



New South Wales

# Marine Safety (General) Amendment (Lifejackets) Regulation 2010

under the

Marine Safety Act 1998

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

ERIC ROOZENDAAL, MLC  
Minister for Ports and Waterways

## Explanatory note

The objects of this Regulation are:

- (a) to require an appropriate lifejacket to be worn in certain additional circumstances, including:
  - (i) during certain recreational activities, such as kiteboarding, and
  - (ii) when a person is on board a vessel in alpine waters, and
  - (iii) when a person is directed to wear a lifejacket by the master of a vessel, and
- (b) to ensure that children under 12 years of age are required to wear an appropriate lifejacket in certain circumstances, and
- (c) to clarify the types of lifejackets that constitute “appropriate lifejackets” in circumstances in which a lifejacket must be worn, and
- (d) to make further provision for the minimum safety equipment requirements applicable to recreational vessels and modified safety equipment requirements for specified vessels, including clarifying safety equipment requirements for outrigger canoes, and
- (e) to clarify that kiteboard and sailboard craft are vessels for the purposes of the safety equipment requirements applicable to recreational vessels, and
- (f) to make related amendments to the *Marine Safety (General) Regulation 2009*.

This Regulation is made under the *Marine Safety Act 1998*, including sections 5 (3), 67 and 137 (the general regulation-making power).

## **2010 No 610**

Clause 1 Marine Safety (General) Amendment (Lifejackets) Regulation 2010

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### **Marine Safety (General) Amendment (Lifejackets) Regulation 2010**

under the

Marine Safety Act 1998

#### **1 Name of Regulation**

This Regulation is the *Marine Safety (General) Amendment (Lifejackets) Regulation 2010*.

#### **2 Commencement**

This Regulation commences on 1 November 2010 and is required to be published on the NSW legislation website.

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## Schedule 1      Amendment of Marine Safety (General) Regulation 2009

### [1]    Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

*alpine waters* means:

- (a) the waters of:
  - (i) Lake Burrinjuck, and
  - (ii) Lake Eucumbene, and
  - (iii) Lake Jindabyne, and
  - (iv) Khancoban Pondage, and
  - (v) the Swampy Plains River, and
  - (vi) Mannus Lake, and
  - (vii) Googong Reservoir, and
- (b) all navigable waters within the boundaries of the Kosciuszko National Park.

*dragon boat* means a paddle craft that is carvel constructed and consists of a single hull and a keel tunnel, and is propelled forward by a crew of paddlers using single bladed paddles.

*kiteboard* means any craft used for kitesurfing or an activity that is similar to kitesurfing in which a person is situated on or over water on a board, a ski or skis, and the power of the wind on a controlled kite or similar equipment is used to propel the craft across the water.

*outrigger canoe* means a single file canoe which possesses a float and lateral support on one or both sides of the main hull and which is designed to carry not more than 6 persons.

*sailboard* means any craft (other than a kiteboard) used for sailboarding or windsurfing, which is fitted with an apparatus or mechanism that is required to be controlled or operated by the user in order to harness the power of the wind to move the craft.

### [2]    Clause 3 (1), definition of “off-the-beach vessel”

Omit the definition. Insert instead:

*off-the-beach vessel* means an unballasted, sail-only vessel, including a centreboard dinghy, skiff or multihull vessel, but not including a vessel with a cabin or a fixed keel.

### [3]    Clause 3 (1), definition of “windsurfing”

Omit the definition.

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**[4] Clause 3 (2A)**

Insert after subclause (2):

- (2A) For the purposes of this Regulation, an outrigger canoe is categorised by the number of persons the canoe carries and a category constitutes one of the following:
- (a) OC1 (one person),
  - (b) OC2 (two persons),
  - (c) OC4 (four persons),
  - (d) OC6 (six persons).

**[5] Clause 4 Definition of “vessel” for purposes of Act**

Insert “unless it is a kiteboard or a sailboard” after “is declared not to be a vessel” in clause 4 (2).

**[6] Clause 82 Vessels exempt from certain requirements of Part**

Omit clause 82 (1) (c). Insert instead:

- (c) a surf row boat or surf ski,

**[7] Clause 82 (2) (c)**

Insert after clause 82 (2) (b):

- (c) a sailboard or kiteboard.

