



Control of Naval Waters Regulations 1922

Statutory Rules 1922 No. 74 as amended

made under the

Control of Naval Waters Act 1918

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taking into account amendments up to SR 2001 No. 305 and
Act No. 135 of 2003

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1 Name of Regulations [see Note 1]

These Regulations are the *Control of Naval Waters Regulations 1922*.

3 Regulations do not apply to naval ships

These Regulations shall not, unless the contrary intention appears, apply to exempt vessels.

4 Entry into, or onto the foreshore of, naval waters

- (1) Where the superintendent of naval waters is satisfied that it is in the interests of:
 - (a) public safety; or
 - (b) the safety of property; or
 - (c) the defence of the Commonwealth;
the superintendent may, by notice, prohibit or restrict the entry of:
 - (d) vessels or persons into the naval waters or any specified part of the naval waters; or
 - (e) vehicles or persons onto the foreshore of the naval waters or any specified part of that foreshore.
- (2) A prohibition or restriction under subregulation (1) may be:
 - (a) absolute; or
 - (b) subject to any approval given by the superintendent by notice; or
 - (c) subject to any conditions imposed by the superintendent by notice.
- (3) The superintendent of naval waters must cause a notice under subregulation (1) or paragraph (2) (b) or (c) to be given to such person or persons, in such manner, at such time and in such place as is reasonably required for the protection of the public,

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or any person who may be affected by the use by the Commonwealth of the naval waters, as the case may be, having regard to:

- (a) the purpose for which those waters are used by the Commonwealth; and
- (b) the time when those waters are so used; and
- (c) the risk of injury to persons; and
- (d) the risk of damage to, or interference with, Commonwealth or other property; and
- (e) the forms of communication and the time available for giving the notice.

(4) A person is guilty of an offence if:

- (a) a notice is given under this regulation; and
- (b) the person engages in conduct; and
- (c) the conduct is not in accordance with the notice; and
- (d) the person is reckless as to the circumstance in paragraph (c).

Penalty: 5 penalty units.

(4A) Strict liability applies to paragraph (4) (a).

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

(5) Nothing in regulation 6, 7, 9, 10, 11, 12, 15, 16, 28, 30 or 31 affects the operation of this regulation.

5 **Removal from naval waters or the foreshore of naval waters**

The superintendent of naval waters may cause to be removed from, or from the foreshore of, those waters:

- (a) persons who, in those waters or on that foreshore, have contravened a notice under these Regulations; or
- (b) persons who, by entering into those waters or onto that foreshore have contravened a notice under these Regulations.

6 Vessels not to impede approaches

- (1) The master of a vessel is guilty of an offence if the master causes or permits the vessel to lie, or to be moored or anchored, in naval waters in a position that impedes the approach to an installation.

Penalty: 10 penalty units.

- (2) An offence under this regulation is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence if the master had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (3) (see section 13.3 of the *Criminal Code*).

7 Making vessels fast to forts etc

- (1) The master of a vessel is guilty of an offence if:

- (a) the master causes or permits the vessel to be made fast to any fort, Commonwealth mooring, buoy, breakwater, jetty, pile, vessel, or exempt vessel in naval waters; and
(b) the master does not have permission from the superintendent of the naval waters to do so.

Penalty: 5 penalty units.

- (1A) An offence under subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (1B) It is a defence to a charge under subregulation (1) if the master had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (1B) (see section 13.3 of the *Criminal Code*).

- (2) The superintendent may in his discretion grant or withhold permission under this regulation or may grant permission subject to such terms and conditions as he thinks fit.

- (3) The terms and conditions upon which permission may be granted may, subject to the approval of the Minister, include

the imposition of a charge for making a vessel fast to any fort, Commonwealth moorings, buoys, breakwater, jetties, piles, vessels, or exempt vessels, in naval waters.

- (4) The master of a vessel is guilty of an offence if:
- (a) the master has been granted a permission under this regulation; and
 - (b) the master contravenes a term or condition of the permission.

Penalty: 5 penalty units.

- (5) An offence under subregulation (4) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (6) It is a defence to a charge under subregulation (4) if the master had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (6) (see section 13.3 of the *Criminal Code*).

8 Superintendent of naval waters to place moorings in those waters

The superintendent of naval waters shall place in those waters moorings for naval ships, mark buoys, and other aids to navigation, and such other buoys as are required for any purposes in connexion with naval or military operations from time to time.

