

# Water Traffic Regulations—N.S.W. (1969 SI 3)

[1969-3]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**

Gazette No 132 of 31.8.2001, p 7324 (not commenced — to commence on 1.10.2001)

Gazette No 138 of 14.9.2001, p 7727 (not commenced — to commence on 1.10.2001)

- **Note**

The Regulations are to be repealed on the commencement of Part 2 of Sch 2 to the [Marine Safety Act 1998 No 121](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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## Contents

<b>Part 1 Preliminary</b> .....	5
1 Name of Regulations and repeal .....	5
2 Definitions .....	5
<b>Part 2 General regulations</b> .....	8
3 Negligent etc navigation .....	8
3A Vessel capacity .....	8
4 Abandonment of position or duty .....	9
5 Causing of nuisance or danger .....	9
5A Sitting over bow prohibited .....	10
6 Towing of aquaplaners and water skiers .....	10
7 Unorthodox method of propulsion of vessels .....	12
8 Aquatic licences .....	13
9 Exclusive use of waters .....	16
<b>Part 2A Special events</b> .....	17
10 Definitions—Part 2A .....	17
10A Restrictions on the operation of vessels in navigable waters during special events by publication of notice .....	18
10B Other directions by authorised officers .....	18
10C Appointment of authorised officers (other than harbour masters and police officers) .....	19
10D Identity cards for authorised officers .....	19
<b>Part 3 Regulations for certain classes of vessels and waters</b> .....	19

11 Registration of vessels.....	19
11A Certain vessels to have hull identification numbers affixed before registration .....	24
11B Vessels to have hull identification numbers affixed before registration following transfer of control .....	24
11C Offence relating to hull identification numbers .....	24
12 (Repealed) .....	24
13 Demonstration vessels not required to be registered.....	24
14 (Repealed) .....	25
15 Distances to be kept at speed .....	25
15AA Conduct of personal watercraft at any speed .....	26
15AB Restrictions on use of waters by personal watercraft.....	27
15A Personal watercraft behaviour sticker .....	28
<b>Part 3A Licences to drive</b> .....	<b>28</b>
15B Application to Part .....	28
15C Definition.....	28
15D Types of licences .....	28
15E Drivers of certain vessels to be licensed .....	29
15F Special provisions relating to holders of young adult licences.....	30
15G Drivers to show licence on demand .....	30
15H Requirements for grant of initial licence .....	31
15I Special provisions relating to age.....	32
15J Duration of licences .....	32
15K Conditions on licences.....	33
15L Fees for licences .....	33
15M Concessional fees for licences .....	33
15N Special provisions concerning personal watercraft licences.....	34
15O Cancellation and suspension of licences .....	34
15P Miscellaneous obligations of licensees .....	35
15Q Duplicate licences .....	36
15R Transitional .....	36
<b>Part 4 Miscellaneous</b> .....	<b>36</b>
16 Misrepresentation of vessels, persons or areas .....	36
17 Correction of false representations.....	37

18 Unauthorised possession of documents .....	38
19 Penalties .....	38
19A Exemption for action taken to secure safety .....	38
20 Application of section 30D of the Maritime Services Act 1935 .....	38
21 Dissolution of Maritime Services Board—savings and transitional .....	39
22 Non-application of section 6 of the Intergovernmental Agreement Implementation (GST) Act 2000 .....	39
<b>The First Schedule (Repealed) .....</b>	<b>39</b>
<b>Schedule 2 Prescribed offences and penalties for the purposes of section 30D of the Maritime Services Act 1935</b> .....	<b>39</b>
<b>The Third Schedule Penalties for breaches of speed limits prescribed for the purposes of section 30D of the Maritime Services Act 1935</b> .....	<b>41</b>
<b>The Fourth Schedule .....</b>	<b>42</b>
<b>Schedule 5 Signs .....</b>	<b>42</b>
<b>Schedule 6 Offences for the purpose of automatic cancellation of personal watercraft licence</b> .....	<b>42</b>
Editorial note .....	0

# Water Traffic Regulations—N.S.W. (1969 SI 3)



New South Wales

## Part 1 Preliminary

### 1 Name of Regulations and repeal

- (1) These Regulations may be cited as the [Water Traffic Regulations—N.S.W.](#).
- (2) The *Control of Navigable Waters and Boating Regulations—N.S.W.* published in Government Gazette No 44 of 11 May 1962 are hereby repealed.

### 2 Definitions

- (1) In these Regulations:

**Aquaplaner** means a person who is being conveyed on, in or above any navigable waters by maintaining himself on flotation or aerial equipment which is attached to towing apparatus connected to a vessel, whether or not such person or equipment is at the time in contact with or directly over such navigable waters.

**Aquatic licence** means a licence referred to in regulation 8 (1).

**Commercial vessel** means a vessel to or in relation to which the [Commercial Vessels Act 1979](#) applies and includes a vessel, or a vessel of a class of vessels, in respect of which an exemption notice has been given or published under section 48 of that Act.

**Designated surf zone** means such part of navigable waters as is within an area designated for use by swimmers, or for users of surfboards and other paddle craft, by means of surf patrol flags or signs, where the boundaries of the zone comprise:

- (a) the shore between the flags or signs, and
- (b) imaginary lines running from the flags or signs perpendicular to the shore for a distance of 500 metres from the shore, and
- (c) an imaginary line running between the ends of those lines.

**Driver** means the person steering a vessel, whether or not such person is also regulating the speed of, and otherwise managing, such vessel.

**Former regulations** means the *Control of Navigable Waters and Boating Regulations—N.S.W.* published in Government Gazette No 44 of 11 May 1962.

**Holder of the certificate of registration for a vessel** means a person to whom a certificate signifying that a vessel is a registered vessel has been issued by the Minister.

**Hull identification number** means:

- (a) a number, in a form and of a size, specified in International Standard No ISO 10087—1995 (E) published by the International Organization for Standardization entitled “Small craft—Hull identification—Coding system”, permanently affixed to, and located in the positions on, the hull of a vessel specified by that Standard, or
- (b) any other number, approved by the Minister, that is permanently affixed to the hull of a vessel in a form and manner approved by the Minister.

**Length**, in relation to a vessel, means the centreline measurement of the hull of the vessel taken from a point at the centre of the top of the bow to a point at the centre of the top of the stern, but excluding bowsprits, outboard motors and other appendages.

**Officer** means any delegate of the Minister or any officer of such a delegate, and includes any person authorised by the Crown, a Minister of the Crown, or any statutory authority, or by the trustees or other persons in charge of any area used by public recreation, to supervise the activities of the public, and includes any person authorised by the Minister to exercise the powers of an officer in connection with these Regulations.

**personal watercraft** means a power-driven vessel that:

- (a) has a fully enclosed hull, and
- (b) does not retain water taken on if it capsizes, and
- (c) is designed to be operated by a person standing, sitting astride or kneeling on the vessel but not seated within the vessel.

**Potential speed** in relation to a power-driven vessel means the greatest speed of which the vessel is capable under its own means of propulsion, when it is carrying only a driver, is in good and efficient condition, mechanically and otherwise, and unaffected by tides, current or winds.

**Registered vessel** means a vessel which at the relevant time is registered pursuant to regulation eleven of these Regulations.

**Registrable vessel** means:

- (a) any vessel on navigable waters which is propelled by mechanical power capable

of producing a speed of not less than 10 knots,

- (b) any sailing vessel or mechanically propelled vessel on navigable waters of not less than 5.5 m in length,
- (c) any vessel which is the subject of an occupation licence under the *Management of Waters and Waterside Lands Regulations—N.S.W.*, or
- (d) any vessel occupying any navigable waters by direction of, or with the permission of, the Crown or any person or body lawfully entitled to give such a direction or permission, or
- (e) any commercial vessel, or
- (f) any personal watercraft,

but does not include any vessel specified in the Fourth Schedule.

**Sailing vessel** means a vessel the primary means of propulsion of which is by sail.

**Ski-free** means a vessel which is propelled by mechanical power and which is capable of towing a water skier or aquaplaner who is able to operate the vessel by remote control.

