



New South Wales

Water Traffic Amendment (Personal Watercraft) Regulation 2001

under the

Maritime Services Act 1935

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Maritime Services Act 1935*.

CARL SCULLY, M.P.,

Minister for Transport

Explanatory note

The principal object of this Regulation is to prohibit the driving of personal watercraft in Sydney Harbour, to prohibit the driving of personal watercraft at night and to make other amendments relating to personal watercraft.

This Regulation amends the *Water Traffic Regulations—NSW* as follows:

- (a) to make it an offence for the driver of a personal watercraft (such as a jet ski) to drive the personal watercraft in a personal watercraft exclusion zone, being the waters of Sydney Harbour, with certain exceptions,
- (b) to make it an offence for the owner of a personal watercraft to permit a person to drive the personal watercraft in a personal watercraft exclusion zone, with certain exceptions,
- (c) to provide that a person who commits the offence of driving a personal watercraft in a personal watercraft exclusion zone is disqualified from holding a licence:
 - (i) for a first offence—for a period of 2 years, and
 - (ii) for a second offence—for a period of 4 years, and
 - (iii) for a third offence—for life,

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- (d) to provide that the commission of two offences of permitting a person to drive a personal watercraft owned by the offender in a personal watercraft exclusion zone within any period of 24 months automatically cancels the offender's licence,
- (e) to prescribe such personal watercraft exclusion zone offences as penalty notice offences for which an "on-the-spot" fine may be given:
 - (i) for a first offence as the driver—\$800,
 - (ii) for a second offence as the driver—\$1,200,
 - (iii) for a third offence as the driver—\$1,500,
 - (iv) for an offence as the owner—\$400,
- (f) to increase the penalties that may be imposed by a penalty notice for an offence of driving a personal watercraft while not the holder of a licence:
 - (i) for a first offence as the driver—\$800,
 - (ii) for a second offence as the driver—\$1,200,
 - (iii) for a third offence as the driver—\$1,500,
 - (iv) for an offence as an owner—\$400,
- (g) to limit the automatic cancellation of the licence of a person for the commission of two offences within any period of 24 months of driving a personal watercraft while not the holder of a licence to a person committing the offence as the driver of the relevant personal watercraft,
- (h) to make it an offence for the driver of a personal watercraft to drive the personal watercraft at night, with certain exceptions,
- (i) to make it an offence for the owner of a personal watercraft to permit a person to drive the personal watercraft at night, with certain exceptions,
- (j) to provide that the Minister may refuse to grant a licence to a person, or may suspend or cancel a person's licence, if the person is convicted of such night driving offences,
- (k) to prescribe such night driving offences as penalty notice offences for which an "on-the-spot" fine may be given,
- (l) to provide that the commission of two such night driving offences within any period of 24 months automatically cancels a person's licence,
- (m) to make amendments in the nature of statute law revision.

This Regulation is made under the *Maritime Services Act 1935*, including sections 30D (Penalty notices for certain offences) and 38 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Water Traffic Amendment (Personal Watercraft) Regulation 2001*.

2 Commencement

This Regulation commences on 1 October 2001.

3 Amendment of Water Traffic Regulations—NSW

The *Water Traffic Regulations—NSW* are amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

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Schedule 1 Amendments

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(Clause 3)

[1] Regulation 2A

Insert after regulation 2:

2A Notes

Notes included in these Regulations are explanatory notes and do not form part of these Regulations.

[2] Regulation 15AAA

Insert after regulation 15:

15AAA Personal watercraft excluded from Sydney Harbour

- (1) The driver of a personal watercraft is guilty of an offence against this regulation if the driver drives the personal watercraft on any navigable waters in a personal watercraft exclusion zone.
- (2) The owner of a personal watercraft is guilty of an offence against this regulation if the owner permits a person to drive the personal watercraft on any navigable waters in a personal watercraft exclusion zone.
- (3) Clauses (1) and (2) do not apply to a personal watercraft that is being driven in accordance with the conditions of an aquatic licence.
- (4) Clauses (1) and (2) do not apply to any of the following:
 - (a) an officer, employee or member of staff of the Waterways Authority constituted by the *Ports Corporatisation and Waterways Management Act 1995* acting in the course of his or her employment or duties,
 - (b) a police officer acting in the exercise of his or her duties,
 - (c) any other person or class of persons specified by order of the Minister published in the Gazette in circumstances so specified.

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- (5) A person who commits an offence under clause (1) is disqualified from holding any licence under Part 3A:
- (a) for the first such offence—for a period of 2 years after the commission of the offence, or
 - (b) for the second such offence—for a period of 4 years after the commission of the offence, or
 - (c) for the third or subsequent such offence—at any time during the life of the person.

