
- (2) However, a lines handling service does not include anything prescribed by the regulations as not being a lines handling service.
- (3) In this section—

**commercial berth** means a berth at a pilotage port that is used, or capable of being used, by seagoing ships.

#### **46B Meaning of “bunkering service”**

- (1) In this Act, a *bunkering service* means the service of transferring hydrocarbon fuels to a vessel, for use by the vessel, from—

- (a) another vessel, or
  - (b) a storage facility, container or other thing.
- (2) However, a bunkering service does not include the following—
- (a) an activity carried out under an environment protection licence,
  - (b) anything prescribed by the regulations as not being a bunkering service.

## **Division 2 Licensed service determinations**

### **46C Licensed service determinations**

- (1) The Port Authority of New South Wales may, by written order, make a determination (a *licensed service determination*) that sets out the requirements and standards that apply to the provision of a licensed service in a pilotage port.
- (2) The Port Authority of New South Wales must publish each licensed service determination on a publicly available website.
- (3) Without limiting subsection (1), a licensed service determination may—
- (a) have effect for a stated period of time (the *determination period*), and
  - (b) be of general or limited application, and
  - (c) apply differently—
    - (i) at different times or places, or
    - (ii) in different circumstances, and
  - (d) exempt a person or class of persons, or a thing or class of things, from one or more of the requirements and standards set out in the determination—
    - (i) with or without conditions, and
    - (ii) wholly or to a specified extent.
- (4) A licensed service determination—
- (a) takes effect on—
    - (i) the date it is published under subsection (2), or
    - (ii) a later date specified in the determination, and
  - (b) remains in effect—
    - (i) if the determination states a determination period—until the end of the determination period, unless earlier revoked, or
    - (ii) otherwise—until revoked.
- (5) The regulations may make further provision about matters relating to licensed service determinations, including the following—
- (a) the form and content of licensed service determinations,
  - (b) processes the Port Authority of New South Wales must comply with before making a licensed service determination,
  - (c) matters about which licensed service determinations must not be made.

## **Division 3 Licences to provide licensed services**

### **46D Licence required to provide licensed services at pilotage ports**

- (1) A person must not provide a licensed service at a pilotage port unless the person holds a licence that—

- (a) is in effect, and
  - (b) authorises the person to provide the licensed service at the pilotage port.  
Maximum penalty—200 penalty units.
- (2) A licence holder must provide the licensed service authorised by the licence in accordance with—
- (a) this Act and the regulations, and
  - (b) any relevant licensed service determinations, and
  - (c) any conditions of the licence.
- Maximum penalty—200 penalty units.

#### **46E Types of licences**

- (1) The Port Authority of New South Wales may grant the following types of licences—
- (a) a ***towage service licence*** authorising the licence holder to provide towage services to the following kinds of vessels at a pilotage port specified in the licence—
    - (i) vessels for which pilotage in the port is compulsory under the *Marine Safety Act 1998*, Part 6,
    - (ii) another kind of vessel prescribed by the regulations,
  - (b) a ***lines handling service licence*** authorising the licence holder to provide lines handling services at a pilotage port specified in the licence,
  - (c) a ***bunkering service licence*** authorising the licence holder to provide bunkering services to the following kinds of vessels at a pilotage port specified in the licence—
    - (i) seagoing ships, or
    - (ii) another kind of vessel prescribed by the regulations.
- (2) The regulations may provide for the following—
- (a) classes of licences,
  - (b) the kinds of licensed services authorised under different classes of licences.

#### **46F Applications for licences**

- (1) A person (the ***applicant***) may apply to the Port Authority of New South Wales for—
- (a) a towage service licence, or
  - (b) a lines handling service licence, or
  - (c) a bunkering service licence.
- (2) The application must—
- (a) be in the approved form, and
  - (b) be accompanied by the fee, if any, prescribed for the application, and
  - (c) include details of the licensed service the applicant proposes to provide under the licence, and
  - (d) state the pilotage port at which the applicant proposes to provide the licensed service, and

- (e) include any other information required by the Port Authority of New South Wales, and
  - (f) otherwise be made in accordance with the regulations.
- (3) The Port Authority of New South Wales may, at any time before deciding the application, require the applicant to give the Port Authority of New South Wales further information in relation to the application.

#### **46G Deciding applications for licences**

- (1) The Port Authority of New South Wales must decide the application for the licence by—
- (a) granting the licence, or
  - (b) refusing to grant the licence.
- (2) In deciding the application, the Port Authority of New South Wales must consider the following—
- (a) whether the proposed licensed service described in the application meets, or is capable of meeting, the requirements and standards set out in a relevant licensed service determination,
  - (b) the applicant's history of compliance with—
    - (i) the marine legislation, and
    - (ii) a law of the Commonwealth or another State or Territory that the Port Authority of New South Wales reasonably considers to be similar to a law mentioned in subparagraph (i),
    - (iii) the conditions of other licences currently or previously held by the applicant,
    - (iv) the requirements and standards set out in relevant licensed service determinations,
  - (c) whether the applicant is a fit and proper person to hold the licence,
  - (d) any other matters prescribed by the regulations,
  - (e) any other matters the Port Authority of New South Wales considers relevant to deciding the application.
- (3) Despite subsection (1), the Port Authority of New South Wales may refuse to decide the application if the applicant does not comply with a requirement to give information under section 46F(3).
- (4) The regulations may prescribe—
- (a) mandatory grounds on which the Port Authority of New South Wales must refuse to grant the licence, and
  - (b) discretionary grounds on which the Port Authority of New South Wales may refuse to grant the licence.
- (5) As soon as practicable after deciding the application, the Port Authority of New South Wales must—
- (a) give the applicant written notice of the decision, and
  - (b) if the decision is to grant the licence—issue the applicant with a licence.

#### **46H Licence conditions**

- (1) The Port Authority of New South Wales may grant a licence with or without conditions.
- (2) The regulations may impose standard conditions on licences.



- (3) Without limiting subsections (1) and (2), the Port Authority of New South Wales or the regulations may impose a condition that—
- (a) requires a licence holder, or a class of licence holders, to provide a licensed service, or a class of licensed service, under the licence in a particular way or in accordance with a particular standard, either generally or in specified circumstances, or
  - (b) authorises a licence holder, or a class of licence holders, to provide a licensed service, or a class of licensed service, under the licence in a way that departs, in a specified way, from a requirement or standard set out in a relevant licensed service determination, including—
    - (i) at particular times or for a particular period, or
    - (ii) in particular circumstances, or
  - (c) applies in relation to the provision of a licensed service differently in different circumstances, including one or more of the following—
    - (i) in relation to different kinds of vessels,
    - (ii) at particular pilotage ports or parts of pilotage ports,
    - (iii) at particular times or for particular periods.

