

Version No. 003
Water Industry (Waterways Land)
Regulations 2002

S.R. No. 49/2002

Version incorporating amendments as at 11 April 2008

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PART 1—PRELIMINARY

1 Title

These Regulations may be cited as the Water Industry (Waterways Land) Regulations 2002.

2 Objective

The objective of these Regulations is to provide for the care, protection, management and use of regulated waterways land for the purposes of recreation, leisure, tourism and water transport.

3 Authorising provision

These Regulations are made under sections 149 and 184 of the **Water Industry Act 1994**.

4 Commencement

These Regulations come into operation on 25 June 2002.

5 Definitions

In these Regulations—

authorised officer has the same meaning as in the **Water Industry Act 1994**;

berthing authority means an authority issued by the Secretary under regulation 11(1);

fauna means any animal-life which is indigenous to Victoria whether vertebrate or invertebrate and in any stage of biological development and includes any other living thing generally classified as fauna, but does not include humans or fish;

flora means any plant-life which is indigenous to Victoria whether vascular or non-vascular and in any stage of biological development and includes any other living thing generally classified as flora;

hire and drive vessel has the same meaning as in the **Marine Act 1988**;

hire and drive vessel permit means a permit issued by the Secretary under regulation 16(1);

Melbourne Water Corporation means the Melbourne Water Corporation constituted under the **Melbourne Water Corporation Act 1992**;

organised activity includes any boat race, regatta, swimming race, competition, tournament, festival, concert, promotion, fireworks display and any other organised event;

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

Parks Victoria means the body established under Part 2 of the **Parks Victoria Act 1998**;

regulated waterways land means waterways land¹, other than land that falls within paragraph (b) of the definition of waterways land and that is land—

- (a) managed under the **National Parks Act 1975**; or

- (b) managed under section 18B of the **Crown Land (Reserves) Act 1978** by any person (other than Parks Victoria); or
- (c) managed under the **Crown Land (Reserves) Act 1978** by a committee of management (other than Parks Victoria); or
- (d) vested in a municipality by the **Crown Land (Reserves) Act 1978**; or
- (e) managed by trustees under any Act of Parliament; or
- (f) that is part of the docklands area (within the meaning of the **Docklands Authority Act 1991**) that does not consist of waterways;

Secretary means the body corporate established under Part 2 of the **Conservation, Forests and Lands Act 1987**;

the Act means the **Water Industry Act 1994**;

trading vessel has the same meaning as in the **Marine Act 1988**;

trading vessel permit means a permit issued by the Secretary under regulation 15(1);

vessel has the same meaning as in the **Marine Act 1988**.

6 Application of regulations

These Regulations do not apply to any of the following persons, when acting in the course of that person's duties—

- (a) a member of the police force;
- (b) an authorised officer;

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- (c) a person employed under Part 3 of the **Public Sector Management and Employment Act 1998** or an employee of Melbourne Water Corporation or Parks Victoria;
 - (d) a contractor, volunteer or other person carrying out any work for, or acting on the instructions of the Secretary, Melbourne Water Corporation or Parks Victoria;
 - (e) a person acting in accordance with a management agreement under section 132 of the Act;
 - (f) a person authorised to act on regulated waterways land under the **Marine Act 1988**;
 - (g) a person dealing with a fire, flood or other public emergency, when authorised to do so by or under an Act of Parliament or regulations made under such an Act.
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PART 2—GENERAL

7 Closure of certain regulated waterways land

- (1) The Secretary may, by erecting signs or barriers, close to entry by the public any part of regulated waterways land not covered by water, for such period as the Secretary determines—
 - (a) to enable an organised activity to be conducted on that part of the regulated waterways land; or
 - (b) in an emergency.
- (2) In determining when to close any regulated waterways land to entry by the public under subregulation (1), the Secretary must take into account the reasonable needs of the public to enter and enjoy that land.
- (3) A person must not enter any regulated waterways land that has been closed under this regulation unless that person is entitled to do so for the purpose for which the area has been closed to entry.

Penalty: 10 penalty units.

8 General prohibitions

- (1) A person must not on regulated waterways land remove or interfere with any life-saving gear, life-hook, drag, grapnel, life-buoy or any other life-saving apparatus unless such removal is for the purpose of saving life or in the course of official duties.

Penalty: 10 penalty units.

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- (2) A person must not on any regulated waterways land—
- (a) drive or park a vehicle in contravention of any sign posted by the Secretary in the particular area of regulated waterways land in which the vehicle is driven or parked; or
 - (b) remove or damage, deface, displace or interfere with a structure or sign; or
 - (c) deposit, interfere with or remove any rock, clay, sand or soil; or
 - (d) destroy, damage, interfere with or remove any living or dead vegetation; or
 - (e) enter a waterway by jumping or diving from any bridge, jetty or wharf, or by dropping from a swinging rope or other support; or
 - (f) cause or permit the use of any device to generate or amplify sounds (including any loud hailer, public address system or musical instrument) in a way which may disturb other people.
- Penalty: 10 penalty units.
- (3) Subregulation (2) does not apply to a person who holds a written authority to undertake the particular activity in regulated waterways land and is acting in accordance with the written authority.
- (4) The Secretary may issue a written authority to a person to undertake the particular activity on any regulated waterways land.
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PART 3—BERTHING OF VESSELS

9 Offence to berth vessel

- (1) A person in charge of a vessel must not berth that vessel on any regulated waterways land.

