

Sydney Harbour Foreshore Authority Regulation 2011

Current version for 26 August 2011 to date (accessed 24 February 2012 at 02:44)

Status information

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Currency of version

Current version for 26 August 2011 to date (accessed 24 February 2012 at 02:44).

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. See Historical notes

Staged repeal status

This legislation is currently due to be automatically repealed under the Subordinate Legislation Act 1989 on 1 September 2016

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 26 August 2011.

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Sydney Harbour Foreshore Authority Act 1998*.

BRAD HAZZARD, MP

Minister for Planning and Infrastructure

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Sydney Harbour Foreshore Authority Regulation 2011*.

2 Commencement

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

Note. This Regulation replaces the *Sydney Harbour Foreshore Authority Regulation 2006* which would otherwise be repealed on 1 September 2011 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

liquor means liquor within the meaning of the *Liquor Act 2007*.

personal watercraft means a power-driven vessel that:

- (a) has a fully enclosed hull, and
- (b) does not retain water taken on if it capsizes, and

- (c) is designed to be operated by a person standing, sitting astride or kneeling on the vessel but not seated within the vessel.

public area means any part of the foreshore area (being the area described in Schedule 1 to the Act) that is vested in or managed by the Authority and that the public uses or is entitled to use, whether on payment of a fee or charge or otherwise.

ranger means a person appointed under section 32 of the Act as a ranger for the purposes of the Act.

the Act means the *Sydney Harbour Foreshore Authority Act 1998*.

- (2) A reference in this Regulation to land managed by the Authority is a reference to managed land within the meaning of section 8 of the Act.
- (3) The notes included in this Regulation do not form part of this Regulation.

Part 2 Regulation of activities in public areas

4 Commercial and other activities

- (1) A person must not do any of the following in a public area, except as authorised by the Authority:
- (a) sell or hire, or offer for sale or hire, any goods,
 - (b) use any audio, loudspeaker or broadcasting equipment or camera (whether photographic, cinematic or video), for a commercial purpose,
 - (c) provide, or offer to provide, any services for fee, gain or reward,
 - (d) distribute any advertising matter or display any advertisement (other than on a vehicle driven by the person or on any clothing or personal effect worn or carried by the person),
 - (e) conduct any wedding,
 - (f) collect or attempt to collect money,
 - (g) busk,
 - (h) conduct, or participate in, any game or other activity in a manner that unduly interferes with the amenity of the area,
 - (i) operate or use any radio, television, music-player, musical instrument or other sound-generating device in a manner that unduly interferes with the amenity of the area,
 - (j) camp or use facilities for sleeping overnight,
 - (k) erect any tent or other temporary structure,
 - (l) paint, erect or affix any decoration, sign or other equipment,
 - (m) climb any tree, sculpture, decoration, flagpole or other fixture,
 - (n) light any fire, barbecue or stove (not being cooking facilities provided by the Authority),
 - (o) set off any firework,
 - (p) carry or discharge or have in the person's possession any firearm or imitation firearm within the meaning of the *Firearms Act 1996*, unless the person is a police officer of the State or the Commonwealth or unless the person is the holder of a licence under the *Security Industry Act 1997* and is carrying out functions authorised by the licence,

- (q) land or launch any hot air balloon,
- (r) ride or use any skate board, roller skates, in-line skates or similar equipment,
- (s) damage, destroy or remove any tree, plant or other vegetation,
- (t) damage, destroy or remove any building, structure or equipment,
- (u) dig up or disturb the surface of any road or other land.

Maximum penalty: 20 penalty units.

- (2) The Authority may determine the charges (if any) to be imposed for any activities authorised by the Authority under this clause.

5 Public assemblies

- (1) In this clause:

public assembly means:

- (a) an organised assembly of persons for the purposes of holding a meeting, procession or performance, or
 - (b) a sporting event.
- (2) A person must not, except as authorised by the Authority, conduct or participate in any public assembly in a public area.

Maximum penalty: 20 penalty units.

- (3) The Authority may determine:
 - (a) the days and times during which, and the conditions on which, persons may conduct or participate in a public assembly in a public area, and
 - (b) the charges (if any) to be imposed for the conduct of a public assembly in a public area, and
 - (c) the charges (if any) to be imposed for entry into the part of the public area within which a public assembly is to be conducted.

6 Use of land by buses

- (1) The Authority may set aside any land within a public area for use by buses.
- (2) The Authority may determine:
 - (a) the days and times during which, and the conditions on which, any such land may be used by buses, and
 - (b) the charges (if any) to be imposed for the use by buses of any such land.
- (3) A person must not, except as authorised by the Authority, contravene any conditions of use of any such land that are displayed in, or at the places of entry into, that land.

