



New South Wales

Marine Safety (General) Amendment (Miscellaneous) Regulation 2012

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*.

DUNCAN GAY, MLC
Minister for Roads and Ports

Explanatory note

The object of this Regulation is to amend the *Marine Safety (General) Regulation 2009* as follows:

- (a) to extend the obligation to wear lifejackets on board certain vessels to those on the waters of Pejar Dam or the Yass River,
- (b) to clarify that children under the age of one year are not to be counted when calculating the number of persons aboard a vessel for the purpose of load requirements only and that lifejackets are required for small children,
- (c) to exempt certain vessels visiting from other States or Territories from the requirements to display an approved safety label that states the maximum load (persons and equipment) that may be carried by the vessel, but only for the first 3 months that they are in New South Wales waters,
- (d) to empower the Minister or RMS to temporarily allow a vessel registration certificate to be issued or transferred in respect of a vessel without a hull identification number being affixed to the vessel, as would otherwise be required,
- (e) to require the vessel registration label and vessel registration number for a vessel to be promptly removed from the vessel if the vessel's registration has been cancelled and to make a breach of the requirement a penalty notice offence,
- (f) to require the owner of any registrable vessel to notify Roads and Maritime Services of the transfer or disposal of the vessel (whereas currently the obligation applies only to registered vessels),
- (g) to remove the exemption from requirements about safety equipment and wearing a lifejacket that presently applies to surf skis,

2012 No 584

Marine Safety (General) Amendment (Miscellaneous) Regulation 2012

Explanatory note

- (h) to require canoeists and kayakers to wear lifejackets at all times while operating on white water,
- (i) to provide that persons on alpine waters, who are required to wear lifejackets, may wear a lifejacket Type 1, Type 2 or Type 3,
- (j) to clarify that lifejackets that have been purchased or acquired new less than 12 months ago are considered to be appropriate lifejackets, regardless of how long ago they were manufactured,
- (k) to require that all children under 12 years of age wear appropriate lifejackets when on board certain small vessels, regardless of the time of day or circumstances of the voyage,
- (l) to provide that lifejackets must be worn on certain small vessels at any time between sunset and sunrise (rather than from 30 minutes after sunset until 30 minutes before sunrise, as at present),
- (m) to provide that lifejackets must be worn on small vessels when being used more than 200 metres from the shore as a tender to transport persons or goods (rather than more than 400 metres, as at present),
- (n) to amend an existing clause that requires a person to wear a lifejacket if he or she is boating alone in a small vessel without emergency assistance, to allow the company of a child to qualify as emergency assistance if the child is licensed under the Act,
- (o) to remove a provision that enables a person required to wear a lifejacket to instead wear a full length dive suit with the equivalent flotation or to instead keep a lifejacket on hand (without wearing it),
- (p) to impose a fee for a boating safety course offered by Roads and Maritime Services and required to be completed by any person seeking to obtain a boat driving licence,
- (q) to impose a fee for a personal watercraft safety course offered by Roads and Maritime Services and required to be completed by any person seeking to obtain a personal watercraft licence,
- (r) to make further provision for the display of dive flags by small vessels with divers below (including that the flags displayed on such vessel be in good condition and be more clearly visible by being displayed on a nearby buoy).

This Regulation also updates references in the *Marine Safety (General) Regulation 2009* and the *Marine Safety (Commercial Vessels) Regulation 2010* to the former Maritime Authority, the functions of which are now exercised by Roads and Maritime Services.

This Regulation is made under the *Marine Safety Act 1998*, including sections 10, 19, 31, 37, 67, 69, 70, 126 and 137 (the general regulation-making power).

Marine Safety (General) Amendment (Miscellaneous) Regulation 2012

under the

Marine Safety Act 1998

1 Name of Regulation

This Regulation is the *Marine Safety (General) Amendment (Miscellaneous) Regulation 2012*.

2 Commencement

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

Schedule 1 Amendment of Marine Safety (General) Regulation 2009

[1] Clause 3 Definitions

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

- (ix) Pejar Dam, and
- (x) Yass River, and

[2] Clause 3 (1), definitions of “approved” and “current first aid certificate”, clause 7 (1), definition of “emergency patrol duty” and clauses 7 (2) and (3), 8 (3) and (4), 11, 14 (1) (a), 19 (5)–(7), 21 (2) (a) and (3) (a) and (b), 23 (1) (b), 31, 32, 33 (5) (b) (ii) and (c) (iv), 36 (a), 37 (3), 38 (3) (b), 39, 41 (2), (3), (4) (b) and (5) (b), 47 (b), 57, 58 (1), 58A (3), 59 (1), 61 (1) (a) (iii) and (b) (iii) and (3), definition of “trade plate”, 63 (1), 64 (2), 65, 67 (1), 68 (1), (2) (b), (3) and (4), 69, 74 (2) (b) and 79 and Schedule 4

Omit “the Maritime Authority” wherever occurring. Insert instead “RMS”.