**Speed** means “speed over the ground”, that is to say, speed measured by reference to the actual distance travelled.

**swimming area** means such part of any port, or of any inland navigable waters, as is within the area designated for use by swimmers and other bathers by signs substantially of the kind illustrated at Figure 1 in Schedule 5, where the boundaries of the area comprise:

- (a) the shore between the signs (or, if 3 or more such signs are erected on the shore, the shore between the 2 outmost signs), and
- (b) imaginary lines running from the signs perpendicular to the shore for a distance of 60 metres from the shore (or for such shorter distance from the shore as is indicated on the sign), and
- (c) an imaginary line running between the ends of those lines.

**Unlicensed** means not at the relevant time licensed under Part 3A.

**Unregistered vessel** means a vessel which at the relevant time is not a registered vessel, whether or not such vessel is registrable.

**Water ski** includes any other vessel used as flotation equipment by a water skier.

**Water skier** means a person who is engaged in maintaining himself in motion on, in,

or above any navigable waters by holding to, or attaching himself to a vessel or to towing apparatus connected to a vessel, whether or not such person makes use of any flotation or aerial equipment and whether or not such person or equipment is at the relevant time in contact with or directly over such navigable waters.

- (2) Any requirement of these Regulations that a vessel shall have a number painted on it shall be satisfied if the number concerned is securely and permanently affixed to such vessel in the form of figures composed of metal or another strong rigid material and attached to the vessel in a manner satisfactory to any delegate of the Minister or any officer of such a delegate.
- (3) A reference in these Regulations to a person who has the control of a vessel is a reference to a person who has the right to decide the possession, disposition and use of the vessel.

## **Part 2 General regulations**

### **3 Negligent etc navigation**

- (1) A person must not navigate a vessel on any navigable waters recklessly or negligently, or at such a speed, or loaded with persons, goods, fuel or any other thing in such a manner, or otherwise in any way that is dangerous to or likely to cause injury or damage to the person or property of, or annoyance or nuisance to, any person.
- (2) Without limiting the matters that may be taken into account for the purposes of clause (1), the following matters are to be taken into account by a court in deciding whether a person has navigated a vessel loaded with persons in contravention of clause (1):
  - (a) the information as to the number of persons the vessel may carry displayed in any capacity plate affixed to the vessel,
  - (b) the weather conditions at the time.

#### **3A Vessel capacity**

- (1) This regulation applies to all vessels, except:
  - (a) a vessel used exclusively for racing, or
  - (b) a sailing vessel with or without any auxiliary means of mechanical propulsion, or
  - (c) a canoe or kayak without any means of mechanical propulsion, or
  - (d) a rowing shell.
- (2) Despite clause (1), this regulation does not apply to a vessel to which it would otherwise apply if:



- (a) the vessel:
- is propelled by oars, and
  - has no means of mechanical propulsion, and
  - is carrying not more than 4 persons, or
- (b) the vessel is a personal watercraft and is carrying not more than 2 persons.
- (3) The owner of a vessel must affix to the vessel a capacity plate which:
- (a) is in a form approved by the Minister, and
- (b) complies with clause (4), and
- (c) is clearly visible from each steering position.
- (4) The capacity plate is to display information as to the maximum number of persons the vessel may carry:
- (a) in accordance with the Australian Standard published by Standards Australia number AS 1799.1—1992 entitled "*Small Pleasure Boats Code, Part 1: General requirements for power boats*" as in force on 1 January 1993, or
- (b) in a manner approved by the Minister.
- (5) The owner and master of a vessel each contravene this regulation if:
- (a) the vessel does not have a capacity plate affixed to it as required by clause (3), or
- (b) a capacity plate affixed to the vessel is in any way defaced, obliterated or concealed.

#### **4 Abandonment of position or duty**

A person on board a vessel on any navigable waters who is employed in or undertakes any duty or function the performance of which is necessary for the safe and proper navigation of the vessel, or for compliance with these Regulations or any Act or regulation applying to the vessel, shall not without first giving sufficient warning to the master:

- (a) leave the station or position at which such duty or function is to be performed,
- (b) fail to report to the master anything which in the course of such duty or function he should report, or
- (c) fail to do anything which in the course of such duty or function he should do.

#### **5 Causing of nuisance or danger**

A person whilst using a vessel for any purpose on any navigable waters, whether as the

master, or a member of the crew, or as a passenger, or as an aquaplaner or a water skier towed by any means by such vessel, or otherwise, shall not (by his use of such vessel or otherwise) cause any annoyance, nuisance or danger to any person or danger to any property.

#### **5A Sitting over bow prohibited**

- (1) The master of a vessel propelled by mechanical power must not, while navigating on any navigable waters, permit any person to extend any part of that person's body over the bow, side or stern of the vessel.
- (2) Clause (1) does not prohibit anchoring, mooring, casting off or any other navigational purpose necessary for the safe and proper management of the vessel.

#### **6 Towing of aquaplaners and water skiers**

- (1) A person shall be guilty of an offence against this regulation if he navigates on any navigable waters a vessel which is towing more than three persons being water skiers or aquaplaners at the same time except with the permission of the Minister.
- (2) A person shall be guilty of an offence against this regulation if on any day he navigates on any navigable waters a vessel which is towing a water skier or aquaplaner:
  - (a) before sunrise,
  - (b) after sunset, except as authorised by a licence or permission under regulation eight of these Regulations, or
  - (c) without carrying as an observer in such vessel another person who has attained the age of sixteen years whose duty it is to watch and if necessary report to the driver of the vessel all matters affecting the towing of the water skier or aquaplaner and who is not under any disability affecting his performance of that duty.
- (2A) Clause (2) (c) does not apply to any person navigating a ski-free.
- (3) A person is guilty of an offence against this regulation if the person navigates on any navigable waters a vessel that is towing a water skier or aquaplaner so that:
  - (a) if the vessel is a personal watercraft—either the vessel or the person being towed:
    - (i) is in a designated surf zone or a swimming area, or
    - (ii) passes within 60 metres of such of the boundaries of the zone or area as run perpendicular to the shore, or
  - (b) whether or not the vessel is a personal watercraft—either the vessel or the person being towed passes within 60 metres of any person in the water.

(4) A person shall be guilty of an offence against this regulation if he navigates on any navigable waters a vessel (other than a personal watercraft) which is towing a water skier or aquaplaner so that either the vessel or the person being towed is within 30 m from any vessel which is not engaged in water skiing or aquaplaning activities, any pile or structure, or any river bank, shore, jetty, landing stage, pontoon or pump inlet, unless he satisfies the Court before which the proceedings for the offence are taken that, in the circumstances of the case:

- (a) it was not possible for him to navigate the vessel on a course which would have excluded the operation of this subclause, and
- (b) the speed and manner of navigation of the vessel were reasonable, having particular regard to:
  - (i) the possibility of injury, damage, nuisance or annoyance to persons or damage to property,
  - (ii) the requirements of any rules and regulations for the time being in force for preventing collisions on the navigable waters concerned, or
  - (iii) any special danger to a person being towed which might have resulted from a cessation of such towing, and which was not attributable to that person's not being equipped with buoyancy apparatus or to his lack of capacity in swimming.

(4A) A person is guilty of an offence against this regulation if the person navigates on any navigable waters a personal watercraft that is towing a water skier or aquaplaner so that either the personal watercraft or the person being towed:

- (a) is within 60 metres of:
  - (i) any vessel of 4 metres or less, or any canoe or kayak, that does not have any means of mechanical propulsion, or
  - (ii) any rowing shell, or
- (b) is within 30 metres of any other vessel that is not engaged in water skiing or aquaplaning activities, any pile or structure, or any river bank, shore, jetty, landing stage, pontoon or pump inlet.

(4B) Despite clause (4A), a person is not guilty of an offence under that clause if the person satisfies the court before which the proceedings for the offence are taken that, in the circumstances of the case:

- (a) it was not possible for the person to navigate the personal watercraft on a course that would have excluded the operation of that clause, and
- (b) the speed and manner of navigation of the personal watercraft were reasonable,

having particular regard to the matters set out in clause (4) (b) (i)-(iii).

