

NORTHERN TERRITORY OF AUSTRALIA

MARINE (GENERAL) AMENDMENT REGULATIONS (NO. 2) 2015

Subordinate Legislation No. 25 of 2015

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 25 of 2015*

Marine (General) Amendment Regulations (No. 2) 2015

I, John Laurence Hardy, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Marine Act*.

Dated 29 September 2015

J. L. HARDY
Administrator

By His Honour's Command

J. W. ELFERINK
Attorney-General and Minister for Justice
acting for
Minister for Transport

* Notified in the *Northern Territory Government Gazette* on 7 October 2015.

1 Citation

These Regulations may be cited as the *Marine (General) Amendment Regulations (No. 2) 2015*.

2 Regulations amended

These Regulations amend the *Marine (General) Regulations*.

3 Regulation 3 amended

(1) Regulation 3

insert (in alphabetical order)

ABP Standard, for Part 3A, see regulation 18A.

builders plate, for Part 3A, see regulation 18A.

commencement, for Part 3A, see regulation 18A.

owner builder, for Part 3A, see regulation 18A.

(2) Regulation 3, definition **personal water craft**

omit

for Part 2,

4 Regulation 3A amended

Regulation 3A, after "Part 2"

insert

or Part 3A

5 Regulation 6 amended

After regulation 6(2)(a)

insert

(aa) the person is at least 16 years of age; and

6 Regulation 8A amended

(1) Regulation 8A(3)

omit

-
- (2) Regulation 8A(5)
omit
subregulation (4)
insert
subregulation (1), (2) or (4)

7 Part 3A inserted

After regulation 18

insert

Part 3A Australian Builders Plate for recreational vessels

18A Definitions

In this Part:

ABP Standard means the standard titled "National Standard for the Australian Builders Plate for Recreational Boats", published under the authority of the Ministers comprising the Australian Transport Council, as in force at the commencement.

builders plate means a plate fixed to a vessel displaying information about the vessel.

commencement means the commencement of the *Marine (General) Amendment Regulations (No. 2) 2015*.

owner builder, of a vessel, means an individual who builds the vessel for the person's own use.

18B Application of Part

- (1) This Part applies to all recreational vessels except the following:
- (a) a used vessel;
 - (b) an amphibious vessel that is also a motor vehicle that would be required to be registered under the *Motor Vehicles Act* if it were to be driven on a road or in a public place;
 - (c) a canoe, kayak or surf ski or similar vessel designed to be powered by paddle;

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- (d) a pedal powered boat;
 - (e) a personal watercraft that complies with subregulation (3);
 - (f) a rowing shell used for racing or rowing training;
 - (g) a sailboard or sail kite or other similar vessel;
 - (h) a surf row boat;
 - (i) a hydrofoil or hovercraft;
 - (j) a sailing vessel, being a vessel that has sail as the primary means of propulsion, with or without an auxiliary means of mechanical propulsion;
 - (k) a submersible, being a powered vessel capable of submerging or operating underwater such as a submarine;
 - (l) an aquatic toy, being an object designed primarily for play in or on water, for example:
 - (i) an object designed solely to be towed behind a recreational vessel; or
 - (ii) an inflatable boat to which ISO 6185 Inflatable boats, as in force on the day these Regulations commence, does not apply;
 - (m) an inflatable boat to which ISO 6185 Inflatable boats, as in force at the commencement, applies and which complies with subregulation (4);
 - (n) a vessel that is required to be surveyed under the Marine Safety National Law;
 - (o) a vessel used only for the purpose of racing in organised events.
- (2) This Part does not apply to a vessel that, before 1 April 2013, had reached a stage of construction of having the keel laid or a stage of construction at which:
- (a) the vessel was identifiable as a vessel of a particular type; and
 - (b) a part of the vessel had been fabricated and assembled that had a mass of at least 50 tonnes or 1% of the mass of all structural material of the proposed completed vessel, whichever is the lesser.

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- (3) This Part does not apply to a vessel that is a personal water craft if:
- (a) the following information is written on or attached to the vessel in a clearly visible place:
 - (i) the total weight of persons and equipment that the vessel may carry in calm water (expressed in kilograms), as recommended by the builder of the vessel;
 - (ii) the maximum number of persons the vessel may carry, as recommended by the builder of the vessel; or
 - (b) the vessel is designed to carry not more than 2 persons (disregarding children under the age of 12 months).
- (4) This Part does not apply to a vessel that is an inflatable boat mentioned in subregulation (1)(m) if the vessel:
- (a) has a plate attached to it in accordance with European Directive 94/25/EC-Recreational Craft Directive (as in force from time to time) that certifies that the vessel complies with the requirements of that Directive; or
 - (b) has a plate attached to it in accordance with the requirements of the US National Marine Manufacturers Association set out in the *NMMA Certification Handbook* (as in force at the commencement) that certifies that the vessel complies with the requirements of that Handbook.
- (5) In this regulation:

used vessel means a vessel that has been used otherwise than as follows:

- (a) in the course of being built or tested;
- (b) by the builder only;
- (c) for the purpose of transporting it for the purpose of sale;
- (d) for the purpose of demonstrating it to a purchaser.

