



New South Wales

Marine Safety (General) Amendment (Commercial Vessels) 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 object of this Regulation is to amend the *Marine Safety (General) Regulation 2009*:

- (a) to remove references to the *Commercial Vessels Act 1979* and the regulations under that Act as a consequence of the repeal of that Act by the *Marine Safety Act 1998* and the commencement of the *Marine Safety (Commercial Vessels) Regulation 2010*, and
- (b) to remove the requirements for the display of a hull identification number and vessel registration identification numbers and labels in relation to certain commercial vessels, and
- (c) to extend certain requirements to wear lifejackets to persons on certain commercial vessels, and
- (d) by way of statute law revision.

This Regulation is made under the *Marine Safety Act 1998*, including sections 37 and 137 (the general regulation-making power).

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Clause 1

Marine Safety (General) Amendment (Commercial Vessels) Regulation
2010

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Vessels) Regulation 2010**

under the

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1 Name of Regulation

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

2 Commencement

This Regulation commences on 1 January 2011 and is required to be
published on the NSW legislation website.

Schedule 1 Amendment of Marine Safety (General) Regulation 2009

[1] Clause 3 Definitions

Omit “Schedules 1 and 2 to the *Commercial Vessels (Permits) Regulation 1986*” from the definition of *enclosed waters* in clause 3 (1).

Insert instead “Schedules 1 and 2 to the *Marine Safety (Commercial Vessels) Regulation 2010*”.

[2] Clause 3 (1), definition of “marine legislation”

Omit paragraph (e) of the definition.

[3] Clause 43 Application of this Part

Omit “*Commercial Vessels Act 1979*” from clause 43 (1) (n).

Insert instead “Act”.

[4] Clause 61 Vessels exempt from registration

Insert after clause 61 (1) (f):

- (g) a vessel that is authorised to be used by a hire and drive licence that is in force under the Act.

[5] Clause 63 Hull identification number requirements

Omit clause 63 (2). Insert instead:

- (2) This clause does not apply to the following vessels:
 - (a) any commercial vessel more than 7.5 metres in length for which there is a survey certificate that is in force under the Act,
 - (b) a vessel in chains,
 - (c) a dumb barge (being a barge that is not self-propelled and requires towing or pushing for the purpose of moving from one place to another).

[6] Clause 66 Display of registration number and registration label

Omit clause 66 (2) and (3). Insert instead:

- (2) The owner or the operator of a registered vessel must not operate the vessel, or permit the vessel to be operated, if any vessel registration number or vessel registration label for the vessel that is required by this clause to be displayed on the vessel is in any way defaced, obliterated or concealed.

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- (3) Subclause (1) (b) does not apply to a commercial vessel for which there is a survey certificate issued under the Act, or an equivalent authorisation issued under the law of another jurisdiction, that is in force if the survey number or the number of the equivalent authorisation is displayed on the vessel in an approved manner.

[7] Clause 72 Aquatic activities to be licensed

Insert after clause 72 (3):

- (4) Subclause (1) does not apply to an aquatic activity conducted in accordance with a hire and drive licence issued in accordance with the *Marine Safety (Commercial Vessels) Regulation 2010*.

[8] Part 5, heading

Omit the heading. Insert instead:

Part 5 Safety equipment and facilities

[9] Clause 81 Application of this Part

Omit the clause.

[10] Clause 83A

Insert before clause 84:

83A Application of this Division

Except as otherwise provided by a provision of this Part, this Division applies to all recreational vessels in navigable waters.

[11] Clause 84A

Insert before clause 85:

84A Application of this Division

- (1) Clauses 85, 87, 87B and 88 apply to all vessels in navigable waters.
- (2) Clauses 86, 87A and 87C–87G apply to all recreational vessels and all hire and drive vessels within the meaning of the *Marine Safety (Commercial Vessels) Regulation 2010* in navigable waters.

[12] Schedule 1 Fees

Omit “*Commercial Vessels Act 1979*”. Insert instead “Act”.

[13] Schedule 2 International Regulations for Preventing Collisions at Sea

Insert at the end of Rule 1 (c) of Annex III:

The range of audibility in the table above is for information and is approximately the range at which a whistle may be heard on its forward axis with 90% probability in conditions of still air on board a vessel having average background noise level at the listening posts (taken to be 68 dB in the octave band centred on 250 Hz and 63 dB in the octave band centred on 500 Hz).

In practice the range at which a whistle may be heard is extremely variable and depends critically on weather conditions; the values given can be regarded as typical but under conditions of strong wind or high ambient noise level at the listening post the range may be much reduced.

[14] Schedule 7 Penalty notice offences

Omit “53 (1) or (2)” where appearing under the heading “**Offences under the Marine Safety Act 1998**”.

Insert instead “53A (1) or (2)”.

[15] Schedule 7

Insert after the matter under the heading “**Offences under this Regulation**”:

**Offences under the Marine Safety (Commercial Vessels)
Regulation 2010**

Clause 10	1
Clause 11 (1)	1
Clause 12 (2)	1
Clause 27 (2)	2
Clause 28	2
Clause 31 (1)	3
Clause 32 (1) or (2)	2
Clause 33 (2) (except in relation to a failure to comply with clause 33 (2) (c))	1
Clause 33 (2) (in relation to a failure to comply with clause 33 (2) (c))	2
Clause 33 (3)	1
Clause 36	4
Clause 41 (4) or (6)	1
Clause 57	2

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Clause 58 (1), (2), (4) or (5)	2
Clause 59 (1) or (4)	2
Clause 60 (1)	2
Clause 62	5
Clause 63 (2)	2
Clause 67 (1) or (2)	3
Clause 68 (1) or (2)	3
Clause 69 (1)	1
Clause 72 (2)	2
Clause 75 (2)	2
Clause 76 (1)	5
Clause 77 (1)	2
Clause 78 (4)	2
Clause 79 (1) or (2)	2
Clause 80 (1) or (2)	2
Clause 83 (3)	5

[16] Schedule 8 Savings and transitional provisions

Omit clauses 3 (2), 4 (2) and 5 (e) and (f).

[17] Schedule 8, clause 5 (d)

Omit “and”.