

# NORTHERN TERRITORY OF AUSTRALIA

## MARINE (GENERAL) REGULATIONS

As in force at 1 July 2015

### Table of provisions

<b>Part 1</b>	<b>Preliminary</b>	
1	Citation .....	1
2	Commencement .....	1
3	Definitions.....	1
3A	Application of Criminal Code .....	4
<b>Part 2</b>	<b>Pleasure craft</b>	
<b>Division 1</b>	<b>General</b>	
4	Definitions.....	4
5	Minimum safety equipment requirements for pleasure craft .....	5
5A	Seaworthiness requirements .....	6
5B	Exception for Beer Can Regatta and other approved events.....	6
5C	Exception for tenders and other vessels.....	7
<b>Division 2</b>	<b>Towed water sports and personal water craft</b>	
6	Towed water sports .....	8
7	Towed water sports – observer requirement .....	8
8	Personal water craft.....	9
<b>Division 2A</b>	<b>Requirements for small sailing vessels</b>	
8A	Personal flotation device requirements for small sailing vessels.....	11
<b>Division 3</b>	<b>Boating inspectors and other matters</b>	
9	Appointment of boating inspectors .....	12
10	Powers of boating inspectors.....	12
11	Obstruction of boating inspector .....	13
12	Protection from liability for boating inspectors .....	13
<b>Part 3</b>	<b>Operation of vessels generally</b>	
13	Reckless navigation.....	13
14	Divers .....	14
15	Hire-and-drive vessels .....	15
16	Anchoring .....	15

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17	Closure of Northern Territory waters .....	15
18	Restricted areas .....	16

**Part 4                    Safety**

19	Definitions.....	16
20	Application of Part .....	17
21	Construction of Uniform Shipping Laws Code .....	18
22	Safety of navigation .....	18
24	Packing, marking and carriage of dangerous goods.....	18
25	Inspection of dangerous goods.....	18
26	Stowage plan for dangerous goods .....	19
27	Marking of mass on heavy packages .....	19

**Part 5                    Infringement notice offences**

28	Infringement notice offence and prescribed amount payable .....	19
29	When infringement notice may be given.....	20
30	Contents of infringement notice .....	20
31	Payment by cheque.....	21
32	Withdrawal of infringement notice.....	21
33	Application of Part .....	21

**Part 6                    Transitional matters for Marine (General)  
Amendment Regulations 2015**

34	Offence provisions – before and after commencement .....	22
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**Schedule 1            Minimum safety equipment requirements  
for pleasure craft**

**Schedule 2            Infringement notice offences and  
prescribed amounts**

**ENDNOTES**

# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 2015

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## MARINE (GENERAL) REGULATIONS

### Regulations under the *Marine Act*

#### Part 1 Preliminary

##### 1 Citation

These Regulations may be cited as the *Marine (General) Regulations*.

##### 2 Commencement

These Regulations commence on the commencement of Part 9 of the *Marine Safety (Domestic Commercial Vessel) (National Uniform Legislation) Act*.

##### 3 Definitions

In these Regulations:

***acting in an official capacity***, in relation to a boating inspector, means the inspector is exercising powers or performing functions under, or otherwise related to the administration of, these Regulations.

***anchor cable***, for Schedule 1, means:

- (a) a short link chain cable to which an anchor is shackled; or
- (b) a rope to which at least 3 m of chain is shackled or spliced between that rope and an anchor.

***approved***, means approved by the Director.

***boating inspector***, for Part 2, see regulation 4.

***infringement notice***, see regulation 29.

***infringement notice offence***, see regulation 28(1).

**length**, of a vessel, means the greatest distance between the foremost and aftermost parts of the vessel's hull measured in a straight line parallel to the waterline.

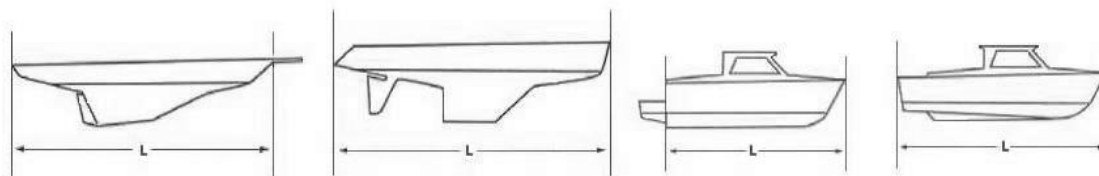


Diagram depicting length of a vessel

**mother vessel**, for Part 4, see regulation 19.

**operator**, of a pleasure craft, for Part 2, see regulation 4.

**overseas voyage**, for Part 4, see regulation 19.

**personal flotation device**, for Part 2, see regulation 4.

**personal water craft**, for Part 2, see regulation 4.

**prescribed amount**, see regulation 28(2).

**registered EPIRB**, for Schedule 1, means an emergency position indicating radio beacon that:

- (a) operates on the 406MHz frequency; and
- (b) is registered with the Australian Maritime Safety Authority.