**46I Imposing, varying or revoking licence conditions**

- (1) The Port Authority of New South Wales may, at any time by written notice to a licence holder—
- (a) impose a condition on the licence, or
  - (b) vary a condition imposed on the licence by the Port Authority of New South Wales, or
  - (c) revoke a condition imposed on the licence by the Port Authority of New South Wales.
- (2) Before taking action under subsection (1), the Port Authority of New South Wales must give the licence holder written notice (a ***proposed action notice***) setting out—
- (a) details of the action (the ***proposed action***) the Port Authority of New South Wales is proposing to take, and
  - (b) the reasons for the proposed action.
- (3) The proposed action notice must include a statement that the licence holder may make written submissions to the Port Authority of New South Wales in relation to the proposed action within a period, being not less than 14 days after the date the proposed action notice is given to the licence holder, stated in the notice (the ***submission period***).
- (4) After considering any submissions made by the licence holder within the submission period, the Port Authority of New South Wales must decide whether to take—
- (a) the proposed action, or
  - (b) other action under subsection (1) that the Port Authority of New South Wales considers appropriate, or
  - (c) no action.
- (5) If the Port Authority of New South Wales decides to impose, vary or revoke a licence condition, the Port Authority of New South Wales must give the licence holder written notice (an ***action notice***) setting out the following—
- (a) if a condition is imposed on the licence—the condition imposed,

- (b) if a condition of the licence is varied—the condition as varied,
  - (c) if a condition of the licence is revoked—the condition revoked.
- (6) The imposition, variation or revocation of a condition under this section takes effect on—
- (a) the day on which the action notice is given to the licence holder, or
  - (b) if a later day is specified in the notice—the later day.
- (7) This section does not apply in relation to the imposition of a condition by the Port Authority of New South Wales under section 46Q(1)(a)(ii) or (b)(iii).

#### **46J Duration of licences**

- (1) A licence—
- (a) takes effect on the day stated in the licence, and
  - (b) remains in effect for the period for which the licence has been granted, unless sooner revoked or surrendered.
- (2) A licence is not in effect during a period for which the licence is suspended.
- (3) The regulations may provide for the periods for which licences may be granted, including the following—
- (a) the maximum period for which licences may be granted,
  - (b) the minimum period for which licences may be granted,
  - (c) fixed periods for which licences may be granted.

### **Division 4 Surrender of licences**

#### **46K Licence holder may surrender licence**

- (1) A licence holder may, by written notice to the Port Authority of New South Wales in accordance with the regulations, surrender the licence to the Port Authority of New South Wales.
- (2) The surrender of the licence takes effect on—
- (a) the day the licence holder gives the Port Authority of New South Wales notice under subsection (1), or
  - (b) if a later day is specified in the notice—the later day.

### **Division 5 Suspension and revocation of licences**

#### **46L Definitions**

In this division—

*show cause notice*—see section 46O(1).

*show cause period*—see section 46O(2).

#### **46M Port Authority of New South Wales may suspend or revoke licences**

- (1) The Port Authority of New South Wales may, in accordance with this division—
- (a) suspend a licence held by a licence holder, or
  - (b) revoke a licence held by a licence holder.
- (2) A licence may be suspended—
- (a) for a stated period, or

- (b) from a stated date until—
  - (i) particular conditions are met, or
  - (ii) particular circumstances exist.

#### **46N Grounds for suspending or revoking licences**

The Port Authority of New South Wales may suspend or revoke a licence on one or more of the following grounds—

- (a) the licence holder has committed an offence against one or more of the following—
  - (i) the marine legislation,
  - (ii) the *Crimes Act 1900*, section 52B,
  - (iii) a law, or a provision of a law, of the Commonwealth or another State or Territory that the Port Authority of New South Wales reasonably considers to be similar to a law or provision mentioned in subparagraph (i) or (ii),
- (b) any information given by the licence holder for the purposes of the marine legislation is false or misleading in a material way,
- (c) the licence holder has failed to comply with a condition of the licence,
- (d) the licensed service provided under the licence does not meet the requirements and standards set out in a relevant licensed service determination,
- (e) the licence holder has contravened a direction given by the harbour master of a port under the *Marine Safety Act 1998*, Part 7,
- (f) an act or omission of the licence holder poses a risk, whether or not the risk is ongoing, to one or more of the following—
  - (i) the safety of navigation in a pilotage port,
  - (ii) the safe operation of the port,
  - (iii) the safety of a person at the port,
  - (iv) the environment,
- (g) the Port Authority of New South Wales otherwise considers it in the public interest to revoke or suspend the licence,
- (h) the licence holder asks the Port Authority of New South Wales to suspend or revoke the licence,
- (i) another ground prescribed by the regulations.

#### **46O Show cause notice for proposed suspensions or revocations**

- (1) If the Port Authority of New South Wales proposes to suspend or revoke a licence, the Port Authority of New South Wales must, before deciding whether to suspend or revoke the licence, give the licence holder written notice (a ***show cause notice***) setting out the following—
  - (a) the details of the proposed suspension or revocation,
  - (b) the grounds for the proposed suspension or revocation,
  - (c) an outline of the facts and circumstances forming the basis for the grounds for the proposed suspension or revocation,
  - (d) any other information prescribed by the regulations.
- (2) The show cause notice must include a statement that the licence holder may make written submissions to the Port Authority of New South Wales in relation to the proposed suspension or revocation within a period, being not

less than 14 days after the date the show cause notice is given to the licence holder, stated in the notice (the *show cause period*).

**46P Immediate suspensions**

- (1) If the Port Authority of New South Wales considers that the ground on which it proposes to suspend or revoke a licence involves a wilful, deliberate or grossly negligent act or omission by the licence holder, the Port Authority of New South Wales may immediately suspend the licence under this section before complying with section 46O in relation to the proposed suspension or revocation of the licence.
- (2) If the Port Authority of New South Wales immediately suspends a licence under this section, the Port Authority of New South Wales must—
  - (a) immediately notify the licence holder of the immediate suspension, and
  - (b) as soon as practicable but no more than 14 days after imposing the immediate suspension, give the licence holder a show cause notice under section 46O in relation to the proposed suspension or revocation of the licence.
- (3) For subsection (2)(b), the show cause notice must, in addition to the matters under section 46O, include the following—
  - (a) a statement that the Port Authority of New South Wales has imposed an immediate suspension of the licence,
  - (b) the date from which the immediate suspension took effect.
- (4) The Port Authority of New South Wales may, at any time, including before deciding whether to suspend, revoke or take other action in relation to the licence under section 46Q, end the immediate suspension of the licence under this section by written notice to the licence holder.
- (5) The immediate suspension of the licence under this section continues in effect until the earlier of the following—
  - (a) the day on which the Port Authority of New South Wales makes a decision about the proposed suspension or revocation of the licence under section 46Q,
  - (b) the day the Port Authority of New South Wales gives written notice to the licence holder under subsection (4).