- (5) A person shall be guilty of an offence against this regulation if he navigates on any navigable waters a vessel which is towing an aquaplaner or a water skier who is using aerial equipment so that either the vessel or the person being towed passes within 300 m from any bridge, cable, wire, pipe or other structure or apparatus erected or suspended above such navigable waters, or within 60 m from any structure on the shore of such navigable waters, or any person in or on such navigable waters or shore.
- (6) (Repealed)

## **7 Unorthodox method of propulsion of vessels**

- (1) In this regulation, ***orthodox method*** means:
- (a) in relation to a water ski, the holding by, or attachment to, the water skier concerned of towing apparatus connected to a self-propelled vessel navigated on the surface of the navigable waters concerned, and
  - (b) in relation to any vessel other than a water ski either:
    - (i) reliance on natural forces,
    - (ii) the use of oars or any other apparatus depending on the exertions of the person within such vessel,
    - (iii) the use of an engine contained in or fastened to such vessel, or
    - (iv) the attachment to such vessel of towing apparatus connected to a self-propelled vessel navigated on the surface of the navigable waters concerned.
- (2) If a vessel is propelled on any navigable waters by a method other than an orthodox method at a speed greater than five knots both the owner and the master of such vessel shall be guilty of an offence against this regulation.
- (3) Subclause (2) of this regulation shall not apply in a case where:
- (a) the Minister has issued a permit for the propulsion of such vessel or vessels by a method other than an orthodox method upon such conditions as to time, place and any other circumstance whatsoever as the Minister considers appropriate, and
  - (b) every condition attached to such permit has been complied with.
- (4) The Minister shall not issue a permit under subclause (3) of this regulation:
- (a) unless the Minister is satisfied that special or unusual circumstances justify the granting of the permit, and
  - (b) except upon payment of a fee of twenty dollars.

## 8 Aquatic licences

(1) A person shall not:

(a) organise, promote or conduct:

- (i) a race, display or regatta for vessels of any description, or
- (ii) an exhibition of water ski-ing, aquaplaning or any similar activity, on any navigable waters, or

(b) organise, promote or conduct any operation or activity that:

- (i) involves the use of any vessel on any navigable waters, and
- (ii) restricts the availability of those navigable waters for normal use by the public,

otherwise than in accordance with an aquatic licence held by that person which is in force.

(2) A person may apply to the Minister for an aquatic licence.

(3) An application for an aquatic licence shall:

(a) be in or to the effect of such form as is for the time being approved by the Minister,

(b) describe the operation or activity in respect of which the application is made,

(c) specify the navigable waters to which the application relates,

(d) specify any public baths, or any public reserve (within the meaning of the *Local Government Act 1993*), that adjoin or adjoins those navigable waters,

(e) specify any land that adjoins those navigable waters, being land which the applicant intends to use in connection with the proposed operation or activity,

(f) specify the period (not exceeding 3 years) for which the aquatic licence the subject of the application is intended to have effect, and

(g) be accompanied by a fee of:

(i) subject to subparagraph (ii), if the period specified pursuant to paragraph (f) is not more than 3 days—\$62,

(ii) if the period specified pursuant to paragraph (f) is not more than 3 days and the application relates to a commercial purpose and requests exclusive use of any area of navigable waters—\$93,

- (iii) if the period specified pursuant to paragraph (f) is more than 3 days but not more than 12 months—\$246, or
  - (iv) if the period specified pursuant to paragraph (f) is more than 12 months—\$494.
- (4) The Minister may, before determining an application for an aquatic licence, require the applicant to furnish the Minister with such information (in addition to any information contained in the application) as the Minister may reasonably require for the purpose of determining the application.
- (5) Without limiting the generality of subclause (4), the Minister may, before determining an application for an aquatic licence, require the applicant to furnish the Minister with:
  - (a) where it appears from the application that:
    - (i) the operation or activity in respect of which the application is made consists of or includes the hiring of vessels, and
    - (ii) the navigable waters to which the application relates adjoin any public baths, or adjoin any public reserve (within the meaning of the *Local Government Act 1993*) and are used for public bathing,evidence that the conduct of the proposed operation or activity on those navigable waters will not constitute an offence under section 633 of the *Local Government Act 1993*, or
  - (b) where it appears from the application that:
    - (i) the operation or activity in respect of which the application is made consists of or includes the hiring of vessels, and
    - (ii) the applicant intends to use land that adjoins the navigable waters to which the application relates in connection with that operation or activity,evidence that:
    - (iii) that use of that land does not contravene the provisions of the *Environmental Planning and Assessment Act 1979* or any environmental planning instrument in force under that Act, and
    - (iv) the occupier of that land consents to that use of that land.
- (6) The Minister may determine an application for an aquatic licence:
  - (a) by granting an aquatic licence, unconditionally or subject to such conditions as the Minister may endorse on the licence, or
  - (b) by refusing to grant an aquatic licence.

- (7) Where the Minister determines an application for an aquatic licence by refusing to grant an aquatic licence, the Minister shall:
- (a) cause notice of the refusal, and of the grounds therefor, to be served on the applicant, and
  - (b) refund to the applicant any fee paid by the applicant in relation to the application.
- (8) Where the Minister fails to determine an application for an aquatic licence within 60 days after the application was made, the Minister shall, for the purposes only of any proceedings arising from the failure to determine the application, be deemed to have determined the application by refusing to grant an aquatic licence.
- (9) An aquatic licence:
- (a) takes effect on the day on which it is granted or, where a later day is specified in the licence in that regard, on that later day, and
  - (b) subject to any revocation thereof, continues to have effect for such period (not exceeding the period specified in the application for the licence) as the Minister may determine.
- (10) The Minister may at any time revoke an aquatic licence for such reason as the Minister thinks fit.
- (11) The revocation of an aquatic licence takes effect:
- (a) on the day on which written notice of the revocation is served on the holder of the licence, or
  - (b) on such day (if any) as is specified in that regard in that notice,
- whichever is the later.
- (12) The Minister, if he or she considers it appropriate to do so, may impose a condition on an aquatic licence that any charges and expenses (not in excess of an amount specified in the licence) incurred by the Minister in respect of the operation or activity to which the licence relates for:
- (a) the attendance of any delegate of the Minister or any officer of such a delegate, or
  - (b) the use of additional safety measures such as the provision of escort vessels or helicopter aerial support,
- or both, must be paid to the Minister by the holder of the licence within the time specified in the licence.
- (13) The Minister may revoke or, with the consent of the holder of the licence, may vary such a condition.

## 9 Exclusive use of waters

- (1) An aquatic licence may authorise the holder thereof to have the exclusive use of any track or course on, or any area of, the navigable waters specified therein for such period or periods as may be so specified.
- (2) Where the holder of an aquatic licence:
  - (a) is authorised by the licence to have exclusive use of any track or course on, or any area of, navigable waters, and
  - (b) has, not more than 14 days before the first day on which the authority has effect, caused to be published:
    - (i) in a newspaper circulating in the district in which the navigable waters are situated, and
    - (ii) where the navigable waters are situated within 120 kilometres of Sydney, Newcastle or Wollongong—in a daily newspaper circulating in Sydney, Newcastle or Wollongong, as the case may require,a notice which:
    - (iii) specifies the track, course or area in respect of which the holder of the licence is authorised to have exclusive use, and
    - (iv) states the days on which and the times during which the authority has effect,a person shall not, on the days and during the times specified in the notice, navigate any vessel (other than a vessel concerned in the operation or activity to which the licence relates) upon any part of the track, course, or area so specified.
- (3) This regulation shall not apply to any person who navigates:
  - (a) any vessel (other than a vessel which is hired or used in any way for pleasure or recreation) operating in pursuance of the ordinary or commercial activities of the navigable waters concerned,
  - (b) any passenger ferry vessel on its usual route or timetable for the day, or
  - (c) any vessel specially authorised by the Minister that operates in accordance with the terms of that authority.
- (4) Despite clause (3), but subject to clause (5), this regulation applies to a person who navigates a vessel as referred to in clause (3) (a) or (b) if:
  - (a) the aquatic licence relates to a major event, and
  - (b) the aquatic licence provides that the exclusive rights conferred by the licence extend to that person, and



(c) the notice published under clause (2) states that it extends to that person.

(5) This regulation does not apply to a person who navigates a vessel under compulsory pilotage under Part 6 of the *Ports Corporatisation and Waterways Management Act 1995*, or a vessel that would be required to be under compulsory pilotage but for the fact that the master of that vessel is the holder of a pilotage exemption certificate under the *Marine Pilotage Licensing Act 1971* in relation to that vessel, unless:

(a) the activity to which the aquatic licence relates is a 2000 Olympics aquatic event, or an aquatic event that SOCOG declares to be a test event for the 2000 Olympics, and

(b) the harbour master for the port concerned has given written approval to the notice referred to in clause (2) in relation to the application of the notice to such vessels prior to the notice being published.