Maximum penalty: 20 penalty units.

7 Closing of public areas

- (1) The Authority may, by means of signs, barriers or buoys, close temporarily the whole or any part of a public area (other than a public road) to the public.

- (2) A person must not enter any part of a public area that has been closed to the public under this or any other provision of this Regulation, except as authorised by the Authority or by a ranger or police officer.

Maximum penalty: 20 penalty units.

8 New Year's Eve and other activities

- (1) This clause applies to special event activities, that is:

- (a) New Year's Eve activities occurring on 31 December or the following 1 or 2 January, or
(b) Australia Day activities occurring on 26 January or the following 27 January,

being activities promoted, organised or conducted within a public area by the Authority in the exercise of its functions under section 12 (1) (c) of the Act.

- (2) The Authority may, for the purpose of special event activities, do any one or more of the following:

- (a) limit the number of persons who may enter public areas or any particular public area,
(b) close any particular public area to the public,
(c) charge admission to public areas or any particular public area,
(d) prohibit persons from entering public areas or any particular public area if they are in possession of liquor or any other specified thing.

- (3) Nothing in this clause limits any other function of the Authority under this Regulation.

9 Prohibition on liquor

- (1) The Authority may prohibit the drinking of liquor in any part of a public area (either at any time or at any particular time). The Authority is to give public notice of any such prohibition.

- (2) A person must not drink liquor in a public area in contravention of any such prohibition.

Maximum penalty: 1 penalty unit.

- (3) A person is not guilty of an offence under this clause unless it is established that on the day of the contravention a ranger or police officer warned the person that the drinking of liquor was prohibited in the area and that the person commenced to drink, continued to drink or resumed drinking liquor in contravention of the prohibition.

- (4) The Authority may prohibit persons from entering any part of a public area during the conduct of a particular activity that is promoted, organised or conducted by the Authority if they are in possession of liquor.

10 Securing of vessels to wharves of the Authority

- (1) A person must not, except as authorised by the Authority, secure a vessel to a wharf of the Authority.

Maximum penalty: 20 penalty units.

- (2) The Authority may determine:

- (a) the days and times during which, and the conditions on which, a wharf of the Authority may be used to secure vessels, and
(b) the charges (if any) to be imposed for the use of a wharf of the Authority to secure vessels.

- (3) This clause does not apply to a vessel that is secured to a wharf of the Authority at the direction or with the permission of any person or body entitled to give such a direction or permission.

- (4) In this clause:

vessel includes a charter boat, water taxi or ferry.

wharf of the Authority means a wharf (including a pier, jetty, landing stage or dock) that is vested in or managed by the Authority and that is within a public area.

11 Acting contrary to notices

- (1) The Authority has, in relation to a public area, the same function as a local council under section 632 of the *Local Government Act 1993*.

Note. Section 632 of the *Local Government Act 1993* authorises the erection of notices with respect to the payment of entry or use fees, the use of vehicles, the taking of animals into, or other actions in or uses of, public places. Section 633C of that Act, however, prevents any such notice affecting roads or traffic functions under other Acts.

- (2) A person who, in a public area, fails to comply with the terms of a notice erected by the Authority in the exercise of that function is guilty of an offence.

Maximum penalty: 5 penalty units.

- (3) This clause does not prevent the erection of a notice in a public area by a local council under the *Local Government Act 1993*. A notice erected by the Authority may be combined with a notice erected by a local council.
- (4) If a failure to comply with the terms of a notice also constitutes an offence against another provision of this Regulation or against the *Local Government Act 1993*, a person who fails to comply with the terms of the notice is not liable to be convicted of both offences.

Part 3 Special provisions relating to Darling Harbour

12 Application

- (1) This Part applies to the areas and facilities referred to in this Part so long as they remain part of or within a public area.
- (2) This Part does not limit the application of the other provisions of this Regulation to those areas and facilities.

13 Definitions of Darling Harbour area and Pyrmont Bridge

In this Part:

Darling Harbour area means the following areas:

- (a) the Chinese Garden,
- (b) Tumbalong Park,
- (c) Cockle Bay Promenade,
- (d) Pyrmont Bridge,
- (e) Cockle Bay,
- (f) any other public area in the Development Area (within the meaning of the *Darling Harbour Authority Act 1984* immediately before its repeal).

Pyrmont Bridge includes:

- (a) the piles marking the channels approaching the Bridge, and
- (b) the abutments of the Bridge, and
- (c) the extension of the Bridge to Market Street and King Street, and
- (d) the Bicentennial Flagpole and its base.

14 Dogs or other animals in Darling Harbour area

- (1) A person must not, except as authorised by the Authority, bring any dog or other animal into the Darling Harbour area.