Penalty: 10 penalty units.

- (2) A person who is the owner of a trading vessel used for the carriage of passengers or of a hire and drive vessel must take all reasonable steps to ensure that the vessel is not berthed on any regulated waterways land.

Penalty: 10 penalty units.

- (3) Subregulations (1) and (2) do not apply where the vessel is berthed—

- (a) in accordance with the terms and conditions of a lease or licence of regulated waterways land or of Crown land adjacent to regulated waterways land; or
- (b) in accordance with the terms and conditions of a trading vessel permit or a hire and drive vessel permit; or
- (c) in accordance with a berthing authority; or
- (d) at a berth in accordance with a sign posted on that berth by the Secretary.

10 Requirement to secure a vessel when berthed

A person in charge of a vessel must ensure that the vessel when berthed on regulated waterways land is secured in such a manner that it is unable to come adrift.

Penalty: 10 penalty units.

11 Written authority to berth a vessel

- (1) The Secretary may issue an authority to berth a vessel on regulated waterways land to any person who has applied in writing for such an authority.
- (2) A berthing authority authorises the holder to berth the vessel specified in the authority at the berth or berths specified in the authority and at the times specified in the authority.
- (3) A berthing authority—
 - (a) must be in writing; and
 - (b) is valid for the period specified in the authority, which must not exceed 1 month; and
 - (c) is subject to any other terms and conditions specified by the Secretary.

12 Terms and conditions of berthing authority

The holder of a berthing authority must comply with the terms and conditions of the authority.

Penalty: 5 penalty units.

**PART 4—OPERATION OF TRADING VESSELS AND HIRE
OF HIRE AND DRIVE VESSELS ON REGULATED
WATERWAYS LAND**

**13 Offence to operate a trading vessel for the carriage
of passengers without a permit**

The owner of a vessel must not cause or allow the operation of that vessel as a trading vessel used for the carriage of passengers on regulated waterways land unless that person is the holder of a permit to do so under regulation 15 and is acting in accordance with the permit.

Penalty: 20 penalty units.

**14 Offence for a hire and drive vessel to be hired to
persons without a permit**

A person must not on regulated waterways land hire to another person a hire and drive vessel for use on that land unless the first mentioned person is the holder of a permit to do so under regulation 16 and is acting in accordance with the permit.

Penalty: 20 penalty units.

15 Trading vessel permit

- (1) The Secretary may issue a permit to allow the operation of one or more trading vessels to be used for the carriage of passengers on regulated waterways land to any person who has applied in writing for such a permit.
- (2) A trading vessel permit authorises the operation of each vessel specified in the permit at the times and places and in the manner specified in the permit for that vessel.

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Part 4—Operation of Trading Vessels and Hire of Hire and Drive Vessels on
Regulated Waterways Land

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Reg. 15(3)(a)
amended by
S.R. No.
88/2004
reg. 4(Sch. 1
item 52.1).

(3) A trading vessel permit is subject to the condition that the holder pay a fee of—

(a) 30 fee units per year, for each vessel specified in the permit that does not have a toilet, for the provision and use of improvements, services and facilities on the land; and

Reg. 15(3)(b)
amended by
S.R. No.
88/2004
reg. 4(Sch. 1
item 52.2).

(b) 60 fee units per year, for each vessel specified in the permit that does have a toilet, for the provision and use of improvements, services and facilities on the land.

(4) A trading vessel permit—

(a) is valid for the period specified in the permit, which must not exceed 5 years; and

(b) is subject to any other terms and conditions specified by the Secretary.

(5) An application for a trading vessel permit must include—

(a) the name and address of the applicant; and

(b) the number of vessels to be operated under the permit together with details of dimensions of each vessel, the identifying number or mark on each vessel and, if applicable, the name of each vessel; and

(c) the services proposed; and

(d) a copy of a current certificate of survey under the **Marine Act 1988** for each vessel.

(6) The Secretary may cancel or suspend a permit if the holder of the permit has breached a term or condition of the permit.

- (7) When a permit is cancelled or suspended under subregulation (6), the Secretary must give the holder notice in writing, setting out reasons for the cancellation or suspension and, in the case of suspension, the circumstances in which the suspension may be lifted.