**serviceable**:

- (a) in relation to a pleasure craft – means the hull and all fittings of the pleasure craft are:
  - (i) in sound condition; and
  - (ii) ready for use at any time; and
- (b) in relation to an item of safety equipment – means:
  - (i) in sound condition; and
  - (ii) ready and suitable for use at any time; and
  - (iii) if the item, or a component of the item (for example, a battery), has an expiry date – that date has not passed.

**tender**, to a pleasure craft (the **principal pleasure craft**), means a vessel that is smaller than the principal pleasure craft and which is used as an auxiliary to the principal pleasure craft for the following:

- (a) a means of transportation between the principal pleasure craft and the shore;
- (b) a means of transportation between vessels;
- (c) other functions of an auxiliary nature.

**towed behind**, in relation to a person and a pleasure craft:

- (a) means being towed behind the pleasure craft in any of the following, or similar, manners:
  - (i) on the surface of the water, such as waterskiing, wakeboarding or in or on an inflatable tube or toy;
  - (ii) near the surface of the water, such as foilboarding;
  - (iii) above the surface of the water, such as parasailing; but
- (b) except for regulation 7 – does not include being towed behind the pleasure craft on or beneath the surface of the water using a paravane device known variously as a manta board, planer board or sea sled.

**V distress sheet**, for Schedule 1, means a sheet of canvas or other equally robust material that:

- (a) is at least 1.8 m x 1.2 m in size; and
- (b) is fluorescent red or orange in colour; and
- (c) displays the letter "V" in black, at least 800 mm in height with the strokes forming the V not less than 130 mm wide; and
- (d) has corner ties or similar so that the sheet is capable of being fastened down so as to be visible from the air.

**vessel**, for Part 4, see regulation 19.

### **3A           Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against Part 2 of these Regulations.

*Note for regulation 3A*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **Part 2           Pleasure craft**

### **Division 1       General**

#### **4           Definitions**

In this Part:

***boating inspector*** means a person appointed to be a boating inspector under regulation 9(1).

***inland waters*** means non-tidal rivers, lakes, dams and billabongs.

***intermediate waters*** means tidal rivers, sheltered waters areas (as defined in regulation 2 of the *Marine (Sheltered Waters) Regulations*) and other coastal waters up to 2 nautical miles from the coastline at low water mark of the lowest astronomical tide.

***open waters*** means waters seaward of intermediate waters.

***operator***, of a pleasure craft, means:

- (a) the master of the pleasure craft; or
- (b) where a boating inspector cannot readily ascertain who is the master of the pleasure craft – the person who, in the opinion of the boating inspector, appears to be in control of the pleasure craft.

***personal flotation device*** means a personal flotation device that:

- (a) complies with AS4758, published by Standards Australia Limited ABN 85 087 326 690, as in force from time to time; or
- (b) is approved by the Director.

***personal water craft*** means a craft:

- (a) powered by a water jet engine; and

(b) designed to be ridden on rather than in.

## **5           Minimum safety equipment requirements for pleasure craft**

(1) A person commits an offence if:

- (a) the person is operating a pleasure craft in inland waters; and
- (b) an item of safety equipment specified in Schedule 1, Part A:
  - (i) is not carried aboard the pleasure craft; or
  - (ii) although carried aboard the pleasure craft – is not serviceable.

Maximum penalty:     50 penalty units.

(2) A person commits an offence if:

- (a) the person is operating a pleasure craft in intermediate waters;  
and
- (b) an item of safety equipment specified in Schedule 1, Part B:
  - (i) is not carried aboard the pleasure craft; or
  - (ii) although carried aboard the pleasure craft – is not serviceable.

Maximum penalty:     50 penalty units.