[3] Clause 3 (1), definition of “white water”

Insert in alphabetical order:

white water means any section of waterway that is graded at, or equivalent to, Grade 2 or above on the International River Grading System used by Australian Canoeing.

[4] Clause 3 (3)

Omit the subclause.

[5] Clauses 19 (3) and (7), 51, 58 (2), 58A (1), 59 (1), 64 (1), 67 (2), 84 (8), 94 (2) and 98 (1) and (2)

Omit “The Maritime Authority” wherever occurring. Insert instead “RMS”.

[6] Clause 40 Application of Division

Insert after clause 40 (e):

- (f) a vessel that has been in State waters for less than 3 months and:
 - (i) that is not ordinarily operated in State waters, and
 - (ii) that is registered under the law of another State or Territory or of another country, and
 - (iii) that is operated in accordance with the requirements (if any) of the law of that State, Territory or country relating to the maximum safe loading level of vessels, the labelling of vessels in relation to

maximum safe loads and the maximum number of persons that the vessel may carry.

[7] Clause 41 Maximum safe loading level of certain vessels

Insert after clause 41 (7):

- (8) In calculating the number of persons on board a vessel for the purposes of this clause, children under the age of one year are to be disregarded.

[8] Clause 43 Application of this Part

Insert after clause 43 (3):

- (3A) In calculating the number of persons on board a vessel for the purposes of subclause (3) (b), children under the age of one year are to be disregarded.

[9] Clauses 51 (b), 67, 68 (1), (3) and (4) and 94 (2)

Omit “the Authority” wherever occurring. Insert instead “RMS”.

[10] Clause 63 Hull identification number requirements

Insert after clause 63 (2):

- (3) Despite subclause (1), a vessel registration certificate may, with the approval of the Minister or the RMS, be issued or transferred without a hull identification number being affixed to the vessel. It is a condition of vessel registration that the number is affixed to the vessel within the period specified in the approval.

[11] Clause 66A

Insert after clause 66:

66A Removal of vessel registration label and vessel registration number

The owner of a formerly registered vessel the registration of which has been cancelled by the Minister must, within 24 hours of being notified of that cancellation:

- (a) remove the vessel registration label for the vessel, and
(b) remove any vessel registration number displayed on the vessel.

Maximum penalty: 50 penalty units.

2012 No 584

Marine Safety (General) Amendment (Miscellaneous) Regulation 2012

Schedule 1 Amendment of Marine Safety (General) Regulation 2009

- [12] **Clause 68 Transfer of registrable vessel ownership**
Omit “registered” wherever occurring in clause 68 (1) and (2).
Insert instead “registrable”.
- [13] **Clause 68 (2) (a)**
Omit “the registration”. Insert instead “any registration”.
- [14] **Clause 69 Disposal of registrable vessel**
Omit “registered”. Insert instead “registrable”.
- [15] **Clause 82 Vessels exempt from certain requirements of Part**
Omit “or surf ski” from clause 82 (1) (c).
- [16] **Clause 83 Meaning of “lifejacket” and “appropriate lifejacket”**
Insert “or white water” after “waters” in clause 83 (2) (c).
- [17] **Clause 83 (2) (h)**
Omit the paragraph. Insert instead:
(h) in the case of any vessel operating on alpine waters, despite any of the above paragraphs, a lifejacket Type 1, a lifejacket Type 2 or a lifejacket Type 3.
- [18] **Clause 83 (4)**
Omit the subclause. Insert instead:
(4) Despite subclause (2), an inflatable lifejacket is not an *appropriate lifejacket* for the purposes of this Regulation unless:
(a) the life jacket was purchased or otherwise acquired new by the current owner no more than 12 months ago, or
(b) the lifejacket has been serviced:
(i) at intervals of 12 months or less, or
(ii) at least at such longer intervals as are indicated by the manufacturer’s instructions (if any) provided for the lifejacket.
- [19] **Clause 85 Circumstances in which lifejacket must be worn on a canoe or kayak**
Insert at the end of clause 85 (1) (b):
, or
(c) on white water.

