

NORTHERN TERRITORY OF AUSTRALIA

MARINE (HIRE-AND-DRIVE VESSEL) REGULATIONS

As in force at 1 January 2010

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 January 2010

MARINE (HIRE-AND-DRIVE VESSEL) REGULATIONS

Regulations under the *Marine Act*

Part 1 Preliminary

1 Citation

These Regulations may be cited as the *Marine (Hire-and-Drive Vessel) Regulations*.

2 Commencement

These Regulations shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.

3 Definitions

In these Regulations, unless the contrary intention appears:

hirer includes a person using or driving a hire-and-drive vessel.

inspector means a shipping inspector, shipping officer or surveyor.

measured length means the distance from the fore part of the hull to the after part of the hull of a vessel, measured at the upper side of the uppermost weathertight deck or, in the case of an open vessel, at the height of the gunwale.

permit means a permit granted or extended under regulation 6.

permit holder means the person to whom a permit is granted or extended and includes an employee and an agent of a permit holder.

sheltered waters means partially smooth waters and smooth waters as specified in or determined under the Uniform Code and as modified by the *Marine (Sheltered Waters) Regulations*.

Part 2 Permits

4 Permit required for operation of hire-and-drive vessels

A person shall not use or operate a vessel as a hire-and-drive vessel in Northern Territory waters unless a permit is in force in respect of the vessel.

Penalty: 50 penalty units.

5 Application for grant or extension of permit

- (1) A person may apply to the Director in the form in the Schedule for the grant or extension of a permit to operate a vessel as a hire-and-drive vessel.
- (2) An application for an extension of a permit shall be made before the expiration of the permit to which the application relates.
- (3) An application under subregulation (1) must be accompanied by an application fee of 115 revenue units.

6 Permit

- (1) The Director, on receiving an application under regulation 5, may, subject to these Regulations, grant or refuse to grant, or extend or refuse to extend, as the case may be, a permit.
- (2) A permit shall be in a form approved by the Director.
- (3) A permit shall not be granted or renewed if the vessel in respect of which the application relates does not comply with the requirements of regulation 8(3).
- (4) The Director may refuse to grant or extend a permit where the Director is satisfied that the applicant is:
 - (a) not a fit and proper person to hold, or to continue to hold, as the case may be, a permit; or
 - (b) not able to demonstrate a capacity to meet standards of safety (both of passengers and the public generally) to a degree and manner required under these Regulations for the operation of hire-and-drive vessels.

- (5) Without limiting the generality of subregulation (4), the Director shall not, unless satisfied that the circumstances of a particular case warrant special consideration, grant a permit to, or extend the permit of, a person who has:
 - (a) had a permit that was granted to the person cancelled under these Regulations;
 - (b) had a certificate of competency or temporary permit to serve that was issued to the person cancelled under the Act; or
 - (c) been convicted of an offence against the Act or a law in force in a State or another Territory of the Commonwealth related to the regulation of shipping.
- (5) A permit remains in force for such period, not longer than 5 years, as is specified in the permit and may be renewed for further periods, each not longer than 5 years.
- (6) The Director may grant or extend a permit subject to such conditions, restrictions or limitations, including relating to emergency support systems, as the Director thinks fit and specifies in the permit.

7 Conditions relating to area of operation

- (1) Subject to subregulation (2), the Director may, as a condition of a permit, limit the area or exclude an area within which a vessel to which a permit relates may be operated when operated as a hire-and-drive vessel.
- (2) A vessel, the measured length of which is not longer than 7 m, may be operated as a hire-and-drive vessel only in inland waters and sheltered waters of the Territory.

8 Inspection of vessels

- (1) A vessel to which an application for the grant or extension of a permit relates shall be inspected by a surveyor.
- (2) A surveyor, on completing an inspection under subregulation (1), shall certify whether the vessel inspected complies with subregulation (3).
- (3) For the purposes of subregulation (2), a vessel shall:
 - (a) comply with the standards approved under subregulation (4) applicable to the vessel; or

- (b) where the measured length of the vessel is 7 m or longer, comply with the survey requirements of the Act.
- (4) For the purposes of subregulation (3)(a), the Director may approve standards to apply to and in relation to a vessel, or a vessel of a class of vessels, to be operated as a hire-and-drive vessel.
- (5) Without limiting the generality of subregulation (4), the Director may approve standards relating to:
 - (a) the construction, buoyancy, capacity or stability of a vessel or class of vessels; and/or
 - (b) the machinery and equipment, including safety equipment, to be installed, fitted or carried in or on a vessel or class of vessels.
- (6) A standard referred to in subregulation (5) may adopt or incorporate by reference all or any of the provisions of a document formulated or published by a body or authority.

