



New South Wales

Marine Safety Amendment Bill 2025

Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Marine Safety Act 1998 No 121	3
Schedule 2	Consequential amendments	35

I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2025



New South Wales

Marine Safety Amendment Bill 2025

Act No , 2025

An Act to amend the *Marine Safety Act 1998* to address miscellaneous recommendations arising from a discussion paper on the *Marine Safety Regulation 2016*; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Marine Safety Amendment Act 2025*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Marine Safety Act 1998 No 121

[1] Section 4

Omit the section. Insert instead—

4 Definitions

- (1) The dictionary in Schedule 5 defines words used in this Act.
Note— The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.
- (2) For this Act, a vessel is taken to be proceeding on a voyage from when the vessel gets underway for the voyage until the vessel—
 - (a) is no longer underway, or
 - (b) is anchored, moored or berthed.

[2] Section 5

Omit the section. Insert instead—

5 Meaning of “vessel”

- (1) In this Act, *vessel*—
 - (a) includes the following—
 - (i) a water craft of any description capable of being used as a means of transportation on water,
 - (ii) a thing prescribed by the regulations as a vessel,
 - (iii) a thing subject to a temporary vessel order, but
 - (b) does not include a water craft of a kind prescribed by the regulations as not being a vessel.
- (2) Without limiting subsection (1)(a), a vessel includes—
 - (a) a non-displacement craft, and
 - (b) a seaplane, while the seaplane is on water.
- (3) The Minister may, by written order (a *temporary vessel order*), declare a thing capable of being used in or in connection with water to be a vessel for a period of not more than 12 months if the Minister reasonably considers it necessary—
 - (a) to assess the safety of the thing, or
 - (b) in an emergency.
- (4) The Minister must, as soon as practicable after making a temporary vessel order, ensure the order is published in the Gazette.

[3] Sections 7 and 7A

Omit section 7. Insert instead—

7 Meaning of “relevant owner” of vessel

- (1) In this Act, *relevant owner* of a vessel means—
 - (a) for a registrable vessel that has been registered—
 - (i) the person who holds the vessel registration certificate for the vessel, or
 - (ii) if the vessel is no longer registered—the person who last held the vessel registration certificate for the vessel, or

- (b) otherwise—the owner of the vessel.
- (2) In this section, a reference to the owner of a vessel includes a reference to the following—
 - (a) a person who holds the relevant National licence or other certificate of registry for the vessel,
 - (b) the charterer of the vessel,
 - (c) a person who—
 - (i) exercises the functions of the owner of the vessel, or
 - (ii) publicly represents that the person has the functions, or
 - (iii) accepts the obligation to exercise the functions.

7A Meaning of “person responsible” for vessel or former vessel

In this Act, *person responsible* for a vessel or former vessel means—

- (a) for a vessel—
 - (i) the relevant owner of the vessel, or
 - (ii) the master of the vessel, or
 - (iii) the operator of the vessel, or
 - (iv) if the Minister is unable to identify or contact the relevant owner, master or operator—the last relevant owner of the vessel, or
 - (v) another person who has responsibility for the vessel, or
- (b) for a former vessel—
 - (i) the owner of the former vessel, or
 - (ii) a person who—
 - (A) exercises the functions of the owner of the former vessel, or
 - (B) publicly represents that the person has the functions, or
 - (C) accepts the obligation to exercise the functions, or
 - (iii) another person who has responsibility for the former vessel.

[4] Section 8 Vessels and waters to which Act applies

Omit “(and their owners, masters, crew and passengers)” from section 8(1).

Insert instead “and the relevant owners, masters, crew and passengers of the vessels”.

[5] Section 8(2)

Omit the subsection.

[6] Section 9AA

Insert after section 9—

9AA Act subject to Heritage Act 1977

This Act is subject to the *Heritage Act 1977*.

Note— See also the *Underwater Cultural Heritage Act 2018* of the Commonwealth.

[7] Section 12 Restrictions on vessels and people in navigable waters during special events

Omit the section.

- [8] **Section 13 Reckless, dangerous or negligent navigation and other acts**
Omit section 13(5), definition of *hire and drive vessel*.
- [9] **Section 15A Power to give directions relating to safety on navigable waters**
Omit “owner, master or operator of” wherever occurring in section 15A(1A).
Insert instead “person responsible for”.
- [10] **Section 16, heading**
Omit the heading. Insert instead—
16 Obstructions to navigation
- [11] **Section 16(1)**
Omit the subsection. Insert instead—
(1) In this section, *obstruction to navigation*—
(a) means a thing in or over navigable waters, including a vessel, whether abandoned, wrecked or otherwise, that—
(i) is, or is likely to be, a danger to the safe navigation of vessels or otherwise unreasonably obstructs the navigation of vessels, or
Examples— an anchor, a mooring block or debris that originates from a vessel and is left on the seabed
(ii) restricts access to or from port facilities, or
(iii) is moored, berthed or placed in contravention of the marine legislation or the National law, and
(b) includes a vessel or former vessel that has sunk, and
(c) does not include a thing lawfully erected in or over navigable waters.
Example— a thing used to disturb or interfere with the bed of a port in accordance with an approval granted by the harbour master of the port under Part 2, Division 4
- [12] **Section 16(2)**
Insert “, by written notice (an *obstruction to navigation notice*),” after “may”.
- [13] **Section 16(2), penalty, paragraph (a)**
Insert “or was” after “obstruction is”.
- [14] **Section 16(2), penalty, paragraph (a)**
Omit “unseaworthy”. Insert instead “not seaworthy”.
- [15] **Section 16(2A)**
Insert after section 16(2)—
(2A) For subsection (2), a person responsible for an obstruction to navigation includes—
(a) if the obstruction is a vessel—the person responsible for the vessel, and
(b) the person responsible for the vessel from which the Minister reasonably believes the obstruction originated.
- [16] **Section 16(3)**
Omit the subsection. Insert instead—

- (3) The Minister may do the following, in a way the Minister considers appropriate, whether or not the Minister has issued an obstruction to navigation notice—
 - (a) arrange for an obstruction to navigation to be—
 - (i) removed, or
 - (ii) destroyed, if the destruction of the obstruction is reasonable in the circumstances,
 - (b) take other steps to reduce the danger of the obstruction to the safe navigation of vessels.

[17] Sections 18–18B

Omit section 18. Insert instead—

18 Conduct of aquatic activities

- (1) A person must not conduct an aquatic activity unless the person—
 - (a) holds an aquatic licence for the aquatic activity, and
 - (b) conducts the aquatic activity in accordance with the conditions of the licence.

Maximum penalty—100 penalty units.

Note— An aquatic activity lasting longer than 14 days on any one occasion must comply with the requirements of the *Environmental Planning and Assessment Act 1979*.

- (2) A person must not be convicted of an offence under this section and section 32 in relation to the same conduct.
- (3) An aquatic licence may include an exemption from a requirement of this Act or the regulations in relation to the following—
 - (a) the holder of the licence,
 - (b) a person involved in the conduct of, or taking part in, the aquatic activity to which the licence relates,
 - (c) a vessel used in connection with the aquatic activity.
- (4) The regulations may provide for aquatic licences, including the circumstances in which an aquatic licence may be transferred to another person.
- (5) In this section—
conduct, an aquatic activity, includes organise the activity.

18A Conduct of exempt aquatic activities

- (1) A person is not required to hold an aquatic licence to conduct an exempt aquatic activity in or over navigable waters if the conduct of the activity—
 - (a) will not—
 - (i) substantially affect navigation in the waters by members of the public or vessel operators, or
 - (ii) cause an increased risk of danger to the public or vessel operators, and
 - (b) for an aquatic activity declared to be an exempt aquatic activity—complies with conditions to which the conduct of the exempt aquatic activity is subject.

