



Boating (Safety Equipment) Amendment (Lifejackets) Regulation 2003

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*.

MICHAEL COSTA, M.L.C.,
Minister for Transport Services

Explanatory note

The object of this Regulation is to amend the *Boating (Safety Equipment) Regulation—N.S.W.*:

- (a) to require persons on board certain recreational vessels to wear lifejackets when crossing specified coastal bars, and
- (b) to require the operator of such a vessel to take reasonable measures to ensure that persons on board the vessel wear lifejackets when crossing those coastal bars.

Failure to comply with those requirements is an offence. This Regulation also contains amendments enabling penalty notices to be issued in relation to those offences.

This Regulation is made under the *Maritime Services Act 1935*, including section 38 (the general regulation-making power) and, in particular, section 38 (2B).

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Clause 1 Boating (Safety Equipment) Amendment (Lifejackets) Regulation 2003

Boating (Safety Equipment) Amendment (Lifejackets) Regulation 2003

under the

Maritime Services Act 1935

1 Name of Regulation

This Regulation is the *Boating (Safety Equipment) Amendment (Lifejackets) Regulation 2003*.

2 Commencement

This Regulation commences on 1 October 2003.

3 Amendment of Boating (Safety Equipment) Regulation—N.S.W.

The *Boating (Safety Equipment) Regulation—N.S.W.* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 2 Definitions

Omit the definition of *Buoyancy vest*.

[2] Clause 2

Insert in alphabetical order:

Buoyancy vest means a personal flotation device that complies with the requirements set out in Schedule 1 in relation to buoyancy vests.

Lifejacket means a lifejacket or personal flotation device that complies with the requirements set out in Schedule 1 in relation to lifejackets.

[3] Clause 12B

Insert after clause 12A:

12B Lifejacket must be worn when crossing coastal bar

- (1) A person on board a vessel must wear a lifejacket when the vessel is crossing a coastal bar.

Maximum penalty: \$1,500.

- (2) It is a defence to a prosecution for an offence against subclause (1) if the defendant (being a person other than the operator of the vessel concerned) shows that:

- (a) there was no available lifejacket on board the vessel at the time concerned, or
- (b) he or she did not know, and could not reasonably have been expected to know, that the vessel was crossing a coastal bar.

- (3) For the purposes of subclause (2), the defendant is taken to have had knowledge that the vessel concerned was crossing a coastal bar if, before the vessel proceeded to cross the coastal bar, the operator had:

- (a) informed the defendant that the vessel was crossing a coastal bar, or

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- (b) requested or required the defendant to put on a lifejacket.
- (4) The operator of a vessel must ensure that each person on board the vessel complies with subclause (1).
Maximum penalty: \$1,500.
- (5) It is a defence to a prosecution for an offence against subclause (4) if the operator of the vessel shows that he or she took all reasonable measures to ensure that each person on board the vessel complied with subclause (1).
- (5) In this clause, *coastal bar* means a bar named in Schedule 1A, being a shallow area where sediment is deposited across a river mouth, lake, estuary or harbour entrance, in the approximate location described opposite the name of the bar in that Schedule.

[4] Schedule 1A

Insert after Schedule 1:

Schedule 1A Coastal Bars

(Clause 12B)

Name of Bar	General Description of Bar Location
North Coast Region:	
Bellinger River	Located near the town of Urunga in the vicinity of the confluence of the Bellinger and Kalang Rivers and the Tasman Sea.
Brunswick River	Located near the town of Brunswick Heads in the vicinity of the confluence of the Brunswick River with the Coral Sea.
Camden Haven River	Located near the town of North Haven in the vicinity of the confluence of the Camden Haven Inlet with the Tasman Sea.
Cape Hawke Harbour	Located near the towns of Forster-Tuncurry in the vicinity of the confluence of Cape Hawke Harbour with the Tasman Sea.

Name of Bar	General Description of Bar Location
Clarence River	Located near the town of Yamba in the vicinity of the confluence of the Clarence River with the Coral Sea.
Corindi River	Located near the town of Red Rock in the vicinity of the confluence of the Corindi River with the Tasman Sea.
Cudgen Creek	Located near the town of Kingscliff in the vicinity of the confluence of Cudgen Creek with the Coral Sea.
Cudgera Creek	Located near the town of Hastings Point in the vicinity of the confluence of Cudgera Creek with the Coral Sea.
Evans River	Located near the town of Evans Head in the vicinity of the confluence of the Evans River with the Coral Sea.
Hastings River	Located near the town of Port Macquarie in the vicinity of the confluence of the Hastings River with the Tasman Sea.
Killick Creek	Located near the town of Crescent Head in the vicinity of the confluence of Killick Creek with the Tasman Sea.
Korogoro Creek	Located near the town of Hat Head in the vicinity of the confluence of Korogoro Creek with the Tasman Sea.
Macleay River	Located near the town of South West Rocks in the vicinity of the confluence of the Macleay River with the Tasman Sea.
Manning River	Located near the town of Harrington in the vicinity of the confluence of the Manning River with the Tasman Sea.
Manning River	Located near the town of Old Bar in the vicinity of the confluence of Farquhar Inlet with the Tasman Sea.
Mooball Creek	Located near the town of Pottsville in the vicinity of the confluence of Mooball Creek with the Coral Sea.