9 Vessels not to anchor near Commonwealth moorings

- (1) The master of a vessel is guilty of an offence if the master causes or permits the vessel to be anchored or moored:
- (a) within 180 metres, or another distance specified by the relevant superintendent, from the centre of a mooring placed under regulation 8; or
 - (b) in such a position as to be liable to foul an exempt vessel at a mooring placed under regulation 8.

Penalty: 10 penalty units.

- (2) An offence under this regulation is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (3) It is a defence if the master had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (3) (see section 13.3 of the *Criminal Code*).

10 Vessels not to anchor near navigable channels in naval waters

- (1) The master of a vessel is guilty of an offence if:
- (a) the vessel is more than 10 metres in overall length; and
 - (b) the master causes or permits the vessel:
 - (i) to be anchored; or
 - (ii) to be left at any time without a ship-keeper;in or near any of the navigable channels of naval waters.

Penalty: 10 penalty units.

- (2) An offence under this regulation is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (3) It is a defence if the master had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (3) (see section 13.3 of the *Criminal Code*).

11 Vessels not to be near installations etc

- (1) The master of a vessel is guilty of an offence if:
- (a) the master causes or permits the vessel to dredge, loiter, or anchor in naval waters within 100 metres of an installation, exempt vessel or any other vessel; and
 - (b) the master does not have written permission from the superintendent of the naval waters to do so.

Penalty: 10 penalty units.

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- (2) The master of a vessel is guilty of an offence if:
- (a) the master causes or permits the vessel or a person under his or her control to interfere with an installation in naval waters; and
 - (b) the master does not have written permission from the superintendent of the naval waters to do so.

Penalty: 10 penalty units.

- (3) An offence under subregulation (1) or (2) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (4) It is a defence to a charge under subregulation (1) or (2) if the master had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (4) (see section 13.3 of the *Criminal Code*).

11A Persons not to be near installations etc

- (1) A person is guilty of an offence if the person:
- (a) enters or remains in:
 - (i) naval waters within 100 metres of:
 - (A) an installation; or
 - (B) an exempt vessel; or
 - (C) any other vessel;
 - in the waters or on the foreshore of the waters; or
 - (ii) the foreshore of such waters; and
 - (b) the person does not have written permission from the superintendent of the relevant naval waters to do so.

Penalty: 5 penalty units.

- (2) A person is guilty of an offence if:
- (a) the person engages in conduct that interferes with an installation in naval waters or on the foreshore of naval waters; and
 - (b) the person does not have written permission from the superintendent of the naval waters to do so.

Penalty: 10 penalty units.

- (3) An offence under subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the Criminal Code.

- (4) It is a defence to a charge under subregulation (1) or (2) if the person had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (4) (see section 13.3 of the *Criminal Code*).

12 Vessel not to approach installations

- (1) The master of a vessel is guilty of an offence if:
- (a) the master causes or permits the vessel to approach, in naval waters, within 30 metres of an installation, exempt vessel or any other vessel; and
 - (b) the vessel is not proceeding on Commonwealth business to or from the installation, exempt vessel or other vessel; and
 - (c) the master does not have written permission from the superintendent of the naval waters to do so.

Penalty: 5 penalty units.

- (2) An offence under this regulation is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence if the master had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (3) (see section 13.3 of the *Criminal Code*).

13 Moorings not to be laid in naval waters without permission

- (1) A person is guilty of an offence if:
- (a) the person lays a mooring in a position in naval waters; and
 - (b) the person does not have written permission from the superintendent of the naval waters to lay the mooring in that position.

Penalty: 10 penalty units.

- (1A) An offence under this regulation is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (1B) It is a defence if the person had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (1B) (see section 13.3 of the *Criminal Code*).

- (2) Any moorings laid in pursuance of subregulation (1) shall, on notice in writing from the superintendent, be removed by the person who is for the time being the owner of the moorings.

14 Vessels or moorings may be moved in naval waters by superintendent of those waters

Where, in pursuance of these Regulations, a vessel or mooring is required by the superintendent of naval waters to be removed from any position in those waters to some other position, and the vessel or mooring is not moved accordingly, the superintendent may remove the vessel or mooring, and the Master or owner of the vessel or mooring shall pay to the superintendent the cost of the removal.