**46Q Decision to suspend or revoke licences**

- (1) If, after considering any submissions made by the licence holder within the show cause period, the Port Authority of New South Wales is satisfied a ground for suspending or revoking the licence has been established, the Port Authority of New South Wales may decide to—
  - (a) for a proposed suspension of the licence—do one or both of the following—
    - (i) suspend the licence, including for a stated period or from a stated date until particular conditions are met or particular circumstances exist,
    - (ii) impose conditions on the licence, or
  - (b) for a proposed revocation of the licence—do one or more of the following—
    - (i) revoke the licence,

- (ii) suspend the licence, including for a stated period or from a stated date until particular conditions are met or particular circumstances exist,
  - (iii) impose conditions on the licence, or
  - (c) take no further action.
- (2) If the Port Authority of New South Wales decides to take action under subsection (1)(a) or (b), the Port Authority of New South Wales must give the licence holder written notice stating the following—
  - (a) for a suspension of the licence—
    - (i) the date on and from which the licence is suspended, and
    - (ii) the date on which the suspension ends or the conditions on or circumstances in which the suspension will end, and
    - (iii) the reasons for the suspension,
  - (b) for a revocation of the licence—
    - (i) the date on which the revocation takes effect, and
    - (ii) the reasons for the revocation,
  - (c) for an imposition of conditions on the licence—
    - (i) the details of the conditions, and
    - (ii) the date on which the conditions take effect, and
    - (iii) the reasons for the conditions.

## **Division 6      Renewal of licences**

### **46R    Applications to renew licences**

- (1) A licence holder, before the expiry of the licence, may apply to the Port Authority of New South Wales to renew a licence.
- (2) The application must—
  - (a) be in the approved form, and
  - (b) be accompanied by the fee, if any, prescribed for the application, and
  - (c) include details of the licence sought to be renewed, and
  - (d) include any other information required by the Port Authority of New South Wales, and
  - (e) otherwise be made in accordance with the regulations.
- (3) The Port Authority of New South Wales may, at any time before deciding the application, require the applicant to give the Port Authority of New South Wales further information in relation to the application.

### **46S    Deciding applications to renew licences**

- (1) The Port Authority of New South Wales must decide an application to renew a licence by—
  - (a) renewing the licence, or
  - (b) refusing to renew the licence.
- (2) In deciding whether to renew a licence, the Port Authority of New South Wales must consider the following—

- (a) whether the licensed service provided under the licence continues to meet the requirements and standards set out in a relevant licensed service determination,
  - (b) the applicant's history of compliance with the following—
    - (i) the conditions of the licence or of other licences currently or previously held by the applicant,
    - (ii) the requirements and standards set out in relevant licensed service determinations,
    - (iii) the marine legislation,
    - (iv) a law of the Commonwealth or another State or Territory that the Port Authority of New South Wales reasonably considers to be similar to the marine legislation,
  - (c) whether the applicant is a fit and proper person to continue to hold the licence,
  - (d) any other matters prescribed by the regulations,
  - (e) any other matters the Port Authority of New South Wales considers relevant.
- (3) Despite subsection (1), the Port Authority of New South Wales may refuse to decide the application if the applicant does not comply with a requirement to give information under section 46R(3).
- (4) The regulations may prescribe—
- (a) mandatory grounds on which the Port Authority of New South Wales must refuse to renew licences, and
  - (b) discretionary grounds on which the Port Authority of New South Wales may refuse to renew licences.
- (5) As soon as practicable after deciding the application, the Port Authority of New South Wales must—
- (a) give the applicant written notice of the decision, and
  - (b) if the decision is to renew the licence—give the applicant the renewed licence setting out any conditions imposed on the licence.

## **Division 7 Register of licences**

### **46T Register of licences**

- (1) The Port Authority of New South Wales must keep a register of licences granted or renewed under this part.
- (2) The regulations may make provision about—
  - (a) the information on the register that may be made publicly available, and
  - (b) the circumstances in which information on the register must be made available to particular persons.

## **Division 8 Miscellaneous**

### **46U Offence of falsely claiming to be licensed**

A person must not falsely claim to be the holder of a licence.  
Maximum penalty—50 penalty units.

**46V Offence of making false statements**

A person must not, for the purposes of obtaining or renewing a licence, give information or produce a document the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

**46W Power to require information**

(1) The Port Authority of New South Wales may, by written direction (an *information direction*) given to any of the following persons, require the person to give the Port Authority of New South Wales information the Port Authority of New South Wales reasonably requires for an allowable purpose—

- (a) a licence holder,
- (b) the master of a ship,
- (c) a shipping agent,
- (d) an operator of stevedoring or other facilities at a pilotage port or adjacent port facilities.

(2) The Port Authority of New South Wales may use and disclose information given to the Port Authority of New South Wales under an information direction for any allowable purpose.

(3) In this section—

*allowable purpose* means one or more of the following purposes—

- (a) the purposes of monitoring compliance with this part,
- (b) another purpose prescribed by the regulations relating to licences or the provision of licensed services at a pilotage port.

**46X Persons must comply with information direction**

(1) A person must not, without reasonable excuse, fail to comply with an information direction given to the person.

Maximum penalty—100 penalty units.

(2) A person must not, in purported compliance with an information direction given to the person, give information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

(3) For subsection (1)—

- (a) compliance with the information direction is required even if compliance would breach a duty of confidentiality, and
- (b) a duty of confidentiality is not a reasonable excuse for failing to comply with the information direction.

(4) The giving of information that would otherwise constitute a breach of a duty of confidentiality does not constitute a breach of confidentiality if the information is given in compliance with an information direction.

**46Y Power to enter land or premises**

The Port Authority of New South Wales may, at any time, enter land or premises at a pilotage port or adjacent to port facilities at a pilotage port for the purposes of—

- (a) ascertaining whether a person is complying with, or has contravened, this part, or
- (b) doing a thing the Port Authority of New South Wales is authorised to do to enforce compliance with this part.

**46Z Functions exercisable by authorised officers**

The functions of the Port Authority of New South Wales under this division may be exercised for the Port Authority of New South Wales by an authorised officer who is—

- (a) an officer, employee or agent of the Port Authority of New South Wales, or
- (b) a police officer.

**46ZA Obstruction of authorised officers**

A person must not obstruct or otherwise interfere with an authorised officer in the exercise of a function under this division.

Maximum penalty—50 penalty units.

**46ZB Administrative reviews by NCAT**

- (1) The regulations may provide that a person may apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of a decision made under this part.
- (2) The Minister must not recommend the making of a regulation under subsection (1) unless the Minister certifies that the Minister administering the *Civil and Administrative Tribunal Act 2013* has agreed to the provisions.

