

Authorised Version No. 002
**Port Management (Port of Melbourne Safety
and Property) Regulations 2010**

S.R. No. 115/2010

Authorised Version incorporating amendments as at
15 November 2012

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PART 1—PRELIMINARY

1 Objective

The objective of these Regulations is to provide for the safe and effective management within the Port of Melbourne of—

(a) hazardous port activities; and

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Reg. 1(b)
revoked by
S.R. No.
125/2012
reg. 5.

(c) abandoned things.

2 Authorising provision

These Regulations are made under section 98 of the **Port Management Act 1995**.

3 Commencement

These Regulations come into operation on 1 November 2010.

4 Definitions

In these Regulations—

authority means an authority issued under regulation 11;

* * * * *

Reg. 4 def. of
bunkering
revoked by
S.R. No.
125/2012
reg. 6.

r. 5

dangerous goods has the same meaning as in the
Dangerous Goods Act 1985;

manifest means an inventory of dangerous goods;

master has the same meaning as in the **Marine
Act 1988**;

Reg. 4 def. of
liquid transfer
revoked by
S.R. No.
125/2012
reg. 6.

* * * * *

the Act means the **Port Management Act 1995**.

5 Application of Regulations

These Regulations only apply to the Port of Melbourne and the Port of Melbourne Corporation.

Reg. 6
(Heading)
amended by
S.R. No.
125/2012
reg. 7(1).

6 Notices under section 184 of the Marine Safety Act 2010 to prevail

If a provision of these Regulations as it applies to the port corporation is inconsistent with a provision of any notice published under section 184 of the **Marine Safety Act 2010** as it applies to the port corporation, the latter provision prevails to the extent of the inconsistency.

Reg. 6
amended by
S.R. No.
125/2012
reg. 7(2).

Reg. 7
(Heading)
amended by
S.R. No.
125/2012
reg. 8(1).

7 Regulations under Marine Safety Act 2010 to prevail

If a provision of these Regulations as it applies to the port corporation is inconsistent with a provision of any regulations made under section 309 of the **Marine Safety Act 2010** as it applies to the port corporation, the latter provision prevails to the extent of the inconsistency.

Reg. 7
amended by
S.R. No.
125/2012
reg. 8(2).

8 Harbour master's directions prevail

If a direction given by the port corporation, a port safety officer or a member of the police force under these Regulations is inconsistent with a direction given by a harbour master under Part 6.4 of the **Marine Safety Act 2010**, the direction of the port corporation, port safety officer or member of the police force is, to the extent of the inconsistency, of no effect.

Reg. 8
amended by
S.R. No.
125/2012
reg. 9.

**PART 2—MANAGEMENT OF HAZARDOUS PORT
ACTIVITIES, BUNKERING AND OTHER LIQUID
TRANSFERS**

Division 1—Authorisation

**9 Application for authorisation to carry out a
hazardous port activity**

- (1) A person who proposes to carry out a hazardous port activity in the port must apply to the port corporation for an authority to carry out the hazardous port activity.
- (2) An application for authorisation under subregulation (1) must include details of—
 - (a) the type of activities; and
 - (b) the proposed location of the activities in the port (if known).
- (3) A person must not conduct hazardous port activities unless an authority has been obtained.

Penalty: 20 penalty units.

* * * * *

Reg. 10
revoked by
S.R. No.
125/2012
reg. 10.

**11 Port corporation may authorise an activity at the
port**

- (1) The port corporation may authorise a person to carry out a hazardous port activity at the port.
- (2) An authority under subregulation (1)—
 - (a) must be in writing; and
 - (b) is valid for the period specified in the authority; and

Reg. 11(1)
substituted by
S.R. No.
125/2012
reg. 11(1).

- (c) is valid only as specified in the authority in respect of—
- (i) the person, or classes of person; and
 - (ii) the vessel, or classes of vessel; and
 - (iii) the location in the port.
- (3) The port corporation must issue an authority unless the port corporation is of the opinion that the carrying out of the hazardous port activity—
- (a) would create a significant risk of injury to any person, damage to any property or harm to the environment; or
 - (b) would significantly interfere with the orderly operation of the port or of any other authorised activities; or
 - (c) would potentially cause interference with, or danger to, other users of the port.
- (4) An authority is valid for up to three years from the date it is issued.

Reg. 11(3)
amended by
S.R. No.
125/2012
reg. 11(2).

Note

The authority does not exempt a person proposing to carry out hazardous port activities from notifying the port corporation each time they intend to undertake the activity as required by regulation 18.

Note to reg. 11
substituted by
S.R. No.
125/2012
reg. 11(3).

