



New South Wales

Marine Safety (General) Amendment Regulation 2011

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 make minor miscellaneous amendments to the *Marine Safety (General) Regulation 2009* that make further provision with respect to the following:

- (a) the obstruction of fairways and channels,
- (b) minimum distances to be maintained between vessels and other objects,
- (c) tow rope requirements,
- (d) the operation of personal watercraft at any speed,
- (e) renewal notices,
- (f) aquatic activities to be licensed,
- (g) minimum safety equipment to be carried on recreational vessels,
- (h) lifejackets that must be worn on vessels in alpine waters,
- (i) lifejackets that must be worn on small vessels at certain times,
- (j) the International Regulations for Preventing Collisions at Sea,
- (k) modified safety equipment requirements for dragon boats in enclosed waters.

This Regulation also makes provision for the following matters:

- (a) eligibility for a marine safety licence (including by limiting eligibility in some cases to natural persons),
- (b) the payment of an additional fee by an applicant for an aquatic licence authorising the exclusive use of an area of navigable water,
- (c) the fee payable for an attendance at an event by a Maritime Authority officer,

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- (d) the issue of a penalty notice for failing to comply with safety requirements for lifejackets on recreational vessels.

This Regulation is made under the *Marine Safety Act 1998*, including sections 10, 18, 19, 37, 67 and 137 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Marine Safety (General) Amendment Regulation 2011*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

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Schedule 1 Amendment of Marine Safety (General) Regulation 2009

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[1] Clause 3 Definitions

Insert after paragraph (a) (vii) of the definition of *alpine waters* in clause 3 (1):

(viii) Blowering Reservoir, and

[2] Clause 3 (1), definition of “personal watercraft”

Omit paragraph (c). Insert instead:

(c) is designed to be operated by a person standing, sitting astride or kneeling on the vessel but not seated within the vessel,

and includes a jet powered surfboard.

[3] Clause 16 Obstruction of fairways and channels

Omit clause 16 (b). Insert instead:

(b) obstruct the approach to, or restrict or impede the proper use of, any wharf, jetty or other landing place, or any boatshed, slip, launching ramp or courtesy or emergency mooring.

[4] Clause 28 Minimum distances to be maintained

Insert “in or on the water” after “persons” in clause 28 (a).

[5] Clause 28 (b)

Insert “(including moored or anchored vessels)” after “structures”.

[6] Clause 35 Tow rope and towing device requirements

Omit “is”. Insert instead “ensures that the person being towed is”.

[7] Clause 35

Omit “in length”. Insert instead “behind the vessel”.

[8] Clause 35 (2) and (3)

Insert at the end of clause 35:

(2) This clause does not apply if:

(a) the tow rope or towing device used to tow a person is a training bar, and

- (b) the person, while being towed, is:
 - (i) learning how to barefoot ski or use a water ski or similar device, and
 - (ii) at least one metre from the side of the vessel, and
 - (iii) at least one metre forward of the vessel's exhaust port.
- (3) In this clause, *training bar* means a metal bar or pole that:
 - (a) is fitted to a vessel and extends perpendicular to the centreline of the vessel, and
 - (b) can be held directly or by means of a short rope by a person being towed.

[9] Clause 38 Operation of personal watercraft at any speed

Insert "jump," before "turn" in clause 38 (4).

[10] Clause 53A

Insert after clause 53:

53A Eligibility for licence

- (1) A marine safety licence may be granted only to a natural person.
- (2) Subclause (1) does not apply to the following marine safety licences:
 - (a) a vessel registration certificate,
 - (b) an aquatic licence.
- (3) A marine safety licence may be granted only to a single natural person or other legal entity.

[11] Clause 54 Refusal to issue marine safety licence

Insert after clause 54 (1) (f):

- (g) if the applicant is not eligible for the licence under this Regulation.

[12] Clause 58A

Insert after clause 58:

58A Renewal of marine safety licence

- (1) The Maritime Authority may send a notice of renewal to the holder of a marine safety licence.

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- (2) A notice of renewal is a notice:
 - (a) addressed to a holder of a marine safety licence, and
 - (b) stating that, if the marine safety licence is not renewed on or before a specified date, the marine safety licence will expire.
- (3) If the Maritime Authority fails to send a notice of renewal, that failure does not affect:
 - (a) the expiry of the marine safety licence, or
 - (b) the obligation of a holder of a marine safety licence to renew the licence if a licence is required by or under the Act.

[13] **Clause 72 Aquatic activities to be licensed**

Omit clause 72 (2). Insert instead:

- (2) Subclause (1) does not require a person to hold an aquatic licence to conduct a permitted activity in or on navigable waters if the conduct of the activity will not restrict the availability of those waters for normal use by members of the public on board vessels or cause any risk of danger to vessel operators.
- (2A) A *permitted activity* is an aquatic activity comprised of or involving:
 - (a) the use of surfboards or other similar craft, or
 - (b) a swimming competition, or
 - (c) a fishing competition.

[14] **Clause 74 Additional requirements for applications**

Insert after clause 74 (2):

- (3) The Minister may require the applicant to pay an additional fee to cover any costs reasonably incurred by the Minister in the publication of a notice under section 12 of the Act in connection with the event to which the application relates.

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

Insert “or white letters on a red background” after “background” in clause 84 (7A) (b).

[16] Clause 87C Lifejacket must be worn on vessel in alpine waters

Omit clause 87C (1). Insert instead:

- (1) A person must wear an appropriate lifejacket if that person is on board a vessel in alpine waters and:
 - (a) the vessel is less than 4.8 metres in length, or
 - (b) the person is wearing fishing waders.
- Maximum penalty: 50 penalty units

[17] Clause 87F Lifejacket must be worn on small vessel at certain times

Omit clause 87F (1) (c). Insert instead:

- (c) alone without emergency assistance, or

[18] Clause 87F (3)

Insert after clause 87F (2):

- (3) For the purposes of this clause, a person is on board a vessel *alone without emergency assistance* if the person is operating a vessel as master without the company of another adult person or a support vessel capable of rendering practical assistance in the case of emergency (either physically or by contacting the relevant emergency services).

[19] Schedule 1 Fees

Omit “for each attendance” from the item relating to attendance by officer of Maritime Authority at a special event or standard event.

Insert instead “per hour”.

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

Omit “Government” wherever occurring in Rule 1 (e).

Insert instead “Minister”.

[21] Schedule 2, Rule 23 (d) (ii)

Omit “does not exceed”. Insert instead “cannot exceed”.

[22] Schedule 2, Annex IV

Omit clause 1 (l) and (m). Insert instead:

- (l) a distress alert by means of digital selective calling (DSC) transmitted on:
 - (i) VHF channel 70, or

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- (ii) MF/HF on the frequencies 2187.5 kHz, 8414.5 kHz, 4207.5 kHz, 6312 kHz, 12577 kHz or 16804.5 kHz;
- (m) a ship-to-shore distress alert transmitted by the ship's Inmarsat or other mobile satellite provider ship earth station;

[23] Schedule 2, Annex IV, clause 3

Omit "Merchant Ship Search and Rescue Manual".

Insert instead "International Aeronautical and Maritime Search and Rescue Manual, Volume III".

[24] Schedule 5 Minimum safety equipment to be carried on recreational vessels

Omit clause 8 (g) (ii).

[25] Schedule 7 Penalty notice offences

Insert "or (7A)" after "Clause 84 (7)" in Column 1 of the matter relating to offences under the *Marine Safety (General) Regulation 2009*.