

# Marine and Safety (General) Regulations 2013

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Marine and Safety Authority Act 1997*.

2 December 2013

PETER G. UNDERWOOD

Governor

By His Excellency's Command,

D. J. O'BYRNE

Minister for Infrastructure

## 1. Short title

These regulations may be cited as the *Marine and Safety (General) Regulations 2013*.

## 2. Commencement

These regulations take effect on 1 January 2014.

## 3. Interpretation

In these regulations, unless the contrary intention appears –

*Act* means the *Marine and Safety Authority Act 1997*;

*AMSA* means the Australian Maritime Safety Authority established under the *Australian Maritime Safety Authority Act 1990* of the Commonwealth;

*approved* means approved by MAST;

*AS* means a standard published, and as from time to time amended or substituted, by Standards Australia;

*AS/NZS* means a standard published, and as from time to time amended or substituted, by Standards Australia and Standards New Zealand jointly;

*authorised person* means a person who –

(a) is appointed under section 44 of the Act for the purposes of these regulations; or

(b) is a member of a class of persons appointed under section 44 of the Act for the purposes of these regulations;

*auxiliary vessel* has the same meaning as in the National Law;

*class*, for a vessel, means its class under the National Law;

**emergency**, for a vessel, means the occurrence of any, or any combination of, the following:

- (a) a death or injury (caused by the vessel);
- (b) a death or injury on (but not caused by) the vessel;
- (c) the loss of a person from the vessel;
- (d) an on-board medical emergency;
- (e) a collision with an object or another vessel;
- (f) a grounding, sinking, flooding or capsizing of the vessel;
- (g) the discovery that another vessel requires assistance;
- (h) an on-board fire;
- (i) a loss of stability;
- (j) a propulsion failure;
- (k) a structural failure in the hull or superstructure;
- (l) the giving (other than for testing or training purposes) of the emergency muster station signal;
- (m) the giving (other than for testing or training purposes) of the "abandon ship" signal;
- (n) the materialisation of a risk that is peculiar to that particular vessel, on account of its design, cargo or operations;

**EPIRB** means Emergency Position Indicating Radio Beacon that conforms to AS/NZS 4280.1;

**flare** means a flare that conforms to AS 2092;

**life jacket** means an inflatable or buoyant jacket for keeping a person afloat in water;

**lightweight craft** means an off-the-beach sailing craft, a canoe, a kayak, a stand-up paddle board or any other craft capable of being navigated that is not also a commercial vessel;

**MAST** means the Marine and Safety Authority established under section 4 of the Act;

**motor boat** has the same meaning as in the *Marine and Safety (Motor Boats and Licences) By-laws 2013*;

**NSCV** means the National Standard for Commercial Vessels published by AMSA, as amended from time to time;

**off-the-beach sailing craft** means a wind-powered craft that is designed to be launched directly from a beach;

**operate**, for a vessel, includes navigate the vessel;

***partially smooth waters*** means partially smooth waters as specified in Schedule 2 to the *Marine and Safety (Limits of Operational Areas of Vessels) By-laws 2013*;

***PLB*** means Personal Locator Beacon that conforms to AS/NZS 4280.2;

***prescribed fee***, for any matter, means the fee prescribed in Schedule 1 in relation to the matter;

***PWC*** means a motor boat that –

(a) is designed to use an inboard motor, powering a jet drive, as the principal means of propulsion; and

(b) is designed to be operated by a person standing, crouching or kneeling on it, or sitting astride it, rather than within the confines of it;

***sheltered waters*** means sheltered waters as specified in Schedules 1 and 2 to the *Marine and Safety (Limits of Operational Areas of Vessels) By-laws 2013*;

***smooth waters*** means smooth waters as specified in Schedule 1 to the *Marine and Safety (Limits of Operational Areas of Vessels) By-laws 2013*;

***surf zone*** means the area between the outermost breakers and the shore;

***tender vessel*** has the same meaning as in the National Law;

***VHF***, in relation to the radio spectrum, means very high frequency and is the band extending from 30 MHz to 300 MHz.

#### **4. Prescribed craft**

For the purpose of the definition of vessel in section 3 of the Act, each of the following craft is a prescribed craft:

(a) a canoe;

(b) a kayak;

(c) an off-the-beach sailing craft;

(d) a PWC;

(e) a stand-up paddle board;

(f) or any other craft capable of being navigated.

#### **5. Personal flotation devices**

(1) A person who is on a lightweight craft must wear an approved personal flotation device unless the sole purpose of operating the lightweight craft is to ride the crest of a wave in a surf zone towards the shoreline.

Penalty:

Fine not exceeding 10 penalty units.

(2) A person who is on a PWC must not use a personal flotation device that is inflatable.

Penalty:

Fine not exceeding 10 penalty units.

(3) The master of a motor boat must ensure that a person who is being towed by the motor boat wears an approved personal flotation device.

Penalty:

Fine not exceeding 10 penalty units.

(4) The person being towed by a motor boat must not use a personal flotation device that is inflatable.

Penalty:

Fine not exceeding 10 penalty units.

