

1995—No. 467

DARLING HARBOUR AUTHORITY ACT 1984—REGULATION

(Darling Harbour (Management of Public Areas) Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Darling Harbour Authority Act 1984, has been pleased to make the Regulation set forth hereunder.

MICHAEL KNIGHT, M.P.,
Minister for Public Works and Services.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Darling Harbour (Management of Public Areas) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. In this Regulation:

“**authorised person**” means:

- (a) a person, or a person belonging to a class of persons, authorised by the Authority for the purposes of the provision in which the expression is used; or
- (b) a police officer; or
- (c) in the case of a provision of this Regulation relating to Cockle Bay—a person authorised by the Maritime Services Board for the purposes of this Regulation;

“public area” means:

- (a) the Chinese Garden;
- (b) Tumbalong Park;
- (c) Cockle Bay Promenade;
- (d) Pyrmont Bridge;
- (e) Cockle Bay;
- (f) any other part of the Development Area that the public is entitled to use, whether on payment of a fee or charge or otherwise;

“Pyrmont bridge” includes:

- (a) the piles marking the channels approaching the Bridge; and
- (b) the abutments of the Bridge; and
- (c) the extension of the Bridge to Market Street; and
- (d) the Bicentennial Flagpole and its base;

“the Act” means the Darling Harbour Authority Act 1984.

Penalties for offences

4. A contravention of this Regulation is an offence under section 52 of the Act and is punishable under section 53 of the Act by a maximum penalty of 20 penalty units.

PART 2—REGULATION OF ACTIVITIES

Public areas generally

5. A person must not do any of the following in a public area, except as authorised by the Authority:

- (a) enter any part of the area that has been closed to the public;
- (b) use the stage in Tumbalong Park or its facilities;
- (c) collect money or goods for a charity;
- (d) sell or hire, or offer for sale or hire, any goods;
- (e) use any audio, loudspeaker or broadcasting equipment or camera (whether photographic, cinematic or video), for a commercial purpose;
- (f) provide, or offer to provide, any services for fee, gain or reward;
- (g) display any advertisement, or distribute any advertising matter;
- (h) conduct any wedding;

- (i) conduct, or participate in, any game or other activity in a manner that unduly interferes with the amenity of the area;
- (j) busk;
- (k) camp or use facilities for sleeping overnight;
- (l) swim or paddle in any fresh water within the area;
- (m) climb any tree, sculpture, decoration, flagpole or other fixture;
- (n) light any fire, barbecue or stove;
- (o) set off any firework;
- (p) unless the person is a police officer of the State or the Commonwealth, carry or discharge or have in the person's possession any firearm;
- (q) land or launch any hot air balloon;
- (r) ride or use any skate board, roller skates, bicycle or other means of conveyance;
- (s) bring any dog (other than a guide dog accompanying a visually or aurally impaired person or a guide dog in training) or other animal into the area;
- (t) trap or harm any bird or fish (other than fish in Cockle Bay);
- (u) damage, destroy or remove any tree, plant or other vegetation;
- (v) damage, destroy or remove any building, structure or equipment in or from the area;
- (w) erect any tent or other temporary structure;
- (x) paint, erect or affix any decoration, sign or other equipment;
- (y) operate or use any radio, television, record-player, musical instrument or other sound-generating device in a manner that unduly interferes with the amenity of the area.

The Chinese Garden

6. (1) The Authority may determine:

- (a) the days and times during which, and the conditions on which, persons may enter the Chinese Garden; and
- (b) the maximum number of persons who may visit the Chinese Garden at any one time; and
- (c) the charges (if any) to be imposed for entry into, or for the conduct of any function or other activity in, the Chinese Garden.

(2) A person must not, except as authorised by the Authority, contravene any conditions of entry into the Chinese Garden that are displayed in, or at the places of entry into, the Chinese Garden.

Assemblies and sporting events

7. (1) A person must not, except as authorised by the Authority, conduct or participate in any sporting event, or any meeting, procession or performance, in a public area.

(2) The Authority may determine:

- (a) the days and times during which, and the conditions on which, persons may conduct or participate in sporting events, meetings, processions and performances; and
- (b) the charges (if any) to be imposed for the conduct of any sporting event, meeting, procession or performance; and
- (c) the charges (if any) to be imposed for entry into the part of the public area within which any such sporting event, meeting, procession or performance is to be conducted.

Activities within Cockle Bay

8. A person must not do any of the following, except as authorised by the Authority:

- (a) swim or paddle in the waters of Cockle Bay;
- (b) sail a sailboard, windsurfer or other like craft in the waters of Cockle Bay;
- (c) deposit or throw any article or substance into the waters of Cockle Bay;
- (d) ride a jet ski or similar craft in the waters of Cockle Bay;
- (e) row or paddle any row boat, canoe, kayak or similar craft in the waters of Cockle Bay;
- (f) participate in any activity in the waters of Cockle Bay involving the use of a vessel to tow a person (such as water skiing or paragliding).

Activities on Pymont Bridge

9. A person must not do any of the following, except as authorised by the Authority:

- (a) go on to any portion of Pymont Bridge other than its footway;
- (b) fish from any portion of Pymont Bridge;
- (c) go on to the swing span of Pymont Bridge while it is in motion or in any open position;

- (d) stand or climb on the safety gates at the entrance to the swing span of Pymont Bridge;
- (e) obstruct the movement of the gates at the entrance to the swing span of Pymont Bridge.

Use of land by coaches

10. (1) The Authority may set aside any land within a public area for use by coaches.

(2) The Authority may determine:

- (a) the days and times during which, and the conditions on which, any such land may be used by coaches; and
- (b) the charges (if any) to be imposed for the use by coaches of any such land.