Part 3 Operation of hire-and-drive vessels

9 Vessel identification number to be displayed on vessel

- (1) A permit holder shall:
 - (a) affix or cause to be affixed to a vessel in respect of which the permit is granted the vessel identification number as specified in the permit in figures not less than 75 mm in height; and
 - (b) ensure that, at all times when the vessel is used or operated as a hire-and-drive vessel, the vessel identification number is displayed on the vessel.
- (2) A vessel identification number shall be affixed to a vessel in such place or places as the Director determines.

10 Register to be maintained

- (1) A permit holder shall maintain a register in a form approved by the Director which shall contain:
 - (a) a copy of his or her permit; and
 - (b) in respect of each contract or agreement relating to the letting for hire or reward of a vessel to which the permit relates:
 - (i) the full name, age and address of the hirer;

- (ii) the signature of the hirer;
 - (iii) the date and time of the hiring of the vessel;
 - (iv) the number of persons declared by the hirer to be carried in or on the vessel;
 - (v) the vessel identification number affixed to the vessel under regulation 9; and
 - (vi) the date and time when the vessel is returned by the hirer to the permit holder.
- (2) A permit holder shall:
- (a) not let for hire or reward a vessel to which the permit relates unless the particulars required by subregulation (1)(b)(i), (ii), (iii), (iv) and (v) are included in the register prior to the hirer using or driving the vessel;
 - (b) ensure that the particulars required by subregulation (1)(b)(vi) are included in the register as soon as practicable after the vessel is returned by the hirer to the permit holder; and
 - (c) on being requested to do so by an inspector or a member of the Police Force, produce the register for inspection by the inspector or member.
- (3) A person shall not wilfully provide for inclusion in a register maintained under subregulation (1) a particular that is not true or correct.

11 Maximum number of persons in hire-and-drive vessels

- (1) A vessel to which a permit relates shall not be let for hire or reward if the number of persons to be carried in or on the vessel is more than the number permitted by the Director to be carried in or on the vessel.
- (2) A vessel to which a permit relates shall not be used or driven as a hire-and-drive vessel if the number of persons in or on the vessel is more than the number permitted by the Director to be carried in or on the vessel.

12 Duties of permit holder

A permit holder shall:

- (a) before letting for hire or reward a vessel to which the permit relates, ensure that all safety equipment required by these Regulations to be carried in or on the vessel is in or on the vessel;
- (b) before a hirer uses a vessel to which the permit relates, ensure that the hirer is:
 - (i) able to use or drive the vessel safely;
 - (ii) shown the location of all safety equipment on the vessel; and
 - (iii) informed of the area of operation within which the vessel may be used and any conditions relevant to the hire as specified in the permit;
- (c) at all times during which the permit is in force:
 - (i) keep the hull of a vessel to which the permit relates in good condition; and
 - (ii) ensure that all machinery and equipment in or on the vessel is in good condition and fit for use;
- (d) as soon as practicable after an accident causing injury to a person or damage to property involving a vessel to which the permit relates, notify the Director and, not later than 48 hours after notifying the Director, confirm the notification in writing;
- (e) at all times, comply with these Regulations, a condition, restriction or limitation to which the permit is subject, or a direction lawfully given by an inspector or a member of the Police Force;
- (f) not make an alteration or improvement of a structural nature to a vessel to which the permit relates without the approval of a surveyor; and
- (g) not later than 7 days after the sale or transfer of a vessel to which the permit relates, notify the Director in writing of the sale or transfer and the full name and address of the person to whom the vessel was sold or transferred.

13 Persons under age

- (1) A person shall not use or drive a hire-and-drive vessel capable of, or designed to travel at, a speed greater than 12 knots (22.2 kph) unless the person:
 - (a) has attained the age of 16 years; or
 - (b) has attained the age of 12 years and is under the direct supervision of a person who has attained the age of 18 years.
- (2) A person shall not knowingly permit a person to use or drive a hire-and-drive vessel in contravention of subregulation (1).

Part 4 Miscellaneous**14 Identification of inspectors**

Where an inspector is issued with an identification card on his or her appointment as a surveyor, shipping officer or shipping inspector, the inspector shall, on being requested to do so, produce the identification card and allow the person making the request to inspect it.

