

# Management of Waters and Waterside Lands Regulations—N.S.W. (1972 SI 4)

[1972-4]



New South Wales

## Status Information

### Currency of version

Historical version for 1 October 2011 to 30 September 2012 (accessed 26 November 2024 at 23:24)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Does not include amendments by**  
[Management of Waters and Waterside Lands Amendment \(Fees\) Regulation 2012 \(441\)](#) (LW 31.8.2012)  
(not commenced — to commence on 1.10.2012)
- **Proposed repeal**  
The Regulations are to be repealed on the whole commencement of Part 2 of Sch 2 to the [Marine Safety Act 1998 No 121](#).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](#).

File last modified 31 August 2012

# Management of Waters and Waterside Lands Regulations—N.S.W. (1972 SI 4)



New South Wales

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# Management of Waters and Waterside Lands Regulations—N.S.W. (1972 SI 4)



New South Wales

## Part 1 Preliminary

### 1 Name of Regulations

These Regulations may be cited as the *Management of Waters and Waterside Lands Regulations—N.S.W.*

### 2, 3 (Repealed)

### 4 Definitions

(1) In these Regulations, except in so far as the context or subject matter otherwise indicates or requires:

**Act** means the *Maritime Services Act 1935*.

**Blast** means a loud and distinctive sound produced by a whistle, siren, fog horn or similar instrument.

**Carry** means to have on board, whether as cargo or fuel for any engine or machine, but does not include the keeping of any substance, in accordance with general maritime practice and with all proper precautions, in the magazine of a vessel or the keeping or use of any substance, in accordance with general practice and with all proper precautions, in a vessel's galley, hospital or dispensary.

**Channel** means that part of an area of navigable waters which is best suited for the navigation through such area of vessels, or as the case may require of a vessel of the class concerned, whether or not such channel is indicated by navigation marks and whether or not the same has been provided by dredging.

**Dredger** means any vessel used for the purpose of removing from the bed of waters any material or article, whether for the purpose of deepening such waters or otherwise, and includes any vessel secured in any navigable waters for the purposes of carrying out works therein.

**Enclosed water** means any port or any inland navigable water within the State of

New South Wales, and includes any building or other structure erected therein.

**Fairway** means that part of an area of navigable waters which is usually used by vessels, or as the case may require by vessels of the class concerned, for navigation through such area.

**Floating object** includes timber or other floating cargo or goods and any raft or any aggregation of timber, floating cargo or goods.

**Holder**, in relation to any licence or registration certificate issued under these Regulations, includes the legal personal representative of the holder.

**Houseboat** means a vessel or floating object, other than a seagoing ship or a visiting small craft (within the meaning of Regulation 34A), inhabited as a dwelling in the course of any six consecutive months for a period exceeding:

- (a) one period of not more than twenty-one consecutive days,
- (b) two periods of not more than ten consecutive days each,
- (c) a number of periods:
  - (i) each of not less than one day,
  - (ii) none of which exceeds three days,
  - (iii) each of which is separated from any other by an interval of at least three clear days,the total of which is not more than thirty-one days,
- (d) notwithstanding paragraphs (a), (b) and (c):
  - (i) one period of not more than twenty-one consecutive days, and
  - (ii) a number of periods calculated in accordance with paragraph (c) the total of which is not more than thirty-one days, or
- (e) notwithstanding paragraphs (a), (b) and (c):
  - (i) two periods of not more than ten consecutive days each, and
  - (ii) a number of periods calculated in accordance with paragraph (c) the total of which is not more than thirty-one days.

**Lighter** includes a floating crane, floating sheerlegs and other floating plant.

**Long blast** means a blast continued for from four to six seconds.

**Managed land** means any land vested in the Board or under its control or



management, and includes any building or other structure erected thereon.

**Mooring apparatus** means a mooring, or a structure or an apparatus used to secure any floating object or apparatus in navigable waters whether or not that structure or apparatus is itself beyond the shores of the water, and whether or not that structure or apparatus is, or is proposed to be, used for any other purpose.

**naval vessel** means a vessel used by an arm of the Defence Force of Australia or by the naval, military or air forces of a country other than Australia.

**Notice** means a notice in writing and, when expressed to be given by the Board, means a notice signed by the Secretary of the Board.

**Obstruction to navigation** means:

- (a) a wharf, bridge, breakwater, heavy mooring buoy, dolphin, pile or buoy in, on or over the bed of any navigable waters, or
- (b) any other structure or floating object that the Board considers to be a hazard to navigation on any navigable waters.

**Occupation licence** means a licence issued by the Board for the occupation of a specified locality in navigable waters by any floating object, apparatus or vessel of a specified class.

**Oil** includes any kind of liquid, viscid, unctuous, inflammable, chemically neutral substance which is lighter than and insoluble in water and soluble in alcohol and ether, and includes any derivatives of oil and oil mixed with water.

**Pittwater locality** means the body of water lying south of a line commencing at the northernmost point of Barrenjoey Head and running west to a point on the eastern shore of the Lambert Peninsula in the vicinity of West Head, including the waters of all tidal bays, rivers and their tributaries connected or leading to that body of water bounded by mean high water mark.

**Public wharf** means any wharf open to or used by the public and includes any shipping wharf in a special port.

**Seagoing ship** means a vessel of length more than 45.72 m which carries persons or goods on a voyage to or from a port from or to another port.

**Secure** in relation to a vessel, floating object or apparatus means to retain in a location by an anchor, or by attachment to any object, structure or physical feature which is in, on the bed of, or in the vicinity of the shore of, any waters, and **secured** has a corresponding meaning.

**Shipping area** means any shipping wharf in a special port area and any managed land in or in the vicinity of a special port area used for any shipping operation.

**Shipping berth** means a wharf, dolphin, or other installation or mooring used by a seagoing ship for the shipment or unshipment of persons or goods.

**Shipping mooring** means a buoy, dolphin or other mooring provided for seagoing ships.

**Shipping wharf** means a wharf used by seagoing ships.

**Short blast** means a blast sounded for about one second.

**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.

**Special port** means:

- (a) the Port of Sydney,
- (b) the Port of Newcastle,
- (c) the Port of Botany Bay,
- (d) the Port of Port Kembla,
- (e) the port of Richmond River,
- (f) the port of Clarence River,
- (g) the port of Coffs Harbour, and
- (h) the port of Twofold Bay.

**Special port area** means a special port and any managed land adjoining or adjacent to such port.

**Structure** includes any post, pile, stake, fence, pipe, chain, cable or wire, that is fixed to the soil or to anything fixed to the soil, any rubble or reclamation, and any other article, material or thing that is so fixed.

**Substance** means any solid, liquid or gas.

**Sydney Harbour (Eastern) locality** means all those parts of Sydney, North and Middle Harbours, commencing at the southernmost point of North Head, then southerly, by an imaginary line to the northernmost point of South Head, then generally southerly by mean high water mark to, and then along in a northerly direction the line of the face of the eastern side of the Sydney Harbour Bridge, to the mean high water mark at Kirribilli, then generally easterly and northerly, by mean high water mark, to, and then along in a northerly direction the line of the eastern face of the Spit Bridge to the mean high water mark at Seaforth, then by mean high water

mark, generally easterly, to the point of commencement.

**Sydney Harbour locality** means the waters of Sydney Harbour, including the waters of all tidal bays, rivers and their tributaries connected or leading to the Harbour bounded by mean high water mark and lying to the west of a line commencing at the southernmost point of North Head and running to the northernmost point of South Head.

**Sydney Harbour (Western) locality** means:

- (a) all those parts of Middle Harbour below mean high water mark which lie upstream of the line of the face of the eastern side of the Spit Bridge, and
- (b) all those parts of Sydney Harbour which lie below mean high water mark, together with the Parramatta, Lane Cove and Duck Rivers and all of the tidal rivers, creeks, bays and tributaries of those rivers, which lie upstream of the line of the eastern face of the Sydney Harbour Bridge.

**Tanker** means a vessel constructed or adapted for carrying a cargo of liquid or gas in bulk.

**Tug** means any vessel used to tow a vessel or a floating or submerged object.

**Wharf** includes pier, jetty, landing stage, dock, slip and platform.

- (2) Where a Regulation requires a number or other symbols to be painted on a vessel, structure or sign, that requirement shall be satisfied if the number is securely and permanently affixed in the form of figures or symbols composed of a durable plastic or similar material attached in a manner satisfactory to an officer of the Board.
- (3) A reference in these Regulations to navigable waters is taken to include a reference to any building or other structure erected in or on those waters.

#### **4A Notes**

Notes included in these Regulations are explanatory notes and do not form part of these Regulations.

### **Part 1A Provisions consequent on dissolution of Maritime Services Board**

#### **4AB Changes in terminology following dissolution of Maritime Services Board**

- (1) A reference in these Regulations:
  - (a) to the Board or the Maritime Services Board is taken to be a reference to the Minister and, in Regulations 5, 11 and 68, is taken to include a reference to a Port Corporation or the Waterways Authority,

- (b) to an officer of the Board is taken to be a reference to an officer of the Minister and, in Regulations 7, 15, 24, 68 and 73, is taken to include an officer of a Port Corporation or the Waterways Authority,
- (c) to the Secretary of the Board is taken to be a reference to the Minister or a person authorised by the Minister,
- (d) to land vested in, or under the control or management of, the Board is taken to be a reference to land vested in, or under the control or management of the Minister, a Port Corporation or the Waterways Authority,
- (e) to a bed of enclosed water not vested in the Board (see Regulation 28) is taken to be a reference to a bed of enclosed water not vested in the Ministerial Corporation, a Port Corporation or the Waterways Authority.