(6) In this regulation:

**major event** means:

(a) a 2000 Olympics aquatic event, or

(b) an aquatic event that SOCOG declares to be a test event for the 2000 Olympics, or

(c) the Sydney to Hobart yacht race, or

(d) any other similar aquatic event the Minister declares to be a major event for the purposes of this definition.

**SOCOG** means the Sydney Organising Committee for the Olympic Games constituted by the *Sydney Organising Committee for the Olympic Games Act 1993*.

## Part 2A Special events

### 10 Definitions—Part 2A

In this Part:

**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 regulation 10C.

**Port Corporation** means Newcastle Port Corporation, Port Kembla Port Corporation or Sydney Ports Corporation.

**special event** means a major race for vessels or other event that may affect the safety of navigation in any particular waters and includes, but is not limited to, an event or a test event that is related to the Olympic Games or the Paralympic Games to be held principally in Sydney in the year 2000.

**Waterways Authority** means the Waterways Authority constituted under Part 4 of the *Ports Corporatisation and Waterways Management Act 1995*.

**10A Restrictions on the operation of vessels in navigable waters during special events by publication of notice**

- (1) The Minister may prohibit or regulate the operation of vessels in specified navigable waters during a special event by a public notice.
- (2) Such a notice is to be published in a newspaper circulating throughout the State and in such other manner as the Minister considers appropriate.
- (3) The Minister may, by such a notice, exclude vessels from specified areas during the event concerned and impose any other restrictions considered appropriate for the safety of the public or of the protection of vessels or other property. In particular, the Minister may impose restrictions on:
  - (a) the speed of vessels, or
  - (b) the creation of wash by vessels, or
  - (c) the mooring or anchoring of vessels, or
  - (d) the use of vessels for particular purposes.
- (4) An authorised officer may direct a person to cease operating a vessel to which such a notice applies in contravention of the notice.
- (5) A person who continues to operate the vessel in contravention of the notice after being directed by an authorised officer to cease doing so is guilty of an offence.

Maximum penalty: 15 penalty units.

- (6) In any proceedings for an offence against this regulation, proof of the publication of a notice in accordance with this regulation is not required until evidence is given to the contrary.

**10B Other directions by authorised officers**

- (1) For the purpose of enabling or facilitating the conduct of a special event that is the subject of a notice under regulation 10A or for the purpose of marine safety associated with such a special event, an authorised officer may, before, during or after the special event, direct a person who is on or near the navigable waters specified in the notice to do, or to refrain from doing, such things as are specified in the direction.

- (2) A person who fails to comply with a direction given under this regulation by an authorised officer is guilty of an offence.

Maximum penalty: 15 penalty units.

#### **10C Appointment of authorised officers (other than harbour masters and police officers)**

- (1) The Minister may appoint, as an authorised officer for the purposes of this Part, any person (including a class of persons) who is a member of staff of the Waterways Authority, a Port Corporation, a government department or other public or local authority.
- (2) An authorisation of such a person as an authorised officer can be given generally, or subject to conditions and restrictions or only for limited purposes.

#### **10D Identity cards for authorised officers**

- (1) The Minister is required to give an identity card to each authorised officer appointed under regulation 10C.
- (2) An identity card is to be in a form approved by the Minister.
- (3) An authorised officer when exercising the functions of an authorised officer is required to produce his or her identity card if requested to do so by an affected person. This clause does not apply if the authorised officer gives a direction by radio or other communication device.
- (4) A person who has been issued with an identity card must return it to the Minister on demand.  
Maximum penalty: 10 penalty units.
- (5) Until an authorised officer is given an identity card, the authorised officer's instrument of appointment is taken to be an identity card for the purposes of clause (3).

### **Part 3 Regulations for certain classes of vessels and waters**

#### **11 Registration of vessels**

- (1) Where the registration of a vessel under the former regulations would have been effective for any period after the commencement of these Regulations if the former regulations had remained in force, that vessel shall be registered for that period for the purposes of this regulation.
- (2) A person who controls a registrable vessel may apply to the Minister for registration of such vessel.
- (3) An application for the registration of a registrable vessel:

- (a) shall be made in writing to the Minister in a form approved by the Minister, and
- (b) shall contain the particulars provided for by the form.
- (c) (Repealed)

(3A) The fee for registration of a registrable vessel is:

- (a) for a personal watercraft—\$105,
- (b) for a vessel subject to a Class 3 (fishing vessels) permit under the *Commercial Vessels (Permits) Regulation 1986*—\$53,
- (c) for any other vessel:
  - (i) that is less than or equal to 3m in length—\$36, or
  - (ii) that is greater than 3m in length—\$36 plus an additional \$6.70 for each half metre or part of a half metre by which the length of the vessel exceeds 3m, or \$404.50, whichever is the lesser.

(3AA) If the Minister is satisfied that an applicant for registration of a registrable vessel, other than an applicant for registration of a commercial vessel, is the holder of a current pensioner concession card issued by the Commonwealth, the fee payable for the registration of the registrable vessel is half of the fee otherwise payable.

(3B) The Minister may issue a personalised registration plate to a person at the person's request and may charge an amount determined by the Minister for doing so.

(4) Upon the registration of a registrable vessel, the Minister shall cause to be issued to the applicant a certificate of such registration and a relevant registration plate.

(5) Subject to subclauses (1) and (10) and to Regulation 16, the registration of a vessel shall be effective:

- (a) in the case of an initial registration—for a period of one year from the date stated on the certificate of registration as the day the fee for the registration was received by the Minister, and
- (b) in the case of any further registration—for a period commencing immediately after the date of expiration of the last previous registration and terminating one year after the expiration of the last previous registration.

(6) A holder of the certificate of registration for a vessel shall:

- (a) affix and keep affixed securely to the port side of the vessel, and in such a position as to be clearly visible, the relevant registration plate,
- (b) whenever so required, produce the certificate forthwith, or within such time as

- may be allowed, to any officer, or to any member of the police force,
- (c) notify the Minister forthwith of any change of his address,
  - (d) upon the expiration and cancellation of the registration of the vessel, return to the Minister forthwith the certificate of registration unless he has obtained a further registration of such vessel.
- (6A) A registered vessel which is a sailing vessel is not required to comply with clause (6)
- (a) if the relevant registration plate is affixed and kept affixed securely on the transom in such a position as to be clearly visible.
- (7)
- (a) If the holder of the certificate of registration for a vessel ceases to control such vessel he shall forthwith:
    - (i) supply to the Minister the name and address of the person to whom control of the vessel has been transferred and the date of such transfer,
    - (ii) return such certificate to the Minister, and
    - (iii) remove the relevant registration plate from the vessel, unless he supplies to the Minister an application by the person to whom the control of the vessel has been transferred for recording of acquisition of control of the vessel, accompanied by the prescribed fee.
  - (b) A person who acquires control of a vessel to which a registration plate is affixed must within 3 days of the acquisition remove the registration plate unless, in the case of a current registration plate, the person has applied for recording of acquisition of control of the vessel and paid the prescribed fee.
  - (c) An applicant for recording of acquisition of control of a vessel shall furnish such particulars as the Minister shall require and shall pay a fee of \$20; and on recording by the Minister of such acquisition shall be issued a certificate signifying that such vessel is a registered vessel.
- (8) Where a certificate of registration or a registration plate has been lost, stolen, destroyed, mislaid, defaced, mutilated or rendered illegible the person to whom the same has been issued shall inform the Minister, who may, if satisfied as to the facts and upon payment of a fee of \$13, issue a duplicate certificate or plate.
- (9) A registered vessel, or a vessel for registration of which application has been made, may be inspected or tested at any reasonable time by any delegate of the Minister or any officer of such a delegate appointed for this purpose, and the holder of the certificate of registration in respect of a vessel shall make such vessel available for the purposes of such inspection or test when called on to do so.

(10)

(a) The registration of a vessel may be cancelled, or an application for registration of, or for recording of acquisition of control of, a vessel, refused:

- (i) where any information furnished by the holder of the certificate of registration for the vessel or the application is found to be untrue,
- (ii) where any requirement of these Regulations or any requirement of the Minister in respect of such vessel or its registration has not been complied with,
- (iii) where the Minister has reason to believe that the noise emitted by such vessel is, or would be, excessive,
- (iv) where the Minister considers that such vessel is unsafe to persons or property, or
- (v) where the holder of the certificate of registration for the vessel, or the applicant, as the case may be, does not, or ceases to, control the vessel.