**46ZC Monitoring of licensing scheme**

- (1) The Port Authority of New South Wales must, within 3 months after 30 June in each year, give the Minister details of the following matters (*reportable matters*) for the reporting period for the year—
  - (a) the number and types of licences granted or renewed and the persons to whom the licences were granted,
  - (b) the number and types of licences refused and the persons who were refused the licences,
  - (c) actions taken by the Port Authority of New South Wales in relation to licences under section 46I,
  - (d) actions taken by the Port Authority of New South Wales in relation to licences under section 46M,
  - (e) the number of licences surrendered to the Port Authority of New South Wales,
  - (f) actions taken by the Port Authority of New South Wales to enforce a licence holder's compliance with the licence or this part.
- (2) The Minister may, at any time by written notice, direct the Port Authority of New South Wales to give the Minister details of reportable matters.
- (3) A notice under subsection (2)—
  - (a) must state a day, not earlier than 21 days after the day on which the Port Authority of New South Wales is given the notice, by which the Port Authority of New South Wales must give the information to the Minister, and



- (b) may require the information to be given in a particular way.
- (4) The Minister may publish reports or statements about reportable matters, based on information given to the Minister under this section, subject to the following—
  - (a) the reports or statements must not include information that identifies a person, or is likely to lead to the identification of a person, as—
    - (i) a person who has been refused a licence, or
    - (ii) a person in relation to whom the Port Authority of New South Wales has taken an action referred to in subsection (1)(c), (d) or (f), or
    - (iii) a person who has surrendered a licence to the Port Authority of New South Wales,
  - (b) the Minister must give the Port Authority of New South Wales a copy of the proposed report or statement at least 14 days before the report is proposed to be published.
- (5) No liability, including liability in defamation, is incurred for publishing in good faith a report or statement under this section or a fair report or summary of the report or statement.
- (6) In this section—  
*reporting period*, for a year, means the 12-month period ending on 30 June in the year.

**46ZD Regulations about provision of licensed services and licences**

- (1) The regulations may make further provision about the provision of licensed services at pilotage ports under licences.
- (2) Without limiting subsection (1), the regulations may provide for the following—
  - (a) eligibility requirements for licences,
  - (b) the standard terms and form of licences,
  - (c) the imposition, variation and revocation of standard licence conditions,
  - (d) the renewal of licences,
  - (e) the suspension and revocation of licences,
  - (f) the payment of fees, including the waiver, discounting or refunding of fees, in relation to applications relating to licences,
  - (g) the keeping, publication, inspection and sharing of documents or information relating to licences,
  - (h) requirements for licence holders, employees or contractors of licence holders and persons engaged by licence holders for the purposes of providing a licensed service to undergo courses of training or otherwise demonstrate relevant knowledge, experience or skill relevant to the provision of licensed services,
  - (i) the handling of complaints relating to—
    - (i) the provision of licensed services at pilotage ports, or
    - (ii) licence holders,
  - (j) the monitoring and enforcement of compliance with licences, licensed service determinations and other requirements relating to the provision of licensed services,

- (k) the review of decisions under this part,
  - (l) any other matters relating to licences or the provision of licensed services.
- (3) The regulations may exempt a person or class of persons, an area or class of area or a licence or class of licence from a provision of this part.

**46ZE Approval of forms**

- (1) The Port Authority of New South Wales may approve forms for use under this part.
- (2) A form approved under subsection (1) must be published on the Port Authority of New South Wales's website.

**46ZF Regulations promoting competition and productivity at ports under this part**

Section 111 does not apply in relation to a regulation made under this part.

**[3] Schedule 5 Savings, transitional and other provisions**

Insert after clause 25—

**26 Effect of existing towage contracts**

- (1) This clause applies to the holder of an existing towage contract if—
  - (a) before the commencement of this clause, the holder had applied, under section 46F, to the Port Authority of New South Wales for a towage service licence in relation to the pilotage port at which the holder provides towage services under the existing towage contract, and
  - (b) immediately before the commencement of this clause, the application had not been decided.
- (2) Despite Part 4B, the holder may continue to provide towage services at the pilotage port under the existing towage contract until the earlier of the following days (the *application decision day*)—
  - (a) if the Port Authority of New South Wales refuses to decide the application under section 46G(3)—the day on which the Port Authority of New South Wales gives the holder written notice of that fact,
  - (b) if the holder withdraws the application—the day on which the holder gives the Port Authority of New South Wales written notice of that fact,
  - (c) the day on which the Port Authority of New South Wales gives the holder written notice of the Port Authority of New South Wales's decision on the application under section 46G(5).
- (3) On and from the application decision day—
  - (a) the existing towage contract is void, and
  - (b) the parties to the existing towage contract have no liability, and may not make a claim or take action, under the contract in relation to a matter arising, or an act done or omission made, on or after the application decision day.
- (4) In this clause—  
*existing towage contract* means a contract, entered into between the Port Authority of New South Wales and a person, authorising the person to provide towage services at a pilotage port that is in force immediately before the commencement of this clause.

## Schedule 2 Amendment of Ports and Maritime Administration Act 1995 No 13—general amendments

### [1] Section 2A

Insert after section 2—

#### 2A Objectives of Act

- (1) The objectives of this Act are as follows—
  - (a) to establish a statutory State owned corporation and provide a framework for the responsible and effective operation of port facilities in the State by the corporation,
  - (b) to provide a framework for the responsible and effective operation of port facilities in the State by private port operators,
  - (c) to promote competition and productivity in—
    - (i) the operation of ports in the State, and
    - (ii) the port-related supply chain,
  - (d) to ensure the responsible and effective management of wharves, moorings and port facilities generally,
  - (e) to ensure the safety, and the responsible and effective management, of waterways and waterways infrastructure,
  - (f) to promote responsible approaches to the protection of the environment in connection with the operation and management of port facilities, wharves, moorings, maritime infrastructure and property, waterways and waterways infrastructure.
- (2) The objectives are also to be achieved by regulating the operation of ports in the State, waterways, waterways infrastructure and the port-related supply chain, including by establishing regulatory frameworks for—
  - (a) port charges and a price monitoring scheme, and
  - (b) safety and security at ports, including at private ports, and
  - (c) managing wharves, moorings, and port facilities and infrastructure, and
  - (d) managing maritime property and infrastructure, and
  - (e) managing waterways and waterways infrastructure.

### [2] Section 3 Definitions

Omit “a Port” from section 3(1), definition of *operating licence*. Insert instead “the Port”.

### [3] Section 3(1)

Omit the definitions of *pilotage* and *pilotage port*.

### [4] Section 3(1)

Insert in alphabetical order—

*pilotage* has the same meaning as in the *Marine Safety Act 1998*, Part 6.

*pilotage port* has the same meaning as in the *Marine Safety Act 1998*, Part 6.

*port operator direction*—see section 37(1).

*safety direction*—see section 43E(2).

**[5] Section 3(1), definition of “subsidiary”**

Omit “a Port”. Insert instead “the Port”.

**[6] Section 5 Dissolution of MSB and its subsidiaries**

Omit the section.

**[7] Part 2, heading**

Omit the heading. Insert instead—

## **Part 2 Newcastle Port Corporation**

**[8] Part 2, Division 1, heading**

Omit “Corporations as statutory State owned corporations”.

Insert instead “Corporation as statutory State owned corporation”.

**[9] Part 2, Division 2, heading**

Omit “Corporations”. Insert instead “Corporation”.

**[10] Section 9, heading**

Omit “Corporations”. Insert instead “Corporation”.

**[11] Section 9**

Omit “each Port Corporation”. Insert instead “the Port Corporation”.

**[12] Section 10, heading**

Omit “Corporations”. Insert instead “Corporation”.

**[13] Section 10(1) and (3)**

Omit “A Port Corporation” wherever occurring.

Insert instead “The Port Corporation”.

**[14] Section 10(2)**

Omit “each Port Corporation”. Insert instead “the Port Corporation”.

