



New South Wales

Marine Safety Amendment 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 2008* 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 road transport 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.

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Clause 1 Marine Safety Amendment Regulation 2008

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1 Name of Regulation

This Regulation is the *Marine Safety Amendment Regulation 2008*.

2 Commencement

This Regulation commences on 1 September 2008.

3 Amendment of Marine Safety Regulation 2008

The *Marine Safety Regulation 2008* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 3)

Clause 3A

Insert after clause 3:

3A Security of blood and urine samples taken under Parts 2–5 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.
- (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:

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Schedule 1 Amendment

- (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