15 Powers of inspectors and police

An inspector or a member of the Police Force may:

- (a) require a permit holder to produce the permit for inspection;
- (b) require a permit holder to produce the register kept under regulation 10 for inspection;
- (c) inspect a vessel to which a permit relates to determine whether the vessel complies with these Regulations; and
- (d) direct a permit holder not to let for hire or reward, or use or permit the use of, a vessel to which the permit relates where the inspector or member is satisfied that the vessel has been, or is about to be, used in contravention of the Act, these Regulations or a condition, limitation or restriction of the permit.

16 Inspectors and police not liable in certain circumstances

An inspector or a member of the Police Force is not liable for damage or injury arising out of the exercise or purported exercise by the inspector or member, in good faith, of a power under this Part.

17 Cancellation or suspension of permit

- (1) Where a permit holder fails to comply with these Regulations, a condition, restriction or limitation of the permit, or a direction lawfully given by an inspector or member of the Police Force, the Director may:
 - (a) cancel; or
 - (b) suspend for such period as the Director thinks fit, the permit.
- (2) Where the Director cancels or suspends a permit under subregulation (1), the Director shall serve written notice of the cancellation or suspension on the permit holder, and the cancellation or suspension is effective on the service of the notice.
- (3) A notice under subregulation (2) may be served personally or by posting it to the permit holder at the address shown in the permit.

18 Obstructing inspector or police

- (1) A person who contravenes or fails to comply with a direction of an inspector or a member of the Police Force lawfully given under these Regulations is guilty of an offence.
- (2) A person who hinders or obstructs, or aids or assists a person to hinder or obstruct, an inspector or a member of the Police Force in the exercise of the powers conferred or imposed on an inspector or member under these Regulations is guilty of an offence.

19 General offence and penalty

A person who contravenes or fails to comply with these Regulations is guilty of an offence and is liable on conviction, where no other penalty is imposed other than by this regulation, to a penalty not exceeding 50 penalty units.

Schedule

regulation 5

NORTHERN TERRITORY OF AUSTRALIA

Marine Act

MARINE (HIRE-AND-DRIVE VESSEL) REGULATIONS

APPLICATION FOR GRANT OR EXTENSION OF PERMIT

NOTE: A SEPARATE APPLICATION IS REQUIRED FOR EACH TYPE AND LENGTH OF VESSEL

Full Name of Applicant:

Residential Address:

Postal Address:

Date of Birth: Telephone: (BH) (AH)

Description of Vessel:

Type:

Make:

Length(m):

Engine Details:

Make:

Kws:

Year Built:

Colour:

Model No:

Proposed Area of Operation: (Please include a drawing, map or chart detailing proposed area)

Hours of Operation:

Description of Emergency Support System:

Signature of Applicant:

Date:

NOTE: The statutory declaration on the reverse of this form is to be completed prior to submitting the application.

The application fee is to be submitted at the time of making the application.

Vessels may not be hired until they have been inspected and the permit is issued.

Detailed descriptions of the vessels, the subject of this application, may be attached to, and form part of, this application.

(Reverse of Form)

STATUTORY DECLARATION

I, _____, the applicant whose details are entered on the application on the front of this form do solemnly and sincerely declare:

- . I am the legal owner of the vessel(s) the subject of the application for a permit to operate a hire-and-drive vessel.
- . I am fully authorised to assume the responsibilities of a permit holder by the legal owner(s) of the vessel(s) the subject of this application for a permit to operate a hire-and-drive vessel.

(cross out whichever is not applicable)

- . I fully understand the obligation and liabilities of a permit holder and accept the responsibilities of a permit holder in accordance with the *Marine (Hire-and-Drive Vessel) Regulations*.

And I make this solemn declaration by virtue of the *Oaths Act* and conscientiously believing the statements contained in this declaration to be true in every particular.

Declared at _____ the 19 .

Before me,

NOTE: This declaration may be made before any person who has attained the age of 18 years.

NOTE: A person wilfully making a false statement in a statutory declaration is liable to a penalty of 20 penalty units or imprisonment for 12 months, or both.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2**LIST OF LEGISLATION*****Marine (Hire-and-Drive Vessel) Regulations (SL No. 36, 1994)***

Notified	12 October 1994
Commenced	1 October 1995 (<i>Gaz</i> G2, 11 January 1995, p 3)

Amendments of Marine (Hire-and-Drive Vessel) Regulations (SL No. 7, 2001)

Notified	2 April 2001
Commenced	2 April 2001

Fees and Charges Amendment Regulations 2009 (SL No. 34, 2009)

Notified	14 December 2009
Commenced	1 January 2010 (r 2)

3**LIST OF AMENDMENTS**

r 4	amd No. 7, 2001, r 1
r 5	amd No. 34, 2009, r 14
r 19	amd No. 7, 2001, r 2
sch	amd No. 7, 2001, r 3