(a1) The registration of a vessel may be cancelled if the Minister has not received the registration fee within 30 days after the date of expiration of the last previous registration.

(b) This subclause shall not affect the application of regulation 19 of these Regulations to any provision of this regulation.

(11) Any person who navigates a registered vessel, or who, having custody of the same, permits or suffers such vessel to be navigated, without the authority or consent of the holder of the certificate of registration for the vessel shall be guilty of an offence against this regulation.

(12) A registered vessel shall have displayed on each side of it, or in the case of a "Three Pointer" on its tail, in figures at least 150 mm high, and clearly distinguishable at a distance of at least 60 m, and where it may be clearly seen when the vessel is under way the distinguishing number directed to be so displayed in the certificate of registration relating to such vessel.

(12A) A registered vessel which is a sailing vessel shall not be required to comply with subclause (12) if it has displayed:

- (a) on the transom,
- (b) on both sides of the hull adjacent to the stern, or
- (c) in the case of a multiple-hulled sailing vessel, on the outer faces of the external hulls adjacent to the sterns thereof,

in figures not less than 100 mm high, where it may clearly be seen when the vessel is under way, the distinguishing number directed to be so displayed in the certificate of registration relating to the vessel.

(12B) A registered vessel which is a ski-free is not required to comply with subclause (12) if:

- (a) it has displayed on a centrally mounted board, in figures not less than 150 mm high, where it may clearly be seen when the vessel is under way, the distinguishing number directed to be so displayed in the certificate of registration relating to the vessel, and
- (b) it exhibits a flag of orange dayglo not less than 300 mm × 30 mm from a mast not less than 1 m high.

(12C) A registered vessel which is subject to a vessel permit under the *Commercial Vessels Act 1979* must display only the permit number of the vessel in accordance with the *Commercial Vessels (Permits) Regulation 1986*.

(13)

- (a) If any registrable vessel is on any navigable waters and is unregistered:
  - (i) the owner of such vessel shall be guilty of an offence against this regulation, and
  - (ii) the master of such vessel shall be guilty of an offence against this regulation unless he satisfies the court before which the proceedings take place that such vessel appeared to comply in all respects with the requirements of these Regulations relating to registered vessels and that he had no reason to suspect that such vessel was unregistered.
- (b) If any registered vessel is on any navigable waters and has not affixed to it the relevant registration plate which relates to the certificate of registration of such vessel, both the owner and the master of such vessel shall be guilty of an offence against this regulation.
- (c) If a registered vessel is on any navigable waters and does not have a number displayed on it, in the position or positions and manner prescribed by clause (12), (12A), (12B) or (12C) or if any number so displayed on the vessel is in any way defaced, obliterated or concealed, both the owner and master of the vessel are guilty of an offence against this regulation.
- (d) The provisions of this subclause shall not apply to, or in relation to, a vessel which is more than 15.24 m in length until 1 July 1969.
- (e) Paragraph (a) shall not apply with respect to a registrable vessel which:

- (i) is not ordinarily used within the State of New South Wales,
- (ii) has not been in New South Wales for more than 3 months since the date it was first on any navigable waters after its last entry into New South Wales,
- (iii) is registered under a law for the time being in force in a State (other than New South Wales) or a Territory of the Commonwealth, and
- (iv) has clearly affixed to or exhibited upon it in accordance with that law any identifying or distinguishing plate, mark or number issued with respect to, or allocated to, the vessel pursuant to that law in connection with the registration of the vessel.

**11A Certain vessels to have hull identification numbers affixed before registration**

- (1) A vessel is not to be registered unless a hull identification number has been affixed to its hull.
- (2) However, this clause does not apply to a vessel that is registered at the date of commencement of this Regulation unless it is a vessel to which clause 11B applies.

**11B Vessels to have hull identification numbers affixed before registration following transfer of control**

A vessel is not to be registered following the recording of a transfer of control of the vessel unless a hull identification number has been affixed to its hull.

**11C Offence relating to hull identification numbers**

A person who, without the written authority of the Minister, alters, defaces, removes or obliterates a hull identification number on the hull of a vessel is guilty of an offence against this regulation.

**12 (Repealed)**

**13 Demonstration vessels not required to be registered**

- (1) Regulation 11 (13) does not apply to the owner or master of a vessel that is in the charge of a trader and is being used for purposes connected with the manufacture, alteration, repair, testing, sale or demonstration of a commercial purpose of the vessel or of a trade article.
- (2) In this Regulation:

**trade article** means an engine or component that forms part of or is used in, or is intended to form part of or to be used in, a vessel.

**trader** means a person who manufactures, alters, repairs, tests, sells, demonstrates for a commercial purpose, or otherwise deals in, vessels or trade articles, whether on



the person's own behalf or as an employee or agent.

**14 (Repealed)**

**15 Distances to be kept at speed**

- (1) (Repealed)
- (2) A person is guilty of an offence against this regulation if the person navigates a vessel at a speed of or exceeding 10 knots on any navigable waters:
  - (a) if the vessel is a personal watercraft—within 60 metres of any person in the water, or
  - (b) if the vessel is a vessel other than a personal watercraft—within 30 metres of any person in the water.
- (3) A person shall be guilty of an offence against this regulation if he navigates a vessel (other than a personal watercraft) at a speed of or exceeding 10 knots on any navigable waters within 30 m from any vessel or any pile or structure, any river bank, shore, jetty, landing stage, pontoon or pump inlet unless he satisfies the court before which the proceedings take place that, in the circumstances of the case, the speed and manner of navigation of the vessel were reasonable, having particular regard to:
  - (a) the possibility of injury, damage, nuisance or annoyance to persons or damage to or loss of property,
  - (b) the practicability of navigating at a speed of less than 10 knots,
  - (c) any requirement of the *Navigation Act 1901* or of any rules or regulations made thereunder, or under the *Maritime Services Act 1935*, and relating to the prevention of collisions on navigable waters, and
  - (d) the fact that the vessel was engaged in a race or other activity conducted by the holder of, and in compliance with any conditions imposed upon, a licence under regulation 8 in respect of that race or activity.
- (4) A person is guilty of an offence against this regulation if the person navigates a personal watercraft at a speed of or exceeding 10 knots on any navigable waters:
  - (a) within 60 metres of:
    - (i) any vessel of 4 metres or less, or any canoe or kayak, that does not have any means of mechanical propulsion, or
    - (ii) any rowing shell, or
  - (b) within 30 metres of any vessel other than a vessel referred to in paragraph (a), any pile or structure, any river bank, shore, jetty, landing stage, pontoon or pump

inlet.

- (5) Despite clause (4), a person is not guilty of an offence under that clause if the person satisfies the court before which the proceedings for the offence are taken that, in the circumstances of the case, the speed and manner of navigation of the personal watercraft were reasonable, having particular regard to the matters set out in clause (3) (a)–(d).

**15AA Conduct of personal watercraft at any speed**

- (1) A person must not drive a personal watercraft on navigable waters:
- (a) in a designated surf zone or a swimming area, or
  - (b) within 60 metres of such of the boundaries of the zone or area as run perpendicular to the shore.
- (2) The driver of a personal watercraft is guilty of an offence against this regulation if he or she engages in irregular driving on any navigable waters in the personal watercraft restriction zone that are within 200 metres of a river bank or shore.
- (3) The driver of a personal watercraft is guilty of an offence against this regulation if he or she engages in irregular driving on any navigable waters outside the personal watercraft restriction zone that are within 200 metres of a river bank or shore, if one or more dwellings are:
- (a) located on land within 200 metres of the river bank or shore adjacent to the waters, and
  - (b) visible from those waters.
- (4) Clauses (2) and (3) do not apply to any of the following:
- (a) the driver of a personal watercraft that is towing a water skier or aquaplaner,
  - (b) a person who is driving a personal watercraft in accordance with the conditions of an aquatic licence,
  - (c) an officer, employee or member of staff of the Waterways Authority constituted by the *Ports Corporatisation and Waterways Management Act 1995* acting in the course of his or her employment or duties,
  - (d) a police officer acting in the exercise of his or her duties,
  - (e) any other person or class of persons specified by order of the Minister published in the Gazette in circumstances so specified.
- (5) In this regulation:

***irregular driving*** means driving a personal watercraft otherwise than generally in a straight line, and includes:

- (a) driving in a circle or other pattern, and
- (b) weaving or diverting, and
- (c) surfing down, or jumping over or across, any swell, wave or wash,

but does not include making any necessary turn or diversion.