The disqualification is in addition to any penalty imposed for the offence.

- (6) Clause (5) applies only to offences committed after the commencement of this Regulation.
- (7) For the purposes of clause (5), a person is taken to have committed an offence at the time that the person:
- (a) is convicted of the offence by a court, or
 - (b) pays the penalty required by a penalty notice served on the person under section 30D of the Act in respect of the alleged offence (or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the *Fines Act 1996*).

- (8) In this regulation:
- personal watercraft exclusion zone* means the waters of Sydney Harbour, and includes the waters of all tidal bays, rivers and their tributaries connected or leading to Sydney Harbour bounded by high-water mark and lying to the west of a line commencing at the southernmost point of North Head and running to the northernmost point of South Head.

[3] Regulation 15AA Conduct of personal watercraft at any speed or at night

Insert after regulation 15AA (1):

- (1A) The driver of a personal watercraft is guilty of an offence against this regulation if the driver drives the personal watercraft on any navigable waters at night (that is, between sunset and sunrise).

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Schedule 1 Amendments

- (1B) The owner of a personal watercraft is guilty of an offence against this regulation if the owner permits a person to drive the personal watercraft on any navigable waters at night (that is, between sunset and sunrise).
- (1C) Clauses (1A) and (1B) do not apply to a personal watercraft that is being driven in accordance with the conditions of an aquatic licence.
- (1D) Clauses (1A) and (1B) do not apply to any of the following:
 - (a) an officer, employee or member of staff of the Waterways Authority constituted by the *Ports Corporatisation and Waterways Management Act 1995* acting in the course of his or her employment or duties,
 - (b) a police officer acting in the exercise of his or her duties,
 - (c) any other person or class of persons specified by order of the Minister published in the Gazette in circumstances so specified.

[4] Regulation 15AA (5)

Omit “Parramatta River,” and “Port Jackson,” from the definition of *personal watercraft restriction zone*.

[5] Regulation 15E Drivers of certain vessels to be licensed

Omit regulation 15E (4). Insert instead:

- (4) A person who commits an offence under clause (1) by driving a personal watercraft on navigable waters without being the holder of a licence authorising the driver to drive the craft is disqualified from holding any licence under Part 3A:
 - (a) for the first such offence—for a period of 2 years after the commission of the offence, or
 - (b) for the second such offence—for a period of 4 years after the commission of the offence, or
 - (c) for the third or subsequent such offence—at any time during the life of the person.

The disqualification is in addition to any penalty imposed for the offence.

[6] Regulation 15E (6)

Omit “of clauses (4) and (5)”. Insert instead “of clause (4)”.

[7] Regulation 15F Special provisions relating to holders of young adult licences

Insert at the end of regulation 15F:

- (2) This regulation does not affect any other requirement imposed on a person under any other provision of these Regulations.

Note. Other provisions of these Regulations impose requirements on persons in respect of vessels. For example, regulation 15AA (1A) provides that the driver of a personal watercraft is guilty of an offence if the driver drives the personal watercraft at night, regardless of the speed at which it is driven.

[8] Regulation 15O Cancellation and suspension of licences

Omit regulation 15O (1) (b) (i). Insert instead:

- (i) has been convicted of a breach of these Regulations because of a contravention of, or an offence against, regulations 3, 15AA (1A), 15AA (1B), 15F or 15K, or

[9] Regulation 15O (2)

Omit “a personal watercraft licence or a young adult personal watercraft licence”.

Insert instead “a licence under Part 3A”.

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Schedule 1 Amendments

[10] Schedule 2 Prescribed offences and penalties for the purposes of section 30D of the Maritime Services Act 1935

Insert in appropriate order:

15AAA (1):	
• (being a first offence under 15AAA (1))	800
• (being a second offence under 15AAA (1))	1200
• (being a third or subsequent offence under 15AAA (1))	1500
15AAA (2)	400
15AA (1A)	320
15AA (1B)	320

[11] Schedule 2

Omit the matter regarding regulation 15E (1). Insert instead:

15E (1):	
• owner of personal watercraft	400
• driver of personal watercraft (being a first offence under 15E (1))	800
• driver of personal watercraft (being a second offence under 15E (1))	1200
• driver of personal watercraft (being a third or subsequent offence under 15E (1))	1500

[12] Schedule 6 Offences for the purpose of automatic cancellation of personal watercraft licence

Insert in appropriate order under the heading “Water Traffic Regulations—NSW”:

15AAA (2)	
15AA (1A)	
15AA (1B)	

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Amendments

Schedule 1

[13] Schedule 6

Omit “15E (1)” from under the heading “Water Traffic Regulations—NSW”.

Insert instead:

15E (1) (being an offence committed by an owner of the relevant personal watercraft)