(2) In this clause:

- (a) **Ministerial Corporation**, **Port Corporation** and **Waterways Authority** have the same meanings they have in the [Ports Corporatisation and Waterways Management Act 1995](#), and
- (b) **officer of the Minister** means a delegate of the Minister or any officer of such a delegate.

#### **4AC 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 a provision of 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 person who is taken, by virtue of Regulation 4AB, to have the functions of the Board, the Secretary or an officer of the Board under that provision.

## **Part 2 General management of waters and lands**

### **Division 1 Control of lands and waters**

#### **5 Restrictions on use of lands and structures**

- (1) The Board may, for the purposes of regulating the conduct of persons using or being upon or in any land, wharf, depot, shed, warehouse or other place vested in or controlled by the Board (in this Regulation referred to as a **controlled area**), for the prevention of the improper use thereof and of objectionable or dangerous conduct thereon or therein, and the prevention of damage or injury thereto, or to any goods, cargo, plant, machinery, vehicles or things, or to other persons, thereon or therein, erect or cause to be erected signs and notices on, in or in the vicinity of a controlled area, prohibiting or regulating the presence of persons or of persons of a class or classes or of persons other than of a class or classes stated in any such sign or notice,

on or in that controlled area, or the use by persons of that controlled area for a purpose or purposes or otherwise than for a purpose or purposes stated in such sign or notice.

- (2) A person who fails to comply with any of the provisions of a sign or notice erected or caused to be erected in a conspicuous position by order of, and kept in a legible condition by, the Board under this Regulation, shall be liable to a penalty not exceeding \$1,500.

## **6 Obstruction of lands or structures**

A person shall not obstruct or in any way impede:

- (a) the launching, removal from the water, or securing of a vessel,
- (b) the shipment or unshipment of persons or goods,
- (c) the carriage, stacking, storing or other handling of goods, or
- (d) the movement or passage of persons or vehicles, from or on any area of managed land, or any wharf, building or other structure on any managed land or in any navigable waters.

## **7 Directions by officers**

- (1) An officer of the Board may direct any person on or in any area of managed land or any wharf, building or other structure on any managed land or in any navigable waters:
- (a) to move, or to remove any article, material or thing belonging to or controlled by such person, from a position which in the opinion of such officer obstructs or impedes the launching, removal or securing of a vessel, the shipment or unshipment of persons or goods, the carriage, stacking, storing or other handling of goods, the movement or passage of persons or vehicles, or the visibility of any beacon, light or other aid to navigation, or
  - (b) to remove or to make alterations to, any article, material or thing thereon or therein or to remove or extinguish any light thereon or therein, belonging to or controlled by such person which in the opinion of that officer may endanger navigation by its resemblance to or proximity to any beacon, light or other aid to navigation.
- (2) A person who does not comply with a direction given by an officer of the Board under this Regulation shall be guilty of an offence against these Regulations.

## **8, 8A (Repealed)**

## **9 Interference with safety equipment**

A person must not:

- (a) make improper use of, improperly remove, damage or in any way interfere with, or
- (b) obstruct the access to, or the use of,

any life saving equipment, any fire extinguishing equipment or any fire plug, fire hose or fire hydrant on any managed land or in any navigable waters.

## **10 Interference with machinery etc**

A person shall not:

- (a) make improper use of, improperly remove, damage or in any way interfere with, or
- (b) obstruct the access to or the use of, any crane, hoist or other machinery or plant, whether fixed or moveable, on any managed land or in any enclosed water.

## **11 Interference with public property**

A person shall not on any managed land or in any navigable waters:

- (a) damage, deface or remove any notice, any wharf, building, fence or other structure, or any fixed or moveable equipment belonging to the Crown, or any other public authority,
- (b) climb upon any building or upon or through any fence or any gate, or without lawful authority otherwise enter or be in any area enclosed by order of the Board or by the Crown,
- (c) climb upon or in, or be amongst the supports and sub-structure of any wharf, jetty, bridge, road or footway, which is used by the public,
- (d) remove or cross any barrier erected for the regulation of the movement of persons or goods,
- (e) damage, deface, or remove, or use for a purpose other than that for which it is intended, any structure or apparatus provided for public amenity, or
- (f) damage, deface or remove any ornamental structure, apparatus or vegetation.

## **12-14 (Repealed)**

## **15 Obstruction of officers**

A person shall not on any managed lands or in any navigable waters obstruct or impede in any way an officer of the Board or other person in the exercise or performance of any authority or function under these Regulations or under any Act or regulation with the

administration of which the Board is charged.

**16-17B (Repealed)**

**Division 2 Use of vessels**

**18-19A (Repealed)**

**20 Restrictive signals**

(1) (Repealed)

(2) Where a vessel is being docked or undocked at a dock in or adjoining any enclosed water, the person in charge of operations shall cause the “dock working” signal described in the Second Schedule to these Regulations to be displayed at the entrance to the dock and if he fails to do so shall be guilty of an offence against these Regulations.

(3) (Repealed)

**20A Port closed or channel blocked**

(1) Clause (2) does not apply in respect of dredgers.

(2) Where a channel or part of a channel is blocked by a vessel (not being one of a group of vessels blocking the channel or part), the master of the vessel shall, for as long as the channel or part remains blocked, warn all approaching vessels that the channel or part is blocked:

(a) between sunrise and sunset, by displaying or causing to be displayed the signal described in Item (5) (a) of the Second Schedule,

(b) between sunset and sunrise, by displaying or causing to be displayed the signal described in Item (5) (b) of the Second Schedule, and

(c) if the vessel is in or near an area of restricted visibility, whether by day or night:

(i) by displaying or causing to be displayed the signal described in Item (5) (b) of the Second Schedule, and

(ii) by sounding or causing to be sounded the signal described in Item (5) (c) of the Second Schedule.

(3) Where a channel or part of a channel is blocked by a group of vessels, the master of each vessel in the group from which an indication of the blockage may reasonably be given to approaching vessels shall warn those approaching vessels that the channel or part is blocked by complying with subclause (2) as if that vessel alone was blocking the channel or part unless the master of another such vessel in the group is so warning those approaching vessels.

- (4) Where a signal described in Item (5) of the Second Schedule is being displayed or sounded whether by the master of a vessel or by any other person and whether in a channel or port or from a position on the shore of a channel or port, the master of a vessel shall be guilty of an offence against these Regulations if the vessel proceeds or attempts to proceed along the channel or, as the case may be, enters or attempts to enter the port without ensuring that it is safe to do so.

## **21 Restrictions on securing of vessels**

- (1) A vessel on any navigable waters shall not be secured so that the vessel, or any cable, chain, hawser, rope or other apparatus for securing the same, obstructs any fairway or channel, or the approach to any wharf, jetty, launching place, boatshed, slip or launching ramp.
- (2) A vessel on any navigable waters shall not be secured to:
- (a) any part of a bridge,
  - (b) any navigation buoy, beacon or other fixed or floating aid to navigation, or
  - (c) any floating plant of the Crown, or any public authority.
- (3) A vessel on any navigable waters shall not be secured to any privately owned land or anything thereon, or to any floating object or structure in or adjacent to navigable waters, without the agreement of a person who has, or is entitled to, occupation or use of the land, floating object or structure.
- (4) A vessel on any navigable waters which is secured to a public wharf, jetty or landing place:
- (a) shall not be so secured as to improperly obstruct or impede the shipment or unshipment of goods or persons or the handling or management of goods or vessels, and
  - (b) shall not remain secured thereto for a period in excess of one hour unless either a person is on board and in charge of the vessel or the vessel is authorized to be so secured pursuant to an occupation licence issued under these Regulations.
- (5) Where any sign erected or caused to be erected in a conspicuous position by order of, and kept in a legible condition by, the Board in or adjacent to any navigable waters, states that submarine cables are laid in or under those waters on a line indicated, a vessel shall not be anchored within 200 m from that line.
- (6) If any vessel is anchored or otherwise secured in contravention of this Regulation both the owner and the master of the vessel shall be guilty of an offence against these Regulations.



## 22 Towing or pushing of vessels or objects

(1) Subject to clause (3), the master of any vessel which tows a vessel or floating object on any navigable waters so that the bow of the towed vessel, or, if more than one, of the first of such vessels, or as the case may require the foremost part of the object towed, is more than 45 m from the stern of the towing vessel, shall be guilty of an offence against these Regulations.

(2) If any vessel or floating object which is being towed or pushed by a vessel does not have on it sufficient persons to ensure:

(a) that the vessel or floating object remains properly attached to the towing or pushing vessel, and

(b) where the vessel or floating object or anything thereon, obscures visibility from the towing or pushing vessel, that a proper lookout is maintained,

the master of the vessel which is towing or pushing the vessel or floating object shall be guilty of an offence against these Regulations.