(3) A person must not, except as authorised by the Authority, contravene any conditions of use of any such land that are displayed in, or at the places of entry into, that land.

New Year's Eve Activities

11. (1) This clause applies to New Year's Eve activities (that is, activities occurring on 31 December or the following 1 January) promoted, organised or conducted within the Development Area by the Authority in the exercise of its functions under section 11 (a) and (b) of the Act.

(2) The Authority may, for the purpose of New Year's Eve activities, do any one or more of the following:

- (a) limit the number of persons who may enter the Development Area or any part of the Development Area;
- (b) close any part of the Development Area to the public;
- (c) charge admission to the Development Area or any part of the Development Area;
- (d) prohibit persons from entering the Development Area or any part of the Development Area if they are in possession of alcohol or any other specified article or thing.

(3) Nothing in this clause limits any other function of the Authority under this Regulation.

Entry of persons to special events

12. (1) This clause applies to any activity (other than New Year's activities) promoted, organised or conducted within the Development Area by the Authority in the exercise of its functions under section 11 (a) and (b) of the Act.

(2) The Authority may, during the conduct of any such activity, prohibit persons from entering the Development Area or any part of the Development Area, if the person is in possession of alcohol or any other specified article or thing.

(3) Nothing in this clause limits any other function of the Authority under this Regulation.

PART 3—MOVEMENT OF VESSELS IN COCKLE BAY**Movement of vessels beneath Pymont Bridge**

13. (1) The Authority may cause to be displayed, on or in the vicinity of Pymont Bridge, a notice containing directions with respect to the movement or berthing of vessels beneath the Bridge.

(2) Such a notice does not have effect unless:

- (a)** it is prominently displayed on or in the vicinity of that part of Pymont Bridge to which it is intended to apply; and
- (b)** the directions contained in it are clearly legible to those persons to whom it is intended to apply.

(3) A person must not contravene any direction given by the Authority under this clause.

(4) A person must not, except as authorised by the Authority, moor any vessel to any portion of, or beneath, Pymont Bridge.

Berthing of vessels within Cockle Bay

14. (1) A person must not, except as authorised by the Authority, berth a vessel (including any charter boat, water taxi or ferry) within the waters of Cockle Bay.

(2) The Authority may determine:

- (a)** the days and times during which, and the conditions on which, vessels may be berthed in the waters of Cockle Bay; and
- (b)** the charges (if any) to be imposed for the berthing of vessels in the waters of Cockle Bay.

(3) Without limiting the generality of subclause (2) (a), a condition referred to in that paragraph may relate to any one or more of the following:

- (a) the use of a berthed vessel for tourist purposes;
- (b) the bunkering of a berthed vessel;
- (c) the disposal of garbage and sewage from a berthed vessel.

(4) A condition relating to the use of a berthed vessel for tourist purposes may regulate the fee that a tourist may be charged in relation to that use.

Application of certain maritime legislation to Cockle Bay

15. (1) This clause applies to the waters of Cockle Bay.

(2) Despite section 59 (1) of the Act, the provisions of:

- (a) the Maritime Services Act 1935 (sections 13JE, 13JF, 13JG, 13T, 13TA and 13TB excepted);
- (b) the Sydney Harbour Trust Act 1900 (sections 53–56 excepted); and
- (c) any instrument in force under either of those Acts (Regulations 28–33 and Regulation 47 of the Management of Waters and Waterside Lands Regulations–N.S.W. excepted),

apply to and in respect of the land to which this clause applies in the same way as they would, but for that subsection, apply to that land.

PART 4—GENERAL

Closing of public areas

16. The Authority may, by means of buoys, signs or barriers, close the whole or any part of a public area (other than a public road) to the public.

Removal of certain persons from public areas

17. (1) A person who:

- (a) causes annoyance or inconvenience to other persons in a public area; or
- (b) contravenes any provision of this Regulation in a public area; or
- (c) trespasses on any part of a public area closed to the public,

must leave the area forthwith when requested to do so by an authorised person.

(2) A person who fails to comply with such a request may be removed from a public area by an authorised person.

(3) Any unattended dog or other animal may be removed from a public area by an authorised person.

Removal of obstructions from public areas

18. (1) An authorised person may order the removal of anything which obstructs or encroaches on a public area and which is not authorised by the Authority.

(2) The order may be given to either or both of the following:

- (a) the person who caused the obstruction or encroachment;
- (b) a person using the thing causing the obstruction or encroachment in connection with any adjoining land or building.

(3) A person to whom such an order is given must comply with the order.

(4) The authorised person may remove the obstruction or encroachment whether or not the authorised person has ordered its removal.

(5) The Authority may recover from either of the persons referred to in subclause (2) the Authority's reasonable costs and expenses incurred in removing an obstruction or encroachment.

(6) This clause does not apply to a motor vehicle.

Lessees and licensees

19. An act or omission does not constitute a contravention of this Regulation if it is authorised, expressly or impliedly, by the terms of any lease or licence granted by the Authority.

Repeal

20. (1) The Darling Harbour (Management of Public Areas) Regulation 1988 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Darling Harbour (Management of Public Areas) Regulation 1988, had effect under that Regulation continues to have effect under this Regulation.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with no major changes in substance, the provisions of the Darling Harbour (Management of Public Areas) Regulation 1988. The new Regulation deals with the following matters:

- (a) the regulation of conduct within the various parts of Darling Harbour (Part 2); and
- (b) the movement of vessels in Cockle Bay (Part 3); and
- (c) other matters of a minor, consequential or ancillary nature (Parts 1 and 4).

This Regulation is made under the Darling Harbour Authority Act 1984, including section 67 (the general regulation making power) and section 59.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