- (2) The Minister may, by notice published in the Gazette, declare an aquatic activity to be an exempt aquatic activity if the Minister reasonably considers that the aquatic activity would not substantially affect navigation in the waters.
- (3) A declaration may include conditions.
- (4) In this section—
 - conduct**, an aquatic activity, includes organise the activity.
 - exempt aquatic activity** means the following—
 - (a) an aquatic activity for which the only vessels used are surfboards or other similar craft, including stand-up paddleboards,
 - (b) recreational swimming or a swimming competition,
 - (c) recreational fishing or a fishing competition,
 - (d) an aquatic activity conducted by Surf Life Saving New South Wales or an affiliated surf life saving club, if all the participants in the activity are current members of Surf Life Saving New South Wales or the club conducting the aquatic activity,
 - (e) an aquatic activity the Minister declares under this section to be an exempt aquatic activity,
 - (f) another aquatic activity prescribed by the regulations.

18B Restrictions in navigable waters for exclusion zones and other activities or events

- (1) The Minister may, by notice published in the Gazette, prohibit or regulate the operation or use of vessels and the conduct of activities by persons in specified navigable waters for the purposes of—
 - (a) an exclusive aquatic activity, or
 - (b) an activity or event the Minister reasonably considers will require an exclusion zone or other restriction for the safety of navigation in the waters.
- (2) Without limiting subsection (1), the notice may—
 - (a) exclude vessels and persons from a specified area in relation to the activity or event, or
 - (b) impose a restriction that may be imposed under section 11.
- (3) An authorised officer may direct a person in an exclusion zone, or a person operating a vessel in an exclusion zone, to—
 - (a) leave the exclusion zone, or
 - (b) comply with a restriction imposed in the notice.
- (4) The person must not, without reasonable excuse, fail to comply with the notice or direction.
Maximum penalty—10 penalty units.
- (5) The Minister may charge a person—
 - (a) a reasonable fee for the Minister to establish and maintain an exclusion zone (an **exclusion zone fee**), and
 - (b) for an exclusive aquatic activity—an additional amount for the benefit of the exclusive use of the waters because of the exclusion zone.
- (6) Nothing in this section affects—
 - (a) a regulation or notice under section 11, or

- (b) a power relating to the navigation or other use of vessels conferred on a person or body by the marine legislation or the National law.
- (7) The regulations may provide for other circumstances in which the Minister may charge a person an exclusion zone fee.
- (8) In this section—
exclusion zone means the area in navigable waters specified in a notice under subsection (2)(a).
exclusive aquatic activity means an aquatic activity conducted under an aquatic licence that requires an exclusion zone.

[18] Section 19 Regulations relating to safety of navigation

Omit section 19(2)(c)–(e). Insert instead—

- (c) the activities of persons that affect navigation, including persons carried on vessels, surfboard riders, divers or other persons in navigable waters, and
- (d) navigation aids, and
- (d1) obstructions to navigation, and
- (d2) the lighting and marking of potential hazards, and
- (e) cables, wires, pipes or other material in or over navigable waters, including supporting structures, and

[19] Sections 19A(2)(a), 19C(2), 19E(1), (2) and (4), 19G(1), 19H(1) and (3), 19J(3)(b), 75, 76, 79(2), 98(2)(b), 99, 121, 133(2)(d) and 135(1) and (2) and Schedule 1A, clause 10, definition of “responsible person”, paragraph (a)

Omit “the owner” wherever occurring. Insert instead “the relevant owner”.

[20] Section 19A(2)(b)

Omit the paragraph. Insert instead—

- (b) give the relevant owner of the vessel a notice (a *recreational vessel production notice*) requiring the relevant owner to, within a period specified in the notice, arrange for the vessel to be—
 - (i) moved to a specified place, or
 - (ii) produced to an authorised officer at a specified place.

[21] Section 19A(3) and (4)

Insert after section 19A(2)—

- (3) An authorised officer must give the relevant owner of a vessel a receipt if the relevant owner produces the vessel to the officer in accordance with a recreational vessel production notice.
- (4) The receipt must be given on, or as soon as practicable after, the production of the vessel.

[22] Section 19B Production notices

Omit “vessel owner concerned” from section 19B(5)(a).

Insert instead “relevant owner of the vessel”.

[23] Section 19E Failure to comply with production notice

Omit “The owner” from section 19E(1). Insert instead “The relevant owner”.

[24] Sections 19E(2), 19Q(1), 19R(1) and (3), 19S(3), (7) and (9), 19T(b) and (h), 31(4), 33(1A), 40, 50(4), 64(2)(c), 110(1) and (3) and 111(3)

Omit “responsible licensing official” wherever occurring.

Insert instead “responsible regulator”.

[25] Section 19H Interested persons to be notified

Omit “The owner” from section 19H(1). Insert instead “The relevant owner”.

[26] Section 19K Release of impounded vessel

Insert “as soon as practicable” after “available” in section 19K(2).

[27] Section 19K(2)

Omit “the owner of the vessel as soon as the person is entitled to it”.

Insert instead “the person entitled to the vessel”.

[28] Section 19Q Appeal against decisions

Omit “the official’s” from section 19Q(4). Insert instead “the responsible regulator’s”.

[29] Section 19U References to vessels include trailers

Omit “a vessel”. Insert instead “a *vessel*”.

[30] Part 2, Divisions 3 and 4

Insert after Division 2—

Division 3 Offshore anchorages

19V Definition

In this division—

offshore anchorage, in relation to a port, means an area of State waters declared under this division as an anchorage for the port.

19W Declaration of offshore anchorages

- (1) The Minister may, by order published in the Gazette, declare an area of State waters as an offshore anchorage for a port.
- (2) In deciding whether to make the declaration, the Minister must consider the following—
 - (a) the safe operation of vessels,
 - (b) the protection of the environment,
 - (c) the current and likely future volume of vessel movement,
 - (d) the conservation of the State’s heritage,
 - (e) other matters the Minister considers relevant to the decision.

19X Directions to use or leave offshore anchorages

- (1) The Minister may give a direction that a vessel must—
 - (a) anchor at an offshore anchorage, or
 - (b) leave an offshore anchorage.

- (2) A person to whom a direction under subsection (1) is given must not, without reasonable excuse, fail to comply with the direction.
Maximum penalty—100 penalty units.

Division 4 Beds of relevant ports

19Y Definitions

In this division—

disused sea cable means a sea cable that has ceased to be used.

relevant port means the following—

- (a) a pilotage port with the boundaries described for the port under the *Ports and Maritime Administration Act 1995*, section 105,
- (b) another port with the boundaries prescribed by the regulations.

sea cable means the following infrastructure on the bed of a port—

- (a) a cable for telecommunication, electricity transmission or electricity distribution,
- (b) a pipeline.

19Z Disturbance or interference with bed of relevant ports

- (1) A person must not disturb or interfere with the bed of a relevant port, including to install a sea cable in the port, except with an approval granted by the harbour master of the port.
Maximum penalty—50 penalty units.
- (2) A person may apply to the harbour master of a relevant port for approval to disturb or interfere with the bed of the port.
- (3) The harbour master may—
- (a) grant the approval with or without conditions, or
 - (b) refuse to grant the approval.
- (4) The person must not, without reasonable excuse, fail to comply with the conditions of the approval.
Maximum penalty—50 penalty units.
- (5) A person who owns a sea cable is bound by the conditions of an approval granted under this section in relation to the sea cable, even if the person did not own the sea cable when the approval was granted.
- (6) This section does not apply to a disturbance or interference that is—
- (a) trivial, or
Example— a fishing hook that, in the course of recreational fishing, drags along the bed of the port
 - (b) caused by a thing lawfully erected in navigable waters, or
Example— a mooring approved by Transport for NSW
 - (c) otherwise required by law.
Example— the removal of a sea cable under this division
- (7) The regulations may provide for applications for approvals, including application fees.

