

Marine Safety Regulation 2008

1 Name of Regulation

This Regulation is the *Marine Safety Regulation 2008*.

2 Commencement

This Regulation commences on 1 September 2008.

This Regulation replaces the *Marine Safety Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation: "**the Act**" means the *Marine Safety Act 1998*.

(2) Notes included in this Regulation do not form part of this Regulation.

3A Security of blood and urine samples taken under Parts 2-5 of Schedule 1 to the Act

(1) After a sample of blood or urine taken under Part 2, 3, 4 or 5 of Schedule 1 to the Act is dealt with in accordance with clause 7 (3), 12 (1), 15 (3) or 20 (3) of that Schedule (as the case may require), the sample must be placed immediately in a locked security box of a type approved by the Commissioner of Police. It is to be kept in the security box until it is submitted to the laboratory in accordance with clause 7 (4), 12 (2), 15 (4) or 20 (4) of Schedule 1 to the Act.

(2) A person must not destroy or otherwise interfere or tamper with a sample, or a portion of a sample, of a person's blood or urine taken under Part 2, 3 or 5 of Schedule 1 to the Act except as follows:

(a) after the expiration of 12 months commencing on the day the sample was taken,

(b) in the case of a sample--by or at the direction of an analyst:

(i) so as to permit a portion of the sample to be sent for analysis by a medical practitioner or laboratory nominated, under clause 7 (5), 12 (3) or 20 (5) of that Schedule, in an application made under the relevant clause by the person from whom the sample was taken, or

(ii) in the course of, or on completion of, an analysis of the sample,

(c) in the case of a portion of a sample--by or at the direction of the medical practitioner or laboratory nominated under clause 7 (5), 12 (3) or 20 (5) of that Schedule by the person from whom the sample was taken.

(3) A person must not destroy or otherwise interfere or tamper with a sample, or a portion of a sample, of a person's blood or urine taken under Part 4 of Schedule 1 to the Act except as follows:

(a) after the expiration of 13 months commencing on the day the sample was taken, Clause 15 (11) of Schedule 1 to the Act provides that a blood or urine sample that has been provided under that clause must be destroyed by or at the direction of the analyst who has custody of the sample without being analysed if, at the expiry of 13 months after the accident concerned, no authorised officer has made a notification relating to a death (as provided under clause 15 (8)).

(b) in the case of a sample--by or at the direction of an analyst:

(i) so as to permit a portion of the sample to be sent for analysis by a medical practitioner or laboratory nominated, under clause 15 (5) of that Schedule, in an application made under the relevant clause by the person from whom the sample was taken, or

(ii) in the course of, or on completion of, an analysis of the sample,

(c) in the case of a portion of a sample--by or at the direction of the medical

practitioner or laboratory nominated under clause 15 (5) of that Schedule by the person from whom the sample was taken.

Maximum penalty (subclauses (2) and (3)): 20 penalty units.

4 Penalty notice offences

(1) For the purposes of section 126 of the Act:

(a) an offence specified in Column 1 of Schedule 1 (being an offence under the Act or the Regulation indicated in the heading to the relevant part of that Schedule) is a prescribed offence, and

(b) an amount shown in Column 2 of Schedule 1 opposite the prescribed offence is the amount of penalty prescribed for the offence if that offence is dealt with under section 126 of the Act.

(2) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offence or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.

(3) For the purposes of section 126 (9) of the Act, authorised officers are prescribed as a class of persons who are law enforcement officers in relation to the offences specified in Column 1 of Schedule 1.

5 Transitional provision: references to marine safety licences

A reference, in any provision of the Act that has commenced, to a marine safety licence includes, until such time as Part 4 of the Act commences, a reference to a registration, licence, certificate or other authority in force under any Act or regulation specified in Schedule 2 to the Act.

6 Saving

Any act, matter or thing that, immediately before the repeal of the *Marine Safety Regulation 2003*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

(Clause 4)

Column 1	Column 2
Offences under the	
Clause 23 (2)	\$750
Clause 26 (1)	\$750
Clause 26 (2)	\$750
Clause 27 (2)	\$750
Clause 27 (3)	\$750
Clause 28 (1)	\$750
Clause 28 (2)	\$750
Clause 29 (1)	\$750
Clause 29 (2)	\$300
Clause 29 (3)	\$300
Clause 29 (4)	\$300
Clause 32 (3)	\$750
Clause 33	\$300
Clause 34 (1)	\$750
Clause 34 (2)	\$750

Clause 35	\$750
Clause 36 (3)	\$750

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 *Marine Safety Regulation 2008 (182)*. GG No 68 of 13.6.2008, p 4781. Date of commencement, 1.9.2008, cl 2. This Regulation has been amended as follows:

2008	(387)	<i>Marine Safety Amendment Regulation 2008</i> . GG No 106 of 29.8.2008, p 8407. Date of commencement, 1.9.2008, cl 2.
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Table of amendments

Cl 3A	Ins 2008 (387), Sch 1.
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