

NORTHERN TERRITORY OF AUSTRALIA

MARINE (GENERAL) REGULATIONS

As in force at 1 July 2013

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 July 2013

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:

anchor cable, for the Schedule, 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.

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.

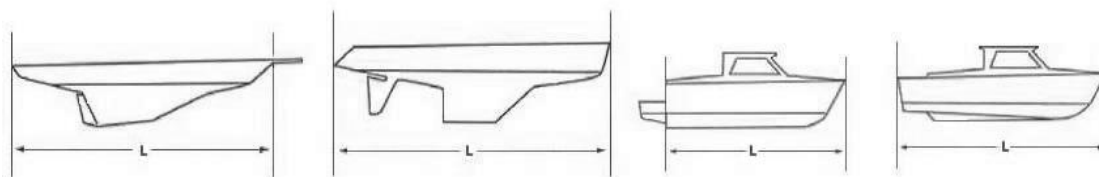


Diagram depicting length of a vessel

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.

pleasure craft includes a tender.

tender means an auxiliary vessel that is used for, or as a means of, transportation between a pleasure craft and the shore.

V distress sheet, for the Schedule, 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.

water skier, for Part 2, see regulation 4.

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).

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; and
- (b) is appropriate for the activity being undertaken by the wearer of the device.

personal water craft means a craft:

- (a) powered by a water jet engine; and
- (b) designed to be ridden on rather than in.

water skier means a person who is engaging in water skiing or a similar activity.

5 Minimum safety standards for pleasure craft

- (1) A person must not operate a pleasure craft on Northern Territory waters, unless it complies with all of the following:
 - (a) it is serviceable;
 - (b) it is seaworthy for the purposes for which it is operated;
 - (c) it is not overloaded;

- (d) it is provided with a means, or carries equipment, that will enable a person who has fallen into the water from the pleasure craft to reboard it;
- (e) it carries safety equipment in accordance with the Schedule.

Maximum penalty: 50 penalty units.

- (2) Subregulation (1) does not apply to any of the following:
 - (a) a person on or in a surf ski, racing shell, canoe, kayak or windsurfer;
 - (b) a person wearing an approved personal flotation device on or in:
 - (i) a personal water craft; or
 - (ii) a sailing boat under 5 m in length or with permanently closed hulls;
 - (c) a person on or in a pleasure craft that:
 - (i) is entered into the event known as the Beer Can Regatta, or other approved aquatic event; and
 - (ii) is being prepared for, taking part in, or is being removed from Northern Territory waters as part of, the Regatta or event.
- (3) A person must not operate a pleasure craft more than 2 nautical miles from the coastline unless it carries an Emergency Position Indicating Radio Beacon that:
 - (a) has an operational frequency of 406MHz; and
 - (b) is approved by the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990* (Cth).

Maximum penalty: 50 penalty units.

- (4) Subregulation (3) does not apply to a person operating a pleasure craft in a sheltered waters area.
- (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.

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 Regulations or the Uniform Shipping Laws Code.

- (6) In this regulation:

coastline means the coastline at low water mark of the lowest astronomical tide.

serviceable, in relation to a pleasure craft, means the hull and all fittings of the pleasure craft and safety equipment carried on it are:

- (a) in sound condition; and
(b) ready and suitable for immediate use.

sheltered waters area means partially smooth waters and smooth waters within the meaning of the *Marine (Sheltered Waters) Regulations*.

Division 2 Water skiers and personal water craft

6 Water skiers

A water skier must wear an approved personal flotation device.

Maximum penalty: 5 penalty units.

7 Water ski observer

- (1) The operator of a pleasure craft must not use it to tow a water skier unless there is in the craft with the operator a person who is responsible for watching the skier at all times and relaying the signals of the water skier to the operator.

Maximum penalty: 10 penalty units.