(3) Clause (1) does not apply to or in respect of a vessel towing a vessel or floating object:

(a) in the Port of Sydney,

(b) within that area of the Port of Newcastle lying to the eastward of an imaginary line drawn from the red (tripod) beacon off the Pilot Station to the flashing green light, Stockton, or

(c) within that area of the Port of Port Kembla lying to the northward of an imaginary line drawn from the quick flashing white light on the Eastern Breakwater to the fixed red light marking the port hand entrance to Inner Harbour and lying to the eastward of an imaginary line drawn from that red light to the fixed green light marking the starboard hand entrance to Inner Harbour.

## 23 Ferries and punts working in chains etc

(1) In this Regulation:

**Crossing vessel** means a vessel which is about to cross the line of the chains, ropes or cables of a punt, but does not include a vessel of length less than 19.81 m which, whether hired out or not, is being used for pleasure.

**Punt** means a ferry or punt working in chains, ropes or cables.

(2) A punt which is working on any enclosed water between sunset and sunrise shall display the signal described in Item (3) of the Second Schedule.

(3) Where a crossing vessel has, on any enclosed water, sounded a long blast when not

more than 800 m nor less than 400 m distant from a punt which is at a landing, that punt shall not leave that landing until the crossing vessel shall have passed.

- (4) If the requirements of this Regulation are not complied with in respect of any ferry or punt, the master thereof shall be guilty of an offence against these Regulations.

#### **24 Diving operations**

If any vessel is used on any enclosed water in connection with any diving operations within 100 m of any fairway or channel without the prior consent of an officer of the Board, the master of the vessel shall be guilty of an offence against these Regulations.

#### **25 Handicapped vessels**

- (1) A power-driven vessel on any navigable waters which because of its position or condition, the operation in which it is engaged, or any other circumstance cannot, or cannot with safety, comply with any requirement of law relating to the navigation of vessels, shall, if within 400 m of any other vessel, make the “handicapped vessel” signal described in the Second Schedule to these Regulations.
- (2) The master of any vessel which is not so navigated as to keep out of the way of a vessel which is making the signal prescribed by this Regulation shall be guilty of an offence against these Regulations.

#### **26 Use of signals**

- (1) If any flag, shape, light or other visual signal or any sound signal which is prescribed by these Regulations is not displayed or made in the prescribed circumstances by any vessel, both the owner and the master of that vessel shall be guilty of an offence against these Regulations.
- (2) If any signal prescribed by these Regulations is displayed or made by a vessel on any navigable waters when the circumstances for which such signal is prescribed do not exist, the master of that vessel shall be guilty of an offence against these Regulations.

### **Division 3 Occupation of waters**

#### **27 Application**

- (1) This Division does not apply to and in respect of:
  - (a) any structure, floating object, apparatus, mooring apparatus or 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
  - (b) any floating object, apparatus or vessel (not being a vessel secured to mooring apparatus in contravention of Regulation 43A) occupying any navigable waters in the course of a normal incident of a voyage.

- (2) For the purposes of paragraph (a) of clause (1) of this Regulation the granting of an occupation licence under this Division or the use of any mooring apparatus pursuant to the approval or direction of an officer of the Board under this Division does not constitute a “permission” as referred to in that clause.

### **28-33 (Repealed)**

### **34 Vessels etc—occupation licence**

- (1) A floating object, an apparatus or a vessel shall not be caused to occupy any navigable waters except under the authority of, and in accordance with the conditions, if any (including any conditions as varied) attached to, an occupation licence issued under this Division in respect of the floating object, the apparatus or vessel as the case may be.
- (2) Where a floating object or an apparatus occupies any navigable waters in contravention of this Regulation the owner of the floating object or the apparatus shall be guilty of an offence against these Regulations.
- (3) Where a vessel occupies any navigable waters in contravention of this Regulation both the owner and the master of the vessel shall be guilty of an offence against these Regulations.

### **34A Visiting small craft—exemption**

- (1) Regulation 34 does not apply to or in respect of the occupation of any navigable waters by a visiting small craft.
- (2) In this Regulation, **visiting small craft** means a vessel:
  - (a) that is less than 25 metres long, and
  - (b) that is being used solely for pleasure or recreation and not in connection with any business or commercial transaction, and
  - (c) the home port of which is a place at least 80 nautical miles from the navigable waters it is occupying, and
  - (d) the usual residence of the master of which is at least 100 kilometres from those waters.

### **35 Classification of occupation licences and fees—boatshed or similar business activity etc**

- (1) If an occupation licence is sought as incidental to the conduct in navigable waters of a boatshed or similar business activity, the accommodation of vessels of guests or other persons or the handling of floating timber or other cargo or goods, an application in respect of any floating objects, or apparatus or vessel, as the case may be, connected with that business, business activity or other activity may be made for a licence of one

or more of the following classes, that is to say:

- (a) class A—where the application relates to a vessel under 5 m in length owned by the applicant and which is:
  - (i) hired out by the applicant to other persons, or
  - (ii) the subject of a vessel permit under the *Commercial Vessels Act 1979*, or
  - (iii) the subject of an aquatic licence under the *Marine Safety (General) Regulation 2009*.
- (b) class B—where the application relates to a vessel not owned by the applicant but secured to a mooring apparatus owned by him,
- (c) class C—where the application relates to a vessel owned by a member or guest of a club or aquatic association by or on behalf of which the application is made,
- (d) class D—where the application relates to floating timber or other cargo or goods which will not occupy an area of water in excess of 19 sq m,
- (e) class E—where the application relates to floating timber or other cargo or goods which will occupy an area of water in excess of 19 sq m,
- (f) class F—where the application relates to a vessel of 5 m or more in length owned by the applicant and which is:
  - (i) hired out by the applicant to other persons, or
  - (ii) the subject of a vessel permit under the *Commercial Vessels Act 1979*, or
  - (iii) the subject of an aquatic licence under the *Water Traffic Regulations—N.S.W.*
- (g) class G—where the application relates to a vessel of 10 m or more in length engaged in the business of an overseas, interstate or intrastate shipping company,
- (h) class H—where the application relates to a floating object or apparatus which will not occupy an area of water in excess of 9.5 sq m,
- (i) class I—where the application relates to a floating object or apparatus which will occupy an area of water in excess of 9.5 sq m but not in excess of 28 sq m,
- (j) class J—where the application relates to a floating object or apparatus which will occupy an area of water in excess of 28 sq m but not in excess of 56 sq m, or
- (k) class K—where the application relates to a floating object or apparatus which will occupy an area of water in excess of 56 sq m.

(2) (Repealed)

**35A Fee for occupation licence for boatshed or similar business activity**

- (1) The annual fee payable for an occupation licence in the Sydney Harbour locality or the Pittwater locality is:
  - (a) in respect of a class A licence—\$263 for each mooring site, or
  - (b) in respect of a class B, C, D, E, F, G, H, I, J or K licence—\$438 for each mooring site.
- (2) The annual fee payable for an occupation licence in a locality other than a locality referred to in clause (1) is:
  - (a) in respect of a class A licence—\$177 for each mooring site, or
  - (b) in respect of a class B, C, D, E, F, G, H, I, J or K licence—\$350 for each mooring site.

**35B (Repealed)**

**36 Classification of occupation licences and fees—other than boatshed or similar business activity etc**

- (1) If an occupation licence is sought otherwise than as incidental to the conduct in navigable waters of a boatshed or similar business activity, the accommodation of vessels of guests or other persons or the handling of floating timber or other cargo or goods, an application in respect of any specified floating object, apparatus or vessel, as the case may be, may be made for a licence of one or more of the following classes, that is to say:
  - (a) class 1—if the application relates to a vessel of less than 7 m in length,
  - (b) class 2—if the application relates to a vessel of 7 m or more, but less than 11 m, in length, or
  - (c) class 3—if the application relates to a vessel of 11 m or more in length (not being a vessel referred to in paragraph (1)).
  - (d)–(p) (Repealed)
- (2)–(4) (Repealed)

**36A Fee for occupation licence—other than for boatshed or similar business activity**

- (1) The annual fee payable for an occupation licence in the Sydney Harbour (Western) locality or the Pittwater locality is:
  - (a) in respect of a class 1 licence—\$287, or
  - (b) in respect of a class 2 licence—\$287, plus an additional \$98 for each metre or part

of a metre by which the length of the vessel exceeds 7m, or

(c) in respect of a class 3 licence—\$679, plus an additional \$192 for each metre or part of a metre by which the length of the vessel exceeds 11m.

(2) The annual fee payable for an occupation licence in the Sydney Harbour (Eastern) locality is:

(a) in respect of a class 1 licence—\$449, or

(b) in respect of a class 2 licence—\$449, plus an additional \$150 for each metre or part of a metre by which the length of the vessel exceeds 7m, or

(c) in respect of a class 3 licence—\$1,049, plus an additional \$299 for each metre or part of a metre by which the length of the vessel exceeds 11m.

(3) The annual fee payable for an occupation licence in a locality other than a locality referred to in clauses (1) or (2) is:

(a) in respect of a class 1 licence—\$192, or

(b) in respect of a class 2 licence—\$192, plus an additional \$41 for each metre or part of a metre by which the length of the vessel exceeds 7m, or

(c) in respect of a class 3 licence—\$397, plus an additional \$76 for each metre or part of a metre by which the length of the vessel exceeds 11m.