(3) A person commits an offence if:

- (a) the person is operating a pleasure craft in open waters; and
- (b) an item of safety equipment specified in Schedule 1, Part C:
  - (i) is not carried aboard the pleasure craft; or
  - (ii) although carried aboard the pleasure craft – is not serviceable.

Maximum penalty:     50 penalty units.

(4) An offence against any of subregulations (1) to (3) is an offence of strict liability.

(5) The Minister may, by *Gazette* notice, exempt a person from compliance with this regulation in relation to:

- (a) a specified class or type of pleasure craft; or

- (b) a specified area of Northern Territory waters.

*Note for subregulation (5)*

*Section 194(1)(b) of the Act sets out the circumstances in which Regulations may be made authorising exemptions from the provisions of the Regulations or the Uniform Shipping Laws Code.*

## **5A            Seaworthiness requirements**

- (1) A pleasure craft operating in Northern Territory waters must:
- (a) be serviceable; and
  - (b) be seaworthy:
    - (i) for the purpose for which it is operated; and
    - (ii) for the waters in which it is operating; and
  - (c) not be overloaded; and
  - (d) be provided with a means, or carry equipment, that will enable a person who has fallen overboard from the pleasure craft to reboard it.
- (2) A person commits an offence if:
- (a) the person is operating a pleasure craft in Northern Territory waters; and
  - (b) the pleasure craft does not comply with subregulation (1).

Maximum penalty:        50 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

## **5B            Exception for Beer Can Regatta and other approved events**

Regulation 5A does not apply in relation to a pleasure craft:

- (a) that is entered into the event known as the Beer Can Regatta, or another approved event; and
- (b) while the craft is being prepared for, taking part in, or being removed from the sea as part of, the Regatta or event.



## **5C            Exception for tenders and other vessels**

- (1) The following types of vessels are not required to carry safety equipment as specified in Schedule 1:
- (a) a tender;
  - (b) a surf ski;
  - (c) a racing shell;
  - (d) a canoe;
  - (e) a kayak;
  - (f) a sailboard;
  - (g) a personal water craft;
  - (h) a sailing boat under 5 metres in length or with permanently closed hulls.

*Note for subregulation (1)(a)*

*A vessel which is normally used as in an auxiliary role to a principal pleasure craft is taken not to be a tender during any time when it is not being used in an auxiliary role, and must carry, at those times, the appropriate safety equipment specified in Schedule 1 for the waters in which it is operating.*

- (2) Also, a vessel of a type mentioned in subregulation (1) is not required to comply with regulation 5A(1)(d).
- (3) However, a tender must carry:
- (a) 2 oars fitted with rowlocks or 2 paddles; and
  - (b) one bailer fitted with a lanyard.
- (4) A person commits an offence if:
- (a) the person is operating a tender in Northern Territory waters; and
  - (b) the tender does not comply with subregulation (3).

Maximum penalty:        20 penalty units.

- (5) An offence against subregulation (4) is an offence of strict liability.

## **Division 2            Towed water sports and personal water craft**

### **6            Towed water sports**

- (1) A person commits an offence if:
- (a) the person is being towed behind a pleasure craft; and
  - (b) the person is not wearing a personal flotation device that is appropriate for the activity.

Maximum penalty:        20 penalty units.

- (2) A person commits an offence if:
- (a) the person is operating a pleasure craft; and
  - (b) another person is being towed behind the pleasure craft; and
  - (c) the person being towed is not wearing a personal flotation device that is appropriate for the activity.

Maximum penalty:        20 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

### **7            Towed water sports – observer requirement**

- (1) A person commits an offence if:
- (a) the person is being towed behind a pleasure craft; and
  - (b) there is not an observer in the pleasure craft with the operator.

Maximum penalty:        20 penalty units.

- (2) A person commits an offence if:
- (a) the person is operating a pleasure craft; and
  - (b) another person is being towed behind the pleasure craft; and
  - (c) there is not an observer in the pleasure craft with the operator.

Maximum penalty:        20 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of absolute liability.

- (4) The owner of a pleasure craft commits an offence if:
- (a) another person is being towed behind the pleasure craft; and
  - (b) there is not an observer in the pleasure craft with the operator.

Maximum penalty: 20 penalty units.

- (5) An offence against subregulation (4) is an offence of strict liability.
- (6) In this regulation:

**observer**, in relation to a pleasure craft when a person is being towed behind the pleasure craft, means a person who is responsible for watching the towed person at all times and relaying the towed person's signals to the operator of the pleasure craft.