- (2) The owner of a pleasure craft must not permit the craft to be used to tow a water skier unless there is in the craft with the operator a person who is responsible for watching the skier at all times and relaying the signals of the water skier to the operator.

Maximum penalty: 10 penalty units.

- (3) A water skier must not permit himself or herself to be towed by a pleasure craft unless there is in the craft with the operator a person who is responsible for watching the skier at all times and relaying the signals of the water skier to the operator.

Maximum penalty: 10 penalty units.

8 Personal water craft

- (1) The owner of a personal water craft must not use the craft or permit the craft to be used unless it is fitted with an automatic engine cut out that is connected to a safety lanyard.

Maximum penalty: 20 penalty units.

- (2) A person must not operate a personal water craft unless:
- (a) it is fitted with an automatic engine cut out that is connected to a safety lanyard; and
 - (b) the safety lanyard is securely attached to the operator.

Maximum penalty: 20 penalty units.

- (3) 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 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 regulation 5.
- (2) The operator of a pleasure craft must comply with the reasonable directions of a boating inspector for subregulation (1).

Maximum penalty: 50 penalty units.

- (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 Obstructing boating inspector

A person must not obstruct a boating inspector acting in the exercise of the inspector's powers under regulation 10.

Maximum penalty: 50 penalty units.

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

(1) 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
- (c) near or at the approach to a wharf or jetty in a position that obstructs another vessel approaching or leaving the wharf or jetty; or
- (d) within 100 m of a water ski jump.

Maximum penalty: 20 penalty units.

- (2) The master of a vessel must not anchor or permit the vessel to be anchored in a position that obstructs the passage of another vessel.

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.

23 Reporting of navigation hazards

For section 115(2) of the Act, the prescribed person is the Darwin Port Corporation as the operator of Coast Radio Darwin VKD 999.

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.

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.

Schedule Minimum safety standards for safety equipment for pleasure craft

regulation 5(1)(e)

1. Pleasure craft (other than a tender) under 5 m in length:
 - (a) one approved personal flotation device for each person on board;
 - (b) 2 paddles or oars fitted with rowlocks;
 - (c) one bailer with lanyard;
 - (d) one anchor fitted with an anchor cable of not less than 50 m;
 - (e) 1 L for each person on board of fresh drinking water in a leakproof container;
 - (f) one waterproof torch or lantern;
 - (g) 2 red flares;
 - (h) 2 orange smoke signals.

2. Pleasure craft (other than a tender) of 5 m to 10 m in length:
 - (a) one approved personal flotation device for each person on board;
 - (b) one bilge pump or a bailer with a lanyard;
 - (c) one anchor fitted with an anchor cable of not less than 50 m;
 - (d) one portable fire extinguisher;
 - (e) 1 L for each person on board of fresh drinking water in a leak-proof container;
 - (f) one waterproof torch or lantern;
 - (g) 2 red flares;
 - (h) 2 orange smoke signals;
 - (i) one V distress sheet;
 - (j) one liquid damped compass;
 - (k) one chart of the area of operation.

3. Pleasure craft (other than a tender) of more than 10 m in length:
- (a) one approved personal flotation device for each person on board;
 - (b) one bilge pump with a minimum capacity of 100 L per minute;
 - (c) 2 anchors, each fitted to an anchor cable of not less than 50 m;
 - (d) 2 portable fire extinguishers;
 - (e) 2 buckets, each of not less than 9 L capacity and fitted with a lanyard;
 - (f) 1 L for each person on board of fresh drinking water in a leak-proof container;
 - (g) one waterproof torch or lantern;
 - (h) 2 red flares;
 - (i) 2 orange smoke signals;
 - (j) one "V" distress sheet;
 - (k) one liquid damped compass;
 - (l) one chart of the area of operation;
 - (m) one lifebuoy.
4. Tender:
- (a) 2 oars fitted with rowlocks or 2 paddles;
 - (b) one bailer with a lanyard.

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 (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 Gaz S24, 25 June 2013)