***personal watercraft restriction zone*** means the waters (including any tributaries) of Avoca Lake, Botany Bay, Brisbane Water, Broken Bay, Bulbararing Lagoon, Cockrone Lagoon, Cooks River, Dee Why Lagoon, Georges River, Hawkesbury River, Manly Reservoir, Manly Lagoon, Narrabeen Lakes, Nepean River, Parramatta River, Port Hacking, Port Jackson, Prospect Reservoir, Terrigal Lagoon, Wamberal Lagoon and Woronora River (but does not include any waters off the coast).

**15AB Restrictions on use of waters by personal watercraft**

- (1) The Minister may order signs and notices to be erected in a conspicuous position in or in the vicinity of any area of navigable waters prohibiting or regulating the driving of personal watercraft within the area indicated on the signs or notices. Any such prohibition or regulation prevails over any other provision of these Regulations to the extent of any inconsistency.
- (2) A person is guilty of an offence against this regulation if the person drives a personal watercraft in contravention of the provisions of a sign or notice erected by order of the Minister under this regulation.
- (3) Despite clause (2), a person is not guilty of an offence under this regulation if the person satisfies the court before which the proceedings for the offence are taken that the person drove the personal watercraft within the area indicated on the sign or notice in order to avoid an immediate risk of injuring persons or damaging property.
- (4) Clause (2) does not apply to the use or navigation of a personal watercraft by any of the following:
  - (a) an officer, employee, or member of staff of the Waterways Authority constituted by the *Ports Corporatisation and Waterways Management Act 1995* acting in the course of his or her employment or duties,
  - (b) a police officer acting in the exercise of his or her duties,
  - (c) any other person or class of persons specified by order of the Minister published in the Gazette in circumstances so specified.

### **15A Personal watercraft behaviour sticker**

- (1) The owner of a personal watercraft is guilty of an offence against this regulation if the craft is driven on navigable waters while:
  - (a) the personal watercraft does not have a behaviour sticker affixed to it in accordance with the requirements of clause (2), or
  - (b) the behaviour sticker so affixed is in any way defaced, obliterated or concealed.
- (2) The behaviour sticker:
  - (a) must be in a form approved by the Minister, and
  - (b) must be affixed so that it is clearly visible from the steering position of the personal watercraft at all times.
- (3) A person who drives a personal watercraft otherwise than in accordance with the requirements displayed on the behaviour sticker for the craft is guilty of an offence against this regulation.

## **Part 3A Licences to drive**

### **15B Application to Part**

This Part applies in relation to the following vessels when the vessels are on navigable waters:

- (a) every vessel (other than a vessel specified in Schedule 4) that is propelled by mechanical power capable of producing a speed of at least 10 knots, and
- (b) personal watercraft, regardless of the speed of which they are capable.

### **15C Definition**

In this Part:

***licence*** means a licence referred to in regulation 15D.

### **15D Types of licences**

- (1) A licence under this Part may be any of the following:
  - (a) a personal watercraft licence,
  - (b) a young adult personal watercraft licence,
  - (c) a general licence,
  - (d) a young adult general licence.

- (2) A person who holds a personal watercraft licence is taken also to hold a general licence.
- (3) A person who holds a young adult personal watercraft licence is taken also to hold a young adult general licence.
- (4) A licence granted to a person who has not held a licence of that kind at any time during the 12 months immediately before the licence concerned takes effect is an **initial licence** for the purposes of this Part.

#### **15E Drivers of certain vessels to be licensed**

- (1) If the driver of a personal watercraft on any navigable waters is not the holder of a licence authorising the driver to drive the craft, both the owner and the driver of the craft are guilty of an offence against this regulation.
- (2) If the driver of a vessel other than a personal watercraft that is being driven at a speed of or exceeding 10 knots on any navigable waters is not the holder of a licence authorising the driver to drive the vessel concerned, both the owner and the driver of the vessel are guilty of an offence against this regulation.
- (3) This regulation does not apply to the owner or driver of a vessel if all the following conditions are met:
  - (a) the driver's usual place of residence is in a State (other than New South Wales) or Territory of the Commonwealth,
  - (b) the driver has not been in New South Wales continuously during the 3 months preceding the date on which he or she is driving the vessel,
  - (c) the driver:
    - (i) is the holder of a current licence or other authority to drive a vessel of the class to which the vessel belongs, being an authority issued under a law for the time being in force in another State or Territory, and
    - (ii) is complying with all the terms and conditions imposed in respect of the exercise of the authority by or under that law, so far as those terms and conditions are capable of being applied to the exercise of the authority in New South Wales.
- (4) If a person commits an offence under clause (1) (being a person who was a driver of a personal watercraft), the person is disqualified by the commission of the offence (and without any specific order):
  - (a) for a first offence under clause (1)—from holding any licence for a period of 12 months after the commission of the offence, or

- (b) for a second offence under clause (1)—from holding any licence for a period of 3 years after the commission of the offence, or
- (c) for a third or subsequent offence under clause (1)—from holding any licence at any time during the life of the person.

The disqualification is in addition to any penalty imposed for the offence.

- (5) Clause (4) applies to offences committed after the commencement of that clause.
- (6) For the purposes of clauses (4) and (5), a person is taken to have committed an offence at the time that the person:
  - (a) is convicted of the offence by a court, or
  - (b) pays the penalty required by a penalty notice served on the person under section 30D of the Act in respect of the alleged offence (or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the *Fines Act 1996*).

#### **15F Special provisions relating to holders of young adult licences**

The holder of a young adult general licence or a young adult personal watercraft licence must not drive a vessel on any navigable waters:

- (a) in any race, display, regatta, exhibition or similar event (except with the Minister's consent in writing), or
- (b) while the vessel is towing a water skier, or
- (c) at a speed greater than 20 knots, or
- (d) at a speed of or greater than 10 knots:
  - (i) before sunrise, or
  - (ii) after sunset, or
  - (iii) while the vessel is towing an aquaplaner, or
  - (iv) if there is not present in the vessel a person who holds a general licence (or, if the vessel concerned is a personal watercraft, a personal watercraft licence).

#### **15G Drivers to show licence on demand**

- (1) The driver of a vessel that is being driven at a speed of 10 knots or more on any navigable water, and the driver of a personal watercraft that is being driven at any speed on such water, must stop the vessel if requested to do so by an authorised person and must produce his or her licence (or authority referred to in regulation 15E

(3) (c)) for inspection by the authorised person.

(2) Any person present in the vessel and claiming to be the holder of a general licence or a personal watercraft licence for the purposes of regulation 15F (d) (iv) must produce that licence for inspection by the authorised person.

(3) In this regulation:

**authorised person** means any of the following:

(a) an officer,

(b) a police officer,

(c) the owner of the area of water on which the vessel is being driven (or, if the area of water concerned is owned or controlled by a public authority, an officer of the public authority).

#### **15H Requirements for grant of initial licence**

(1) Before an initial licence is granted, the applicant for the licence must comply with the relevant requirements of this regulation.

(2) The applicant must:

(a) furnish to the Minister such personal particulars as the Minister requires for the purpose of dealing with the application, and

(b) pass such examinations (which may include practical tests) as the Minister considers necessary and appropriate to the type of licence sought, concerning:

(i) the law in relation to vessels, and

(ii) safe and proper practice in relation to vessels, and

(c) pass an eyesight test satisfactory to the Minister, and

(d) satisfy the Minister that the applicant is:

(i) at least 12 years of age (if the application is for a young adult personal watercraft licence or a young adult general licence), or

(ii) at least 16 years of age (if the application is for a personal watercraft licence or a general licence), and

(e) pay the following examination fee:

(i) \$35, if the application is for a personal watercraft licence or a young adult personal watercraft licence, or

(ii) \$22, if the application is for a general licence or a young adult general licence.

- (3) An applicant for a young adult personal watercraft licence or a young adult general licence must satisfy the Minister that the applicant's parent or guardian consents to the application.