16 Hire and drive vessel permit

- (1) The Secretary may issue a permit to allow one or more hire and drive vessels to be hired to people for use on regulated waterways land to any person who has applied in writing for such a permit.
- (2) A hire and drive permit authorises the hire of each vessel specified in the permit at the times and places and in the manner specified in the permit for that vessel.
- (3) A hire and drive vessel permit is subject to the condition that the holder pay a fee of 15 fee units per year for each motorised vessel specified in the permit for the use by that vessel of berths as authorised by the permit.
- (4) A hire and drive vessel permit—
- (a) is valid for the period specified in the permit, which must not exceed five years; and
 - (b) is subject to any other terms and conditions specified by the Secretary.
- (5) An application for a hire and drive vessel permit must include—
- (a) the name and address of the applicant; and
 - (b) the number of vessels to be hired under the permit together with details of dimensions of each vessel, the identifying number or mark on each vessel and, if applicable, the name of each vessel; and

Reg. 16(3)
amended by
S.R. No.
88/2004
reg. 4(Sch. 1
item 52.3).

- (c) a copy of a current certificate of survey under the **Marine Act 1988** for each vessel.
- (6) The Secretary may cancel or suspend a permit if the holder of the permit has breached a term or condition of the permit.
- (7) When a permit is cancelled or suspended under subregulation (6), the Secretary must give the holder notice in writing, setting out reasons for the cancellation or suspension and, in the case of suspension, the circumstances in which the suspension may be lifted.

17 Terms and conditions of permits

A person who is the holder of a trading vessel permit or a hire and drive vessel permit must comply with the terms and conditions of the permit.

Penalty: 20 penalty units.

18 Displaying notice of permit

A person who is the holder of a trading vessel permit or a hire and drive vessel permit must cause to be prominently displayed on each vessel operated or hired under the permit, in a form approved by the Secretary, at least one notice that the vessel is operating under a permit issued under these Regulations which includes—

- (a) the permit number and expiry date; and
- (b) a statement that the permit is issued by the Secretary under these Regulations; and
- (c) the name of the vessel or identifying number or mark on the vessel.

Penalty: 5 penalty units.

19 Prohibited advertising

A person who is the holder of a trading vessel permit or a hire and drive vessel permit must not cause to be displayed on regulated waterways land advertising that has not been authorised in accordance with the provisions of the permit.

Penalty: 10 penalty units.

20 Prohibited service

- (1) A person in charge of a vessel which is operated under a trading vessel permit must not provide a cruise service on the Yarra River upstream of Herring Island between 11 p.m. and 7.30 a.m.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply to a person who turns a vessel around the upstream end of Herring Island before returning downstream.

21 Inspection of vessels operating under permit

- (1) For the purpose of these Regulations, an authorised officer may request the holder of a trading vessel permit or a hire and drive vessel permit to make any vessel operated under that permit available for inspection by that authorised officer at any reasonable time.
- (2) The holder of the permit must, upon the request of the authorised officer under subregulation (1), make the particular vessel available for inspection.

Penalty: 10 penalty units.

**PART 5—ACTIVITIES ON REGULATED WATERWAYS
LAND**

22 Commercial activities on regulated waterways land

- (1) A person must not carry out any commercial activity, or offer, advertise or display services relating to any commercial activity on any regulated waterways land unless that person is the holder of a written authority from the Secretary to do so.

Penalty: 20 penalty units.

- (2) The Secretary may issue a written authority to carry out any commercial activity, or offer, advertise or display services relating to any commercial activity on any regulated waterways land.
- (3) In this regulation, *commercial activity* does not include the operation of trading vessels or the hire of hire and drive vessels.

23 Organised activities on regulated waterways land

- (1) A person must not take part in organising or conducting an organised activity on regulated waterways land unless that person is the holder of a written authority from the Secretary to do so.

Penalty: 10 penalty units.

- (2) The Secretary may issue a written authority to a person to take part in organising or conducting an organised activity on any regulated waterways land.
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PART 6—DIRECTIONS BY AUTHORISED OFFICER

24 Directions by an authorised officer

A person in charge of a vessel must comply with any reasonable direction given by an authorised officer to that person concerning—

- (a) the berthing of a vessel; or
- (b) the protection of—
 - (i) the bed or banks of a waterway on regulated waterways land; or
 - (ii) flora or fauna on regulated waterways land; or
 - (iii) works on regulated waterways land.

Penalty: 20 penalty units.

ENDNOTES

1. General Information

The Water Industry (Waterways Land) Regulations 2002, S.R. No. 49/2002 were made on 25 June 2002 by the Governor in Council under sections 149 and 184 of the **Water Industry Act 1994**, No. 121/1994 and came into operation on 25 June 2002: regulation 4.

The Water Industry (Waterways Land) Regulations 2002 will sunset 10 years after the day of making on 25 June 2012 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

This Version incorporates amendments made to the Water Industry (Waterways Land) Regulations 2002 by statutory rules, subordinate instruments and Acts.

Monetary Units Regulations 2004, S.R. No. 88/2004

Date of Making: 29.6.04

Date of Commencement: 1.7.04: reg. 3

Endnotes

3. Explanatory Details

¹ Reg. 5 def. of *regulated waterways land*: The term waterways land is defined by section 3 of the **Water Industry Act 1994**.