### **36B (Repealed)**

### **37 Application for occupation licence**

(1) Any application for an occupation licence shall be made to the Board specifying in writing particulars as to:

(a) the locality in respect of which the licence is sought,

(b) in the case of a class 1, class 2 or class 3 licence, the vessel, or in any other case, the size and type of vessel or the nature and dimensions of the floating object or apparatus, in respect of which the licence is sought,

(c) the purpose or purposes for which the vessel, floating object or apparatus referred to in the application is, or is intended to be, used,

(d) whether the licence is required as incidental to the conduct of a boatshed or similar business activity, any other business, a club or aquatic association, and

(e) any mooring apparatus intended to be used for securing the vessel, floating object, or apparatus.

(2) An application for an occupation licence shall be accompanied by the fee prescribed

for the licence in Regulation 35A, 35B, 36A or 36B.

- (3) Applications shall be placed in order of priority according to the date on which the application is received by the Board.
  - (3A) An application pending at the commencement of this subclause shall continue and be placed in the order of priority existing at that date if the fee prescribed for the licence in Regulation 35A, 35B, 36A or 36B, or such part of that fee as is unpaid, is paid within such time as the Board may direct by notice to the applicant.
  - (3B) On receipt of notification in writing from the Board that the locality the subject of the application is available for use by the applicant, the applicant shall:
    - (a) supply the Board with such further particulars with respect to the application as the Board may require,
    - (b) pay to the Board an initial inspection fee of \$109, and
    - (c) pay the difference (if any) between the fee paid for the licence under clause (2) or (3A) and the fee prescribed for the licence in Regulation 35A, 35B, 36A or 36B as in force at the date of the notification.
- (4) In addition to the other requirements of this Regulation, an applicant for an occupation licence for a vessel or floating object used or intended to be used as a houseboat shall supply to the Board:
  - (a) written evidence that the Council of the City, Municipality or Shire the boundary of which most nearly adjoins the locality in which the licence is sought is aware of and does not object to the proposed location and use of the vessel or floating object and the standard of accommodation provided therein, and
  - (b) written evidence that the owner or occupier of the land from which access to the vessel or floating object is proposed to be obtained consents to the use of that land for that purpose.
- (5) Upon satisfaction of the requirements of clauses (3B) and (4), the Board may issue an initial occupation licence in accordance with Regulation 39.
- (6) In the case of an application for a further licence in which the applicant has requested the Board to relocate the applicant's mooring apparatus in the same area or a different area and the Board has agreed, the applicant shall pay, in addition to the fee prescribed for the licence in Regulation 35A, 35B, 36A or 36B, a relocation fee of \$109.

### **38 Conditions of occupation licence**

- (1) Where the Board issues an occupation licence under this Division it may attach thereto such conditions as the Board deems appropriate.

- (2) The Board may, by notice addressed to the holder thereof, vary or revoke any conditions attached to a licence.
- (3) Where the Board is satisfied that the applicant for, or the holder of, an occupation licence is the holder of a current pensioner health benefits card issued by the Commonwealth Department of Social Security or the Commonwealth Department of Veterans' Affairs, it may, instead of the prescribed fee for the licence, accept payment of one-half of the fee prescribed in respect of the class of floating object, apparatus or vessel to which the application or licence relates.
- (4) The Board may, at any time and from time to time, require the applicant for, or the holder of, an occupation licence to produce such evidence of ownership of the vessel to which the application or licence relates as the Board considers necessary.

### **39 Duration of occupation licence: classes 1-3**

- (1) This Regulation applies to a class 1, 2 or 3 occupation licence.
- (2) An occupation licence, unless sooner cancelled or determined, has effect:
  - (a) in the case of an initial licence—for a period of 1 year from the date stated on the licence as the day the fee for the licence was received by the Board, and
  - (b) in the case of any further licence—for a period of 1 year commencing on the date the last previous licence ended.
- (3) On application in writing made by the holder of an occupation licence and payment of a fee of \$109, the Board may cancel the licence and issue instead an occupation licence in respect of another vessel owned by the applicant. That licence has effect until the date on which the cancelled licence would otherwise have expired.

### **39A Duration of occupation licence: classes A-K**

- (1) This Regulation applies to a class A, B, C, D, E, F, G, H, I, J or K occupation licence.
- (2) An occupation licence, unless sooner cancelled or determined, has effect:
  - (a) in the case of an initial licence—for a period of 3 years from the date stated on the licence as the day the fee for the licence was received by the Board, and
  - (b) in the case of any further licence—for a period of 3 years commencing on the date the last previous licence ended.

### **40 Location to be occupied**

- (1) The holder of an occupation licence shall not secure the floating object, the apparatus or the vessel in respect of which the licence is issued otherwise than in the manner and in the location directed or approved from time to time by an officer of the Board.



- (2) Where a direction under this Regulation requires a floating object, an apparatus or a vessel to be removed from one location to another location the direction may also require that any mooring apparatus to which the object, apparatus or vessel is secured be removed to that other location.
- (3) If any direction for the removal of a floating object, an apparatus, or a vessel, or a mooring apparatus under this Regulation is not complied with, the Board may, as the case may require, remove the object, apparatus, vessel or mooring apparatus to which the direction relates to the required location and where it does so may recover from the person to whom the direction was given the expenses incurred in the removal.
- (4) A direction may be given orally or in writing, and where it is given in writing may be communicated by attaching it to the floating object, apparatus, vessel or mooring apparatus to which the direction relates.

#### **41 Mooring apparatus**

Any mooring apparatus to which a floating object, an apparatus or a vessel in respect of which an occupation licence is effective is secured:

- (a) shall be of nature, materials, dimensions, size, type and construction satisfactory to the Board,
- (b) shall be kept in good condition and repair,
- (c) shall from time to time be repaired, altered, modified, replaced, or painted wholly or partly in a specified colour or specified colours as the Board may, by notice to the holder of the licence, direct, and
- (d) shall, if required by the Board by notice to the holder of the licence, have attached to it, in a specified position, lights or reflectors of a specified type.

#### **42 Temporary removal of moorings**

- (1) An officer of the Board may at any time direct the holder of an occupation licence to remove for the time being from its site a mooring apparatus used for the securing of the floating object, the apparatus or the vessel in respect of which the occupation licence has been issued to that holder.
- (2) If any direction under this Regulation is not complied with, the Board may remove and thereafter replace the mooring apparatus.
- (3) The Board may recover from the holder of the licence any costs involved in the exercise of its authority under clause (2) of this Regulation and any costs involved in the custody of the floating object, apparatus or vessel secured to the mooring apparatus.

- (4) A direction may be given orally or in writing, and where it is given in writing may be communicated by attaching it to the floating object, apparatus, vessel or mooring apparatus to which the direction relates.

### **43 Occupation licence number**

- (1) Where any floating object, apparatus or vessel is occupying any navigable waters in pursuance of an occupation licence and is not secured to a mooring apparatus, the floating object, apparatus or vessel shall have clearly painted on it, or on a sign securely affixed to it, in characters not less than 50 mm high, the identifying number of the licence.
- (2) A mooring apparatus shall at all times have clearly painted or incised on it, and if it consists of two or more unconnected portions on each such portion, in characters not less than 50 mm high, the identifying number of the floating object, apparatus or vessel directed or approved to be secured to it.
- (3) Where the identifying number is, pursuant to this Regulation, painted or incised on a buoy attached to or forming part of a mooring apparatus and the buoy is removed from the water when a vessel is secured to that mooring apparatus, the buoy shall be securely affixed to the forepart of the vessel.
- (4) An identifying number painted or incised on a mooring apparatus, and a sign or buoy required to be affixed to a floating object or apparatus or a vessel, as the case may be, under this Regulation, shall be so positioned that the identifying number or the sign or buoy can be seen without difficulty from a passing vessel.

### **43A Improper use of private mooring apparatus**

- (1) In this Regulation ***licensed vessel*** means a vessel in respect of which a class 1, class 2 or class 3 occupation licence is effective.
- (2) If any vessel in any navigable waters is secured to mooring apparatus used for securing a licensed vessel and is not the licensed vessel, both the owner and the master of the vessel so secured shall be guilty of an offence against these Regulations whether or not the vessel was so secured with the consent of the holder of the licence concerned and whether or not it was so secured in the course of a normal incident of a voyage.

(2A) If:

- (a) any vessel in any navigable waters is secured to mooring apparatus used for securing a licensed vessel and is not the licensed vessel, and
- (b) the holder of the licence for the licensed vessel gave consent to the other vessel being so secured,

the holder is guilty of an offence against these Regulations.

- (3) Clauses (2) and (2A) do not apply to and in respect of the temporary securing to the mooring apparatus used for securing a licensed vessel of a vessel used to obtain access to that licensed vessel whilst that licensed vessel is used for navigation.

