



New South Wales

# Marine Safety Amendment (Alcohol and Drug Testing) Regulation 2008

under the

Marine Safety Act 1998

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Marine Safety Act 1998*.

JOSEPH TRIPODI, M.P.,  
Minister for Ports and Waterways

## Explanatory note

The object of this Regulation is to amend the *Marine Safety Regulation 2003* to prescribe procedures for the safekeeping of samples of blood and urine taken for the purposes of testing for the presence of alcohol or drugs under the *Marine Safety Act 1998*. The procedures mirror procedures prescribed under clause 130 of the *Road Transport (Safety and Traffic Management) Regulation 1999* in relation to alcohol and drug testing under the roads legislation.

This Regulation is made under the *Marine Safety Act 1998*, including section 137 (the general regulation-making power) and clause 34 of Schedule 1.

## **2008 No 322**

Clause 1 Marine Safety Amendment (Alcohol and Drug Testing) Regulation 2008

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# **Marine Safety Amendment (Alcohol and Drug Testing) Regulation 2008**

under the

Marine Safety Act 1998

### **1 Name of Regulation**

This Regulation is the *Marine Safety Amendment (Alcohol and Drug Testing) Regulation 2008*.

### **2 Commencement**

This Regulation commences on 1 August 2008.

### **3 Amendment of Marine Safety Regulation 2003**

The *Marine Safety Regulation 2003* is amended as set out in Schedule 1.

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## Schedule 1 Amendment

(Clause 3)

### Clause 3A

Insert after clause 3:

#### **3A Security of blood and urine samples taken under Divisions 3, 3A, 4, 4A and 5 of Schedule 1 to the Act**

- (1) After a sample of blood or urine taken under Part 2, 3, 4 or 5 of Schedule 1 to the Act is dealt with in accordance with clause 7 (3), 12 (1), 15 (3) or 20 (3) of that Schedule (as the case may require), the sample must be placed immediately in a locked security box of a type approved by the Commissioner of Police. It is to be kept in the security box until it is submitted to the laboratory in accordance with clause 7 (4), 12 (2), 15 (4) or 20 (4) of Schedule 1 to the Act.
- (2) A person must not destroy or otherwise interfere or tamper with a sample, or a portion of a sample, of a person's blood or urine taken under Part 2, 3 or 5 of Schedule 1 to the Act except as follows:
  - (a) after the expiration of 12 months commencing on the day the sample was taken,
  - (b) in the case of a sample—by or at the direction of an analyst:
    - (i) so as to permit a portion of the sample to be sent for analysis by a medical practitioner or laboratory nominated, under clause 7 (5), 12 (3) or 20 (5) of that Schedule, in an application made under the relevant clause by the person from whom the sample was taken, or
    - (ii) in the course of, or on completion of, an analysis of the sample,
  - (c) in the case of a portion of a sample—by or at the direction of the medical practitioner or laboratory nominated under clause 7 (5), 12 (3) or 20 (5) of that Schedule by the person from whom the sample was taken.

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Schedule 1      Amendment

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- (3) A person must not destroy or otherwise interfere or tamper with a sample, or a portion of a sample, of a person's blood or urine taken under Part 4 of Schedule 1 to the Act except as follows:
- (a) after the expiration of 13 months commencing on the day the sample was taken,  
**Note.** Clause 15 (11) of Schedule 1 to the Act provides that a blood or urine sample that has been provided under that clause must be destroyed by or at the direction of the analyst who has custody of the sample without being analysed if, at the expiry of 13 months after the accident concerned, no authorised officer has made a notification relating to a death (as provided under clause 15 (8)).
  - (b) in the case of a sample—by or at the direction of an analyst:
    - (i) so as to permit a portion of the sample to be sent for analysis by a medical practitioner or laboratory nominated, under clause 15 (5) of that Schedule, in an application made under the relevant clause by the person from whom the sample was taken, or
    - (ii) in the course of, or on completion of, an analysis of the sample,
  - (c) in the case of a portion of a sample—by or at the direction of the medical practitioner or laboratory nominated under clause 15 (5) of that Schedule by the person from whom the sample was taken.

Maximum penalty (subclauses (2) and (3)): 20 penalty units.

BY AUTHORITY

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