## 8 Personal water craft

- (1) A person commits an offence if:
- (a) the person operates a personal water craft; and
  - (b) the water craft is not fitted with an automatic engine cut-out that is connected to a safety lanyard.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if:
- (a) the person operates a personal water craft; and
  - (b) the safety lanyard for the automatic engine cut-out is not securely attached to the person or the person's clothing.

Maximum penalty: 20 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of absolute liability.

- (4) The owner of a personal water craft commits an offence if:
- (a) the owner knows the water craft is not fitted with an automatic engine cut-out that is connected to a safety lanyard; and
  - (b) the owner permits another person to operate the water craft.

Maximum penalty: 20 penalty units.

- (5) A person commits an offence if:
- (a) the person operates a personal water craft; and
  - (b) the person is not wearing a personal flotation device that is appropriate for the activity.

Maximum penalty:     20 penalty units.

- (6) A person commits an offence if:
- (a) the person is a passenger on a personal water craft; and
  - (b) the person is at least 16 years of age; and
  - (c) the person is not wearing a personal flotation device that is appropriate for the activity.

Maximum penalty:     20 penalty units.

- (7) A person commits an offence if:
- (a) the person operates a personal water craft; and
  - (b) the person is at least 16 years of age; and
  - (c) the personal water craft is carrying a passenger under the age of 16 years; and
  - (d) the passenger is not wearing a personal flotation device that is appropriate for the activity.

Maximum penalty:     20 penalty units.

- (8) An offence against any of subregulations (5) to (7) is an offence of strict liability.

- (9) In this regulation:

***automatic engine cut-out***, in relation to a personal water craft, means a device designed to stop the motor of the personal water craft in the event that the person who is operating it falls off.

## **Division 2A      Requirements for small sailing vessels**

### **8A           Personal flotation device requirements for small sailing vessels**

- (1) A person commits an offence if:
- (a) the person operates a sailing boat under 5 m in length or with permanently closed hulls; and
  - (b) the person is not wearing a personal flotation device that is appropriate for the activity.

Maximum penalty:      20 penalty units.

- (2) A person commits an offence if:
- (a) the person is a passenger or crew member on a sailing boat under 5 m in length or with permanently closed hulls; and
  - (b) the person is at least 16 years of age; and
  - (c) the person is not wearing a personal flotation device that is appropriate for the activity.

Maximum penalty:      20 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of absolute liability.

- (4) A person commits an offence if:
- (a) the person operates a sailing boat under 5 m in length or with permanently closed hulls; and
  - (b) the person is at least 16 years of age; and
  - (c) the sailing boat is carrying a passenger or crew member under the age of 16 years; and
  - (d) the passenger or crew member is not wearing a personal flotation device that is appropriate for the activity.

Maximum penalty:      20 penalty units.

- (5) An offence against subregulation (4) is an offence of strict liability.

- (6) In this regulation:

**crew member** means a person who assists the operator in sailing the boat.

## **Division 3           Boating inspectors and other matters**

### **9           Appointment of boating inspectors**

- (1) The Minister may, by *Gazette* notice, appoint a person to be a boating inspector for this Part.
- (2) The Director must issue an identity card to each person appointed under subregulation (1).
- (3) An identity card issued under subregulation (2) must contain:
  - (a) a photograph of the boating inspector and the inspector's signature, both verified by the signature of the Director; and
  - (b) the conditions, if any, of the inspector's appointment.
- (4) The boating inspector must:
  - (a) carry the identity card at all times while exercising a power or performing a function conferred or imposed upon the inspector under these Regulations; and
  - (b) produce it to the operator of a pleasure craft upon request.
- (5) A police officer may exercise a power or perform a function under these Regulations of a boating inspector.

### **10          Powers of boating inspectors**

- (1) A boating inspector may, at any time, inspect a pleasure craft for the purpose of ascertaining whether it has been, is being, or is about to be, operated in accordance with Part 2, Division 1.
- (2) For subregulation (1), a boating inspector may give a reasonable direction to the operator of a pleasure craft.
- (2A) The operator of a pleasure craft commits an offence if:
  - (a) a direction is given to the operator under subregulation (2); and
  - (b) the operator contravenes the direction.