(5) For the purposes of subregulations (1) and (3), an approved personal flotation device is –

(a) for a lightweight craft in sheltered waters or for a motor boat in any waters –

(i) a personal flotation device that meets the requirements of AS 1512 – 1996; or

(ii) a personal flotation device that meets the requirements of AS 1499 – 1996; or

(iii) a personal flotation device that meets the requirements of AS 2260 – 1996; or

(iv) a personal flotation device that meets the requirements of AS 4748.1 – 2008 (for Level 150, Level 100 or Level 50 personal flotation devices or for Level 50 special-purpose personal flotation devices); or

(b) for a lightweight craft in waters other than sheltered waters –

(i) a personal flotation device that meets the requirements of AS 1512 – 1996; or

(ii) a personal flotation device that meets the requirements of AS 4758.1 – 2008 (for Level 150 or Level 100 personal flotation devices).

## **6. Mandatory safety equipment for lightweight craft**

(1) Subject to subregulation (2), the operator and other persons on a lightweight craft must carry the mandatory safety equipment specified in Schedule 2.

Penalty:

Fine not exceeding 10 penalty units.

(2) If a lightweight craft is travelling with a powered support vessel or 3 lightweight craft are travelling together in waters other than sheltered waters, the carriage of flares, EPIRB/PLB and VHF radio (*the equipment*) may be reduced to carriage of the equipment by one of every 3 lightweight crafts if the lightweight crafts remain within 50 metres of the craft or vessel carrying the equipment.

## **7. Directions to operate vessels at safe speeds**

(1) MAST or an authorised person may, by notice in writing –

(a) direct the master of a particular vessel not to cause or allow it to operate at a speed greater than that specified in the notice; or

(b) direct the master of each vessel of a particular class not to cause or allow such a vessel to operate at a speed greater than that specified in the notice.

(2) A direction contained in a notice under subregulation (1) may be of limited or general application.

(3) The master of a vessel must comply with a direction contained in a notice under subregulation (1).

Penalty:

Fine not exceeding 50 penalty units.

## **8. Vessels not to be operated in designated waters**

(1) In this regulation –  
*designated* means designated –

(a) on navigation charts issued by the Australian Hydrographic Service or an international hydrographic service; or

(b) in notices to mariners issued by MAST.

(2) Except as may be necessitated by an emergency, the master of a vessel must ensure that it does not operate in waters that are designated as –

(a) being unsafe or unsuitable for that vessel, or vessels of its class, to navigate; or

(b) waters in which that vessel, or vessels of its class, are not permitted to navigate.

Penalty:

Fine not exceeding 50 penalty units.

## **9. Life jackets**

(1) A person must wear an approved life jacket if the person is on a vessel that –

**(a)** is proceeding under power; and

**(b)** is less than 6 metres in length or is a motor-propelled auxiliary vessel or tender vessel.

Penalty:

Fine not exceeding 5 penalty units.

**(2)** For the purposes of subregulation (1), an approved life jacket is –

**(a)** for a vessel that is operating in waters other than sheltered waters, a life jacket that meets the requirements of Annex G of Part C, Subsection 7A of the NSCV; or

**(b)** for a vessel that is operating in sheltered waters, being partially smooth waters –

**(i)** a life jacket that meets the requirements of Annex G of Part C, Subsection 7A of the NSCV; or

**(ii)** a life jacket that meets the requirements of AS 1512 – 1996; or

**(iii)** a personal flotation device that meets the requirements of AS 4758.1 – 2008 (for Level 150 or Level 100 personal flotation devices); or

**(c)** for a vessel that is operating in sheltered waters, being smooth waters –

**(i)** a life jacket that meets the requirements of Annex G of Part C, Subsection 7A of the NSCV; or

**(ii)** a life jacket that meets the requirements of AS 1512 – 1997; or

**(iii)** a life jacket that meets the requirements of AS 1499 – 1996; or

**(iv)** a personal flotation device that meets the requirements of AS 4758.1 – 2008 (for Level 150, Level 100 or Level 50 personal flotation devices).

**(3)** The master of a vessel of a kind referred to in subregulation (1) must ensure that each person on the vessel who is under the age of 16 years complies with that subregulation.

Penalty:

Fine not exceeding 10 penalty units.

**(4)** Subregulation (1) does not apply to a person on a vessel of a kind referred to in that subregulation if the person is wearing a wetsuit and –

**(a)** is preparing to dive from the vessel for a commercial purpose; or

**(b)** has completed a dive from the vessel for a commercial purpose and is changing, or preparing to change, out of the wetsuit.

**(5)** The owner of a vessel must ensure that each life jacket on the vessel is maintained in accordance with the instructions of the manufacturer of the life jacket.

Penalty:

Fine not exceeding 10 penalty units.

## **10. Towage permits**

**(1)** Except as provided by subregulation (10), the owner of a vessel must not cause or allow it to tow, or be towed by, any other vessel unless a responsible person holds a permit for the tow (*towage permit*).