Maximum penalty: 20 penalty units.

- (2) This clause does not prohibit a person with a disability from taking an assistance animal into the Darling Harbour area.
- (3) Any unattended dog or other animal may be removed from the Darling Harbour area by a ranger or police officer.
- (4) In this clause:

assistance animal means an animal referred to in section 9 of the *Disability Discrimination Act 1992* of the Commonwealth.

disability has the same meaning as it has in the *Disability Discrimination Act 1992* of the Commonwealth.

15 Fishing in Darling Harbour area

A person must not, except as authorised by the Authority, take or attempt to take, or harm, any fish in the Darling Harbour area (other than in Cockle Bay).

Maximum penalty: 20 penalty units.

16 Tumbalong Park

A person must not use the stage in Tumbalong Park or its facilities, except as authorised by the Authority.

Maximum penalty: 20 penalty units.

17 The Chinese Garden

- (1) The Authority may determine:
 - (a) the days and times during which, and the conditions on which, persons may enter the Chinese Garden, and
 - (b) the maximum number of persons who may visit the Chinese Garden at any one time, and
 - (c) the charges (if any) to be imposed for entry into, or for the conduct of any function or other activity in, the Chinese Garden.
- (2) A person must not, except as authorised by the Authority, contravene any conditions of entry into the Chinese Garden that are displayed in, or at the places of entry into, the Chinese Garden.

Maximum penalty: 20 penalty units.

18 Activities within Cockle Bay

A person must not do any of the following, except as authorised by the Authority:

- (a) swim or paddle in the waters of Cockle Bay,
- (b) sail a sailboard, windsurfer or other like craft in the waters of Cockle Bay,
- (c) deposit or throw any article or substance into the waters of Cockle Bay,
- (d) ride a personal watercraft in the waters of Cockle Bay,
- (e) row or paddle any row boat, canoe, kayak or similar craft in the waters of Cockle Bay,
- (f) participate in any activity in the waters of Cockle Bay involving the use of a vessel to tow a person (such as water skiing or paragliding).

Maximum penalty: 20 penalty units.

19 Activities on Pymont Bridge

A person must not do any of the following, except as authorised by the Authority:

- (a) go on to any portion of Pymont Bridge other than its footway,
- (b) fish from any portion of Pymont Bridge,
- (c) go on to the swing span of Pymont Bridge while it is in motion or in any open position,
- (d) stand or climb on the safety gates at the entrance to the swing span of Pymont Bridge,
- (e) obstruct the movement of the gates at the entrance to the swing span of Pymont Bridge.

Maximum penalty: 20 penalty units.

20 Movement of vessels beneath Pymont Bridge

- (1) The Authority may cause to be displayed, on or in the vicinity of Pymont Bridge, a notice containing directions with respect to the movement or berthing of vessels beneath the Bridge.
- (2) Such a notice does not have effect unless:
 - (a) it is prominently displayed on or in the vicinity of that part of Pymont Bridge to which it is intended to apply, and
 - (b) the directions contained in it are clearly legible to those persons to whom it is intended to apply.
- (3) A person must not contravene any direction given by the Authority under this clause.

Maximum penalty: 20 penalty units.

- (4) A person must not, except as authorised by the Authority, moor any vessel to any portion of, or beneath, Pymont Bridge.

Maximum penalty: 20 penalty units.

21 Berthing of vessels within Cockle Bay

- (1) A person must not, except as authorised by the Authority, berth a vessel (including any charter boat, water taxi or ferry) within the waters of Cockle Bay.

Maximum penalty: 20 penalty units.

- (2) The Authority may determine:
 - (a) the days and times during which, and the conditions on which, vessels may be berthed in the waters of Cockle Bay, and
 - (b) the charges (if any) to be imposed for the berthing of vessels in the waters of Cockle Bay.

- (3) Without limiting the generality of subclause (2) (a), a condition referred to in that paragraph may relate to any one or more of the following:
- (a) the use of a berthed vessel for tourist purposes,
 - (b) the bunkering of a berthed vessel,
 - (c) the disposal of garbage and sewage from a berthed vessel.
- (4) A condition relating to the use of a berthed vessel for tourist purposes may regulate the fee that a tourist may be charged in relation to that use.

Part 4 Miscellaneous

22 Requirement to state name and address

- (1) A ranger or police officer who suspects on reasonable grounds that a person in a public area has committed an offence against this Regulation may require the person to state his or her full name and residential address.
- (2) A person must not:
- (a) fail without reasonable excuse to comply with a requirement under this clause, or
 - (b) in purported compliance with such a requirement, furnish information that the person knows to be false or misleading.