Maximum penalty:       50 penalty units.
- (2B) An offence against subregulation (2A) is an offence of strict liability.
- (2C) It is a defence to a prosecution for an offence against subregulation (2A) if the defendant has a reasonable excuse.

- (3) For a direction to be reasonable, it is not necessary that the inspector suspects that the vessel is being, or is to be, operated in contravention of these Regulations.

#### **11 Obstruction of boating inspector**

- (1) A person commits an offence if:
- (a) the person obstructs another person; and
  - (b) the other person is a boating inspector; and
  - (c) the person knows the boating inspector is acting in an official capacity.

Maximum penalty: 50 penalty units.

- (2) Strict liability applies to subregulation (1)(b).
- (3) In this regulation:

**obstruct**, includes hinder and resist.

#### **12 Protection from liability for boating inspectors**

- (1) A boating inspector is not civilly or criminally liable for an act done or omitted to be done by the inspector in good faith in the exercise of a power or performance of a function under this Part.
- (2) Subregulation (1) does not affect any liability the Territory would, apart from that subregulation, have for the act or omission.
- (3) In this subregulation:

**exercise**, of a power, includes the purported exercise of the power.

**performance**, of a function, includes the purported performance of the function.

### **Part 3 Operation of vessels generally**

#### **13 Reckless navigation**

A person must not navigate or use a vessel carelessly, negligently, recklessly or at a speed or in a manner that is dangerous to, or likely to, cause injury to a person or damage to property (including the vessel).

Maximum penalty: 50 penalty units.

**14 Divers**

- (1) A diver operating from a vessel must ensure, at all times while the diver is in the water, that there is displayed on the vessel, so as to be visible to a person approaching the vessel from any direction, a rigid replica of the International Code Flag "A" denoting that a diver is operating in the area.

Maximum penalty: 20 penalty units.

- (2) A diver operating from a vessel must not enter the water with the intention of diving under it unless satisfied that another person on the vessel is maintaining a proper watch on the diver.

Maximum penalty: 20 penalty units.

- (3) A person on the vessel to whom subregulation (2) applies must maintain a proper watch at all times while the diver is in the water.

Maximum penalty: 20 penalty units.

- (4) A diver who is not operating from a vessel must, at all times while the diver is in the water, tow a float displaying a rigid replica of the International Code Flag "A" denoting that a diver is operating in the area.

Maximum penalty: 20 penalty units.

- (5) For this regulation, the International Code Flag "A" must have the following dimensions:

- (a) in respect of a flag displayed under subregulation (1) – not less than 100 cm x 100 cm;
- (b) in respect of a flag displayed under subregulation (4) – not less than 25 cm x 25 cm.

- (6) In this regulation:

***diver*** means a person who:

- (a) is using diving equipment underwater; or
- (b) has used diving equipment underwater and remains in the water after having done so.

***diving equipment*** does not include a snorkel when used on its own.



**15 Hire-and-drive vessels**

- (1) A person must not use or drive a hire-and-drive vessel made or modified to travel at a speed greater than 12 knots (22.2 km/h) 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.

Maximum penalty: 50 penalty units.

- (2) A person must not knowingly permit a person to use or drive a hire-and-drive vessel in contravention of subregulation (1).

Maximum penalty: 50 penalty units.

**16 Anchoring**

The master of a vessel must not anchor or permit the vessel to be anchored:

- (a) in a shipping channel except in an emergency; or
- (b) in a declared pilotage area outside the Port of Darwin except in an emergency; or
- (d) within 100 m of a water ski jump.

Maximum penalty: 20 penalty units.

**17 Closure of Northern Territory waters**

- (1) The Minister may, by *Gazette* notice, declare any Northern Territory waters to be closed for a period of not more than 48 hours for the purposes of holding a regatta, competition, carnival or other event.
- (2) The waters are closed to any recreational vessel not entered in the regatta, competition, carnival or event (a ***non-participating vessel***).
- (3) A police officer may prevent a non-participating vessel from entering, or remove it from, the closed waters.
- (4) The master of a non-participating vessel must not navigate the vessel in the closed waters.

Maximum penalty: 100 penalty units.