#### **15I Special provisions relating to age**

- (1) A young adult personal watercraft licence or a young adult general licence is not to be granted to a person who is 16 years of age or older.
- (2) For the purposes of this Part, an applicant for, or the holder of, such a licence who was born on 29 February in any year is taken to have been born on 28 February in that year.
- (3) The holder of a young adult personal watercraft licence or a young adult general licence whose licence expires because he or she attains the age of 16 years is entitled, on that expiry and on payment of the appropriate licence fee, to be granted the following licence without taking a further examination of the kind referred to in regulation 15H (2) (b):
  - (a) if the expired licence was a young adult personal watercraft licence—a personal watercraft licence or a general licence (as he or she chooses), and
  - (b) if the expired licence was a young adult general licence—a general licence.
- (4) Clause (3) does not apply if, during the period of 12 months immediately preceding the expiry of the licence, the licensee concerned:
  - (a) was convicted by a court of an offence against these Regulations, or
  - (b) paid the penalty required by a penalty notice served on the licensee under section 30D of the Act in respect of an alleged offence against these Regulations (or if the licensee does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the licensee under Division 3 or 4 of Part 4 of the *Fines Act 1996*).

#### **15J Duration of licences**

- (1) **Personal watercraft licence and general licence** A personal watercraft licence and a general licence remains in force, subject to this Part:
  - (a) if it is an initial licence—for such period (not exceeding 3 years) as may be determined by the Minister and specified in the licence, commencing on the date of its issue, or
  - (b) if it is not an initial licence—for such period (not exceeding 3 years), commencing on the expiry of the licensee's immediately previous licence, as may be determined by the Minister and specified in the licence.



- (2) **Young adult personal watercraft licence and young adult general licence** A young adult personal watercraft licence and a young adult general licence remains in force, subject to this Part:
- (a) if it is an initial licence—from the date of its issue until, but not including, the date of the licensee’s next birthday, and
  - (b) if it is not an initial licence—for a period of one year commencing on the expiry of the licensee’s immediately previous licence.

**15K Conditions on licences**

- (1) A licence may be granted on special conditions under which the authority conferred by the licence does not apply, or applies only, in relation to:
  - (a) a particular class of vessels, or
  - (b) a particular area of water, or
  - (c) a particular use of a vessel.
- (2) A person must not drive a vessel on any navigable waters in contravention of any special condition to which the licence relating to the vessel is subject.
- (3) It is a condition of every licence that the Minister may, at any time, require the licensee to pass such examinations concerning the law in relation to vessels and safe and proper practice in relation to vessels as the Minister considers necessary, or to pass an eyesight test, whether or not the licensee has previously passed such an examination or test.

**15L Fees for licences**

The following fees are payable in respect of each year for which a licence remains in force:

- (a) for a personal watercraft licence—a fee of \$55,
- (b) for a young adult personal watercraft licence—a fee of \$27,
- (c) for a general licence—a fee of \$31,
- (d) for a young adult general licence—a fee of \$14.

**15M Concessional fees for licences**

- (1) This regulation has effect despite regulation 15L.
- (2) If a licence specifies that it is to remain in force for a period of 3 years from the date of its commencement, the fee payable for the licence is:

- (a) in the case of a personal watercraft licence—\$109, and
  - (b) in the case of a general licence—\$77.
- (3) If an applicant for an initial young adult licence of any kind makes the application less than 6 months before his or her birthday, the fee payable for the licence is:
- (a) in the case of a young adult personal watercraft licence—\$13, and
  - (b) in the case of a young adult general licence—\$7.
- (4) If the Minister is satisfied that the applicant for, or holder of, a licence is the holder of a current pensioner concession card issued by the Commonwealth, the fee payable for the licence is half of the fee otherwise payable.

### **15N Special provisions concerning personal watercraft licences**

- (1) Despite regulation 15H (2) (e), if an applicant for an initial personal watercraft licence is the holder of a general licence, or an applicant for a young adult personal watercraft licence is the holder of a young adult general licence, the examination fee payable by the applicant is \$11.
- (2) Despite regulation 15J, an initial personal watercraft licence granted to the holder of a general licence, and an initial young adult personal watercraft licence granted to the holder of a young adult general licence, remains in force for the balance of the term of the general licence or young adult general licence concerned.
- (3) Despite regulations 15L and 15M:
- (a) the licence fee payable for a personal watercraft licence by the holder of a general licence is \$32, and
  - (b) the licence fee payable for a young adult personal watercraft licence by the holder of a young adult general licence is \$10, and
  - (c) the licence fee payable for a personal watercraft licence by the holder of a general licence, and the licence fee payable for a personal watercraft licence by the holder of a young adult personal watercraft licence, is, if the licensee is the holder of a current pensioner concession card issued by the Commonwealth, \$21.

### **15O Cancellation and suspension of licences**

- (1) The Minister may refuse to grant a licence, may suspend a licence for such period as the Minister thinks fit or may cancel a licence if:
- (a) any information furnished by the applicant or licensee in connection with the licence application is found by the Minister to be untrue, or
  - (b) the applicant or licensee:

- (i) has been convicted of a breach of these Regulations because of a contravention of regulation 3, 15F or 15K, or
  - (ii) has been more than once convicted of a breach of these Regulations because of contraventions of, or offences against, any one or more of regulations 5, 6, 9 or 15 or a regulation in this Part (other than regulation 15F or 15K), or
  - (c) the applicant is, or the licensee has become, in the Minister's opinion incapable of safely driving a vessel to which this Part applies, or
  - (d) the licensee fails an examination or eyesight test referred to in regulation 15K (3), or
  - (e) in the case of a licence other than an initial licence, the Minister has not received the licence fee within 30 days after the date of expiry of the licensee's immediately previous licence.
- (2) If a person who holds a personal watercraft licence or a young adult personal watercraft licence commits 2 offences against any provision of the Act or any regulation specified in Schedule 6 (or any combination of those provisions) in any period of 24 months after the commencement of this clause, the commission of the second offence operates to cancel the person's licence.
- (3) A person whose licence is cancelled under clause (2) is not eligible to apply for a licence under this Part until 12 months after the cancellation. Accordingly, any application for a licence made after that time is an application for an initial licence.
- (4) For the purposes of clause (2), a person is taken to have committed an offence at the time that the person:
- (a) is convicted of the offence by a court, or
  - (b) pays the penalty required by a penalty notice served on the person under section 30D of the Act in respect of the alleged offence (or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the *Fines Act 1996*).

### **15P Miscellaneous obligations of licensees**

A person to whom a licence is granted must:

- (a) notify the Minister as soon as practicable of any change of address, or if the licence is lost, stolen, destroyed, mislaid, mutilated or rendered illegible, and
- (b) return the licence to the Minister immediately the licence expires (unless the person has obtained a further licence) or is suspended or cancelled.

### **15Q Duplicate licences**

The Minister may, on payment of a fee of \$13, issue a duplicate licence if satisfied that a licence has been lost, stolen, destroyed, mislaid, mutilated or rendered illegible.

### **15R Transitional**

- (1) This regulation has effect despite regulation 15E.
- (2) A person who, on 1 February 1997, is the holder of a general licence or a young adult general licence may, so long as the person continues to hold a licence under this Part, drive a personal watercraft without being the holder of a personal watercraft licence or a young adult personal watercraft licence.
- (3) Clause (2) ceases to have effect on 31 January 1998.
- (4) Before 31 January 1998, a person who is the holder of a certificate of competency under the *Commercial Vessels Act 1979* as a master, mate, second mate or coxswain is taken also to be the holder of a personal watercraft licence.
- (5) A person who, on 31 January 1997, is the holder of a commercial licence issued under regulation 14 as in force on that date is, so long as the person continues to hold that licence, taken to be the holder of a general licence.

## **Part 4 Miscellaneous**

### **16 Misrepresentation of vessels, persons or areas**

- (1)
  - (a) Where the holder of the certificate of registration for a vessel not exceeding 9 m in length proposes to use or permit to be used such vessel for a time, or from time to time, with an engine of lower power, or without an engine, or with structural modifications, so that such vessel when so used will not have a potential speed of at least ten knots or would not otherwise require registration under these Regulations the Minister may upon his written application suspend the registration of such vessel whilst so used, on such conditions as it may deem appropriate.
  - (b) For the purposes of subclause (3) of this regulation, a vessel the registration of which is suspended under this paragraph shall during such suspension be an unregistered vessel, provided that any numbers painted on such vessel may be retained thereon if they are effectively covered by an opaque, secure and substantial shield.
  - (c) The suspension of the registration of a vessel under this paragraph shall not cause such registration to be effective after the date on which it would have ceased to be effective if such suspension had not occurred.