19ZA Removal of sea cables from relevant ports

- (1) The owner of a sea cable within a relevant port must give written notice to the harbour master of the port, in accordance with the regulations, no later than 90 days after the earlier of the following occurs—
 - (a) the owner becomes aware that the sea cable is a disused sea cable,
 - (b) the owner ought reasonably to have become aware that the sea cable is a disused sea cable.Maximum penalty—50 penalty units.
- (2) If the harbour master is notified, or otherwise becomes aware, of the disused sea cable, the harbour master may, by written notice, direct the owner to remove the disused sea cable from the relevant port—
 - (a) in a way the harbour master reasonably considers appropriate, and
 - (b) within the reasonable time specified by the harbour master.
- (3) The owner must not, without reasonable excuse, fail to comply with the direction.
Maximum penalty—50 penalty units.
- (4) Before giving the direction, the harbour master must—
 - (a) give the owner written notice of the proposed direction, and
 - (b) give the owner a reasonable opportunity to make submissions about the proposed direction, and
 - (c) consider the submissions received.
- (5) Subsection (4) does not apply in an emergency.
- (6) The harbour master may, by written notice given to the owner of the sea cable, require the owner to give the harbour master additional information that the harbour master considers reasonably necessary to decide whether to give a direction.
- (7) The harbour master must not give a direction, or must revoke a direction already given, if the owner satisfies the harbour master that—
 - (a) the operation of another Act or law prevents the owner from lawfully removing the disused sea cable, and
 - (b) the proposed removal of the disused sea cable poses a significant risk to the safety of persons or the environment, taking into account measures that may be taken to mitigate the risk.
- (8) Subsection (7)(a) does not apply if—
 - (a) the Act or law provides a process under which the owner may remove the sea cable, and
 - (b) the owner failed to take reasonable steps to undertake the process.
- (9) If the owner fails to comply with the direction, the harbour master may—
 - (a) make reasonable arrangements for the disused sea cable to be removed, and
 - (b) recover the costs of the removal of the disused sea cable from the owner as a debt in a court of competent jurisdiction.

192B Division subject to Environmental Planning and Assessment Act 1979

Nothing in this division removes the requirement to obtain development consent or approval in accordance with the *Environmental Planning and Assessment Act 1979*.

[31] Part 3, Division 1, heading

Omit the heading. Insert instead—

Division 1 Preliminary

[32] Section 20 Definitions

Omit “and in Schedule 1” from section 20(1).

[33] Section 20(1), definitions of “breath analysing instrument”, “breath test”, “drug” and “operate a vessel”

Omit the definitions. Insert in alphabetical order—

operate, a vessel, includes—

- (a) being towed by a vessel, whether on a water ski, aquaplane, paraflaying device or other device, or
- (b) act as observer on a vessel, for safety purposes, of any person being towed by the vessel, or
- (c) supervise a juvenile operator of a motor vessel.

[34] Section 20(3) and (4)

Omit “or Schedule 1” wherever occurring.

[35] Section 28D

Insert before section 29—

28D Application of part

- (1) This part does not apply to a commercial vessel, except as otherwise provided in this section.
- (2) Provisions of this part relating to a bar crossing licence apply to a domestic commercial vessel.
- (3) Provisions of this part relating to the following marine safety licences apply to a commercial vessel, including a domestic commercial vessel—
 - (a) an aquatic licence,
 - (b) a marine pilotage exemption certificate,
 - (c) a certificate of local knowledge,
 - (d) a special recreational vessel permit.

[36] Section 29

Omit the section. Insert instead—

29 Types of marine safety licences

In this Act, *marine safety licence* means the following—

- (a) vessel registration certificate,
- (b) aquatic licence,

- (c) bar crossing licence,
- (d) boat driving licence,
- (e) certificate of local knowledge,
- (f) marine pilotage exemption certificate,
- (g) marine pilot's licence,
- (h) special recreational vessel permit,
- (i) another licence or approval required by or under the marine legislation that is declared by the regulations to be a marine safety licence, whether for all or specified provisions of this Act.

[37] Section 29A

Insert after section 29—

29A Grounds for finding persons not suitable to hold licence

- (1) A person is not a suitable person to hold a marine safety licence in the following circumstances—
 - (a) the person is—
 - (i) not qualified to hold the licence, or
 - (ii) disqualified from holding the licence, or
 - (iii) otherwise not eligible for the licence under this Act or the regulations,
 - (b) the person does not have the knowledge or skills required for the licence,
 - (c) the responsible regulator is satisfied the person is not a suitable person to hold the licence.
- (2) The responsible regulator may be satisfied a person is not a suitable person to hold a marine safety licence in the following circumstances—
 - (a) the person has failed to comply with a condition of a current or previous marine safety licence,
 - (b) fees for, or in connection with, a current or previous marine safety licence of the person are overdue and have been overdue for a period of at least 14 days,
 - (c) the person has committed an offence under—
 - (i) a provision of the marine legislation, or
 - (ii) the *Crimes Act 1900*, section 52B, or
 - (iii) a provision of a law of the Commonwealth or another State or Territory that the responsible regulator reasonably considers to be similar to a provision referred to in subparagraph (i) or (ii),
 - (d) for a marine safety licence other than a vessel registration certificate—the responsible regulator is satisfied the person is not a fit and proper person to hold the licence,
 - (e) for a vessel registration certificate—the person is, or has been, a relevant owner of a vessel and has—
 - (i) failed to comply with Part 5, Division 2 in relation to the vessel, or
 - (ii) been issued a statutory notice in relation to the vessel and has not complied with the notice.

- (3) For subsection (2)(c), a person is taken to have committed an offence if—
 - (a) the person has been found guilty of the offence by a court, or
 - (b) the person—
 - (i) has been issued a penalty notice for the alleged offence, and
 - (ii) does not elect to have the matter dealt with by a court, and
 - (iii) either—
 - (A) pays the penalty required by the penalty notice for the alleged offence, or
 - (B) has enforcement action taken against the person under the *Fines Act 1996*, Part 4, Division 3 or 4.

[38] Section 30

Omit the section. Insert instead—

30 Grant of licences

- (1) A person may apply to the responsible regulator for the grant of a marine safety licence.
- (2) The responsible regulator may—
 - (a) grant the licence in accordance with this Act and the regulations, or
 - (b) refuse to grant the licence.
- (3) Without limiting subsection (1) or (2), a boat driving licence may be granted by including the boat driving licence on a driver licence granted in accordance with statutory rules made under the *Road Transport Act 2013*.

Note— The *Road Transport Act 2013*, section 57A enables statutory rules made under that Act to provide for the granting of driver licences under that Act that include boat driving licences (**combined licences**). The section provides that combined licences have effect as both driver licences and boat driving licences for the road transport legislation, within the meaning of that Act, and the marine legislation.
- (4) The responsible regulator must refuse to grant a marine safety licence to a person in the following circumstances—
 - (a) the person is not a suitable person to hold a marine safety licence,
 - (b) the responsible regulator decides the refusal is in the public interest,
 - (c) another circumstance prescribed by the regulations.
- (5) The responsible regulator may refuse to grant a marine safety licence to a person in the following circumstances—
 - (a) the person gives information that is, in the responsible regulator's opinion, inadequate to enable the application to be assessed properly,
 - (b) the person has given information for the purposes of the marine legislation that is false or misleading in a material particular,

Note— The *Crimes Act 1900*, Part 5A contains offences relating to the making of false or misleading applications or giving false or misleading information or documents.
 - (c) the responsible regulator has requested further information or supporting evidence in relation to the application that has not been given,
 - (d) another circumstance prescribed by the regulations.
- (6) The responsible regulator must give the person written notice of the refusal to grant the licence.

- (7) The notice given to the person must state the reasons for the refusal.