**18 Restricted areas**

The master of a vessel must not navigate the vessel:

- (a) at a speed exceeding 5 knots within 30 m of a person in the water; or
- (b) at a speed exceeding 5 knots within 150 m of the water's edge at the time at a beach between any of the following specified points:
  - (i) Nightcliff Beach – between the northwesterly prolongation of the northeastern boundary of Lot 1842 Town of Nightcliff and the northwesterly prolongation of the northeastern boundary of Banksia Street;
  - (ii) Fannie Bay – between a line southwest from Dudley Point and a line bearing 288 degrees true from a point at the intersection of the westerly prolongation of the southern boundary of Gregory Street and high water mark;
  - (iii) Mindil Beach – between a line due west from the northwestern corner of Lot 5670 Town of Darwin and a line due north from the most northern corner of Lot 6394 at Myilly Point; or
- (c) at a speed exceeding 5 knots through or in a mooring area or within 30 m of a moored vessel; or
- (d) at a speed exceeding 5 knots within 100 m of a jetty, wharf or commercial shipping and cargo area; or
- (e) at a speed that the wash from the vessel endangers the safety of a person, boat or structure.

Maximum penalty: 10 penalty units.

**Part 4 Safety****19 Definitions**

In this Part:

***mother vessel*** means a mother boat as defined in regulation 3(1) of the *Fisheries Regulations*.

**overseas voyage**, in relation to a vessel, means a voyage in the course of which the vessel travels between any of the following:

- (a) a port in the Territory and a port outside Australia;
- (b) a port in the Territory and a place in the waters above the continental shelf of a country other than Australia;
- (c) a port outside Australia and a place in the waters above the continental shelf of Australia adjacent to the Territory;
- (d) a place in the waters above the continental shelf of Australia adjacent to the Territory and a place in the waters above the continental shelf of a country other than Australia;
- (e) ports or places outside Australia;
- (f) places beyond the continental shelf of Australia.

**vessel** does not include any of the following:

- (a) an air-cushioned vehicle;
- (b) a pleasure craft;
- (c) a domestic commercial vessel that is proceeding on an overseas voyage;
- (d) a fishing vessel that is proceeding on an overseas voyage;
- (e) a fishing vessel that is less than 6.2 m in length that is operating in conjunction with a mother vessel and is within 5 nautical miles of the mother vessel;
- (f) a fishing vessel that is less than 6.2 m in length that is operating within 5 nautical miles of the coast;
- (g) an off-shore industry mobile unit;
- (h) an off-shore industry vessel that is a regulated Australian vessel as defined in section 6 of the *Navigation Act 2012* (Cth);
- (i) a hire-and-drive vessel that is less than 7 m in length.

## **20 Application of Part**

This Part applies to a vessel despite the fact that the vessel may be a vessel to which Part IV of the Act does not apply.

**21 Construction of Uniform Shipping Laws Code**

In construing section 15 of the Uniform Shipping Laws Code, or any standard or other instrument applicable under that section, any definition applicable under the Code to the section, standard or instrument is to be read subject to the Act and these Regulations.

**22 Safety of navigation**

Section 15 of the Uniform Shipping Laws Code extends and applies to all vessels subject to the Act whilst in Northern Territory waters.

**24 Packing, marking and carriage of dangerous goods**

- (1) The Minister may, by *Gazette* notice, make determinations in relation to:
  - (a) the methods of packing and stowing dangerous goods in a vessel; and
  - (b) the marking of dangerous goods in a vessel; and
  - (c) the carriage of dangerous goods in a vessel.
- (2) The determination may include additional requirements where the vessel is one in which passengers are being, or are going to be, carried.
- (3) This regulation does not apply to a vessel within a designated port.

**25 Inspection of dangerous goods**

- (1) If dangerous goods are being packed for carriage in a vessel, a shipping inspector may:
  - (a) inspect the place at which the goods are being packed; and
  - (b) make such visits to the vessel as the inspector considers necessary in relation to the packing, stowage, marking and carriage of the goods.
- (2) The Minister may, by *Gazette* notice, make determinations in relation to the fees for an inspection.
- (3) The owner, master or agent of the vessel is liable to those fees.

**26 Stowage plan for dangerous goods**

- (1) The owner or master of a vessel carrying dangerous goods must ensure that there is prepared and kept on board that vessel a special list or stowage plans setting out:
  - (a) the classes and descriptions of dangerous goods carried on the vessel; and
  - (b) the correct technical name of the dangerous goods comprised in each class of dangerous goods so carried; and
  - (c) the location in the vessel of each class of dangerous goods carried on the vessel.

Maximum penalty: 50 penalty units.

- (2) An offence against subregulation (1) is a regulatory offence.