#### **44 (Repealed)**

#### **45 Termination of occupation licence**

- (1) The Board may terminate any occupation licence:
- (a) where it considers it desirable in the public interest that the licence should be terminated,
  - (b) where, in the case of a class 1, class 2 or class 3 licence, the holder of the licence ceases to control the vessel in respect of which the licence was issued,
  - (c) where for a period of at least 14 days any mooring apparatus to which a floating object, or apparatus or vessel is directed or approved to be secured pursuant to these Regulations:
    - (i) has been wholly submerged or sunk or broken, or become so dilapidated as to constitute, in the opinion of an officer of the Board, a danger to vessels or persons, or
    - (ii) has not occupied the location which an officer of the Board has directed or approved unless authority for the temporary removal of the mooring apparatus has been given by an officer of the Board,
  - (d) where by reason of a contravention of the provisions of Regulation 34 or 48 of these Regulations, the holder thereof is guilty of an offence under these Regulations,
  - (e) in the case of a class 1, class 2 or class 3 licence, where the Board reasonably believes that the holder of the licence, expressly or by implication:
    - (i) invited an offer to purchase, or
    - (ii) made an offer to sell,for money or some other benefit, a right to use a mooring or site in respect of which the licence was issued or a transfer of the licence, whether the invitation or offer was made by written or broadcast advertisement or otherwise, or
  - (f) in the case of a class 1, class 2 or class 3 licence, where the Board reasonably believes that the holder of the licence paid money or gave some other benefit for the transfer of the licence to him or her (otherwise than by paying the transfer fee or licence fee), or
  - (g) where, in the case of a licence other than an initial licence, the Board has not

received the licence fee within 30 days after the date of expiration of the licensee's last previous licence.

- (2) Prior to the Board making a final decision to terminate an occupation licence, the Board must allow the holder of the licence at least 14 days within which to show cause why the licence should not be terminated.

#### **45A Notices**

- (1) The legal representative or the trustee in bankruptcy of the holder of an occupation licence shall as soon as practicable give notice in writing to the Board of the death of, or sequestration of the estate of, the holder, as the case may be.
- (2) The holder of an occupation licence shall as soon as practicable give notice in writing to the Board of the sale of the floating object, apparatus or vessel in respect of which the licence was issued.

#### **46 Fee for special attendance**

Where an applicant for, or the holder of, an occupation licence under this Division requests the attendance of an officer of the Board at any site, locality or place on any Saturday, Sunday or public holiday, or on any other day before the hour of 9 am or after the hour of 4 pm the Board may require payment of a fee of \$109 for such attendance.

#### **47 (Repealed)**

#### **48 Offences by holder of occupation licence**

- (1) Where any floating object, apparatus or vessel occupying navigable waters in pursuance of an occupation licence:
  - (a) is used for purposes not authorised by the licence, or
  - (b) is not secured in the position or manner directed by an officer of the Board,the holder of the licence shall be guilty of an offence against these Regulations.
- (2) Where any mooring apparatus:
  - (a) is constructed of materials or is of a nature, dimensions, size, type, or construction not satisfactory to the Board,
  - (b) is not repaired, altered, modified, replaced or painted in accordance with a direction of the Board under Regulation 41 of these Regulations,
  - (c) does not have attached to it any required light or reflector as referred to in paragraph (d) of Regulation 41 of these Regulations,
  - (d) is not removed for the time being from its site in accordance with a direction of an

officer of the Board, or

- (e) is not removed from any navigable waters on expiration or termination of such occupation licence,

the holder of the occupation licence who is authorised to use that mooring apparatus shall be guilty of an offence against these Regulations.

(3) Where:

- (a) the identifying number set out in an occupation licence is not painted or incised in the position and manner prescribed by Regulation 43 of these Regulations on any mooring apparatus used in connection with the occupation licence in accordance with these Regulations, or on any separate portion of the mooring apparatus,
- (b) any vessel, floating object or apparatus which occupies navigable waters in pursuance of an occupation licence and which is not secured to a mooring apparatus does not have securely affixed to it a sign on which the identifying number of the occupation licence is painted in the manner prescribed by Regulation 43 of these Regulations, or
- (c) any sign or buoy required by Regulation 43 of these Regulations to be secured to a vessel, floating object or apparatus is not so secured that the identifying number painted or incised thereon can be seen without difficulty from a passing vessel,

the holder of the occupation licence who is authorised to use that mooring apparatus, or of the occupation licence relating to that vessel, floating object, apparatus, sign or buoy shall be guilty of an offence against these Regulations.

#### **48A Offence of offering for sale right to use mooring etc**

Any person who, expressly or by implication:

- (a) invites an offer to purchase, or
- (b) makes an offer to sell,

for money or some other benefit, a right to use a mooring or site in respect of which a class 1, class 2 or class 3 licence is issued or a transfer of the licence, whether the invitation or offer is made by written or broadcast advertisement or otherwise, is guilty of an offence against these Regulations.

#### **49 Transfer of occupation licence**

- (1) Except as provided in this Regulation an occupation licence is not transferable.
- (2) Where the holder of an occupation licence which authorises the occupation of navigable waters in pursuance of the carrying on of any business or which authorises the occupation of navigable waters by a floating object, an apparatus or a vessel,

leases or sells the business or sells the floating object, apparatus or vessel, the holder may apply to the Board in writing requesting that the licence issued to him in respect of the occupation of those waters be transferred to the lessee or purchaser as the case may be.

- (3) In determining whether or not an occupation licence shall be transferred, the Board may require the holder of the licence and the lessee or purchaser to furnish such particulars and produce such evidence as the Board considers necessary.
- (4) On receipt of notification in writing from the Board of its consent to the transfer of an occupation licence, the lessee or purchaser of the business, floating object, apparatus or vessel to which the licence relates shall pay to the Board a fee calculated at the rate of \$109 for each site in respect of which the occupation licence is issued.
- (5) On satisfaction of any requirement of the Board under clause (3), the Board may issue an occupation licence to the lessee or purchaser of the business, floating object, apparatus or vessel for the unexpired term of the licence requested to be transferred.

#### **50 Operations and activities on moored vessels**

- (1) Subject to this Regulation if:
  - (a) any construction, alteration or major repair work is carried out on or in relation to a floating object an apparatus or a vessel occupying any navigable waters in pursuance of an occupation licence, or
  - (b) any floating object, apparatus or vessel occupying navigable waters in pursuance of an occupation licence is used as a houseboat or for the carrying on of any manufacturing or industrial operations, for any other business or commercial purpose, or for the storage of goods, materials or other articles,

the owner of that floating object or apparatus or vessel, as the case may be, shall be guilty of an offence against these Regulations.

- (2) Clause (1) of this Regulation does not apply in any case where:
  - (a) the written consent of the Board to the construction, alteration or repair work, or to the use, has first been obtained and all conditions attached to such consent are complied with, or
  - (b) the occupation licence authorises such a use.

#### **50A Requirements of moored houseboats**

- (1) Where any vessel or floating object occupying any navigable waters pursuant to an occupation licence is used as a houseboat:
  - (a) it shall be so secured as to ensure that it will remain afloat at all times,

- (b) no means of access to and egress from the shore shall be provided other than the use of a smaller craft,
  - (c) the vessel or floating object shall have no opening in its hull whereby sewage or domestic sullage water may be discharged, and
  - (d) no connection for the supply of water or power, or for any similar purpose, shall be made between the vessel or floating object and the shore.
- (2) If any requirement of clause (1) is not complied with, then:
- (a) with respect to a vessel, both the owner and the master thereof shall be guilty of an offence against these Regulations, and
  - (b) with respect to a floating object, the owner thereof shall be guilty of an offence against these Regulations.

**50B-50D (Repealed)**

**Division 4 Particular operations and activities**

**51 Carriage of offensive matter**

- (1) Where a vessel is used on any navigable waters for the carriage of refuse or other offensive matter:
- (a) the vessel:
    - (i) shall be completely emptied and cleansed at intervals of not more than seven days,
    - (ii) shall not be secured to any public wharf, except where necessary for loading or unloading operations, and
    - (iii) shall not be secured in the vicinity of any recreation reserve or launching ramp or amongst other secured vessels,
  - (b) the refuse or matter shall, except during loading or unloading operations, be effectively covered with canvas or such other material as the Board may approve, and
  - (c) such parts of the vessel as are not used for the carriage of the refuse or matter shall be kept clean and free of the refuse or matter.
- (2) Where the requirements of this Regulation are not complied with in respect of any vessel both the master and the owner of the vessel shall be guilty of an offence against these Regulations.

### **51A Removal of oil from certain vessels**

- (1) The Board may by notice to the owner of a derelict, a disabled vessel or a vessel out of commission, where that derelict or vessel is in any navigable waters, require the owner to remove oil from that derelict or vessel by a date specified in the notice.
- (2) If oil required to be removed from a derelict or vessel by a notice under clause (1) is not removed in accordance with that notice, the owner of the derelict or vessel shall be guilty of an offence against these Regulations.

### **52 Repairs, cutting, welding etc on vessels**

- (1) Cutting or welding operations shall not be carried out on a vessel in any navigable waters if any oil or other inflammable material is on the surface of the water in proximity to the vessel.
- (2) Where a vessel is carrying explosives in any navigable waters any cutting or welding operation shall not be carried out:
  - (a) on any deck on that vessel that is immediately above or beneath the magazine or compartment containing the explosives, or
  - (b) on any other place on that vessel except a place which is separated from the magazine or compartment containing the explosives by at least one compartment or two bulkheads.
- (3) Boring, cutting, riveting, soldering or welding operations or any repair or alteration work which involves or may produce fire, flame or sparks, shall not except with the prior consent of an officer of the Board and in accordance with any conditions attached to the consent, be carried out in navigable waters on any vessel which carries or has recently carried any bulk goods the dust from which is capable of exploding:
  - (a) until all suspended dust has settled,
  - (b) until all surfaces from which dust may be dislodged in the course of the proposed work have been cleared of dust, and
  - (c) within a period of:
    - (i) in the case of such operations or work in or in the vicinity of any enclosed space in or in the vicinity of which the bulk goods are being or were carried—48 hours, and
    - (ii) in the case of such operations or work in any other place on the vessel—12 hours,after the shipment, unshipment, or movement in any manner, as the case may be,



of the bulk goods.