[39] Section 31 Conditions of licences

Omit section 31(2). Insert instead—

- (2) Without limiting subsection (1), a condition may relate to—
- (a) a matter concerning marine safety, including insurance coverage, or indemnities, for damage or injury caused in connection with the activity to which the licence relates, or
 - (b) for a vessel registration certificate for a vessel—
 - (i) the condition or use of the vessel, or
 - (ii) the display of offensive or discriminatory material on the vessel.

[40] Section 31(3)

Omit “After granting a marine safety licence, the responsible licensing official may, by notice in writing”.

Insert instead “The responsible regulator may, at any time, by written notice”.

[41] Section 34

Insert after section 33—

34 Transfer of licences

A marine safety licence cannot be transferred, except as otherwise provided by this Act or the regulations.

[42] Section 37 Regulations relating to licences

Omit section 37(2)(f). Insert instead—

- (f) the conditions of licences, including the continuing education and training of holders of licences,

[43] Section 38

Omit the section. Insert instead—

38 Suspension or cancellation of licences

- (1) The responsible regulator must suspend or cancel a marine safety licence in the following circumstances—
- (a) the holder of the licence requests, or agrees to, the suspension or cancellation,
 - (b) the holder of the licence is not a suitable person to hold a marine safety licence,
 - (c) the responsible regulator decides the suspension or cancellation is in the public interest,
 - (d) another circumstance prescribed by the regulations.
- (2) The responsible regulator may suspend or cancel a marine safety licence in the following circumstances—
- (a) the holder of the licence has given information for the purposes of the marine legislation that is found to be false or misleading in a material particular,

Note— The *Crimes Act 1900*, Part 5A contains offences relating to the making of false or misleading applications or giving false or misleading information or documents.

(b) another circumstance prescribed by the regulations.

Note— The Minister may also suspend or cancel a marine safety licence under section 111.

- (3) Before suspending or cancelling the licence, the responsible regulator must—
- (a) give the holder of the licence written notice of the proposed suspension or cancellation, and
 - (b) give the holder of the licence a reasonable opportunity to make submissions about the proposed suspension or cancellation, and
 - (c) consider the submissions received.
- (4) The responsible regulator may, by written notice given to the holder of the licence, require the holder to give the responsible regulator additional information that the responsible regulator considers reasonably necessary to decide whether to suspend or cancel the licence.
- (5) The responsible regulator must give the holder of the licence written notice of the suspension or cancellation of the licence.
- (6) The suspension or cancellation takes effect on—
- (a) the date the notice of the suspension or cancellation is given, or
 - (b) a later date as specified in the notice.
- (7) The notice given to the holder of the licence must state the following—
- (a) the date the suspension or cancellation takes effect,
 - (b) if the licence is suspended—the date the suspension ends,
 - (c) if the holder did not request the suspension or cancellation—the reasons for the suspension or cancellation,
 - (d) the holder's right to appeal the decision to suspend or cancel the licence.
- (8) Subsections (3)–(7) do not apply to the suspension of a marine safety licence—
- (a) in an emergency, or
 - (b) if there is a serious risk to public safety, or
 - (c) in another circumstance prescribed by the regulations.
- (9) The responsible regulator may, at any time, remove the suspension of a marine safety licence imposed by the responsible regulator under this section.

[44] Section 38A

Insert after section 38—

38A Cancellation of marine pilot's licences on notification

- (1) The holder of a marine pilot's licence must give written notice to the responsible regulator as soon as practicable after the holder—
- (a) retires, or
 - (b) has not been employed as a marine pilot by a pilotage service provider for a continuous period of 2 years.
- Maximum penalty—50 penalty units.

- (2) The responsible regulator may cancel the holder's marine pilot's licence if the responsible regulator is notified, or otherwise becomes aware, that the holder—
 - (a) is retired, or
 - (b) has not been employed as a marine pilot by a pilotage service provider for a continuous period of 2 years.
- (3) Before cancelling the licence, the responsible regulator must—
 - (a) give the holder of the marine pilot's licence written notice of the proposed cancellation, and
 - (b) give the holder of the marine pilot's licence a reasonable opportunity to make submissions about the proposed cancellation, and
 - (c) consider the submissions received.
- (4) The responsible regulator may, by written notice given to the holder of the marine pilot's licence, require the holder to give the responsible regulator additional information that the responsible regulator considers reasonably necessary to decide whether to cancel the licence.
- (5) The responsible regulator must give the holder of the marine pilot's licence written notice of the cancellation.
- (6) The cancellation takes effect on the date the notice of the cancellation is given.
- (7) The notice given to the holder must state—
 - (a) the date the cancellation takes effect, and
 - (b) the reasons for the cancellation, and
 - (c) the holder's right to appeal the decision to cancel the licence.
- (8) In this section—
pilotage service provider has the same meaning as in Part 6.

[45] Part 4, Division 3A

Insert after Division 3—

Division 3A Disqualification of persons from holding licences

40A Disqualification of persons from holding licences

- (1) The responsible regulator may disqualify a person from holding or being granted a type of marine safety licence for a specified period of no more than 2 years if the person commits an offence against the marine legislation.
Note— The Minister may also disqualify a person from holding or being granted a marine safety licence under section 111.
- (2) For subsection (1), a person is taken to have committed an offence when the person is found guilty of the offence by a court.
- (3) Before disqualifying a person from holding or being granted a licence, the responsible regulator must—
 - (a) give the person written notice of the proposed disqualification, and
 - (b) give the person a reasonable opportunity to make submissions about the proposed disqualification, and
 - (c) consider the submissions received.

- (4) The responsible regulator may, by written notice given to the person, require the person to give the responsible regulator additional information that the responsible regulator considers reasonably necessary to decide whether to disqualify the person.
- (5) The responsible regulator must give the person written notice of the disqualification.
- (6) The notice given to the person must state the following—
 - (a) the period of the disqualification,
 - (b) the reasons for the disqualification,
 - (c) the person's right to appeal the decision to disqualify the person.
- (7) The responsible regulator may, at any time, end the period of the disqualification by further written notice to the person.

40B Effect of disqualification

If a person is disqualified from holding or being granted a type of marine safety licence for a specified period under this division or section 111—

- (a) the disqualification operates to permanently cancel a marine safety licence of that type held by the person at the time of the disqualification, and
- (b) the person is ineligible to apply for a grant or transfer of that type of marine safety licence during the period of the disqualification.

[46] Section 42 Application for administrative review

Insert after section 42(a)—

- (a1) the refusal to transfer a vessel registration certificate to or from the person,
- (a2) the rescission of the transfer of a vessel registration certificate,

[47] Part 5 Requirements for vessels

Omit Division 1. Insert instead—

Division 1 Preliminary

43AA Application of part

This part does not apply to a commercial vessel, except as otherwise provided in this part.

Division 1A Unsafe vessels

43A Definitions

In this division—

former vessel—

- (a) means a thing that was, but is no longer, a vessel, but
- (b) does not include a thing that was only a vessel because of a temporary vessel order.

vessel includes a commercial vessel.

44 Meaning of “unsafe vessel”

- (1) In this division, *unsafe vessel* means the following—
 - (a) a vessel or former vessel that is reasonably likely to endanger a person, or cause harm to the environment or damage to property, including because of—
 - (i) the condition of the vessel or former vessel, or
 - (ii) how or where the vessel or former vessel is anchored, moored or berthed, or
 - (iii) the overloading of the vessel or former vessel,
 - (b) a derelict vessel,
 - (c) a vessel subject to an unsafe vessel notice,
 - (d) a vessel subject to a temporary unsafe vessel order.
- (2) The Minister may, by notice published in the Gazette (an *unsafe vessel notice*), declare a vessel, or a vessel of a kind, to be an unsafe vessel if the Minister reasonably considers the vessel unsafe.
- (3) The Minister may, by written order (a *temporary unsafe vessel order*), declare a vessel, or a vessel of a kind, to be an unsafe vessel for a period of not more than 12 months if the Minister reasonably considers it necessary—
 - (a) to assess the safety of the vessel, or
 - (b) in an emergency.
- (4) The Minister must, as soon as practicable after making a temporary unsafe vessel order, ensure the order is published in the Gazette.