**27 Marking of mass on heavy packages**

- (1) Where a package or object of more than 1 t in gross mass is carried on a vessel, the package or object must, before being loaded onto the vessel, be clearly and durably marked with marks denoting the gross mass of the package or object.
- (2) Where a package or object is carried on a vessel and there has been a failure to comply with this regulation, the owner and master of the vessel and the person shipping the object or package each commit an offence.

Maximum penalty: 50 penalty units.

- (3) An offence against subregulation (2) is a regulatory offence.

**Part 5 Infringement notice offences****28 Infringement notice offence and prescribed amount payable**

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 2.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 2.

**29 When infringement notice may be given**

If a boating inspector reasonably believes a person has committed an infringement notice offence, the boating inspector may give a notice (an ***infringement notice***) to the person.

**30 Contents of infringement notice**

- (1) The infringement notice must specify the following:
  - (a) the name and address of the person, if known;
  - (b) the date the infringement notice is given to the person;
  - (c) the date, time and place of the infringement notice offence;
  - (d) a description of the offence;
  - (e) the prescribed amount payable for the offence;
  - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to which the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
  - (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
  - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
  - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act*, including (but not limited to) action for the following:
    - (i) suspending the person's licence to drive;
    - (ii) seizing personal property of the person;
    - (iii) deducting an amount from the person's wages or salary;
    - (iv) registering a statutory charge on land owned by the person;

- (v) making a community work order for the person and imprisonment of the person if the person breaches the order.

- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

### **31 Payment by cheque**

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

### **32 Withdrawal of infringement notice**

- (1) The Director may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
  - (a) within 28 days after the infringement notice is given to the person; and
  - (b) before payment of the prescribed amount.

### **33 Application of Part**

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Part does not:
  - (a) require an infringement notice to be given; or
  - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
  - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

## **Part 6                      Transitional matters for Marine (General) Amendment Regulations 2015**

### **34                      Offence provisions – before and after commencement**

- (1) The offence provisions, as amended by the *Marine (General) Amendment Regulations 2015*, apply only in relation to offences committed after the commencement of those Regulations (the **commencement**).
- (2) The offence provisions, as in force before the commencement, continue to apply in relation to offences committed on or before the commencement.
- (3) For this regulation, if any of the conduct constituting an offence occurred on or before the commencement, the offence is taken to have been committed on or before the commencement.
- (4) In this regulation:

**offence provisions** means the provisions of Part 2 of these Regulations that create or relate to offences (including in relation to criminal responsibility, defences and penalties).



## **Schedule 1 Minimum safety equipment requirements for pleasure craft**

regulation 5

### **Part A Inland waters**

- 1 One personal flotation device, appropriate for the activity being undertaken, for each person on board.
- 2 One anchor and anchor cable of at least 50 m in length.
- 3 If the pleasure craft is less than 5 m in length – 2 oars fitted with rowlocks or 2 paddles, unless the vessel has 2 or more independent means of propulsion that are appropriate for the size of the vessel, the waters in which the vessel is operating, and the intended role of each means of propulsion.
- 4 One bailer fitted with a lanyard, or one bilge pump. If the pleasure craft has covered bilges, it must have a bilge pump. If the pleasure craft is 10 m or more in length, it must have a bilge pump of minimum capacity of 100 L per minute.
- 5 2 L of drinking water, in a leak-proof container, for each person on board.
- 6 One waterproof torch.

### **Part B Intermediate waters**

- 1 One personal flotation device, appropriate for the activity being undertaken, for each person on board.
- 2 If the pleasure craft is less than 10 m in length – one anchor and anchor cable of at least 50 m in length. If the pleasure craft is 10 m or more in length – 2 anchors and anchor cables of at least 50 m in length.
- 3 If the pleasure craft is less than 5 m in length – 2 oars fitted with rowlocks or 2 paddles, unless the vessel has 2 or more independent means of propulsion that are appropriate for the size of the vessel, the waters in which the vessel is operating, and the intended role of each means of propulsion.
- 4 One bailer fitted with a lanyard, or one bilge pump. If the pleasure craft has covered bilges, it must have a bilge pump. If the pleasure craft is 10 m or more in length, it must have a bilge pump of minimum capacity of 100 L per minute.