Maximum penalty: 20 penalty units.

- (3) A person is not guilty of an offence under this clause unless it is established that the ranger or police officer warned the person that the failure to comply with the requirement is an offence.

23 Removal of certain persons from public areas

- (1) A person who:
- (a) causes inconvenience to other persons in a public area, or
 - (b) contravenes any provision of this Regulation in a public area, or
 - (c) trespasses on any part of a public area closed to the public,

must leave the area without delay when requested to do so by a ranger or police officer.

Maximum penalty: 20 penalty units.

- (2) A person who fails to comply with such a request may be removed from a public area by a ranger or police officer.
- (3) Reasonable force may be used to effect the person's removal.
- (4) A person is not guilty of an offence under this clause unless it is established that the ranger or police officer warned the person that the failure to comply with the request is an offence.

24 Removal of obstructions from public areas

- (1) The Authority, or a ranger or police officer, may order the removal of anything which obstructs or encroaches on a public area.
- (2) The order may be given to either or both of the following:
- (a) the person who caused the obstruction or encroachment,
 - (b) a person using the thing causing the obstruction or encroachment.

(3) A person to whom such an order is given must comply with the order.

Maximum penalty: 20 penalty units.

(4) The Authority, or a ranger or police officer, may remove the obstruction or encroachment whether or not an order for its removal has been given under this clause.

(5) The Authority may recover from either of the persons referred to in subclause (2) the Authority's reasonable costs and expenses incurred in removing an obstruction or encroachment.

(6) This clause does not apply to a motor vehicle.

(7) This clause does not apply to an obstruction or encroachment if its presence in the public area is authorised:

(a) by the Authority, or

(b) by the person or body in whom the public area is vested, or

(c) by or under the Act or any other Act,

and its presence has not ceased to be so authorised.

25 Activities not affected by Regulation

An act or omission does not constitute a contravention of this Regulation:

(a) if it is done or omitted by the Authority or if it is authorised, expressly or impliedly, by the terms of any lease, licence or other authority granted by the Authority, or

(b) in the case of land vested in a person other than the Authority—if it is done or omitted by that person or if it is authorised, expressly or impliedly, by the terms of any lease, licence or other authority granted by that person, or

(c) in the case of a public road—if it is done or omitted by the relevant roads authority under the *Roads Act 1993* or if it is authorised, expressly or impliedly, by the terms of any lease, licence or other authority granted by the roads authority, or

(d) in the case of any waters—if it is authorised by or under the marine legislation (within the meaning of the *Ports and Maritime Administration Act 1995*).

26 Declaration of core land

The following land is declared to be core land for the purposes of section 6 (e) of the Act:

Land at Ballast Point, Birchgrove that is bordered by Wharf Road, Ronald Street, Mort Bay and Snails Bay comprising Lots 1–4, DP 115939 (excluding the leasehold interest of Energy Australia under registered lease N700214 over part of Lot 1, DP 115939), Lot 7, DP 132691, Lot 11, DP 792332 and Lot 413, DP 752049.

Land at The Rocks, Circular Quay that is bordered by George Street, Argyle Street and First Fleet Park, comprising Lots 20–22, DP 787906.

27 Penalty notice offences and penalties

For the purposes of section 43A of the Act:

(a) each offence created by a provision specified in Column 1 of Schedule 1 is an offence for which a penalty notice may be served, and

(b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of that Schedule.

28 Repeal and savings provisions

- (1) The *Sydney Harbour Foreshore Authority Regulation 2006* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Sydney Harbour Foreshore Authority Regulation 2006*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

(Clause 27)

Column 1 Offence	Column 2 Penalty
Clause 4 (1) (a)–(o), (q), (r), (t) and (u)	\$220
Clause 4 (1) (p) and (s)	\$440
Clause 5 (2)	\$220
Clause 6 (3)	\$220
Clause 7 (2)	\$220
Clause 9 (2)	\$70
Clause 10 (1)	\$220
Clause 11 (2)	\$110
Clause 14 (1)	\$220
Clause 15	\$110
Clause 16	\$220
Clause 17 (2)	\$220
Clause 18 (a)	\$110
Clause 18 (b) and (d)–(f)	\$220
Clause 18 (c)	\$440
Clause 19 (a), (b) and (e)	\$110
Clause 19 (c) and (d)	\$220
Clause 20 (3) and (4)	\$220
Clause 21 (1)	\$220
Clause 22 (2) (a) and (b)	\$220
Clause 23 (1) (a)–(c)	\$220
Clause 24 (3)	\$220

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments

Sydney Harbour Foreshore Authority Regulation 2011 (466). LW 26.8.2011. Date of commencement, on publication on LW, cl 2.