



New South Wales

Protection of the Environment Operations Amendment (Waterways Authority) Regulation 2001

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

BOB DEBUS, M.P.,

Minister for the Environment

Explanatory note

The object of this Regulation is to amend the *Protection of the Environment Operations (General) Regulation 1998* to prescribe the Waterways Authority (instead of local authorities or the Environment Protection Authority) as the appropriate regulatory authority under the Act for certain non-scheduled activities involving vessels for which pilotage is not compulsory.

This Regulation also contains a law revision amendment.

This Regulation also contains a consequential amendment to the *Protection of the Environment Operations (Penalty Notices) Regulation 1999* to prescribe officers or employees of the Waterways Authority as authorised officers in relation to certain penalty notice offences.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 6 (Appropriate regulatory authority), 226 (Authorised officers) and 323 (the general regulation-making power).

2001 No 951

Clause 1 Protection of the Environment Operations Amendment (Waterways Authority) Regulation 2001

Protection of the Environment Operations Amendment (Waterways Authority) Regulation 2001

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations Amendment (Waterways Authority) Regulation 2001*.

2 Amendment of Protection of the Environment Operations (General) Regulation 1998

The *Protection of the Environment Operations (General) Regulation 1998* is amended as set out in Schedule 1.

3 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 1999

The *Protection of the Environment Operations (Penalty Notices) Regulation 1999* is amended as set out in Schedule 2.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendment of Protection of the Environment Operations (General) Regulation 1998

(Clause 2)

[1] Clause 64 Marine Parks Authority

Omit clause 64 (1) (c). Insert instead:

- (c) activities carried on by the State or a public authority, whether at premises occupied by the State or a public authority or otherwise,

[2] Clause 64A

Insert after clause 64:

64A Waterways Authority

- (1) The Waterways Authority is declared, under section 6 (3) of the Act, to be the appropriate regulatory authority for non-scheduled activities involving a non-pilotage vessel in navigable waters, except in relation to the following:
 - (a) the exercise of functions under Chapter 3 of the Act,
 - (b) premises defined in an environment protection licence as the premises to which the licence applies, and all activities carried on at those premises,
 - (c) activities carried on by the State or a public authority, whether at premises occupied by the State or a public authority or otherwise,
 - (d) a matter for which a public authority (other than a local authority or the Waterways Authority) is declared under section 6 (3) of the Act to be the appropriate regulatory authority,
 - (e) non-scheduled activities in marine parks (within the meaning of clause 64).

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Schedule 1

Amendment of Protection of the Environment Operations (General) Regulation 1998

(2) For the purposes of this clause:

non-pilotage vessel means any vessel other than:

- (a) a vessel for which pilotage is compulsory under Part 6 of the *Ports Corporatisation and Waterways Management Act 1995* in any port, and
- (b) a vessel for which pilotage would be compulsory under Part 6 of the *Ports Corporatisation and Waterways Management Act 1995* in any port if the master did not hold a pilotage exemption certificate.

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Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 1999

Schedule 2

Schedule 2 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 1999

(Clause 3)

[1] Clause 6 Authorised officers: section 226

Omit “the Waterways Authority or of” from clause 6 (5) (d).

[2] Clause 6 (5) (o)

Insert after clause 6 (5) (n):

- (o) class 15—an officer or employee of the Waterways Authority.

[3] Clause 10

Insert after clause 9:

10 Savings provision

An officer or employee duly authorised as referred to in clause 6 (2) by the Waterways Authority in relation to class 4 under clause 6 (5) immediately before the commencement of the *Protection of the Environment Operations Amendment (Waterways Authority) Regulation 2001* is taken to be duly authorised by the Waterways Authority in relation to class 15 under clause 6 (5).

[4] Schedule 1 Penalty notice offences

Insert “, 15” after “14” wherever occurring in Column 3 of the matter relating to sections 91, 94, 97, 100, 120, 145, 145A, 146A, 146B, 146C and 211 (1) of the *Protection of the Environment Operations Act 1997*.

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Schedule 2 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 1999

[5] Schedule 1

Insert “, 15” after “13” wherever occurring in Column 3 of the matter relating to section 146E (1), 146E (2) and 146E (3) of the *Protection of the Environment Operations Act 1997*.

[6] Schedule 1

Insert “, 15” after “4” in Column 3 of the matter relating to section 265 of the *Protection of the Environment Operations Act 1997*.

[7] Schedule 1

Insert “, 15” after “8” wherever occurring in Column 3 of the matter relating to section 277 (1) (a), 277 (1) (b), 277 (2) (a) and 277 (2) (b) of the *Protection of the Environment Operations Act 1997*.

[8] Schedule 1

Insert “, 15” after “5” wherever occurring in Column 3 of the matter relating to clauses 29, 30, 31 (1), 31 (2) (a), 31 (2) (b), 32 (1), 33 (5), 34 (4) and 34 (5) of the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

BY AUTHORITY