[20] Clause 87F

Omit the clause. Insert instead:

87F Lifejackets must be worn on certain small vessels in certain circumstances

- (1) A person who is under 12 years of age must wear an appropriate lifejacket if that person is on board a prescribed small vessel.
- (2) A person must wear an appropriate lifejacket if the person is on board a prescribed small vessel:
 - (a) at night (that is, between sunset and sunrise), or
 - (b) when the vessel is on open waters, or
 - (c) when the vessel is being used more than 200 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.

- (3) A person must wear an appropriate lifejacket if the person is on board a prescribed small vessel and is operating the vessel without emergency assistance, being:
 - (a) the company of another person on board who is an adult person, or
 - (b) the company of another person on board who is a person younger than 18 years of age who holds:
 - (i) a current young adult general boat driving licence, or
 - (ii) a current young adult personal watercraft driving licence, or
 - (iii) a current general boat driving licence, or
 - (iv) a current licence that is equivalent to those described in subparagraphs (i)–(iii) issued under a law of another State or Territory, or
 - (c) the support of a support vessel capable of rendering immediate practical assistance in the case of emergency (either physically or by contacting the relevant emergency services).

Maximum penalty: 50 penalty units.

2012 No 584

Marine Safety (General) Amendment (Miscellaneous) Regulation 2012

Schedule 1 Amendment of Marine Safety (General) Regulation 2009

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

(5) In this clause:
prescribed small vessel means a vessel that is less than 4.8 metres in length, but does not include a personal watercraft, kiteboard, sailboard, canoe or kayak.

[21] Clause 89A Circumstances in which lifejacket Types 2 and 3 will be taken to satisfy requirement for appropriate lifejacket

Omit the clause.

[22] Schedule 1 Fees

Omit "Maritime Authority". Insert instead "RMS".

[23] Schedule 1

Insert at the end of the Schedule:

Boating safety course (for boat driving licence) 12

Personal watercraft safety course (for personal watercraft licence) 12

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

Omit NSW special Rule (1) relating to clause 27. Insert instead:

(1) The owner and operator of a vessel engaged in diving operations, and any diver engaged in those operations from the vessel, must ensure that a rigid replica of an International Code flag "A" is displayed on the vessel, or on a buoy or float positioned nearby, so as to make it clearly visible and that:

- (a) the top of the flag is at least 1 metre from the top of any part of the vessel's superstructure or other obstruction or at least 2 metres from the water surface if mounted on a nearby buoy, and
- (b) the flag is visible through 360°, and
- (c) the flag is at least 400 millimetres by 400 millimetres in size, and
- (d) the flag is not faded, and
- (e) the flag is maintained in good condition.

[25] Schedule 7 Penalty notice offences

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

Clause 66A	1
------------	---

[26] Schedule 7, Offences under this Regulation

Insert “or one lifejacket” after “of one item of equipment” wherever occurring in relation to clause 84 (1), (2), (3), (4) and (5).

[27] Schedule 7, Offences under this Regulation

Insert “or more than one lifejacket” after “more than one item of equipment” wherever occurring in relation to clause 84 (1), (2), (3), (4) and (5).

2012 No 584

Marine Safety (General) Amendment (Miscellaneous) Regulation 2012

Schedule 2 Amendment of Marine Safety (Commercial Vessels) Regulation 2010

Schedule 2 Amendment of Marine Safety (Commercial Vessels) Regulation 2010

- [1] Clause 3 (1), definition of “interstate authority” and clauses 22 (1) (b), 29 (1), 30 (c), 32, 39 (1) (d) and (2) (c), 41 (2) (b) (i) and (5), 59 (2), 65 (2)–(4), 73 (b), 74 (a), 77 (2) and (3) and 90 (1) and (2)**

Omit “the Maritime Authority” wherever occurring. Insert instead “RMS”.

- [2] Clauses 77 (4), 89 (1) and 90 (3)**

Omit “The Maritime Authority” wherever occurring. Insert instead “RMS”.

- [3] Clause 82 Inspection reports on public ferry wharves**

Omit “the Maritime Authority website” from clause 82 (2) (b).

Insert instead “the website of RMS”.

- [4] Clause 90 Fees**

Omit “the Authority” from clause 90 (3). Insert instead “RMS”.