45 Offence to operate or use unsafe vessel

- (1) A person must not operate a vessel or former vessel in State waters if the person knows, or ought reasonably to know, that the vessel or former vessel is an unsafe vessel.
Maximum penalty—
 - (a) for a commercial vessel that is a regulated Australian vessel or a foreign vessel—1,000 penalty units or imprisonment for 9 months, or both, or
 - (b) for another commercial vessel other than a hire and drive vessel—100 penalty units or imprisonment for 9 months, or both, or
 - (c) otherwise—50 penalty units or imprisonment for 9 months, or both.
- (2) A person responsible for a vessel or former vessel must not use the vessel or former vessel, or allow the vessel or former vessel to be used, in State waters if the person knows, or ought reasonably to know, that the vessel or former vessel is an unsafe vessel.
Maximum penalty—
 - (a) for a commercial vessel that is a regulated Australian vessel or a foreign vessel—1,000 penalty units or imprisonment for 9 months, or both, or
 - (b) for another commercial vessel other than a hire and drive vessel—100 penalty units or imprisonment for 9 months, or both, or
 - (c) otherwise—50 penalty units or imprisonment for 9 months, or both.
- (3) A reference in this section to imprisonment for 9 months is, for a second or subsequent offence, taken to be a reference to imprisonment for 12 months.

46 Inspection of unsafe vessels

An authorised officer may board and inspect a vessel or former vessel if—

- (a) the authorised officer reasonably suspects that the vessel or former vessel is an unsafe vessel, and
- (b) the vessel or former vessel is in, or in the immediate vicinity of, State waters.

47 Power to give directions in relation to unsafe vessels

- (1) An authorised officer may, by written notice (an *unsafe vessel notice*), direct a person responsible for a vessel or former vessel to, within a specified period—
 - (a) take the measures specified in the notice to repair the vessel or former vessel, or
 - (b) otherwise make the vessel or former vessel safe.
- (2) The notice may include a direction to remove a vessel or former vessel from State waters.
- (3) An authorised officer may only give the notice if the authorised officer reasonably considers the vessel or former vessel an unsafe vessel, whether through inspection or otherwise.
- (4) The person responsible must not, without reasonable excuse, fail to comply with the notice.
Maximum penalty—50 penalty units.

48 Dealing with unsafe vessels

- (1) An authorised officer may do the following if the person responsible for a vessel or former vessel fails to comply with a notice given under this division—
 - (a) take the measures specified in the notice,
 - (b) arrange for the vessel or former vessel to be—
 - (i) removed from State waters, or
 - (ii) detained in or out of the water, if the Minister considers the detention reasonable in the circumstances, or
 - (iii) seized and disposed of in accordance with the regulations, if the Minister considers the seizure and disposal reasonable in the circumstances,
 - (c) take other steps to reduce the danger of the vessel or former vessel.
- (2) An authorised officer must not take action under this section unless the Minister has made reasonable attempts to notify the person responsible for the vessel or former vessel of the proposed action.
- (3) Subsection (2) does not apply—
 - (a) in an emergency, or
 - (b) if the unsafe vessel is reasonably likely to sink within 7 days, or
 - (c) if the unsafe vessel poses—
 - (i) a serious risk to the safety of persons, or
 - (ii) a risk of significant harm to the environment or significant damage to property.

- (4) The Minister may recover the reasonable costs incurred in taking action under this section from the person responsible as a debt in a court of competent jurisdiction.

[48] Section 49

Omit the section. Insert instead—

49 Offence for unregistered vessels to be in State waters

- (1) This section applies to a vessel (a *registrable vessel*) that is not exempt from registration under this Act.
- (2) A person who owns a registrable vessel must not allow the vessel to be in State waters if the vessel is not registered under this Act.
Maximum penalty—20 penalty units.
- (3) Subsection (2) does not apply within the period of 15 days after the date on which a vessel ceases to be registered.
- (4) The master of a registrable vessel must not allow the vessel to be in State waters if the vessel is not registered under this Act.
Maximum penalty—20 penalty units.
- (5) It is a defence to prosecution for an offence under subsection (4) if the master establishes that the master reasonably believed—
- (a) the vessel was registered, or
 - (b) the vessel was not in State waters.

[49] Section 50 Vessels exempt from registration

Omit “the owner or” from section 50(4).

Insert instead “the person who owns the vessel or the”.

[50] Section 51

Omit the section. Insert instead—

51 Offence to operate vessels in contravention of vessel registration certificates

- (1) The master of a registrable vessel must not allow the vessel to be operated in State waters in contravention of the conditions of the vessel registration certificate for the vessel.
Maximum penalty—20 penalty units.
- (2) It is a defence to prosecution for an offence under this section if the master establishes that the master reasonably believed the vessel was not operated in contravention of the conditions.

[51] Section 52

Omit the section. Insert instead—

52 Additional grounds for vessel registration certificates

- (1) The responsible regulator may refuse to grant or transfer a vessel registration certificate for a vessel, or may suspend or cancel a vessel registration certificate for a vessel, if—

- (a) the vessel causes, or is reasonably likely to cause, unreasonable noise or air or other pollution because of the vessel's design, construction or equipment, or
 - (b) a statutory notice, other than a recreational vessel production notice, has been given in relation to the vessel within the previous 24 months that has not been complied with or withdrawn, or
 - (c) a recreational vessel production notice has been given in relation to the vessel that has not been complied with or withdrawn, or
 - (d) the vessel is an unsafe vessel.
- (2) To avoid doubt, the circumstances in subsection (1) are additional to other circumstances in which the responsible regulator may, under this Act or the regulations—
- (a) refuse to grant or transfer a vessel registration certificate, or
 - (b) suspend or cancel a vessel registration certificate.

[52] Part 5, Division 3

Insert after Division 2—

Division 3 Transfer of vessel registration certificates

53 Definition

In this division—

acquire, a vessel, means obtain legal ownership of the vessel by any means, including in accordance with an order of a court in Australia or another legal process.

54 Obligations of disposers of vessels

- (1) A relevant owner of a registered registrable vessel who disposes of the vessel must, immediately after disposing of the vessel—
- (a) notify the responsible regulator of the disposal in a form approved by the responsible regulator, and
 - (b) give the person acquiring the vessel a copy of the form.
- Maximum penalty—20 penalty units.
- (2) This section does not apply to the disposal of a registrable vessel—
- (a) in accordance with an order of a court in Australia or another legal process, or
 - (b) in another circumstance prescribed by the regulations.

55 Obligations of acquirers of vessels

- (1) A person who acquires a registered registrable vessel must, within 14 days after acquiring the vessel—
- (a) notify the responsible regulator of the acquisition in a form approved by the responsible regulator, and
 - (b) pay the fee prescribed by the regulations, and
 - (c) if the vessel is acquired in accordance with an order of a court in Australia or another legal process—give the responsible regulator evidence of the court order or process.
- Maximum penalty—20 penalty units.

- (2) This section does not apply to the acquisition of a registered registrable vessel in a circumstance prescribed by the regulations.

56 Transfer of vessel registration certificates

- (1) The vessel registration certificate for a vessel is taken to be transferred to the person acquiring the vessel when the responsible regulator issues the vessel registration certificate to the person.
- (2) The responsible regulator is taken to have refused the transfer if the vessel registration certificate is not issued to the person within 60 days after the person notified the responsible regulator under this division.