- (4) Before any cutting or welding operations are commenced on any vessel in any navigable waters the following precautions shall be undertaken:
- (a) the vessel's fire hydrant and hose system shall be tested for efficiency, made ready for use and connected either to the vessel's pumps or to an effective and continuous shore water supply of pressure sufficient to enable distribution over the whole of the vessel,
  - (b) the deck or floor of the vessel shall, so as to prevent the access of sparks to any wooden part of the vessel or to any pipe or opening to a space below the deck or floor, be fitted with sheet metal or asbestos guards fitted tight to the deck or fire-proof curtains so weighted as to ensure continuous contact with the deck or floor,
  - (c) any tank in which the operations are to be carried out shall be adequately ventilated, and the supply of any gas for operations within the tank shall be so arranged that the gas can be shut off outside the manhole entrance to the tank,
  - (d) any space where, or adjacent to or below which, the operations are to be carried out shall be cleansed and kept free from oil and oily waste,
  - (e) any wooden deck in the vicinity of which the operations are to be carried out shall be adequately protected with damp sand, and
  - (f) sufficient fire extinguishers and buckets of sand or water shall be placed in and near any space in, under, or above which the operations are to be carried out.
- (5) During the course of any cutting or welding operations on a vessel in any navigable waters:
- (a) any cutting of cleats or ring bolts on the weather decks of the vessel shall not be commenced until all cargo and other material is removed from such part of the deck immediately below the operations as is within a radius of 6 m from the point of operations,
  - (b) any welding of fittings on the decks or bulkheads of the vessel shall not be commenced until all cargo, lining or other material is cleared from the space behind, below, above or otherwise adjacent to the decks or bulkheads,
  - (c) a cut shall not be made through any deck on the vessel unless a person is, at all times, stationed beneath the deck with a metal receptacle containing a layer of sand in readiness to catch any molten slag, sparks or metal particles, and
  - (d) gas shall not be used for any operation in any tank of the vessel unless a person is, at all times, stationed at the manhole entrance to the tank in readiness to shut off the supply of gas if necessary.

- (6) After the use of any cutting or welding equipment in a vessel in any navigable waters:
- (a) any engine room in which the equipment was used shall, not less than thirty minutes after the use, and thereafter at hourly intervals during the next succeeding twenty-four hours, be closely inspected for any burning or smouldering waste or other material, and
  - (b) where the equipment was used in the vicinity of any inflammable cargo or fittings of the vessel, a person shall, for twenty-four hours after the use, be stationed in the vicinity of the cargo or fittings to watch for fire.
- (7) If any requirement of this Regulation is not complied with in relation to any vessel:
- (a) except in a case where possession of the vessel has been given by the owner or master to a person undertaking the repair, modification or alteration of such vessel, both the owner and the master of such vessel shall be guilty of an offence against these Regulations, and
  - (b) in a case where possession of the vessel has been given by the owner or master to a person undertaking the repair, modification or alteration of such vessel, the person in charge of the operation concerned shall be guilty of an offence against these Regulations.

## **Divisions 5-7**

### **53-63M (Repealed)**

## **Part 3 Management of special port areas**

### **Division 1 Control of special port areas**

#### **64 Improper behaviour**

A person shall not, on any wharf, promenade, roadway, footway or public space, or on or in any building or structure open to or used by the public, in any special port area:

- (a) tout, or solicit custom, for any shop, residence, restaurant, boarding house or place of entertainment, or solicit passengers for a vessel or vehicle,
- (b) sell or expose for sale any goods without the prior permission of the Board,
- (c) address, or conduct or give any form of exhibition or display for, an assemblage of persons without the prior permission of the Board,
- (d) be found drunk,
- (e) behave riotously, violently or indecently,
- (f) create a disturbance, or

- (g) use obscene or indecent language.

#### **65 Behaviour on public wharves**

- (1) A person shall not smoke on or under any public wharf in a special port area.
- (2) A person shall not conduct an auction sale on any public wharf in a special port area without the prior permission of the Board.
- (3) Clause (1) of this Regulation does not apply to and in respect of any part of a ferry wharf or any office accommodation, amenity accommodation, or lavatory on a wharf.

#### **65A Erection of or alteration or addition to wharf or other structure in the Port of Sydney**

- (1) A person must not, except with the prior written consent of the Board:
  - (a) erect any wharf or structure in the Port of Sydney, or
  - (b) alter or add to any wharf or structure in that Port.
- (2) An application for the consent of the Board must be in the form approved by the Board and accompanied by such plans, specifications, calculations, certificates and fees as the Board may require.
- (3) The Board may determine an application:
  - (a) by granting consent, either unconditionally or subject to conditions, or
  - (b) by refusing consent.

#### **66 Removal of materials or vegetation**

- (1) A person shall not, except with the prior permission of the Board and in accordance with any conditions the Board may deem appropriate and attach thereto, remove from any part of a special port area any soil, sand, rock, stone, shale, slate, shingle, gravel or similar material.
- (2) A person shall not, except with the prior permission of the Board and in accordance with any conditions the Board may deem appropriate and attach thereto, cut, or otherwise remove or damage, any mangrove or other timber growing in any part of a special port area.

#### **67 Disturbance of bed of port**

A person shall not use drags, grapplings, or other apparatus for lifting any object or material from the bed of a special port, or otherwise disturb such bed in any way, except with the written permission of the harbour master and in accordance with the conditions attaching to such permission.

## **68 Fires in public places**

- (1) A person shall not make or maintain a fire on any land in a special port area open or used by the public or on any public wharf in a special port area.
- (2) This Regulation does not apply to and in respect of a fire made:
  - (a) in a place provided by the Board for that purpose, or
  - (b) with the permission of an officer of the Board and in accordance with the conditions attaching to that permission.

## **69 Repair or painting of vessels**

- (1) A person shall not break-up, repair, paint, or carry out similar work on, any vessel, floating object or apparatus on or on the shore of any land in a special port area open to or used by the public, or at any public wharf, except with the written permission of the harbour master and in accordance with the conditions attaching to such permission.
- (2) Clause (1) of this Regulation does not apply to and in respect of the normal maintenance of a seagoing vessel when berthed at a shipping berth.

## **70 Emergency action by officers**

A person shall not prevent or obstruct in any special port area:

- (a) the access or entry by an officer of the Board to or on:
  - (i) any vessel, floating object or apparatus which in the opinion of an officer of the Board is in danger of sinking, stranding or wreck, or which is or appears to be on fire, or to any part of such vessel, object or apparatus, or
  - (ii) any wharf, land, building or apparatus on or in which there is or appears to be a fire, or
- (b) the taking of any action by such officer to save such vessel, floating object or apparatus, or to extinguish or to limit or reduce the effect of such fire.

## **Division 2 Use of vessels in special ports**

### **71, 72 (Repealed)**

### **73 Information of intentions**

A master of a vessel in a special port shall, on enquiry from any officer of the Board, whether by voice, sound or visual signal or radio communication, indicate his immediate intentions regarding the navigation or securing of such vessel.

#### **74 Mooring to port installations**

- (1) A vessel shall not be secured to a shipping wharf or a shipping mooring in a special port without the prior approval of the harbour master.
- (2) A vessel shall not be secured to any part of a public wharf in a special port other than a mooring pile, ring, hook or bollard provided for that purpose.
- (3) If any vessel is secured to a wharf or mooring in contravention of the requirements of this Regulation, both the owner and the master thereof shall be guilty of an offence against these Regulations.

#### **75 Anchoring with boats or objects attached**

If during the hours of darkness any vessel at anchor in a special port:

- (a) has attached to it any boat the nearest part of which is distant from it by more than 5.5 m, or
- (b) has riding astern of it:
  - (i) any deeply laden boat,
  - (ii) any lighter, or
  - (iii) any log or other floating object,

the master of such vessel shall be guilty of an offence against these Regulations.

#### **76 Heating combustible matter at a wharf**

If any pitch, tar, resin, oil or any other combustible matter is heated by an open fire or flame on any vessel which is secured to a public wharf in a special port, the master of such vessel shall be guilty of an offence against these Regulations.

### **Division 3 Use of commercial vessels and large vessels in special ports**

#### **77 Application**

This Division applies to and in respect of any vessel in, or entering, a special port except a vessel:

- (a) less than 6.1 m in length, or
- (b) less than 19.81 m in length that is not used for the carriage of persons or goods for profit, or for any other commercial purpose.

### **78 Reports of disability or fire**

The master of a vessel shall forthwith advise the Board if:

- (a) the vessel is in a disabled or leaking condition,
- (b) any part of the vessel or its cargo is on fire, or
- (c) in the case of a seagoing ship entering the port, a fire has occurred in that ship since it last left a port.