- (2) Subject to the provisions of subclause (1) of this regulation, if any vessel not exceeding 9 m in length has not, or ceases to have, a potential speed of at least ten knots:
  - (a) any registration effected under regulation 11 of these Regulations in respect of such vessel shall be void and of no effect and such vessel shall be an unregistered vessel,
  - (b) a person shall not represent to the Minister that such vessel is registrable, and
  - (c) the holder of any registration certificate in respect of such vessel shall return such certificate to the Minister.
- (3) If any unregistered vessel is represented, whether by the affixing of a registration plate, the displaying of numbers, the production of documents or in any other way whatsoever, to be a registered vessel the owner of such vessel shall be guilty of an offence against this regulation.
- (4) (Repealed)
- (5) A person shall not falsely represent, or permit it to be falsely represented:
  - (a) (Repealed)
  - (b) that he or any other person is duly licensed under regulation fourteen of these Regulations, or
  - (c) that any form of navigation is restricted by the Minister in any area.

#### **17 Correction of false representations**

- (1) Any delegate of the Minister or any officer of such a delegate or any member of the police force may remove from a vessel:
  - (i) any purported registration plate representing that such vessel is a registered vessel if such vessel is not a registered vessel.
  - (ii), (iii) (Repealed)
- (2) Any delegate of the Minister or any officer of such a delegate or any member of the police force who is unable to establish to his satisfaction by enquiry from the person in charge of a vessel or from other persons present the name and address of the owner of such vessel may paint out or otherwise obliterate any numbers which are so painted on such vessel as to represent:
  - (i) that such vessel is a registered vessel when it is not a registered vessel, or
  - (ii) (Repealed)

- (3) Any person who hinders or obstructs any delegate of the Minister or any officer of such a delegate or any member of the police force in the exercise of the powers conferred by this regulation shall be guilty of an offence against this regulation.

### **18 Unauthorised possession of documents**

A person who has in his possession any expired or cancelled certificate or licence issued under these Regulations, or any registration plate which does not relate to a registered vessel in his custody, shall on demand deliver the same to any delegate of the Minister or any officer of such a delegate or any member of the police force.

### **19 Penalties**

Every person who is guilty of an offence against or who contravenes any of the provisions of these Regulations, or who fails to comply with or observe any requirement, condition, term or stipulation subject to which any permission or exemption has been given or granted by the Minister or any licence, certificate or permit has been issued by the Minister under these Regulations, or any direction or requirement which may be given to or made upon him under or pursuant to any such condition, term or stipulation, shall be guilty of a breach of these Regulations and liable to a penalty not exceeding \$1,500 and to a further penalty not exceeding \$80 for each day during which such offence, contravention or failure continues.

#### **19A Exemption for action taken to secure safety**

Despite the other provisions of these Regulations, a person:

- (a) is not guilty of an offence against these Regulations, and
- (b) does not otherwise contravene a provision of these Regulations,

if the action taken by the person that would otherwise constitute such an offence or contravention was taken for the purpose of securing the safety of any person.

### **20 Application of section 30D of the [Maritime Services Act 1935](#)**

- (1) In this regulation **the section** means section 30D of the [Maritime Services Act 1935](#), as amended.
- (2) Any officer, as defined in these Regulations, who is authorised by the Minister to be a prescribed officer for the purposes of the section shall be a prescribed officer for the purposes of the section.
- (3) An offence under a provision of the Regulations referred to in the Second Schedule shall be a prescribed offence for the purposes of the section.
- (4) The amount of penalty payable under the section for an offence under a provision of the Regulations referred to in the Second Schedule shall be the amount specified in

that Schedule in relation to that provision.

- (5) The amount of penalty payable under the section for any offence under section 13SA of the *Maritime Services Act 1935*, as amended, of a class specified in the first column of the Third Schedule to these Regulations shall be the amount specified in relation to that class in the second column of that Schedule.

## 21 Dissolution of Maritime Services Board—savings and transitional

Anything done by the Maritime Services Board (including by the Secretary of the Board) or by an officer of the Board under these Regulations before the dissolution of the Board that had any force or effect immediately before that dissolution is taken to have been done by the Minister or by a delegate of the Minister or any officer of such a delegate, as the case requires.

## 22 Non-application of section 6 of the *Intergovernmental Agreement Implementation (GST) Act 2000*

Section 6 of the *Intergovernmental Agreement Implementation (GST) Act 2000* does not apply to any fee determined by or in accordance with these Regulations.

## The First Schedule (Repealed)

### Schedule 2 Prescribed offences and penalties for the purposes of section 30D of the *Maritime Services Act 1935*

(Regulation 20)

Regulation	Penalty \$
3A (5) (a)	80
3A (5) (b)	80
5	200
5A	80
6 (1):	
• if the vessel concerned is a personal watercraft	80
• if the vessel concerned is a vessel other than a personal watercraft	40
6 (2):	
• if the vessel concerned is a personal watercraft	160
• if the vessel concerned is a vessel other than a personal watercraft	80

6 (3) (a)	160
6 (3) (b):	
• if the vessel concerned is a personal watercraft	160
• if the vessel concerned is a vessel other than a personal watercraft	80
6 (4):	
• where the offence involves a vessel passing within 16m of a vessel that, at the time of the offence, was not being propelled by mechanical power and on board which there was a person	80
• in any other case	40
6 (4A)	160
8	80
10A (5)	500
10B (2)	500
11 (13) (a)	80
11 (13) (b)	40
11 (13) (c)	40
15 (2) (a)	320
15 (3):	
• where the offence involves passing within 16m of a vessel that, at the time of the offence, was not being propelled by mechanical power and on board which there was a person	80
• in any other case	40
15 (4)	160
15AA (1)	320
15AA (2)	160
15AA (3)	160
15AB	320
15A (1) (a)	80
15A (1) (b)	80
15A (3)	80



15E (1):	
• owner of craft	200
• driver of craft (being a first offence under 15E (1))	400
• driver of craft (being a second offence under 15E (1))	800
• driver of craft (being a third or subsequent offence under 15E (1))	1200
15E (2):	
• owner of craft	100
• driver of craft	200
15F (a)	40
15F (b)	40
15F (c)	80
15F (d) (i)	40
15F (d) (ii)	40
15F (d) (iii)	40
15F (d) (iv)	40
15G (1)	80
15G (2)	80
15K (2)	40

### The Third Schedule Penalties for breaches of speed limits prescribed for the purposes of section 30D of the [Maritime Services Act 1935](#)

(Regulation 20)

First column	Second column
Class of offence	Penalty
Exceeding the speed specified by more than 10 knots:	
(a) in a personal watercraft	\$160
(b) in any other vessel	\$80
Otherwise exceeding the speed limit specified:	

- |                              |      |
|------------------------------|------|
| (a) in a personal watercraft | \$80 |
| (b) in any other vessel      | \$40 |

## The Fourth Schedule

(Regulation 2; Regulation 14)

Every sea-plane bearing identification numbers issued by the Civil Aviation Safety Authority.

Every vessel that is less than 5.5 m in length, that is fitted with an engine having a power rating of less than 4.0 kilowatts, that is not a commercial vessel and that is not the subject of an occupation licence under the *Management of Waters and Waterside Lands Regulations—N.S.W.*

Every sailing vessel that belongs to one of the following Australian Yachting Association classes:

- (a) Flying Dutchman,
- (b) Jubilee,
- (c) Light Weight Sharpie,
- (d) Tornado,

and that is not the subject of an occupation licence under the *Management of Waters and Waterside Lands Regulations—N.S.W.*

## Schedule 5 Signs

(Regulation 2 (1))



Figure 1

## Schedule 6 Offences for the purpose of automatic cancellation of personal watercraft licence

(Clause 150)

*Maritime Services Act 1935*

13SA (4) (being an offence involving a personal watercraft)

*Water Traffic Regulations—N.S.W.*

3

5 (being an offence involving the causing of danger to any person or property)

6 (1)

6 (2)

6 (3)

6 (4A)

6 (5)

15 (2) (a)

15 (4) (a)

15 (4) (b)

15AA (1) (a)

15AA (1) (b)

15AA (2)

15AA (3)

15AB (2)

15E (1)

15F

15G (1)

*Boating (Safety Equipment) Regulation—N.S.W.*

12A (1) (a)

12A (1) (b)