57 Grounds to refuse transfer

The responsible regulator may refuse the transfer of a vessel registration certificate for a vessel in the following circumstances—

- (a) the person acquiring the vessel is not a suitable person to hold a marine safety licence,
- (b) the responsible regulator is satisfied the proposed transfer is—
- (i) not genuine, or
 - (ii) being undertaken to avoid liability,
- (c) the responsible regulator decides the refusal is in the public interest,
- (d) an order of a court in Australia or another legal process prohibits the transfer and the responsible regulator has been notified, or otherwise becomes aware, of the order or process,
- (e) the relevant owner has not obtained the consent of a person who owns the vessel to the proposed transfer,
- (f) the relevant owner or the person acquiring the vessel gives information that—
- (i) is false or misleading in a material particular, or
- Note—** The *Crimes Act 1900*, Part 5A contains offences relating to the making of false or misleading applications or giving false or misleading information or documents.
- (ii) is, in the responsible regulator's opinion, inadequate to enable the proposed transfer to be assessed properly,
- (g) the responsible regulator has requested further information or supporting evidence in relation to the proposed transfer that has not been given,
- (h) another circumstance prescribed by the regulations.

58 Power to rescind transfers

- (1) The responsible regulator may rescind the transfer of a vessel registration certificate under this division if, within 14 days after the transfer, the responsible regulator becomes aware that the transfer was—
- (a) not genuine, or
 - (b) undertaken to avoid liability.
- (2) If a transfer is rescinded—
- (a) the vessel registration certificate is taken to have never been transferred, and

- (b) the responsible regulator must notify the person who disposed of the vessel and the person who acquired the vessel of the rescission as soon as practicable after the rescission.
- (3) The regulations may provide for the rescission of transfers of vessel registration certificates, including—
 - (a) the return or issue of vessel registration certificates, and
 - (b) the refund of fees.

[53] Section 67 Regulation of marine safety equipment or facilities

Insert at the end of the section—

- (2) In this section—
vessel means—
 - (a) a recreational vessel, or
 - (b) a hire and drive vessel.

[54] Section 69 Regulation of passengers

Insert at the end of the section—

- (2) In this section—
vessel includes a domestic commercial vessel.

[55] Section 70A

Insert after section 70—

70A Public register

- (1) Transport for NSW must establish and keep a register (the **register**) of vessels to which a statutory notice relates if—
 - (a) the Minister is reasonably satisfied the statutory notice relates to the current condition or safety of the vessel, and
 - (b) the statutory notice has not been complied with or withdrawn.
- (2) Transport for NSW must record the following information in the register—
 - (a) the name of the vessel,
 - (b) the vessel registration number for the vessel,
 - (c) all or part of the hull identification number for the vessel,
 - (d) the Act under which the statutory notice was given,
 - (e) the type of statutory notice,
 - (f) the date the statutory notice was given.
- (3) The register must be published on a NSW Government website used by Transport for NSW and be accessible to the public without charge.
- (4) The regulations may prescribe other matters, including statutory notices, that must or must not be included in the register.
- (5) In this section—
vessel includes a commercial vessel.

[56] Section 74 Pilotage compulsory in pilotage ports

Insert at the end of section 74(2A)(a)—

Example of when harbour master may give approval— the harbour master is satisfied it is necessary for a marine pilot to embark or disembark a vessel within port limits for the pilot's safety

[57] Section 75 Vessels exempted from compulsory pilotage

Omit section 75(1)(a) and (a1). Insert instead—

- (a) a vessel, the master of which holds one or more of the following marine safety licences that applies to the port and vessel—
 - (i) a certificate of local knowledge,
 - (ii) a marine pilotage exemption certificate,
 - (iii) a special recreational vessel permit,

[58] Section 75(1)(c)

Omit “30 metres”. Insert instead “35m”.

[59] Section 75(2)

Omit “marine pilotage exemption certificate or certificate of local knowledge under this Act”.

Insert instead “marine safety licence referred to in subsection (1)(a)”.

[60] Sections 79, heading, 82, 90(3) and 118(3)

Omit “owner” wherever occurring. Insert instead “relevant owner”.

[61] Section 88 General powers of harbour master in relation to vessels

Insert after section 88(4)—

- (5) A direction under this section may be given—
 - (a) orally to the master or operator of a vessel, or
 - (b) by written notice to the master or operator of a vessel, or
 - (c) by signage that reasonably brings the direction to the attention of the master or operator of a vessel, or
 - (d) by publication on the Port Authority of New South Wales website or a NSW Government website used by Transport for NSW, or
 - (e) by other electronic means, or
 - (f) by notice published in the Gazette.

[62] Section 91 Offence for failing to comply with direction, or obstructing, harbour master

Omit “any direction given under this Part to the master by a harbour master” from section 91(1).

Insert instead “a direction given under this part”.

[63] Part 8 Compliance and investigation

Omit “owners” from Division 2, heading. Insert instead “relevant owners”.

[64] Section 96, note

Omit the note.

[65] Section 101 Preservation of evidence

Omit “The owner”. Insert instead “The relevant owner”.

[66] Section 111 Action by Minister following report of investigation

Omit “obtaining” from section 111(2)(d). Insert instead “being granted”.

[67] Section 121, heading

Omit “owner”. Insert instead “**relevant owner**”.

[68] Section 134 Service of instruments (except in proceedings for offences)

Insert after section 134(1)(c)—

- (c1) by electronic communication to the person in a way specified by the person for the service of notices or instruments of the kind, or

Example— a mobile app

[69] Section 134(1)(f)

Omit “section.” from section 134(1)(e). Insert instead—

section, or

- (f) by another method prescribed by the regulations for the service of notices or instruments of the kind.

[70] Section 134(1A) and (1B)

Insert after section 134(1)—

- (1A) A notice or direction may also be given under this Act in relation to an obstruction to navigation or an unsafe vessel by displaying the notice, or a notice containing the direction, on a conspicuous part of the obstruction or vessel for 7 days.

- (1B) A person must not, without reasonable excuse, remove a notice displayed in accordance with subsection (1A).

Maximum penalty—50 penalty units.

[71] Section 135B

Insert before section 136—

135B Implied power to vary or withdraw notices and directions

In this Act, a power to give a notice or direction includes a power to vary or withdraw the notice or direction.

[72] Section 140

Insert after section 139—

140 Power to waive, reduce, postpone or refund fees

- (1) The Minister may waive, reduce, postpone or refund, in whole or part, a fee payable or paid under this Act or the regulations.

- (2) This section is subject to section 9O.

[73] Section 142 Amendment of other Acts

Omit the section.

[74] Schedule 1 Testing for alcohol and drug use

Omit clause 1, definitions of *breath analysing instrument* and *breath test*.

Insert in alphabetical order—

first offence has the same meaning as in Part 3.

second or subsequent offence has the same meaning as in Part 3.

[75] Schedule 1, clause 11, heading

Omit the heading. Insert instead—

11 Definitions

[76] Schedule 1A, Part 1, heading

Omit the heading. Insert instead—

Part 1 Preliminary

[77] Schedule 1A, clause 1, heading

Omit the heading. Insert instead—

1 Definitions

[78] Schedule 1A, clause 1(1)

Insert in alphabetical order—

photograph includes a video recording.

photograph taken includes the making of a video recording.

[79] Schedule 1A, clause 1(2)

Omit the subsection.

[80] Schedule 1A, clause 10, definition of “responsible person”, paragraph (a)

Omit “that owner”. Insert instead “the relevant owner”.

[81] Schedule 1A, clause 10, definition of “responsible person”, paragraph (b)

Omit the paragraph. Insert instead—

- (b) if the vessel has been disposed of by a relevant owner—a person who has acquired the vessel from the relevant owner,

[82] Schedule 4 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provisions consequent on enactment of Marine Safety Amendment Act 2025

Definitions

In this part—

amending Act means the *Marine Safety Amendment Act 2025*.

commencement date means the date on which the amending Act commences.

Responsible regulator

- (1) From the beginning of the commencement date, a reference to a responsible licensing official in a marine safety licence is taken to be a reference to the responsible regulator for the licence.