**[15] Section 10(4)**

Omit “a Port Corporation”. Insert instead “the Port Corporation”.

**[16] Section 10AA**

Insert after section 10—

**10AA Minister may approve additional Port Corporation activities**

- (1) The Port Corporation may, with the written approval of the Minister, provide facilities or services or conduct businesses, other than those provided or conducted under section 10, that are complementary to the Port Corporation’s—
  - (a) principal objectives, or
  - (b) principal functions.

- (2) The Minister may approve the provision of the facility or service, or the conduct of the business, by the Port Corporation only if the Minister is satisfied the provision of the facility or service, or the conduct of the business, by the Port Corporation is complementary to, and will not detract from, the Port Corporation's principal objectives or principal functions.
- (3) The Minister may give an approval subject to conditions the Minister considers appropriate.
- (4) The Minister may, at any time by written notice given to the Port Corporation, do any of the following—
  - (a) impose conditions on an approval,
  - (b) vary or remove a condition of an approval,
  - (c) revoke an approval.
- (5) To avoid doubt, an approval under this section is required in addition to any other approval, licence, permit or other authority the Port Corporation must obtain or hold, whether under this Act or another Act or law, to provide the facility or service or conduct the business.

**[17] Section 10A Ministerial directions to Port Corporation—competition and productivity**

Omit section 10A(1). Insert instead—

- (1) The Minister may, by written notice, give the Port Corporation directions in relation to the following—
  - (a) the exercise of the Port Corporation's functions in connection with the Port Corporation's principal objectives under section 9(d) and (e),
  - (b) the provision of a facility or service, or the conduct of a business, by the Port Corporation under an approval given by the Minister under section 10AA.

**[18] Section 10A(2), (4), (6) and (8)**

Omit "a Port Corporation" wherever occurring.

Insert instead "the Port Corporation".

**[19] Section 10A(3)**

Omit "A Port Corporation". Insert instead "The Port Corporation".

**[20] Section 10B Regulations to promote competition and productivity at ports**

Renumber as section 111 and relocate to after section 110.

**[21] Part 2, Division 3, heading**

Omit "Corporations". Insert instead "Corporation".

**[22] Section 12 Exercise of port safety functions under operating licence**

Omit "a Port Corporation" wherever occurring.

Insert instead "the Port Corporation".

**[23] Section 16 Transfer of MSB port assets, rights and liabilities**

Omit the section.

**[24] Section 17 Port safety assets, rights and liabilities**

Omit “a Port Corporation” from section 17(1). Insert instead “the Port Corporation”.

**[25] Section 19 Restriction on sale or disposal of transferred land**

Omit “a Port Corporation includes any land that is”.

Insert instead “the Port Corporation includes land”.

**[26] Section 20 Foundation charter of Port Corporation for purposes of SOC Act**

Omit “a Port Corporation”. Insert instead “the Port Corporation”.

**[27] Section 21 Consultation with Minister on appointment of directors of Port Corporation and on statement of corporate intent**

Omit “a Port Corporation” wherever occurring.

Insert instead “the Port Corporation”.

**[28] Section 21A, heading**

Omit “Corporations”. Insert instead “Corporation”.

**[29] Section 21A(1)**

Omit the subsection. Insert instead—

- (1) All penalties for offences against the marine legislation recovered in prosecutions brought by, or under penalty notices issued by, the Port Corporation or members of staff of the Port Corporation are payable to the Port Corporation.

**[30] Section 21A(2)**

Omit “a Port Corporation”. Insert instead “the Port Corporation”.

**[31] Sections 24 and 25**

Omit the sections. Insert instead—

**24 Minister’s marine safety and amenity functions generally**

- (1) The Minister has general responsibility for marine safety and amenity, including—
  - (a) the safe operation of recreational and commercial vessels, and
  - (b) the safety of navigation in ports and other navigable waters, and
  - (c) the protection of the environment in connection with the use of vessels in State waters, and
  - (d) the maintenance and improvement of the amenity of navigable waters.
- (2) In this section—

*State waters* has the same meaning as in the *Marine Pollution Act 2012*.

**25 Minister’s particular marine safety and amenity functions**

- (1) Without limiting the functions of the Minister under section 24, the Minister has the following particular marine safety and amenity functions—
  - (a) to provide and maintain marine safety infrastructure and services,
  - (b) to provide and maintain other infrastructure and services—
    - (i) for use by vessels and maritime-related industries, or

- (ii) that otherwise contribute to the amenity of navigable waters,
  - (c) to investigate marine accidents and incidents,
  - (d) to provide and maintain emergency environment protection services for dealing with pollution incidents in State waters.
- (2) The following are examples of the infrastructure and services that may be provided under this section—
- (a) the installation and maintenance of navigation aids,
  - (b) vessel traffic control within ports,
  - (c) pilotage services within ports,
  - (d) the dredging and maintenance of navigation channels,
  - (e) the removal of debris from Sydney Harbour and other waterways,
  - (f) the maintenance of waterways infrastructure, including river entrance management infrastructure, river training walls and vessel maintenance facilities,
  - (g) hydrographic services,
  - (h) moorings for vessels,
  - (i) wharves, piers, jetties and boat ramps,
  - (j) waste pump-out facilities for vessels,
  - (k) firefighting and rescue services relating to vessels and navigable waters.
- (3) The exercise of a function under this section is subject to applicable provisions of the marine legislation and other legislation.
- (4) In this section—  
*State waters* has the same meaning as in the *Marine Pollution Act 2012*.

**[32] Section 26, heading**

Omit “Corporations”. Insert instead “Corporation”.

**[33] Section 26(1), (4) and (5)**

Omit “a Port Corporation” wherever occurring.

Insert instead “the Port Corporation”.

**[34] Section 26A Minister may enter into contract for provision of pilotage services not provided by Port Corporation**

Omit “a Port Corporation” from section 26A(2). Insert instead “the Port Corporation”.

**[35] Section 27 Delegation of functions by Minister**

Omit “a Port Corporation” wherever occurring in section 27(3), definition of *authorised person*, paragraph (b).

Insert instead “the Port Corporation”.

**[36] Section 33, heading**

Omit “TfNSW”. Insert instead “Minister”.

**[37] Section 33(2) and (3)**

Omit “a Port Corporation” wherever occurring.

Insert instead “the Port Corporation”.

**[38] Section 34 Maritime Advisory Council**

Omit section 34(2). Insert instead—

- (2) The members of the Maritime Advisory Council are to be appointed by the Minister in accordance with the regulations, and must include—
  - (a) a union representative for port workers, and
  - (b) a union representative for crew of vessels operating in NSW ports.

**[39] Section 34 Maritime Advisory Council**

Omit section 34(4)(b). Insert instead—

- (b) to advise, and make recommendations to, the Minister on the following—
  - (i) maritime safety,
  - (ii) expenditure priorities for the exercise of TfNSW’s functions in connection with maritime infrastructure, maritime property and maritime research.

**[40] Section 37 Directions to maintain or improve safety and security**

Omit “(referred to in this Division as” from section 37(1).

Insert instead “under this section (“

**[41] Section 38 How port operator directions are given**

Omit “2 weeks advance notice” from section 38(3).