### **79 Securing of vessels**

If any vessel is secured in any location without the direction or approval of an officer of the Board, both the owner and the master of such vessel shall be guilty of an offence against these Regulations.

### **80 Occupation of shipping berths**

The owner of a seagoing ship requiring a shipping berth shall make written application to the harbour master not less than 24 hours before the arrival of that ship at the port, giving such particulars regarding the ship and the shipping operations intended in regard to it as the harbour master requires.

### **81 Requirements relating to vessels occupying shipping berths**

- (1) Where the harbour master has directed or approved the occupation by a specified time of a shipping berth by a vessel, the vessel:
  - (a) shall be secured to that berth at or before that time, and
  - (b) the shipment or unshipment of persons or goods from the vessel shall, forthwith after the vessel is secured, be commenced, except where the harbour master has otherwise directed or approved.
- (2) A vessel that is occupying a shipping berth for the unshipment only of persons or goods shall not remain at that berth after such unshipment.
- (3) Any vessel that is secured at a shipping berth shall be so placed and managed that every part of the vessel, its boats, equipment, machinery and gangways shall be free and clear of all fixed or moveable cranes, railway lines, and other plant or equipment whatsoever at, on, or adjacent to, such berth whether or not such plant or equipment is in use.
- (4) All openings in a vessel which is secured at a shipping berth, from which steam or water or any other fluid may be discharged shall be so screened and protected as to prevent such steam or fluid being discharged otherwise than directly to the waters of the port.

- (5) Where the harbour master has directed or approved that a vessel be secured alongside:
  - (a) a vessel which is secured to a shipping wharf, or
  - (b) a vessel which is secured alongside a vessel which is secured to a shipping wharf,free and uninterrupted passage for the shipment or unshipment of persons or goods shall be allowed to or from the vessel so directed or approved to be secured over and across the deck or decks of the vessel or vessels, as the case may be, between that vessel and the shipping wharf.
- (6) If any requirement of this Regulation relating to a vessel is not complied with, the master of the vessel shall be guilty of an offence against these Regulations.

## **82 Safety of shipping operations**

- (1) A seagoing ship secured alongside a wharf shall have fixed at all times, and sufficiently lighted during the hours of darkness, a safe and efficient gangway from such vessel to such wharf and shall have suspended therefrom a sufficient safety net.
- (2) A seagoing ship secured otherwise than alongside a wharf shall have fixed at all times, and sufficiently lighted during the hours of darkness, a safe and efficient gangway ladder and where practicable shall have suspended therefrom a sufficient safety net.
- (3) Any passenger-carrying vessel shall, where it disembarks or embarks passengers during the hours of darkness, have in use a sufficient number of lights to illuminate the area in which the passengers are disembarking or embarking.
- (4) Every opening in the decks or sides of a vessel shall either be closed, or be adequately protected and sufficiently lighted.
- (5) If any requirement of this Regulation relating to a vessel is not complied with, the master of the vessel shall be guilty of an offence against these Regulations.

## **83 Turning propellers at a wharf**

- (1) Except as provided in clause (2), if a propeller of a vessel is turned while the vessel is secured at a wharf, the master of the vessel shall be guilty of an offence against these Regulations.
- (2) Clause (1) does not apply to or in respect of:
  - (a) the turning of a propeller of a vessel in a special port in accordance with the directions of the harbour master of the port, or
  - (b) the turning of a propeller of a vessel:

- (i) during the securing of the vessel to a wharf,
- (ii) during the departure of the vessel from a wharf, or
- (iii) where the turning is reasonably required to enable the vessel to maintain its position at a wharf.

#### **84 Unshipment of floating cargo**

If any timber or other floating cargo of a vessel:

- (a) is unshipped into the waters of the port without the previous consent of the harbour master,
- (b) following unshipment, is not secured alongside the vessel, or
- (c) is so secured alongside the vessel as to extend a greater distance than 15 m from the vessel,

the master of the vessel shall be guilty of an offence against these Regulations.

#### **85 Removal of floating cargo**

If any timber or other floating cargo unshipped from a vessel into the waters of the port is not removed within 48 hours after such unshipment, the owner of such timber or cargo shall be guilty of an offence against these Regulations.

#### **86 Towing of vessels alongside**

The master of a tug shall not tow more than two vessels alongside the tug except in accordance with the directions of the harbour master.

#### **87 Towing of timber etc**

- (1) A tug shall not tow any timber or other floating material within the port:
  - (a) except in accordance with the directions of the harbour master,
  - (b) unless the timber or material does not occupy an area of not more than 60 m in length and of not more than 15 m in width, and, if it consists of more than one item or unit, is securely fastened together in a raft, and
  - (c) unless the forward end of the timber or material is not a greater distance than 15 m from the stern of the tug.
- (2) If any timber or floating material is towed by a tug in contravention of this Regulation, both the owner and the master of the tug shall be guilty of an offence against these Regulations.



### **88 Watching on seagoing vessels**

- (1) A seagoing vessel shall, at all times in a special port, have on board a competent person acting as a watchman.
- (2) Where the provisions of this Regulation are not complied with the owner of the vessel shall be guilty of an offence against these Regulations.

### **89 (Repealed)**

### **90 Mishaps to lighters**

The owner of any lighter shall forthwith report to the Board all circumstances relating to any occasion on which the lighter has sunk, capsized or been wholly or partly submerged.

### **90A Lights to be exhibited on lighters moored alongside vessels or at wharves**

- (1) There shall be exhibited between sunset and sunrise on:
  - (a) subject to paragraph (b), any lighter which is moored alongside a vessel or to any wharf, or
  - (b) the outer lighter only of any two lighters which are moored abreast alongside a vessel or to any wharf,at the fore and after ends of the lighter above the extreme outer edge thereof, a white light of such strength and in a lantern so constructed as to show a clear uniform and unbroken light visible all round the lighter at a distance of at least 800 metres.
- (2) If a requirement of this Regulation is not complied with:
  - (a) where the lighter is moored alongside a vessel or where two lighters are moored abreast alongside a vessel, as the case may be, both the owner and the master of the vessel shall be guilty of an offence against this Regulation, or
  - (b) where the lighter is moored to a wharf or where two lighters are moored abreast to a wharf, as the case may be, the owner of the lighter failing to comply with this Regulation shall be guilty of an offence against this Regulation.

### **91 Beaching of vessels**

If a vessel is beached or grounded in or on the shores of a special port without the written permission of the Board, both the owner and the master of such vessel shall be guilty of an offence against these Regulations.

### **92 Demolition or construction work**

A person shall not break up, cut down or substantially alter a vessel, whether or not such vessel is wholly or partly on the shore, except with the prior consent of the Board and in accordance with any conditions the Board may deem appropriate and attach to the

consent.

### 93 Use of hazardous substances on vessels

- (1) Toxic gases, or explosive, corrosive or radio-active substances shall not be used to carry out any work on any vessel, except with the written consent of the Board and in accordance with any conditions the Board may deem appropriate and attach to the consent.
- (2) If a requirement of this Regulation is not complied with:
  - (a) except in a case where possession of the vessel concerned has been given by the owner or master to a person undertaking repair or other work in relation to the vessel, both the owner and the master of the vessel shall be guilty of an offence against these Regulations, and
  - (b) in a case where possession of such vessel has been given by the owner or master to a person undertaking repair or other work in relation to the vessel, the person who has brought or caused to be brought the gas or substance concerned on to the vessel shall be guilty of an offence against these Regulations.

### 94 Launching of vessels

A person shall not cause a vessel to be launched in a special port unless:

- (a) at least 48 hours prior notice of the time and place of such launching is given to the harbour master, and
- (b) all requirements of the harbour master relating to signals to be displayed, and other precautions to be taken and procedures to be followed, are complied with.

## Division 4 Use of public wharves in special port areas

### 95 Definitions

In this Division:

**Mobile crane** means any mobile crane, fork lift truck or other mobile lifting device but does not include a crane or device which runs on a fixed track.

**Vehicle** does not include a mobile crane, or a foot cycle, hand barrow or hand trolley.

**Vehicular wharf** means a wharf constructed for, and having a means of approach constructed for, the use of vehicles.

**Wharf machinery** means any crane, hoist, conveyor or other apparatus used for the lifting, conveying or other handling of any vessel or any goods, material, article or object, but does not include a mobile crane.

## **96 Vehicles and goods on public wharves**

- (1) A person shall not bring on to, or cause or permit to stand on, any public wharf, except a vehicular wharf, in a special port area:
  - (a) any vehicle, or
  - (b) any goods, material, article or object which imposes on any square metre of the surface of such wharf a load in excess of 250 kg.
- (2) A person shall not bring on to, or cause or permit to stand on, any vehicular wharf in a special port area:
  - (a) any vehicle the wheel loading of which exceeds:
    - (i) where a maximum wheel loading for such wharf is specified in a notice displayed by order of the Board at the entrance to such wharf, that maximum, or
    - (ii) in any other case, 250 kg, or
  - (b) any goods, material, article or object which imposes on any square metre of any surface of such wharf a load exceeding:
    - (i) where a maximum deck or floor loading is specified in a notice displayed by order of the Board at the entrance to, or at a delivery office on, such wharf, that maximum, or
    - (ii) in any other case, 550 kg.