18C Variation of ABP Standard

For this Part, a requirement of the ABP Standard to the effect that information on a builders plate for a vessel must include the name of the builder of the vessel is to be read as a requirement that the information must include:

- (a) the name of the person mentioned in regulation 18E who approves the information; and
- (b) the capacity in which the person approves the information.

18D Vessel for sale required to have builders plate

- (1) A person must not sell a vessel to which this Part applies unless:
 - (a) a builders plate is fixed to the vessel in accordance with the ABP Standard; and
 - (b) the plate contains the information required by the ABP Standard; and
 - (c) the information is in a form that meets the requirements of the ABP Standard; and
 - (d) the information on the plate is correct at the time of the sale.

- (2) A person commits an offence if the person contravenes subregulation (1).

Maximum penalty: 50 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subregulation (2) if:
 - (a) the defendant was an owner builder of the vessel concerned and the vessel was sold more than 5 years after it was first used; or
 - (b) the defendant establishes that the vessel was to be exported from Australia.

- (5) In this regulation:

sell includes:

- (a) supply for sale; or
- (b) supply as part of a trade or business; or

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- (c) offer or display for sale.

18E Persons authorised to approve information on builders plates

For this Part, the information on a builders plate fixed to, or to be fixed to, a vessel may only be approved by the following persons:

- (a) the builder of the vessel – provided that the builder of the vessel is not an owner builder;
- (b) a person who is approved by the Director for this regulation;
- (c) a person who imported the vessel into Australia from overseas;
- (d) a person authorised to do so under a corresponding law of another Australian jurisdiction.

18F Offences

- (1) A person commits an offence if:

- (a) the person intentionally fixes a builders plate to a vessel that is required to have a builders plate fixed to it under this Part; and
- (b) the person is reckless as to the information on the builders plate being incorrect or not complying with the ABP Standard.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if:

- (a) the person intentionally fixes a builders plate to a vessel that is required to have a builders plate fixed to it under this Part; and
- (b) the information on the plate has not been approved by a person referred to in regulation 18E.

Maximum penalty: 50 penalty units.

- (3) Strict liability applies to subregulation (2)(b).

- (4) A person commits an offence if:

- (a) the person intentionally alters the information on a builders plate fixed to a vessel that is required to have a builders plate fixed to it under this Part; and
- (b) the person is reckless as to the information on the builders plate as altered being incorrect or not complying with the ABP Standard.

Maximum penalty: 50 penalty units.

- (5) A person commits an offence if:
- (a) the person intentionally alters the information on a builders plate fixed to a vessel that is required to have a builders plate fixed to it under this Part; and
 - (b) the information on the plate as so altered has not been approved by a person referred to in regulation 18E.

Maximum penalty: 50 penalty units.

- (6) Strict liability applies to subregulation (5)(b).

18G Offence relating to approval of information on builders plate

- (1) A person must not approve any information on a builders plate fixed to, or to be fixed to, a vessel that is required to have a builders plate fixed to it under this Part unless:
- (a) the person is a person mentioned in regulation 18E; and
 - (b) the information is correct and complies with the ABP Standard.
- (2) A person commits an offence if the person contravenes subregulation (1).

Maximum penalty: 50 penalty units.

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

18H Builders plate not to be altered unless authorised

- (1) A person commits an offence if:
- (a) the person alters, defaces, conceals, removes or obliterates a builders plate that is fixed to a vessel in accordance with this Part; and
 - (b) the person is neither a person mentioned in regulation 18E nor authorised by such a person to do so.

Maximum penalty: 50 penalty units.

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

8 Part 7 inserted

After regulation 34

insert

**Part 7 Transitional matter for Marine (General)
Amendment Regulations (No. 2) 2015**

35 Exemption for certain imported vessels

- (1) Regulation 18D(1) does not apply in relation to any of the following:
- (a) a vessel that was imported into Australia before the commencement;
 - (b) a vessel that is imported into Australia within 6 months after the commencement.
- (2) In this regulation:

commencement means the commencement of the *Marine (General) Amendment Regulations (No. 2) 2015*.

9 Expiry of Regulations

These Regulations expire on the day after they commence.