Insert instead “1 week’s advance notice”.

**[42] Section 38(3)(b)**

Omit the paragraph. Insert instead—

- (b) if the direction relates to dangerous goods to which the *Ports and Maritime Administration Regulation 2021*, Part 7 applies—to the Minister.

**[43] Section 38(4)**

Omit the subsection. Insert instead—

- (4) Advance notice of a proposed port operator direction under subsection (3) must be given by—
  - (a) delivering the notice to the office of the harbour master or the Minister, or
  - (b) sending the notice by post to the office of the harbour master or the Minister, or
  - (c) sending the notice by email to an email address specified by the harbour master or the Minister for the service of notices of that kind.

**[44] Section 39 Enforcement of port operator directions**

Omit section 39(1). Insert instead—

- (1) A person must comply with a port operator direction, except to the extent that compliance would result in the contravention of a requirement imposed by or under an Act.  
Maximum penalty—30 penalty units.



**[45] Section 42 Waterways Fund**

Omit “a Port Corporation” from section 42(2)(b). Insert instead “the Port Corporation”.

**[46] Section 43E Directions to maintain or improve safety and security**

Omit “referred to in this Part as” from section 43E(2).

**[47] Section 47 Definitions generally**

Omit section 47(1), definition of *appropriate public agency*. Insert instead—

*appropriate public agency*, for a port, means—

- (a) if the Minister has designated the Port Corporation as the appropriate public agency for the port under section 48A—the Port Corporation, or
- (b) otherwise—the Minister.

**[48] Section 47(1), definition of “relevant port authority”, paragraphs (a) and (e)**

Omit “a Port Corporation—that Port Corporation” wherever occurring.

Insert instead “the Port Corporation—the Port Corporation”.

**[49] Section 48A**

Insert after section 48—

**48A Minister may designate Port Corporation as appropriate public agency for ports**

The Minister may, by written order given to the Port Corporation, designate the Port Corporation as the appropriate public agency for a port for this part.

**[50] Section 51 Fixing of navigation service charges**

Omit “a Port Corporation” from section 51(2). Insert instead “the Port Corporation”.

**[51] Section 54 Fixing of pilotage charges**

Omit “a Port Corporation” from section 54(2). Insert instead “the Port Corporation”.

**[52] Section 56 Port cargo access charge**

Omit “a Port Corporation” from section 56(2). Insert instead “the Port Corporation”.

**[53] Section 58 Application of Division**

Omit “a Port Corporation”. Insert instead “the Port Corporation”.

**[54] Section 59 Meaning of “site”**

Omit section 59(1)–(3). Insert instead—

- (1) In this division, a *site* is—
  - (a) for a site at a port other than a private port—an area defined on a map and designated under this division by the Minister, or
  - (b) for a site at a private port—an area defined on a map and designated under this division by the relevant port authority.
- (2) The Minister or the relevant port authority may designate an area as a site only if—
  - (a) the area is owned or operated by, or leased to, a relevant port authority, and

- (b) the area consists of—
  - (i) an area of water surrounding or adjacent to a wharf, buoy or dolphin, and
  - (ii) for a wharf or dolphin—the whole or part of the area of the wharf or dolphin.
- (3) A site includes a stratum of the air space above, or of the land or water below, the area designated as the site.

**[55] Section 59(5) and (6)**

Omit section 59(5)–(7). Insert instead—

- (5) The relevant port authority must keep and make publicly available, free of charge, an electronic copy of a map defining each site the relevant port authority owns, operates or leases.
- (6) For the purposes of legal proceedings, it must be presumed, unless proved otherwise, that an area has been properly designated as a site under this section if the area is defined as a site on a map kept under subsection (5).

**[56] Section 59(11)**

Insert after section 59(10)—

- (11) In this section—  
*wharf* includes land adjacent to the wharf.

**[57] Section 68 Payment and collection of charges**

Omit section 68(3). Insert instead—

- (3) If the relevant port authority is the Minister, the Minister may appoint the Port Corporation or another person as the agent for the collection of charges.
- (3A) An appointment of the Port Corporation as the agent for the collection of charges may be made in the operating licence issued to the Port Corporation.

**[58] Section 69 Payment of charges to Minister to be credited to Consolidated Fund**

Omit “(and any remittance to the Minister of part of a navigation service charge under the operating licence of a Port Corporation)”.

Insert instead “, and any remittance to the Minister of part of a navigation service charge under the operating licence of the Port Corporation,”.

**[59] Section 71 Security for payment of charges**

Omit section 71(6). Insert instead—

- (6) This section is subject to the terms of—
  - (a) the operating licence issued to the Port Corporation, and
  - (b) a contract made with the Minister by a contractor.

**[60] Section 72 Failure to comply with relevant port authority’s requirements**

Omit section 72(3). Insert instead—

- (3) This section is subject to the terms of—
  - (a) the operating licence issued to the Port Corporation, and
  - (b) a contract made with the Minister by a contractor.

**[61] Section 80, heading**

Omit “increase”. Insert instead “change”.

**[62] Section 80(2)(a)**

Omit “20 business days”. Insert instead “40 business days”.

**[63] Section 80(2)(b)**

Omit “10 business days”. Insert instead “20 business days”.

**[64] Section 85, heading**

Omit “port corporation”. Insert instead “Port Corporation”.

**[65] Section 85**

Omit “a port corporation designated under Part 5 as the appropriate public agency for the port”.

Insert instead “the Port Corporation if the Minister has designated the Port Corporation as the appropriate public agency for the port under section 48A”.

**[66] Section 85A**

Omit the section. Insert instead—

**85A Access to regulated wharves of TfNSW**

- (1) A person must not secure a commercial vessel, or cause a commercial vessel to be secured, to a regulated wharf of TfNSW unless the person—
  - (a) is authorised to do so by a wharf authorisation, and
  - (b) complies with any conditions of the wharf authorisation.Maximum penalty—100 penalty units.
- (2) The Minister may, by order published in the Gazette, designate a wharf of TfNSW that is outside Sydney Harbour and its tributaries as a regulated wharf of TfNSW.
- (3) In this section—

**regulated wharf of TfNSW** means either of the following—

  - (a) a wharf of TfNSW within Sydney Harbour or its tributaries,
  - (b) a wharf of TfNSW in relation to which a designation under subsection (2) is in force.

**wharf authorisation** means an authorisation, however described, given by TfNSW that permits a person to secure a vessel to a wharf of TfNSW.

**Note—** A wharf authorisation includes the following—

- (a) a contract or agreement between a person and TfNSW that authorises the person to secure a commercial vessel to a wharf,
- (b) a permit issued under the Commuter Wharf Permit Scheme administered by TfNSW,
- (c) a booking made through the Charter Wharf Booking System administered by TfNSW.

**wharf of TfNSW** means a wharf, pier, jetty, landing stage or dock under the control or management of TfNSW.

**[67] Part 8, heading**

Omit “Legal proceedings”. Insert instead “Enforcement”.