12 Conditions concerning authority

- (1) An authority issued by the port corporation is subject to any conditions specified in the authority by the port corporation relating to—
- (a) the classes of people or vessels to which the authority applies; and
 - (b) any other matter relevant to the conduct of the hazardous port activity for which the authority is issued.

Reg. 12(1)(b)
amended by
S.R. No.
125/2012
reg. 12.

Reg. 12(2)
amended by
S.R. No.
125/2012
reg. 12.

- (2) For the purposes of subregulation (1), the conditions attaching to the authority may include requiring the holder of the authority to comply with standards, procedures, guidelines or protocols in respect of the hazardous port activity developed, published or nominated by the port corporation.
- (3) A person to whom an authority has been issued must comply with any conditions under subregulation (1) that are specified in the authority.

Penalty: 20 penalty units.

13 Suspension of authority

- (1) The port corporation may suspend an authority by notifying the holder of the authority of the suspension, if the port corporation reasonably believes that the continuing use of an authority could—
 - (a) cause a significant risk of injury to any person; or
 - (b) cause a significant risk of damage to any property; or
 - (c) cause a significant risk of harm to the environment; or
 - (d) significantly interfere with the orderly and efficient management of the port or with any other authorised activities in the port.
- (2) A notice for the purposes of subregulation (1)—
 - (a) must be in writing; and
 - (b) must set out the reasons for the suspension; and
 - (c) must state the period for which the authority is suspended; and

(d) takes effect immediately on being provided to the holder of the authority or the holder's employee, agent or contractor undertaking the hazardous port activity.

Reg. 13(2)(d)
amended by
S.R. No.
125/2012
reg. 13.

(3) A suspension of an authority ceases to have effect on the expiry of the period stated under subregulation (2)(c).

14 Written notice of suspension of authority

(1) Before suspending an authority under regulation 13, the port corporation—

(a) must give the holder of the authority a written notice—

(i) stating that the port corporation is of the opinion that a ground for the suspension may exist; and

(ii) stating the reasons for that opinion; and

(iii) inviting the holder of the authority to make a written submission in response to the notice within the time specified by the port corporation in the notice; and

(b) must consider any submission received under paragraph (a)(iii).

(2) The port corporation must not specify a period of less than 7 days under subregulation (1)(a)(iii).

(3) The port corporation may suspend an authority at the request of the holder of the authority.

(4) Subregulations (1) and (2) do not apply to a suspension under subregulation (3).

15 Port corporation may cancel or vary authority

(1) The port corporation may cancel or vary an authority if the port corporation reasonably believes that—

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Reg. 15(1)(a)
amended by
S.R. No.
125/2012
reg. 14.

Reg. 15(1)(b)
amended by
S.R. No.
125/2012
reg. 14.

- (a) the conduct of a hazardous port activity under an authority could place the safety of people, property or the environment at risk; or
 - (b) the conduct of a hazardous port activity under an authority could interfere with the orderly and efficient management of the port or of other activities authorised in the port; or
 - (c) the holder of the authority has not complied with a condition of the authority; or
 - (d) the holder of the authority has contravened any provision of these Regulations.
- (2) The port corporation may cancel or vary an authority on the grounds set out in subregulation (1) during a period in which that authority is suspended under regulation 13.

16 Written notice of cancellation or variation of authority

- (1) Before cancelling or varying an authority under regulation 15, the port corporation—
- (a) must give the holder of the authority a written notice—
 - (i) stating that the port corporation is of the opinion that a ground for the cancellation or variation may exist; and
 - (ii) stating the reasons for that opinion; and
 - (iii) inviting the holder of the authority to make a written submission in response to the notice within the time specified by the port corporation in the notice; and
 - (b) must consider any submission received under paragraph (a)(iii).

- (2) The port corporation must not specify a period of less than 7 days under subregulation (1)(a)(iii).
- (3) The port corporation may cancel or vary an authority (including the conditions of an authority) at the request of the holder of the authority.
- (4) Subregulations (1) and (2) do not apply to a cancellation or variation under subregulation (3).

17 Person to produce authority for inspection on request

A person to whom an authority has been issued must produce the authority for inspection if requested to do so by the port corporation, a port safety officer or a member of the police force.

Penalty: 10 penalty units.

Division 2—Notice

18 Notice of proposal to carry out a hazardous port activity

- (1) For the purposes of section 88M(2) of the Act, the notice must be given at least 24 hours before the person proposes to carry out the hazardous port activity.

Penalty: 20 penalty units.

- (2) A notice under subregulation (1) must include details of the activity including—
 - (a) the type of activity;
 - (b) the proposed location in the port;
 - (c) the date and time of the activity.