**(2)** Towage permits are issued by MAST.

**(3)** An application for a towage permit is to –

**(a)** be in an approved form; and

**(b)** be accompanied by the prescribed fee; and

**(c)** be supported by such evidence or information as MAST requires, either at the time of lodgement or subsequently; and

**(d)** comply with such additional requirements (if any) as relate, under these regulations, to the specific application.

**(4)** MAST may approve, or refuse to approve, an application.

**(5)** For the purposes of subregulation (4), MAST may carry out such inquiries and vessel inspections in relation to the vessels and towing arrangements as it considers necessary or expedient.

**(6)** A towage permit –

**(a)** is to be in an approved form; and

**(b)** may be issued on such conditions as MAST considers necessary or expedient; and

**(c)** may be issued for a single tow or, if the towing arrangements are similar in each instance, for multiple tows; and

**(d)** may be surrendered but is not capable of being varied, renewed or transferred.

**(7)** If MAST refuses an application it is to notify the applicant of –

**(a)** the refusal; and

**(b)** the reasons for the refusal; and

**(c)** the right of review.

**(8)** The right of review may be exercised by the applicant or by any other responsible person.

(9) The holder of a towage permit must not contravene, or cause or allow any other person to contravene, the conditions, if any, of the permit.

Penalty:

Fine not exceeding 20 penalty units.

(10) This regulation does not apply to, or prevent –

(a) the towage of vessels within the limits of prescribed ports; or

(b) the regular towage of cargo barges on a commercial basis; or

(c) the towage or assistance of oil exploration structures, semisubmersible oil platforms or similar vessels that are self-propelled; or

(d) the towage of stranded vessels or vessels in distress, where immediate towage is vital to the saving of life or property.

(11) In this section –

*cargo barge* includes a fish pen;

*responsible person*, for a tow, means –

(a) the owner of the towing vessel; and

(b) the master of the towing vessel; and

(c) the owner of the towed vessel; and

(d) the master of the towed vessel.

## 11. Dangerous cargo requirements

A vessel designed to carry dangerous cargoes, including oil, is on payment of the prescribed fee to be assessed against –

(a) the International Maritime Dangerous Goods Code published by the International Maritime Organisation; or

(b) the *Pollution of Waters by Oil and Noxious Substances Act 1987*; or

(c) the NSCV or equivalent design standard.

## 12. Prescribed offences and penalties

(1) For the purposes of section 45(1) of the Act, an offence against a provision specified in column 1 of Schedule 3 is a prescribed offence.

(2) The penalty specified in column 2 of Schedule 3 opposite the provision specified in column 1 is the penalty payable under an infringement notice served in respect of that offence.

### 13. Legislation rescinded

The legislation specified in Schedule 4 is rescinded.

#### SCHEDULE 1 - Prescribed Fees

Regulation 3

	<b>Matter</b>	<b>Regulation</b>	<b>Fee units</b>
1.	Application for towage permit	<u>Regulation 10</u>	84 units for each hour plus 1.07 units per kilometre travelled
2.	Dangerous Cargoes Assessment	<u>Regulation 11</u>	51 units

#### SCHEDULE 2 - Safety Equipment

Regulation 6

<b>Equipment</b>	<b>Lightweight craft in smooth waters</b>	<b>Lightweight craft in sheltered waters</b>	<b>Lightweight craft in waters other than sheltered waters</b>
White strobe light OR white light 360 degrees visibility	Mandatory	Mandatory	Mandatory
Tethering device when more than 200m offshore	Mandatory	Mandatory	Mandatory
EPIRB or PLB		Recommended	Mandatory
VHF radio		Recommended	Mandatory
Bailer or bilge pump in craft unless hull permanently enclosed	Mandatory	Mandatory	Mandatory
Compass			Mandatory
Flares – 2 red hand-held flares and 2 orange hand-held smoke flares		Recommended	Mandatory

#### SCHEDULE 3 - Offences

Regulation 12

	<b>Column 1</b>	<b>Column 2</b>
1.	<u>Regulation 5(1)</u>	1
2.	<u>Regulation 5(2)</u>	1
3.	<u>Regulation 5(3)</u>	1
4.	<u>Regulation 5(4)</u>	1
5.	<u>Regulation 6(1)</u>	1
6.	<u>Regulation 7(3)</u>	5

7.	<u>Regulation 8(2)</u>	5
8.	<u>Regulation 9(1)</u>	1
9.	<u>Regulation 9(3)</u>	1
10.	<u>Regulation 9(5)</u>	1
11.	<u>Regulation 10(9)</u>	2

#### **SCHEDULE 4 - Legislation rescinded**

Regulation 13

Marine and Safety (General) Regulations 2010 (No. 48 of 2010)

Displayed and numbered in accordance with the [Rules Publication Act 1953](#).

Notified in the *Gazette* on 11 December 2013.

These regulations are administered in the Department of Infrastructure, Energy and Resources.

#### **Table Of Amendments**

<b>Citation</b>	<b>Serial Number</b>	<b>Date of commencement</b>
Marine and Safety (General) Regulations 2013	S.R. 2013, No. 100	1.1.2014

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CURRENT VIEW: **1 Jan 2014 - 11 Dec 2023**

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VIEW THE **AS MADE VERSION**

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