**[8] Clause 83 Meaning of “lifejacket” and “appropriate lifejacket”**

Omit subclause (2). Insert instead:

- (2) In this Regulation, a reference to an *appropriate lifejacket* is a reference to:
- (a) in the case of a kiteboard not operating in isolated conditions, any purpose designed kiteboard harness which has an inherent flotation which is the equivalent of a lifejacket Type 2 or a lifejacket Type 3, and
  - (b) in the case of a kiteboard operating in isolated conditions, a lifejacket Type 1, a lifejacket Type 2 or a lifejacket Type 3, and
  - (c) in the case of a canoe or kayak (including an outrigger canoe) operating on open waters, a lifejacket Type 1, a lifejacket Type 2 or a lifejacket Type 3, and
  - (d) in the case of an off-the-beach vessel, sailboard or personal watercraft operating on open waters, a lifejacket Type 1 or a lifejacket Type 2, and

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- (e) in the case of any activity in which a person is being towed in or over any waters while engaged in any recreational activity, a lifejacket Type 1, a lifejacket Type 2 or a lifejacket Type 3, and
  - (f) in the case of any vessel operating on open waters and not dealt with by one of the above paragraphs, a lifejacket Type 1, and
  - (g) in the case of any vessel operating on enclosed waters and not dealt with by one of the above paragraphs, a lifejacket Type 1, a lifejacket Type 2 or a lifejacket Type 3, and
  - (h) in the case of any vessel operating on alpine waters, despite any of the above paragraphs:
    - (i) a lifejacket Type 1 or a lifejacket Type 2, unless subparagraph (ii) applies, or
    - (ii) for a person on board the vessel wearing thigh or chest fishing waders, a lifejacket Type 1.
- (2A) In this Regulation, a kiteboard is being operated in *isolated conditions* if it:
- (a) is operating on open waters more than 400 metres from the shore, and
  - (b) is being operated by only one person who is alone (that is, the person is not in the company of another kiteboarder or a support vessel).

**[9] Clause 84 Minimum safety equipment to be carried on recreational vessels**

Insert after subclause (7):

- (7A) The owner and the operator of a vessel that is required to carry appropriate lifejackets must ensure that the lifejackets (while not in use):
  - (a) are kept clearly visible to persons on board the vessel, or
  - (b) are stored in a location that is unobstructed and marked by a clearly visible sign that has the word “lifejackets” in red letters on a white background.

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### [10] **Clause 85 Circumstances in which lifejacket must be worn on a canoe or kayak**

Omit subclause (1). Insert instead:

- (1) Each person on board a canoe or kayak (other than an outrigger canoe) must wear an appropriate lifejacket when the vessel is being operated:
  - (a) more than 100 metres from the shore on enclosed waters, or
  - (b) on open waters.

### [11] **Clauses 87A–87G**

Insert after clause 87:

#### **87A Lifejacket must be worn by a child less than 12 years of age**

- (1) A child who is less than 12 years of age is required to wear an appropriate lifejacket if the child is:
  - (a) on board a vessel that is less than 4.8 metres in length, or
  - (b) in an open area on board a vessel that is less than 8 metres in length and is underway.
- (2) The operator of a vessel must ensure that each child on board the vessel wears an appropriate lifejacket when required by this clause.

Maximum penalty (subclause (2)): 50 penalty units.

#### **87B Lifejacket must be worn when being towed by a vessel while engaged in any recreational activity**

- (1) A person must wear an appropriate lifejacket if that person is being towed on or over the water by a vessel while engaged in any recreational activity.

Maximum penalty: 50 penalty units.

- (2) The operator of a vessel must ensure that each person being towed by the vessel while engaged in a recreational activity complies with this clause.

Maximum penalty: 50 penalty units.

#### **87C Lifejacket must be worn on vessel in alpine waters**

- (1) A person must wear an appropriate lifejacket if that person is on board a vessel in alpine waters.

Maximum penalty: 50 penalty units.

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- (2) The operator of a vessel must ensure that each person on board the vessel complies with this clause.  
Maximum penalty: 50 penalty units.

**87D Lifejacket must be worn on off-the-beach vessel on open waters**

- (1) A person must wear an appropriate lifejacket if that person is on board an off-the-beach vessel on open waters.  
Maximum penalty: 50 penalty units.
- (2) The operator of a vessel must ensure that each person on board the vessel complies with this clause.  
Maximum penalty: 50 penalty units.

**87E Lifejacket must be worn on kiteboard**

- (1) A person must wear an appropriate lifejacket if that person is on board a kiteboard.  
Maximum penalty: 50 penalty units.
- (2) The operator of a vessel must ensure that each person on board the vessel complies with this clause.  
Maximum penalty: 50 penalty units.