- (2) Anything done in relation to a marine safety licence by the responsible licensing official for the licence before the commencement date is taken to have been done by the responsible regulator for the licence.

Existing notices and directions

A notice or direction validly given before the commencement date—

- (a) is taken to have been validly given despite the commencement of the amending Act, and
- (b) continues in force as if the amending Act had not commenced.

Existing obstructions to navigation

Amendments made by the amending Act in relation to obstructions to navigation extend to any thing that was an obstruction to navigation immediately before the commencement date.

Approval for disturbance of bed of ports

Permission given by a harbour master under the *Ports and Maritime Administration Regulation 2021*, section 110 is taken to be an approval of the harbour master for section 19Z.

Disused sea cables

Section 19ZA does not apply to a sea cable in a relevant port that is a disused sea cable immediately before the commencement date.

Existing applications for grant of marine safety licences and transfers of vessel registration

- (1) This clause applies to an application for—
 - (a) the grant of a marine safety licence, or
 - (b) the transfer of the registration of a vessel.
- (2) If the application was made but not finally decided before the commencement date, the application must be decided as if the amending Act had not commenced.

Suspension or cancellation of existing marine safety licences

The responsible regulator may suspend or cancel a marine safety licence in force immediately before the commencement date if the responsible regulator would be authorised to refuse to grant the licence if an application for the licence were to be made after the commencement date.

Marine pilot's licences

Section 38A extends to a marine pilot's licence in force immediately before the commencement date.

Offence for unregistered vessels to be in State waters

- (1) Section 49, as substituted by the amending Act, does not apply to a registrable vessel until 3 months after the commencement date.
- (2) Section 49, as in force immediately before the commencement date, is taken to continue to apply to a registrable vessel until 3 months after the commencement date despite its repeal.

Power to rescind transfers of vessel registration certificates

Section 58 extends to the transfer of the registration of a vessel completed before the commencement date.

Liability of owner of vessel under pilotage

- (1) Section 79(2), as amended by the amending Act, does not apply to loss or damage arising before the commencement date.
- (2) Section 79(2), as in force immediately before the commencement date, continues to apply in relation to the loss or damage.

Harbour master may carry out direction

- (1) Section 90, as amended by the amending Act, does not apply to charges and expenses incurred before the commencement date.
- (2) Section 90, as in force immediately before the commencement date, continues to apply in relation to the charges and expenses.

Duty to report marine accidents to Minister

- (1) Section 99, as amended by the amending Act, does not apply to a marine accident occurring before the commencement date.
- (2) Section 99, as in force immediately before the commencement date, continues to apply in relation to the marine accident.

Public register

A reference to a statutory notice in section 70A includes a reference to a statutory notice that was given before the commencement date and has not been withdrawn.

Implied power to amend or revoke existing notices and directions

Section 135B extends to a notice or direction that was given before the commencement date and has not been complied with or withdrawn.

Power to waive, reduce, postpone or refund fees

Section 140 extends to a fee payable or paid before the commencement date.

[83] Schedule 5

Insert after Schedule 4—

Schedule 5 Dictionary

section 4

accident, for Schedule 1—see Schedule 1, clause 1.

accident hospital patient, for Schedule 1, Part 2, Division 4—see Schedule 1, clause 11(1).

acquire, for Part 5, Division 3—see section 53.

analyst, for Schedule 1—see Schedule 1, clause 1.

applied provisions, for Part 1A—see section 9B(1).

appropriate inspection officer, for Schedule 1A, Part 3—see Schedule 1A, clause 4(1).

approved enforcement device, for Schedule 1A—see Schedule 1A, clause 1(1).

approved for excess speed imaging, for Schedule 1A, Part 3—see Schedule 1A, clause 4(2)(a).

approved for speed measurement, for Schedule 1A, Part 3—see Schedule 1A, clause 4(2)(b).

aquatic activity means the following, whether or not involving vessels or equipment—

- (a) a race, competition or exhibition that is conducted in navigable waters,
- (b) an activity in or over navigable waters that requires the closure of the waters,
- (c) another activity that—
 - (i) is conducted in or over navigable waters, and
 - (ii) is reasonably likely to substantially affect navigation in the waters.

aquatic licence means a marine safety licence to conduct an aquatic activity that is required under section 18.

authorised officer means—

- (a) a harbour master, or
- (b) a police officer, or
- (c) a person, or a person of a class, appointed as an authorised officer under section 96.

authorised sample taker, for Schedule 1—see Schedule 1, clause 1.

bar crossing licence means a marine safety licence to operate a vessel across a coastal bar that is required under the regulations.

boat driving licence means a marine safety licence to operate a power-driven recreational vessel that is required under Part 5, Division 5.

breath analysing instrument has the same meaning as in the *Road Transport Act 2013*, Schedule 3.

breath analysis, for Schedule 1—see Schedule 1, clause 1.

breath test has the same meaning as in the *Road Transport Act 2013*, Schedule 3.

camera device, for Schedule 1A—see Schedule 1A, clause 1(1).

camera recorded offence, for Schedule 1A, Part 4—see Schedule 1A, clause 10.

certificate of local knowledge means a marine safety licence, held by a master of a vessel, that exempts the vessel from compulsory pilotage under Part 6.

Chief Investigator, for Part 8—see section 94(1).

commercial purpose means a purpose for which a vessel is used that results in the vessel being a commercial vessel.

commercial vessel means a vessel, other than a former vessel, that is—

- (a) a domestic commercial vessel, or
- (b) a regulated Australian vessel, or
- (c) a foreign vessel.

Commonwealth administrative laws, for Part 1A—see section 9B(1).

Commonwealth domestic commercial vessel national law, for Part 1A—see section 9B(1).

court attendance notice, for Schedule 1A, Part 4—see Schedule 1A, clause 10.

crew, of a vessel, means the persons, including the master of the vessel, whose duty it is to navigate or work the vessel or to carry out other operations on the vessel.

defence vessel has the same meaning as in the National law.

detectable offence, for Schedule 1A—see Schedule 1A, clause 1(1).

digital camera device, for Schedule 1A, Part 3—see Schedule 1A, clause 4(1).

disused sea cable, for Part 2, Division 4—see section 19Y.

domestic commercial vessel has the same meaning as in the National law.

drug has the same meaning as in the *Road Transport Act 2013*.

environment protection notice has the same meaning as in the *Protection of the Environment Operations Act 1997*.

exercise, a function, includes perform a duty.

ferry, for Part 8—see section 94(1).

first offence, for Part 3—see section 20(4).

foreign vessel has the same meaning as in the *Navigation Act 2012* of the Commonwealth.

former vessel has the same meaning as in Part 5, Division 1A.

function includes a power, authority or duty.

harbour master—

- (a) means a person appointed as harbour master under Part 7, and
- (b) in relation to a function of a harbour master under the marine legislation—includes a person appointed under Part 7 to exercise the function.

hire and drive vessel has the same meaning as in the National law.

holder, for Part 8—see section 94(2).

hospital—

- (a) for Schedule 1, Part 2, Division 4—see Schedule 1, clause 11(2), or
- (b) otherwise for Schedule 1—see Schedule 1, clause 1.

hull identification number, in relation to a vessel, means a unique number affixed to the vessel in accordance with the regulations.

incompetence, for Part 8—see section 94(1).

juvenile, for Part 3—see section 20(1).

length means length overall.

major offence, for Part 3—see section 20(1).

marine accident, for Part 8—see section 94(1).

marine environment protection notice has the same meaning as in the *Marine Pollution Act 2012*, Part 16.

marine legislation means the following Acts, and the regulations and other instruments made under the Acts—

- (a) this Act,
- (b) the *Marine Pollution Act 2012*,
- (c) the *Ports and Maritime Administration Act 1995*.

marine pilot, of a vessel, means the person who has the conduct of the vessel but who does not belong to the vessel.

marine pilotage exemption certificate means a marine safety licence exempting a vessel from compulsory pilotage under Part 6.

marine pilot's licence means a marine safety licence to act as pilot of a vessel in a port that is required under Part 6.

marine safety licence—see section 29.

master, of a vessel, means the person having the command or charge of the vessel, but does not include a marine pilot.

misconduct, for Part 8—see section 94(1).