## **97 Mobile cranes on public wharves**

- (1) Without the prior permission of the Board, a person shall not bring or cause to be brought on to, or cause or permit to stand on, any public wharf in a special port area any mobile crane unless:
  - (a) that crane has conspicuously painted on it the maximum wheel loading, and
  - (b) where:
    - (i) a maximum wheel loading is painted on that crane and a notice displayed by order of the Board at the entrance to the wharf specifies a maximum wheel loading for that wharf, that maximum wheel loading is not less than the maximum wheel loading painted on that crane, or
    - (ii) (Repealed)
- (2) A person shall not, on any public wharf in a special port area:
  - (a) (Repealed)

- (b) use a mobile crane which is not in good and efficient order and condition, or
- (c) replenish or exchange the fuel container of a mobile crane otherwise than in a position and manner directed by an officer of the Board.

**98-100 (Repealed)**

**101 Bringing of wharf machinery on to public wharves**

- (1) A person shall not bring on to, or erect on, a public wharf in a special port area any wharf machinery, except:
  - (a) with the written consent of the Board, and
  - (b) in accordance with any conditions which the Board may deem appropriate and attach to the consent.
- (2) A person to whom the Board's consent has been given for the bringing on to, or erection on, a public wharf in a special port area of any wharf machinery:
  - (a) shall comply with any direction of an officer of the Board regarding the place and manner of installation of that machinery or the repair or maintenance thereof, and
  - (b) shall not use, nor cause to permit to be used, that machinery for any purpose other than a purpose authorised by the consent relating to the machinery, or in any way which is contrary to a condition attached by the Board to the consent.

**102 Wharf machinery provided on public wharves**

- (1) A person shall not use, or cause to be used, any wharf machinery provided on a public wharf in a special port area, except:
  - (a) with the written consent of the Board,
  - (b) for a purpose specified in the consent, and
  - (c) in accordance with any conditions which the Board may deem appropriate and attach to the consent.
- (2) A person using any wharf machinery provided on a public wharf in a special port area shall:
  - (a) ensure before and after such use that such wharf machinery is properly cleaned and lubricated, and
  - (b) comply with all directions set out on such wharf machinery, or on any notice displayed adjacently thereto by order of the Board, as to the purpose for which that machinery is, or is not, to be used and as to its proper manner of operation.

### 103 Hazardous operations on public wharves

- (1) A person shall not, except as provided in clause (2) of this Regulation:
  - (a) carry out any work on any metal which involves boring, cutting, riveting, soldering or welding,
  - (b) carry out any work which involves or may produce fire, flame or sparks,
  - (c) use in any way any inflammable, toxic, corrosive or explosive gas or other substances or any radio-active substance, or
  - (d) replenish or exchange the fuel container of any vehicle, compressor, generator, or other machine,on any public wharf in a special port area.
- (2) The Board may consent to the carrying on of any activity referred to in clause (1) of this Regulation by a person upon any conditions it may deem appropriate and attach to the consent.

## Division 5 Shipping wharves in special port areas

### 104 Security of contained areas

- (1) In this Regulation:

**Authorised person** means an officer of the Board, a member of the police force, or any other person authorised by the Board in writing for the purpose of this Regulation.

**Contained area** means a part of a special port area occupied by a shipping wharf, a group of shipping wharves or a shipping wharf or wharves and adjoining managed land which is so enclosed by fences, walls, cliffs, or other artificial or natural barriers as to restrict the ordinary access thereto, otherwise than by water, to one or more roads or gateways.
- (2) This Regulation applies to any person who is in, or is entering or leaving, a contained area, is standing or waiting on managed land or land adjacent thereto in the vicinity of a contained area, or is in a vessel near, or a vehicle standing on managed land or land adjacent thereto in the vicinity of a contained area.
- (3) A person to whom this Regulation applies shall, if required by an authorised person:
  - (a) state, and verify by the production of any document in his possession, his name and address,
  - (b) state the reason for his presence in or in the vicinity of a contained area,
  - (c) make available for inspection all goods, packages and other property in his

possession or in any vehicle in which he is or which he has used or is about to use,

(d) give any information, and produce any document or writing, which is relevant to his possession of any goods, package or other property referred to in paragraph (c) of this clause, or

(e) leave, or not enter, the contained area as the case may be.

(4) The master of any vessel which is in enclosed water in the vicinity of a contained area shall, if required by an authorised person:

(a) make the vessel, or any goods, package or other property therein, available for inspection, or

(b) remove the vessel from the area.

(5) A person shall not enter or leave a contained area:

(a) by land, except by a road or gateway provided for that purpose, or

(b) by water, except by means of a vessel which is at a wharf in the area at the direction of the harbour master.

### **105 Watching of shipping wharves**

The owner of a vessel secured at a shipping wharf in a special port area is required to provide such number of watchmen as the Board requires, or other means of watchkeeping as approved by the Board, for the purpose of maintaining a watch on the contained area in which the wharf is situated.

### **106 Connections for water and power**

A person shall not make use of any facility provided at a shipping wharf in a special port area for the supply of water or electricity except with the consent of the Board and in accordance with any conditions the Board may deem appropriate and attach to the consent.

## **Division 6**

### **107-117 (Repealed)**

## **Part 4 Miscellaneous**

### **117A Offence of giving false or misleading information**

Any person who wilfully gives to the Board any information which is false or misleading in a material particular, in relation to an application under these Regulations, is guilty of an offence against these Regulations.

### **118 Penalty for offences**

- (1) A person who fails to comply with any of the requirements of these Regulations or any condition attached to any permission, consent or approval given under these Regulations shall be guilty of an offence against these Regulations.
- (2) A person who is guilty of an offence against these Regulations shall, except where otherwise provided in these Regulations, be liable to a penalty not exceeding \$1,500 and in the case of any continuing offence be liable to a daily penalty not exceeding \$80 per day.

### **119 Application of section 30D of the Act to offences against the Regulations**

- (1) For the purposes of section 30D of the Act:
  - (a) any officer who is authorised by the Board to be a prescribed officer for the purposes of that section is a prescribed officer,
  - (b) the offences referred to in the first column of the Fifth Schedule to these Regulations are prescribed offences, and
  - (c) the penalty referred to in the second column of the Fifth Schedule to these Regulations opposite to a prescribed offence in the first column of that Schedule is the prescribed penalty in respect of that offence.
- (2) In this Regulation:

**officer** means an officer of the Board and includes any person authorised by the Crown or any statutory authority or by the trustees or other persons in charge of any area used for public recreation, to supervise the activities of the public.

### **120 Application of section 30D—prescribed offences under the [Commercial Vessels Act 1979](#)**

For the purposes of section 30D of the Act:

- (a) an offence under a provision of the [Commercial Vessels Act 1979](#) or of the regulations under that Act specified in Column 1 of the Sixth Schedule is a prescribed offence, and
- (b) the amount shown in Column 2 of the Sixth Schedule opposite a provision specified in Column 1 of that Schedule is the amount of penalty prescribed for an offence under the provision if dealt with under that section, and
- (c) any officer of the Board who is authorised by the Board to be a prescribed officer for the purposes of that section is a prescribed officer.

### **121 (Repealed)**

### **122 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)**

## **The Second Schedule Required signals for all navigable waters**

### **(1), (2) (Repealed)**

### **(3) Vessel working in chains, etc (regulation 23)**

An all-round red light at each end of the vessel in a horizontal line at a height of not less than 3 metres above the deck of the vessel, together with an all-round green light not less than 1 metre vertically above the red light at the forward end of the vessel (indicating when and the direction in which the vessel is proceeding), each of the lights being of such intensity as to be visible all round the horizon at a distance of at least 1 nautical mile from the light.

### **(4) Signal for handicapped vessel (regulation 25)**

Four short blasts repeated at intervals of 1 minute.

### **(5) Channel blocked or port closed (regulation 20A)**

#### **(a) Signal—to be displayed by day**

A black triangle or cone, point up, between 2 black balls in a vertical line.

#### **(b) Signal—to be displayed by night**

A green light between 2 red lights in a vertical line.

#### **(c) Signal—to be sounded in or near an area of restricted visibility**

3 short distinct rapid rings of a bell, each ring being of approximately 5 seconds duration at intervals of not more than 2 minutes duration.

## **The Third, Fourth Schedules (Repealed)**

## **The Fifth Schedule Penalty notice offences and penalties under these Regulations**

(Regulation 119)

<b>Regulation</b>	<b>Penalty</b> <b>\$</b>
5	250



7 (2)	550
8 (1A):	
(a) where the vessel concerned is a naval vessel or a seagoing vessel	1,500
(b) in any other case	550
8 (2A)	1,500
14 (1):	
(a) where the offence involves causing annoyance, nuisance or danger to a person on board a naval vessel or a seagoing vessel or involves causing danger to such a vessel	1,500
(b) in any other case	550
14 (2):	
(a) where the offence involves causing annoyance, nuisance or danger to a person on board a naval vessel or a seagoing vessel or involves causing danger to such a vessel	1,500
(b) in any other case	550
15	550
17B	80
18	40
19	80
19A	80
21	80
22	40
24	40
31	20
34	40
47	40
48	40
50	40
54	40

59	40
63L (2)	750
65A	80

## **Sixth Schedule-Ninth Schedule (Repealed)**