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Name of Bar	General Description of Bar Location
Nambucca River	Located near the town of Nambucca Heads in the vicinity of the confluence of the Nambucca River with the Tasman Sea.
Richmond River	Located near the town of East Ballina in the vicinity of the confluence of the Richmond River with the Coral Sea.
Sandon River	Located near the town of Sandon in the vicinity of the confluence of the Sandon River with the Coral Sea.
South West Rocks Creek	Located near the town of South West Rocks in the vicinity of the South West Rocks Creek and the Tasman Sea.
Tweed River	Located near the town of Tweed Heads in the vicinity of the confluence of the Tweed River with the Coral Sea.
Wooli River	Located near the town of Wooli in the vicinity of the confluence of the Wooli River with the Coral Sea.
South Coast Region:	
Bermagui River	Located near the town of Bermagui in the vicinity of the confluence of the Bermagui River with the Tasman Sea.
Clyde River	Located near the town of Batemans Bay in the vicinity of the confluence of the Clyde River and Batemans Bay.
Lake Conjola	Located near the town of Lake Conjola in the vicinity of the confluence of Lake Conjola with the Tasman Sea.
Crookhaven River	Located near the town of Crookhaven in the vicinity of the confluence of the Shoalhaven River with the Tasman Sea.
Currambene Creek	Located near the town of Huskisson in the vicinity of the confluence of Currambene Creek with the Tasman Sea.

Name of Bar	General Description of Bar Location
Currarong Creek	Located near the town of Currarong in the vicinity of the confluence of Currarong Creek with the Tasman Sea.
Lake Illawarra	Located near the town of Warilla in the vicinity of the confluence of Lake Illawarra with the Tasman Sea.
Merimbula Lake	Located near the town of Merimbula in the vicinity of the confluence of Merimbula Lake with the Tasman Sea.
Minnamurra River	Located near the town of Minnamurra in the vicinity of the confluence of the Minnamurra River with the Tasman Sea.
Moruya River	Located near the town of Moruya Heads in the vicinity of the confluence of the Moruya River with the Tasman Sea.
Narrawallee Inlet	Located near the town of Narrawallee in the vicinity of the confluence of Narrawallee Inlet with the Tasman Sea.
Pambula River	Located near the town of Pambula Beach in the vicinity of the confluence of the Pambula River with the Tasman Sea.
Sussex Inlet	Located near Jervis Bay and Cudmirrah National Parks in the vicinity of the confluence of Sussex Inlet with the Tasman Sea.
Tomaga River	Located near the towns of Mossy Point and Tomakin in the vicinity of the confluence of the Tomaga River with the Tasman Sea.
Tuross Inlet	Located near the town of Tuross Head in the vicinity of the confluence of the Tuross Lake with the Tasman Sea.
Wagonga Inlet	Located near the town of Narooma in the vicinity of the confluence of the Wagonga Inlet with the Tasman Sea.

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Name of Bar	General Description of Bar Location
Wollongong Harbour	Located near the city of Wollongong in the vicinity of the confluence of Wollongong Harbour with the Tasman Sea.
Wonboyn River	Located near the town of Wonboyn in the vicinity of the confluence of the Wonboyn River with the Tasman Sea.
Hunter/Inland Region:	
Swansea Channel	Located near the suburb of Swansea in the vicinity of the confluence of Lake Macquarie's Swansea Channel with the Tasman Sea.
Tuggerah Lake	Located near the town of The Entrance in the vicinity of the confluence of Tuggerah Lake with the Tasman Sea.
Hawkesbury/Broken Bay Region:	
Brisbane Water	Located near the town of Umina in the vicinity of the confluence of Brisbane Water with Broken Bay.

[5] **Schedule 2 Matters prescribed for the purposes of section 30D of the Act**

Insert after item 1AA in Columns 1 and 3, respectively:

1AB	Offence under clause 12B (1)	200
1AC	Offence under clause 12B (4)	200

BY AUTHORITY