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Reg. 19
revoked by
S.R. No.
125/2012
reg. 15.

20 Transfers of cargo involving dangerous goods

- (1) A person who proposes to transfer dry or liquid cargo that are dangerous goods to and from vessels or wharves must prepare a manifest which—
- (a) details the type and quantity of dangerous goods to be loaded, unloaded or transferred; and
 - (b) has been signed by the master, owner or agent of the ship or vessel.

Penalty: 20 penalty units.

- (2) A person must not load, unload or transfer dangerous goods within the port or port waters unless the port corporation has been given a manifest prepared in accordance with subregulation (1) at least 24 hours before that activity is to occur.

Penalty: 20 penalty units.

Division 3—Incidents

21 Notice to the port corporation of any incident involving a hazardous port activity

The person managing a hazardous port activity must immediately notify the port corporation of any incident involving the activity including but not limited to—

- (a) an explosion, fire or harmful reaction involving a hazardous port activity;
- (b) the escape, spillage or leakage of bulk cargo;
- (c) the escape, spillage or leakage of liquids.

Penalty: 20 penalty units.

Reg. 21
substituted by
S.R. No.
125/2012
reg. 16.

22 Recovery of costs

- (1) The port corporation may recover reasonable costs incurred by it in taking any clean up action resulting from any incident arising out of a hazardous port activity.
- (2) The port corporation may recover any reasonable costs incurred in taking action under subregulation (1) from—
 - (a) the person managing the hazardous port activity whose action or inaction caused the incident to occur; or
 - (b) the owner, master or agent of the vessel on which the hazardous port activity has occurred or been permitted to occur; or
 - (c) the occupier of any premises or vessel upon which an incident has occurred or been permitted to occur.
- (3) The costs that may be recovered by the port corporation under subregulation (1) include labour, administrative and overhead costs determined on any reasonable basis that the port corporation considers appropriate.
- (4) An amount payable under subregulation (1) may be recovered in any court of competent jurisdiction as a debt due to the port corporation.

Reg. 22(1)
amended by
S.R. No.
125/2012
reg. 17.

Reg. 22(2)(a)
amended by
S.R. No.
125/2012
reg. 17.

Reg. 22(2)(b)
amended by
S.R. No.
125/2012
reg. 17.

PART 3—ABANDONED THINGS

23 Port corporation to notify the owner

- (1) If the port corporation is able to ascertain the identity of the rightful owner of an abandoned thing, the port corporation must serve written notice of the removal and storage of the thing on the owner as soon as reasonably practicable after the thing is moved or stored.
- (2) The notice issued under subregulation (1) must state the following—
 - (a) the owner's name;
 - (b) a description of the thing;
 - (c) the date and time the thing was moved and stored;
 - (d) the process by which the thing may be collected, including—
 - (i) the location of the thing;
 - (ii) details of how the owner of the thing can claim the thing;
 - (iii) the contact details of the port corporation (or the person) who can release the thing;
 - (iv) the type of evidence required to establish the entitlement of a person seeking to have the thing released that must be produced before the thing will be released;
 - (e) the date on which the port corporation intends to sell and or otherwise dispose of the thing;

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- (f) the ability of the port corporation to recover, in the Magistrates' Court, costs incurred by the port corporation associated with moving or storing the thing.

24 Port corporation to keep a register

- (1) The port corporation must keep a register of all abandoned things recovered by the port corporation.
- (2) The register must contain the following information—
- (a) the thing recovered by the port corporation;
 - (b) the name of the port safety officer who recovered the thing and the reason why the thing was recovered;
 - (c) the date and time that the thing was recovered;
 - (d) the actions taken by the port corporation to ascertain the owner of the thing;
 - (e) details of what the port corporation did with the thing;
 - (f) the method of disposing of the thing and the date of disposal.
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ENDNOTES

1. General Information

The Port Management (Port of Melbourne Safety and Property) Regulations 2010, S.R. No. 115/2010 were made on 19 October 2010 by the Governor in Council under section 98 of the **Port Management Act 1995**, No. 82/1995 and came into operation on 1 November 2010: regulation 3.

The Port Management (Port of Melbourne Safety and Property) Regulations 2010 will sunset 10 years after the day of making on 19 October 2020 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

This Version incorporates amendments made to the Port Management (Port of Melbourne Safety and Property) Regulations 2010 by statutory rules, subordinate instruments and Acts.

Port Management (Port of Melbourne Safety and Property) Amendment Regulations 2012, S.R. No. 125/2012

Date of Making: 7.11.12
Date of Commencement: 15.11.12: reg. 3

Endnotes

3. Explanatory Details

No entries at date of publication.