- 5 2 L of drinking water, in a leak-proof container, for each person on board.
- 6 One waterproof torch.
- 7 2 red flares and 2 orange smoke flares.
- 8 One V distress sheet.
- 9 If the pleasure craft is 5 m or more in length – one portable fire extinguisher. If the pleasure craft is 10 m or more in length – 2 portable fire extinguishers.
- 10 If the pleasure craft is 10 m or more in length – 2 fire buckets of minimum capacity of 9 L and fitted with lanyards.

### **Part C Open waters**

- 1 One personal flotation device, appropriate for the activity being undertaken, for each person on board.
- 2 One anchor and anchor cable of at least 50 m in length for vessels less than 10 m in length. 2 anchors and anchor cables of at least 50 m in length for vessels 10 m or more in length.
- 3 If the pleasure craft is less than 5 m in length – 2 oars fitted with rowlocks or 2 paddles, unless the vessel has 2 or more independent means of propulsion that are appropriate for the size of the vessel, the waters in which the vessel is operating, and the intended role of each means of propulsion.
- 4 One bailer fitted with a lanyard, or one bilge pump. If the pleasure craft has covered bilges, it must have a bilge pump. If the pleasure craft is 10 m or more in length, it must have a bilge pump of minimum capacity of 100 L per minute.
- 5 2 L of drinking water, in a leak-proof container, for each person on board.
- 6 One waterproof torch.
- 7 2 red flares and 2 orange smoke flares.
- 8 One V distress sheet.
- 9 One registered EPIRB.
- 10 If the pleasure craft is 5 m or more in length – one portable fire extinguisher. If the pleasure craft is 10 m or more in length – 2 portable fire extinguishers.

- 11 If the pleasure craft is 10 m or more in length – 2 fire buckets of minimum capacity of 9 L and fitted with lanyards.
- 12 One liquid damped compass or operational GPS receiver.
- 13 One paper chart or electronic chart system displaying the area of operation.
- 14 If the pleasure craft is 10 m or more in length – one lifebuoy.

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**Schedule 2    Infringement notice offences and prescribed amounts**

regulation 28

Provision	Prescribed amount in penalty units	
	for individual	for body corporate
<b><i>Marine (General) Regulations</i></b>		
regulations 5(1) to (3), 5A(2), 5C(4), 6(1) and (2), 7(1) and (2), 8(1) and (2) and (5) to (7), 8A(1), (2) and (4), 13, 14(1) to (4), 16(1) and (2) and 18	2	
regulations 7(4) and 8(4)	2	10

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Marine (General) Regulations (SL No. 25, 2013)***

Notified	1 July 2013
Commenced	1 July 2013 (r 2, s 2 <i>Marine Safety (Domestic Commercial Vessel) (National Uniform Legislation) Act 2013</i> (Act No. 11, 2013) and <i>Gaz S24</i> , 25 June 2013)

***Marine (General) Amendment Regulations 2015 (SL No. 5, 2015)***

Notified	1 May 2015
Commenced	1 May 2015

***Ports Management (Repeals and Related Consequential Amendments) Act 2015 (Act No. 12, 2015)***

Assent date	22 May 2015
Commenced	pt 4 (other than ss 52 and 54 to 56): 9 June 2015; ss 52 and 54 to 56: nc; rem: 1 July 2015 ( <i>Gaz S57</i> , 9 June 2015, p 2)

**3 LIST OF AMENDMENTS**

r 3	amd No. 5, 2015, r 3
r 3A	ins No. 5, 2015, r 4
r 4	amd No. 5, 2015, r 5
r 5	sub No. 5, 2015, r 6
rr 5A – 5C	ins No. 5, 2015, r 6
pt 2	
div 2 hdg	sub No. 5, 2015, r 6
rr 6 – 8	sub No. 5, 2015, r 6
pt 2	
div 2A hdg	ins No. 5, 2015, r 6
r 8A	ins No. 5, 2015, r 6
r 10	amd No. 5, 2015, r 7
r 11	sub No. 5, 2015, r 8
r 16	amd Act No. 12, 2015, s 59
r 23	rep Act No. 12, 2015, s 60

## ENDNOTES

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r 24	amd Act No. 12, 2015, s 61
pt 5 hdg	ins No. 5, 2015, r 9
rr 28 – 33	ins No. 5, 2015, r 9
pt 6 hdg	ins No. 5, 2015, r 9
r 34	ins No. 5, 2015, r 9
sch	sub No. 5, 2015, r 10
sch 2	ins No. 5, 2015, r 10