15 Vessels not to anchor near electric cables in naval waters

- (1) The master of a vessel is guilty of an offence if the master causes or permits the vessel to be anchored within 180 metres of the line of an electric cable laid down in naval waters, and indicated by discernible marks erected on shore.

Penalty: 5 penalty units.

- (2) An offence under this regulation is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (3) It is a defence if the master had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (3) (see section 13.3 of the *Criminal Code*).

16 Objects hooking moorings etc to be cleared under directions of superintendent

Should at any time the anchor of, or any other object that is part of or attached to, any vessel hook any Commonwealth moorings, electric cables, or moorings of buoys in naval waters, the master of the vessel shall not unhook the anchor, but shall forthwith give notice of the occurrence to the superintendent of those waters, and shall comply with the directions of the superintendent as to the method of clearing the moorings or cables.

22 Crew numbers

- (1) The master of every vessel at anchor in naval waters must, if required by the superintendent of those waters by notice in writing, at all times have a sufficient number of men available to perform any services required for the safety of his vessel.
- (2) The master of every vessel lying in naval waters must, if required by the superintendent of those waters by notice in writing, have at least one man on watch on deck by day and by night.

25 Refuse etc not to be deposited in or near naval waters

- (1) Subject to subregulation (6), the superintendent of naval waters may issue a notice permitting a person, or a class of persons, to place material of a specified kind in a position in the naval waters, or in a position from which the material is likely to be washed into the naval waters (a position *nearby* the naval waters).
- (2) A permission under subregulation (1) may be subject to conditions.
- (3) A person is guilty of an offence if:
 - (a) the person causes or permits material to be placed in or nearby naval waters; and
 - (b) the placement is not in accordance with a notice under this regulation.

Penalty: 10 penalty units.

- (4) An offence under this regulation is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (5) It is a defence if the master had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (5) (see section 13.3 of the *Criminal Code*).

- (6) Nothing in this regulation affects the operation of a law of a State or Territory.

- (7) In this regulation:

material includes ballast, stones, sand, earth, clay, refuse, ashes, timber, carcasses, rubbish, dust, fuel, oil, or refuse from a quarry, mine or pit, and any other pollutant.

26 Vessels not to be cleaned without permission

- (1) The superintendent of naval waters may permit a vessel to be cleaned in the naval waters.

- (2) A permission may be subject to conditions, including conditions about the place or the manner of the cleaning of the vessel.

- (3) A person is guilty of an offence if:

- (a) the person causes or permits a vessel to be cleaned in naval waters; and
- (b) the cleaning is not in accordance with a permission under this regulation.

Penalty: 10 penalty units.

- (4) An offence under this regulation is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (5) It is a defence if the person had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (5) (see section 13.3 of the *Criminal Code*).

- (6) In this regulation:
clean includes bream or careen.

28 Speed of vessels in naval waters

- (1) Where the superintendent of naval waters is satisfied that it is in the interests of:
- (a) public safety; or
 - (b) the safety of property; or
 - (c) the defence of the Commonwealth;
- the superintendent may, by notice, give directions concerning the speed of vessels in naval waters or any specified part of naval waters.
- (2) A direction under subregulation (1) may be:
- (a) absolute; or
 - (b) subject to any approval given by the superintendent by notice; or
 - (c) subject to any conditions imposed by the superintendent by notice.
- (3) The superintendent of naval waters must cause a notice under subregulation (1) or paragraph (2) (b) or (c) to be given to such person or persons, in such manner, at such time and in such place as is reasonably required for the protection of the public, or any person who may be affected by the use by the Commonwealth of the naval waters, as the case may be, having regard to:
- (a) the purpose for which those waters are used by the Commonwealth; and
 - (b) the time when those waters are so used; and
 - (c) the risk of injury to persons; and
 - (d) the risk of damage to, or interference with, Commonwealth or other property; and
 - (e) the forms of communication and the time available for giving the notice.
- (4) A person is guilty of an offence if:
- (a) a notice is given under this regulation; and

- (b) the person engages in conduct; and
- (c) the conduct is not in accordance with the notice; and
- (d) the person is reckless as to the circumstance in paragraph (c).

Penalty: 5 penalty units.

- (5) Strict liability applies to paragraph (4) (a).