National law means—

- (a) the Commonwealth domestic commercial vessel national law within the meaning of section 9B, and
- (b) the applied provisions within the meaning of section 9B.

National licence means a certificate or unique identifier issued under the National law.

navigable waters means all waters, whether or not in the State, that—

- (a) are from time to time capable of navigation, and
- (b) are open to or used by the public for navigation, whether on payment of a fee or otherwise.

navigation aid—

- (a) means a device used for the safety of navigation, such as a beacon, buoy or marine mark, but
- (b) does not include a device on board a vessel.

obstruction to navigation has the same meaning as in section 16(1).

obstruction to navigation notice—see section 16(2).

offshore anchorage, for Part 2, Division 3—see section 19V.

operate, a vessel—

- (a) for Part 3—see section 20(1), or
- (b) otherwise—includes—
 - (i) to determine or exercise control over the course or direction of the vessel or over the means of propulsion of the vessel, whether or not the vessel is underway, and
 - (ii) to pilot the vessel, and
 - (iii) in relation to the relevant owner of the vessel—to cause or allow the vessel to be operated by someone else.

oral fluid analysis, for Schedule 1—see Schedule 1, clause 1.

oral fluid test, for Schedule 1—see Schedule 1, clause 1.

overseas voyage has the same meaning as in the *Navigation Act 2012* of the Commonwealth.

person responsible—see section 7A.

photograph, for Schedule 1A—see Schedule 1A, clause 1(1).

photograph taken, for Schedule 1A—see Schedule 1A, clause 1(1).

pilotage has the same meaning as in Part 6.

pilotage port has the same meaning as in Part 6.

pilotage service provider, for Part 6—see section 71(1).

port—

- (a) for Part 7—see section 84, or
- (b) otherwise—includes any, or any part, of the following waters—
 - (i) a harbour or haven, whether natural or artificial,
 - (ii) an estuary, channel, river, creek or roadstead,
 - (iii) any navigable water in which vessels may lie for shelter or for the transfer of cargo or passengers.

Port Authority of New South Wales has the same meaning as in the *Ports and Maritime Administration Act 1995*.

prescribed illicit drug has the same meaning as in the *Road Transport Act 2013*.

prescribed laboratory, for Schedule 1, Part 4—see Schedule 1, clause 24.

prescribed place, for Schedule 1—see Schedule 1, clause 1.

prosecutor, for Schedule 1A, Part 4—see Schedule 1A, clause 10.

public passenger service, for Part 8—see section 94(1).

recreational vessel means a vessel other than a commercial vessel.

recreational vessel production notice—see section 19A(2)(b).

registrable vessel—see section 49.

regulated Australian vessel has the same meaning as in the *Navigation Act 2012* of the Commonwealth.

relevant nomination document, for Schedule 1A, Part 4—see Schedule 1A, clause 10.

relevant owner—see section 7.

relevant port, for Part 2, Division 4—see section 19Y.

responsible person, for Schedule 1A, Part 4—see Schedule 1A, clause 10.

responsible regulator, in relation to a marine safety licence, means—

- (a) for the following licences—Transport for NSW—
 - (i) a vessel registration certificate,
 - (ii) an aquatic licence,
 - (iii) a bar crossing licence,
 - (iv) a boat driving licence, or
- (b) for the following licences—the Port Authority of New South Wales—
 - (i) a certificate of local knowledge,
 - (ii) a marine pilotage exemption certificate,
 - (iii) a marine pilot's licence,
 - (iv) a special recreational vessel permit, or
- (c) otherwise—the Minister.

sea cable, for Part 2, Division 4—see section 19Y.

seaworthy means capable of undertaking a voyage.

second or subsequent offence, for Part 3—see section 20(3).

security box, for Schedule 1, Part 4—see Schedule 1, clause 24.

special recreational vessel has the same meaning as in the *Special Recreational Vessels Act 2019* of the Commonwealth.

special recreational vessel permit means a marine safety licence, held by a master of a special recreational vessel, that exempts the vessel from compulsory pilotage under Part 6.

speeding offence, for Schedule 1A—see Schedule 1A, clause 1(1).

State waters means any navigable waters within the limits of the State or the coastal waters of the State, within the meaning of the *Interpretation Act 1987*, Part 10.

Note—The *Interpretation Act 1987*, Part 10 defines **coastal waters of the State** generally as the part of the territorial sea of Australia that is within 3 nautical miles of the coast. The *Marine Pollution Act 2012* defines **State waters** differently for that Act. The definition in the *Marine Pollution Act 2012* extends to waters within the limits of the State.

statutory notice means the following—

- (a) an obstruction to navigation notice,
- (b) a recreational vessel production notice,
- (c) an unsafe vessel notice,
- (d) a marine environment protection notice,
- (e) an environment protection notice.

subsidiary, for Part 6—see section 71(1).

temporary vessel order—see section 5(3).

Transport for NSW or **TfNSW** means Transport for NSW constituted under the *Transport Administration Act 1988*.

Tribunal, for Part 4, Division 4—see section 41.

unsafe vessel has the same meaning as in Part 5, Division 1A.

unsafe vessel notice—see section 47(1).

vessel—

- (a) for Part 2, Division 2—see section 19U, or
- (b) for Part 5, Division 1A—see section 43A, or
- (c) otherwise—see section 5.

vessel registration certificate means a marine safety licence for a vessel that is required under Part 5, Division 2.

Schedule 2 Consequential amendments

2.1 Fines Act 1996 No 99

Section 70D Suspension or cancellation of marine safety licences

Omit section 70D(4). Insert instead—

- (4) In this section—
boat driving licence and *vessel registration certificate* have the same meanings as in the *Marine Safety Act 1998*.

2.2 Housing Act 2001 No 52

[1] Section 69B Access to information for preventing, investigating or prosecuting fraud

Omit section 69B(1)(f). Insert instead—

- (f) a register under the *Marine Safety Act 1998*.

[2] Section 69B(4)

Omit the subsection. Insert instead—

- (4) In this section—
information includes personal information within the meaning of the *Privacy and Personal Information Protection Act 1998*.
registrable vessel has the same meaning as in the *Marine Safety Act 1998*.

2.3 Marine Pollution Act 2012 No 5

Section 202A Preventative action for abandoned, out-of-commission or derelict vessels

Omit section 202A(6), definition of *owner*. Insert instead—

owner, in relation to an abandoned, derelict or out-of-commission vessel—

- (a) has the same meaning as *relevant owner* in the *Marine Safety Act 1998*,
and
(b) if there is no current National licence or other certificate of registry for the vessel—extends to the last person registered as the vessel's owner in the National licence or other certificate of registry for the vessel.

2.4 Ports and Maritime Administration Act 1995 No 13

Section 49

Omit the section. Insert instead—

49 Application of division

- (1) This division applies to the following vessels in designated ports—
- (a) a vessel for which pilotage in the port is compulsory under the *Marine Safety Act 1998*, Part 6,
- (b) a vessel for which pilotage would be compulsory if the master of the vessel did not hold a marine pilotage exemption certificate,
- (c) a vessel declared by the regulations to be liable for navigation service charges.

(2) In this section—

marine pilotage exemption certificate has the same meaning as in the *Marine Safety Act 1998*.

2.5 Road Transport Act 2013 No 18

Section 4 Definitions

Omit section 4(1), definition of *boat driving licence*. Insert instead—

boat driving licence has the same meaning as in the *Marine Safety Act 1998*.