**[68] Section 100 Penalty notices**

Omit section 100(1). Insert instead—

- (1) A law enforcement officer may issue a penalty notice to a person if it appears to the officer that the person—
  - (a) has committed a penalty notice offence, or
  - (b) is, under section 104B, guilty of a parking offence.

**[69] Section 103**

Omit the section. Insert instead—

**103 Persons who may bring proceedings**

Proceedings for an offence against the marine legislation may be brought by any person, including the following—

- (a) a police officer,
- (b) Transport for NSW or a member of staff of Transport for NSW,
- (c) the Port Authority of New South Wales or a member of staff of the Port Authority of New South Wales.

**[70] Sections 104A–104C**

Insert after section 104—

**104A Continuing offences**

- (1) A person who is guilty of an offence because the person contravenes a requirement under this Act or the regulations, whether imposed by notice or otherwise, to do or stop doing something, whether or not within a specified period or by a particular time—
  - (a) continues, until the requirement is complied with and despite the fact that a specified period has ended or time has passed, to be liable to comply with the requirement, and
  - (b) is guilty of a continuing offence for each day the contravention continues.
- (2) This section does not apply to an offence if the relevant provision of this Act or the regulations does not provide for a penalty for a continuing offence.
- (3) This section does not apply to the extent that a requirement of a notice is revoked.

**104B Liability of vehicle owners for parking offences**

- (1) If a parking offence occurs in relation to a vehicle, the person who is, when the offence occurs, the owner of the vehicle (the *vehicle owner*) is, under this section, guilty of an offence as if the vehicle owner were the actual offender guilty of the parking offence unless—
  - (a) if the parking offence is dealt with under section 100—the vehicle owner satisfies the authorised officer referred to in the penalty notice issued under that section that, when the offence occurred, the vehicle was stolen or illegally taken or used, or
  - (b) otherwise—the court is satisfied that, when the offence occurred, the vehicle was stolen or illegally taken or used.

- (2) This section does not affect the liability of the actual offender in relation to the parking offence but, if a penalty has been imposed on or recovered from a person in relation to the parking offence, no further penalty may be imposed on or recovered from another person for the parking offence.
- (3) Despite subsection (2), the vehicle owner is not guilty of an offence under this section if—
  - (a) for an offence dealt with under section 100—
    - (i) within 21 days after being served with the penalty notice under that section alleging that the vehicle owner is guilty of the offence, the vehicle owner provides, in the form required by the penalty notice, the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or
    - (ii) the vehicle owner satisfies the authorised officer referred to in the penalty notice that the vehicle owner does not know, and cannot with reasonable diligence ascertain, the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or
  - (b) otherwise—
    - (i) within 21 days after being served with a court attendance notice in relation to the offence, the vehicle owner provides, by statutory declaration, to the prosecutor the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or
    - (ii) the vehicle owner satisfies the court that the vehicle owner does not know, and cannot with reasonable diligence ascertain, the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence.
- (4) If a form under subsection (3) is produced in proceedings against the person named in the form that relate to the offence in relation to which the form was supplied, the form is evidence the person named was in charge of the vehicle at all relevant times relating to the offence.
- (5) Without limiting the form that may be required by the penalty notice under subsection (3), the form may be an electronic form accessible at a website specified in the notice.
- (6) A vehicle owner who provides a statutory declaration setting out the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence is taken to have done so in the required form.
- (7) In this section—

**owner**, of a vehicle, includes the registered operator of the vehicle within the meaning of the *Road Transport Act 2013*.

**parking offence** means any of the following offences—

  - (a) an offence under section 39(1) committed by a person who fails to comply with a parking-related port operator direction,
  - (b) an offence under section 43G(1) committed by a person who fails to comply with a parking-related safety direction,
  - (c) an offence under the regulations committed by a person who fails to comply with a direction given by an authorised person relating to the driving, stopping, parking or use of a vehicle.

***parking-related port operator direction*** means a port operator direction that regulates the driving, stopping, parking or use of a vehicle.

***parking-related safety direction*** means a safety direction that regulates the driving, stopping, parking or use of a vehicle.

***vehicle*** has the same meaning as in the *Road Transport Act 2013*.

#### **104C Requirement to state name and address or give other information**

- (1) An authorised officer may require a person whom the officer reasonably suspects has committed an offence under this Act or the regulations to state the person's full name and place of residence.
- (2) If an authorised officer suspects on reasonable grounds that the driver of a motor vehicle has committed an offence under this Act or the regulations, the authorised officer may—
  - (a) require the driver to do one or more of the following—
    - (i) produce the driver's driver licence,
    - (ii) state the driver's full name and place of residence, or
  - (b) require any of the following persons to give the officer information about the name and place of residence of the driver—
    - (i) the owner of the vehicle,
    - (ii) the person in whose name the vehicle is registered,
    - (iii) the person having custody of the vehicle, or
  - (c) require any other person to give the officer information that—
    - (i) is in the person's power to give, and
    - (ii) may help identify the driver.
- (3) An authorised officer may require a person to give information under subsection (2)(b) or (c) in the form of a written statement signed by the person.
- (4) A person must not—
  - (a) without lawful excuse, refuse or fail to comply with a requirement made of the person under this section, or
  - (b) in purported compliance with the requirement, give information or produce a document the person knows to be false or misleading in a material particular.Maximum penalty—10 penalty units.
- (5) A person does not commit an offence under subsection (4) if the authorised officer does not, when the officer makes the request—
  - (a) show the person the officer's identification card, or
  - (b) warn the person that it is an offence not to comply with the requirement.
- (6) It is a defence to a prosecution for an offence under subsection (2)(b) if the defendant satisfies the court that the defendant does not know, and cannot with reasonable diligence ascertain, the name or place of residence of the driver, or both.
- (7) A written statement purporting to be given under subsection (3) that states the name and place of residence of the person who was the driver of the motor vehicle at the time of the commission of an alleged offence and is produced in a court in proceedings for the offence against the person named in the statement as the driver is, if the person named in the statement does not appear

before the court, evidence without proof of signature that the person was the driver of the vehicle at that time.

**[71] Section 108 Service of documents**

Omit “a Port Corporation” wherever occurring.

Insert instead “the Port Corporation”.

**[72] Section 108(1)(a) and (b)**

Omit “relevant Port Corporation” wherever occurring.

Insert instead “Port Corporation”.

**[73] Section 110 Regulations**

Omit section 110(1A). Insert instead—

(1A) Without limiting subsection (1), the regulations may make provision about the driving, stopping or parking of vehicles—

(a) at a port, other than a private port, or wharf owned by or under the control or management of TfNSW or the Port Authority of New South Wales, or

(b) on land owned by or under the control or management of TfNSW or the Port Authority of New South Wales that is near a port or wharf referred to in paragraph (a).

**[74] Section 110(1B)**

Insert after section 110(1A)—

(1B) Without limiting subsection (1), the regulations may make provision about the following—

(a) the making, keeping, inspection or provision of records and information relating to goods loaded onto or discharged from a vessel at a port,

(b) the making, keeping, inspection or provision of records and information relevant to the management and mitigation of environmental risk or impact,

(c) the sharing of records and information provided, or required to be provided, under this Act with or between one or more of the following—

(i) TfNSW,

(ii) port operators,

(iii) relevant port authorities,

(iv) other entities in the port-related supply chain.