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

29 Guns not to be discharged

- (1) A person is guilty of an offence if:
 - (a) the person engages in conduct; and
 - (b) the conduct results in a gun, firearm or air-gun being discharged over naval waters from a boat or vessel or from the shore; and
 - (c) the person is reckless as to the result in paragraph (b).

Penalty: 5 penalty units.

- (2) Subregulation (1) does not apply to a member of the Defence Force, the Australian Federal Police or a Police Force or Service of a State or Territory engaged within the limits of naval waters.

Note A defendant bears an evidential burden in relation to the matter in subregulation (2) (see section 13.3 of the *Criminal Code*).

30 Vessels with dangerous cargoes not to enter naval waters without permission

- (1) The superintendent of naval waters may give written permission for a vessel carrying explosives or other dangerous goods to enter the naval waters.
- (2) A permission may be subject to conditions, including conditions as to time, berthing and discharge of cargo.
- (3) A permission may be cancelled, or its conditions varied, at any time.

- (4) The master of a vessel is guilty of an offence if:
- (a) the vessel is carrying explosives or other dangerous goods; and
 - (b) the master causes or permits the vessel to enter or remain in naval waters; and
 - (c) the entry or stay is not in accordance with a permission under this regulation.

Penalty: 10 penalty units.

- (5) The master of a vessel in naval waters is guilty of an offence if:
- (a) the vessel is carrying explosives or other dangerous goods; and
 - (b) the master causes or permits anything to be done in relation to the vessel or cargo that is not in accordance with a permission under this regulation.

Penalty: 10 penalty units.

- (6) An offence under subregulation (4) or (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (7) It is a defence to a charge under subregulation (4) or (5) if the master had a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (7) (see section 13.3 of the *Criminal Code*).

31 Vessels carrying dangerous cargoes to display signals

- (1) The master of a vessel in naval waters is guilty of an offence if:
- (a) the vessel is carrying, loading or unloading explosives or other dangerous goods; and
 - (b) the master does not cause the vessel to display prominently:
 - (i) between sunrise and sunset — a large red flag or burgee; and
 - (ii) between sunset and sunrise — a red light, visible in clear weather for at least 3 kilometres.

Regulation 34

Penalty: 5 penalty units.

- (2) An offence under this regulation is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (3) It is a defence if there was a reasonable excuse for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in subregulation (3) (see section 13.3 of the *Criminal Code*).

34 Construction in, or on the foreshore of, naval waters

- (1) The Minister may, by notice in writing, prohibit the erection of any jetty, wharf, building, or structure, in, or on the foreshore of, any naval waters.
- (2) Any person to whom notice has been given under the foregoing subregulation who erects in, or on the foreshore of, any naval waters any structure prohibited by the notice shall remove any such structure, or should he fail to do so, it may be removed by the superintendent of those waters and the person who constructed it, or caused it to be constructed, shall pay to the superintendent the cost of such removal.

35 Examination of vessels in naval waters

The master of any vessel in naval waters shall do the utmost in his power to facilitate the search or examination of the vessel by the superintendent of those waters or by a person or persons acting on his behalf.

35A Delegation

The superintendent of naval waters may, by instrument in writing, delegate to an officer of the Defence Force holding a rank not below that of Lieutenant-Commander, Major or Squadron-Leader all or any of his or her powers and functions under these Regulations in relation to those waters.