**87F Lifejacket must be worn on small vessel at certain times**

- (1) A person must wear an appropriate lifejacket if that person is on board a vessel that is less than 4.8 metres in length (other than a personal watercraft, kiteboard, sailboard, canoe or kayak) and the person is on board the vessel:
- (a) at night (being the period starting 30 minutes after sunset and ending 30 minutes before sunrise), or
  - (b) when that vessel is on open waters, or
  - (c) alone (that is, where that person is not in the company of another person or another support vessel), or
  - (d) when that vessel is being used more than 400 metres from the shore to transport persons or goods between:
    - (i) the shore and the vessel, or
    - (ii) the vessel and the shore, or
    - (iii) vessels.
- Maximum penalty: 50 penalty units.
- (2) The operator of a vessel must ensure that each person on board the vessel complies with this clause.  
Maximum penalty: 50 penalty units.

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### **87G Lifejacket must be worn when directed by master of a vessel**

A person on board any vessel must wear an appropriate lifejacket if directed to do so by the master of the vessel.

Maximum penalty: 50 penalty units.

### **[12] Clause 88 Circumstances in which lifejacket must be worn on a sailboard or kiteboard**

Omit “engaged in windsurfing”.

Insert instead “on board a kiteboard or sailboard”.

### **[13] Clause 89A**

Insert after clause 89:

### **89A Circumstances in which lifejacket Types 2 and 3 will be taken to satisfy requirement for appropriate lifejacket**

If this Division requires a person to wear an appropriate lifejacket that is a lifejacket Type 1 (other than in circumstances in which a vessel is crossing a coastal bar), the requirement is taken to be satisfied if:

- (a) the person wears either:
  - (i) a lifejacket Type 2, or
  - (ii) a full body neoprene diving suit which has an inherent flotation equivalent to a lifejacket Type 2 or 3, and
- (b) there is a lifejacket Type 1 on board the vessel that is readily available to be worn by the person.

### **[14] Schedule 5 Minimum safety equipment to be carried on recreational vessels**

Omit clause 7 (1) (c).

### **[15] Schedule 5, clause 7 (1) (f)**

Omit the paragraph. Insert instead:

- (f) the vessel is carrying the following equipment:
  - (i) an appropriate lifejacket for each person on board,
  - (ii) flares or a mobile telephone (in a water tight container),
  - (iii) if the vessel is an OC4 or OC6 outrigger canoe:
    - (A) at least 2 buckets (bailers) with a lanyard attached to each, and



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- (B) at least one spare paddle, and
  - (C) a rope of at least 25 metres in length and 12 millimetres in diameter of the type known as “silver rope”, securely attached to the forward canoe spreader or lashing point (the “wae”) for towing,
  - (iv) if the vessel is an OC1 or OC2 outrigger canoe, a leg rope.

**[16] Schedule 5, clause 7 (2) (b)**

Insert “if that vessel is an OC4 or OC6 outrigger canoe” after “operating between sunset and sunrise,”.

**[17] Schedule 5, clause 7 (2) (c)**

Omit the paragraph. Insert instead:

- (c) the vessel has 1 all round white light affixed to the highest point of the vessel, when operating between sunset and sunrise, if that vessel is an OC1 or OC2 outrigger canoe, and

**[18] Schedule 5, clause 7 (2) (f)**

Omit the paragraph. Insert instead:

- (f) the vessel is carrying the following equipment:
  - (i) an appropriate lifejacket for each person on board,
  - (ii) flares or a mobile telephone (in a water tight container), where the vessel is operating between sunset and sunrise,
  - (iii) if the vessel is an OC4 or OC6 outrigger canoe:
    - (A) at least 2 buckets (bailers) with a lanyard attached to each, and
    - (B) at least one spare paddle, and
    - (C) a rope of at least 25 metres in length and 12 millimetres in diameter of the type known as “silver rope”, securely attached to the forward canoe spreader or lashing point (the “wae”) for towing,
  - (iv) if the vessel is an OC1 or OC2 outrigger canoe, a leg rope.

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### [19] Schedule 7 Penalty notice offences

Insert in appropriate order in Columns 1 and 2 respectively, under the heading “**Offences under this Regulation**”:

|                                   |   |
|-----------------------------------|---|
| Clause 87A (2) or clauses 87B–87G | 1 |
|-----------------------------------|---|