**[75] Schedule 1 Transfer of assets, rights and liabilities**

Omit “a Port Corporation” wherever occurring in clause 2(1)(a)–(b1).

Insert instead “the Port Corporation”.

**[76] Schedule 1, clause 7(a)**

Omit “a Port Corporation”. Insert instead “the Port Corporation”.

**[77] Schedule 4 Regulations to promote competition and productivity at ports**

Omit “10B”. Insert instead “111”.

**[78] Schedule 4, clauses 1, 3 and 5(1)(c)**

Omit “a Port Corporation” wherever occurring. Insert instead “the Port Corporation”.

**[79] Schedule 5 Savings, transitional and other provisions**

Omit “a Port Corporation” wherever occurring in clause 1(4)(a) and (b).

Insert instead “the Port Corporation”.

**[80] Schedule 5, Part 6**

Insert after Part 5—

**Part 6 Provisions consequent on Ports and Maritime Administration Amendment Act 2024**

**25 Continued effect of existing designations of Port Corporation as appropriate public agency for ports**

(1) A designation by the Minister under previous section 47(1), definition of *appropriate public agency* of the Port Corporation as the appropriate public agency for a port that is in force immediately before the commencement of this clause—

(a) continues in effect, and

(b) is taken to have been made under section 48A.

(2) In this clause—

*previous*, in relation to a provision, means the provision as in force before the commencement of this clause.



## **Schedule 3 Amendment of Ports and Maritime Administration Regulation 2021**

**[1] Section 10 Wharfage charges**

Omit “a Port Corporation” from section 10(4), definition of *officer of a relevant port authority*, paragraph (b).

Insert instead “the Port Corporation”.

**[2] Section 11 Manifest for goods discharged from vessel**

Insert “, in accordance with this section,” after “manifest” in section 11(1).

**[3] Section 11(3)(e1)**

Insert after section 11(3)(e)—

- (e1) for goods discharged from the vessel—the tariff classification number for the goods under the *Customs Tariff Act 1995* of the Commonwealth, Schedule 3,

**[4] Section 11(3)(k)**

Omit the paragraph. Insert instead—

- (k) for goods carried in a container—
  - (i) the identifying marks and number of the container, and
  - (ii) if the container’s point of origin was within Australia—the Australian postcode for the container’s point of origin, and
  - (iii) if the container’s point of destination is within Australia—the Australian postcode for the container’s point of destination,

**[5] Section 12 Manifest for goods loaded on vessel**

Insert “, in accordance with this section,” after “manifest” in section 12(1).

**[6] Section 12(3)(e1)**

Insert after section 12(3)(e)—

- (e1) for goods loaded onto the vessel—the Australian Harmonized Export Commodity Classification for the goods published by the Australian Bureau of Statistics from time to time,

**Note—** The Australian Harmonized Export Commodity Classification is an extension of the Harmonized Commodity Description and Coding System referred to in the *International Convention on the Harmonized Commodity Description and Coding System* done at Brussels on 14 June 1983.

**[7] Section 16 Application for commuter wharf permit**

Omit “Schedule 2” from section 16(2)(b). Insert instead “Schedule 1”.

**[8] Section 25 Charter wharf booking system**

Omit “Schedule 3” from section 25(5). Insert instead “Schedule 2”.

**[9] Section 39**

Omit the section. Insert instead—

**39 Application of part**

This part applies in relation to land under the control or management of, or vested in, TfNSW or the Port Authority of New South Wales that is specified in the Act, section 110(1A)(b) (*relevant land*).

**[10] Section 67 Application of Part**

Omit “Schedule 1” wherever occurring in section 67(2)(a).

Insert instead “Schedule 4”.

## Schedule 4 Amendment of Road Transport (Vehicle Registration) Regulation 2017

### Clause 133B

Insert after clause 133A—

#### 133B Release of information in Register to port operators—the Act, ss 62(d) and 64(3)

- (1) Transport for NSW is authorised to release registration information for a registrable vehicle that is included in the Register to a port operator for the purposes of enabling the port operator to take enforcement action in relation to a relevant parking offence.
- (2) Transport for NSW may charge a port operator fees in connection with releasing information to the port operator under subclause (1).
- (3) In this clause—

*port operator* means a port operator under the *Ports and Maritime Administration Act 1995*.

*registration information*, for a registrable vehicle, means the following information recorded in the Register—

- (a) the name of the registered operator of the vehicle,
- (b) the date of birth and, if applicable, the date of death of the registered operator of the vehicle,
- (c) the residential address of the registered operator of the vehicle,
- (d) the address for the service of notices on the registered operator of the vehicle,
- (e) other contact details for the registered operator of the vehicle,
- (f) the identification details of the vehicle.

*relevant parking offence* means—

- (a) an offence under the *Ports and Maritime Administration Act 1995*, section 104B, or
- (b) a parking offence within the meaning of the *Ports and Maritime Administration Act 1995*, section 104B(7), or
- (c) an offence under the regulations made under the *Ports and Maritime Administration Act 1995* committed by a person who fails to comply with a direction given by an authorised person relating to the driving, stopping, parking or use of a vehicle.

## **Schedule 5 Consequential amendments of other Acts and instruments**

### **5.1 Fire and Rescue NSW Act 1989 No 192**

#### **Section 20A Hazardous material incidents outside area to which Act applies**

Omit “a Port Corporation” from section 20A(4), definition of *port authority*, paragraph (b).  
Insert instead “the Port Corporation”.

### **5.2 Local Government Act 1993 No 30**

#### **Section 600 Rebates in respect of certain land vested in public bodies**

Omit “a Port Corporation” from section 600(9), definition of *public body*.  
Insert instead “the Port Corporation”.

### **5.3 Marine Safety Act 1998 No 121**

#### **Schedule 4 Savings, transitional and other provisions**

Omit “a Port Corporation” wherever occurring in clause 1(3)(a) and (b).  
Insert instead “the Port Corporation”.

### **5.4 Protection of the Environment Operations (General) Regulation 2022**

#### **Schedule 6 Penalty notice offences**

Omit “a Port Corporation” from section 2(c).  
Insert instead “the Port Corporation”.

### **5.5 Public Spaces (Unattended Property) Regulation 2022**

#### **Schedule 2 Authorities and areas of operation**

Omit “a Port Corporation” wherever occurring in section 9(1)(b) and (2)(b).  
Insert instead “the Port Corporation”.

### **5.6 State Environmental Planning Policy (Transport and Infrastructure) 2021**

#### **[1] Section 5.2 Definitions**

Omit “a Port Corporation” from section 5.2(1), definition of *Port Corporation*.  
Insert instead “the Port Corporation”.

#### **[2] Section 5.14 Subdivision—consent requirements**

Omit “a Port Corporation” from section 5.14(1), note. Insert instead “the Port Corporation”.

[Second reading speech made in—

Legislative Council on 15 August 2024

Legislative Assembly on 20 September 2024]