Table of Statutory Rules

Notes to the *Control of Naval Waters Regulations 1922*

Note 1

The *Control of Naval Waters Regulations 1922* (in force under the *Control of Naval Waters Act 1918*) as shown in this compilation comprise Statutory Rules 1922 No. 74 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
1922 No. 74	8 June 1922	8 June 1922	—
1927 No. 147	15 Dec 1927	15 Dec 1927	—
1931 No. 7	29 Jan 1931	29 Jan 1931	—
1935 No. 92	19 Sept 1935	19 Sept 1935	—
1937 No. 12	11 Feb 1937	11 Feb 1937	—
1938 No. 43	19 May 1938	19 May 1938	—
1941 No. 145	26 June 1941	26 June 1941	—
1943 No. 71	25 Mar 1943	25 Mar 1943	—
1943 No. 216	2 Sept 1943	2 Sept 1943	—
1943 No. 310	23 Dec 1943	23 Dec 1943	—
1947 No. 45	27 Mar 1947	27 Mar 1947	—
1947 No. 117	22 Aug 1947	22 Aug 1947	—
1948 No. 148	18 Nov 1948	18 Nov 1948	—
1953 No. 60	25 June 1953	25 June 1953	—
1955 No. 22	6 Apr 1955	6 Apr 1955	—
1959 No. 32	14 May 1959	14 May 1959	—
1969 No. 171	6 Nov 1969	6 Nov 1969	—
1975 No. 178	9 Sept 1975	9 Sept 1975	—
1976 No. 25	3 Feb 1976	9 Feb 1976	—
1990 No. 206	4 July 1990	1 Aug 1990 (see r. 1 and <i>Gazette</i> 1990, No. S184)	—
1990 No. 407	17 Dec 1990	17 Dec 1990	—
2001 No. 305	15 Oct 2001	15 Dec 2001	—
as amended by Act No. 135, 2003	Date of Assent: 17 Dec 2003	15 Oct 2001	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1	rs. 2001 No. 305
R. 2	am. 1931 No. 7; 1947 No. 117; 1969 No. 171; 1976 No. 25 rep. 1990 No. 206
R. 3	am. 1990 No. 206
R. 4	rs. 1990 No. 206 am. 2001 No. 305
R. 5	am. 1931 No. 7 rs. 1969 No. 171; 1990 No. 206 am. 1990 No. 407
R. 6	am. 1969 No. 171; 1990 No. 206 rs. 2001 No. 305
R. 7	am. 1931 No. 7; 1953 No. 60; 1990 No. 206; 2001 No. 305
R. 8	am. 1976 No. 25; 1990 No. 206
Rr. 9, 10	am. 1975 No. 178; 1990 No. 206 rs. 2001 No. 305
R. 11	am. 1969 No. 171; 1975 No. 178; 1990 No. 206 rs. 2001 No. 305
R. 11A	ad. 2001 No. 305
R. 12	am. 1969 No. 171; 1975 No. 178 rs. 1990 No. 206; 2001 No. 305
R. 13	am. 1976 No. 25; 1990 No. 206; 2001 No. 305
R. 14	rs. 1935 No. 92 am. 1990 No. 206
R. 15	am. 1975 No. 178; 1990 No. 206 rs. 2001 No. 305
R. 16	am. 1990 No. 206
R. 17	am. 1976 No. 25 rep. 1990 No. 206
Rr. 18, 19	rep. 1990 No. 206
R. 20	rep. 1976 No. 25
R. 21	rep. 1990 No. 206
R. 22	am. 1990 No. 206
R. 23	rep. 1990 No. 206
R. 24	rep. 1976 No. 25
Rr. 25, 26	am. 1990 No. 206 rs. 2001 No. 305
R. 27	rep. 1990 No. 206
R. 28	am. 1976 No. 25 rs. 1990 No. 206

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
	am. 2001 No. 305
R. 29	am. 1976 No. 25; 1990 No. 206 rs. 2001 No. 305
R. 30	am. 1990 No. 206 rs. 2001 No. 305
R. 31	am. 1975 No. 178; 1990 No. 206 rs. 2001 No. 305
R. 32	am. 1975 No. 178 rep. 1976 No. 25
R. 33	am. 1976 No. 25 rep. 1990 No. 206
R. 33A	ad. 1927 No. 147 rep. 1976 No. 25
R. 34	am. 1927 No. 147; 1990 No. 206
R. 35	am. 1990 No. 206
R. 35A	ad. 1990 No. 206
R. 36	am. 1969 No. 171; 1976 No. 25 rep. 1990 No. 206
Heading to Schedule.....	rep. 1931 No. 7
Schedule.....	am. 1927 No. 147
Heading to First Schedule...	ad. 1931 No. 7
First Schedule.....	am. 1931 No. 7; 1935 No. 92; 1937 No. 12; 1938 No. 43; 1941 No. 145; 1943 Nos. 71, 216 and 310; 1947 Nos. 45 and 117; 1948 No. 148; 1953 No. 60; 1955 No. 22; 1959 No. 32 rep. 1969 No. 171
Heading to Second Schedule	ad. 1931 No. 7
Second Schedule.....	am. 1931 No. 7; 1935 No. 92; 1937 No. 12; 1938 No. 43; 1941 No. 145; 1943 Nos. 71, 216 and 310; 1947 Nos. 45 and 117; 1953 No. 60; 1955 No. 22 rep. 1969 No. 171