

NORTHERN TERRITORY OF AUSTRALIA

AMENDMENTS OF PORT BY-LAWS

Regulations 2002, No. 21

TABLE OF PROVISIONS

By-law

1. Principal By-laws
2. Interpretation
3. Repeal and substitution
 - 4A. Boarding of vessels by authorised persons
 - 4B. Wilful obstruction
4. Anchoring near wharf
5. New by-laws
 - 5A. Notice prohibiting use of specific waters
 - 5B. Anchoring
6. Repeal and substitution
 - 19A. Obstruction by vessels not exceeding 25 metres in length overall
7. Inflammable liquid etc. not to be discharged
8. Granting of pilotage exemption certificates
9. Form and period of certificate
10. Fee for renewal of pilotage exemption certificate
11. Repeal and substitution
 - 36D. Cancellation of pilotage exemption certificate
 - 36DA. Special pilotage requirements
12. Special pilotage exemption certificates
13. Certificate or licence may be revoked
14. Repeal and substitution
 - 53A. Fee for issue and renewal of stevedore's licence
15. Offences
16. Schedule 1
17. Further amendments

SCHEDULE

NORTHERN TERRITORY OF AUSTRALIA

Regulations 2002, No. 21*

By-laws under the *Darwin Port Corporation Act*

The Darwin Port Corporation, in pursuance of the powers conferred on it by the *Darwin Port Corporation Act*, at a meeting held on 21 March 2002, made the following by-laws and, for the purposes of section 63(2)(a) of the *Interpretation Act*, authorised Barry Kevin Berwick, the Chief Executive Officer, to sign them.

Dated 21 March 2002.

Barry Berwick
Chief Executive Officer

The common seal of the Darwin Port Corporation is affixed in pursuance of a resolution of the Corporation authorising the seal to be affixed passed on 21 March 2002.

Barry Coulter
Chairperson

M. Flynn
Member

* Notified in the *Northern Territory Government Gazette* on 7 August 2002.

AMENDMENTS OF PORT BY-LAWS

1. Principal By-laws

The Port By-laws are in these By-laws referred to as the Principal By-laws.

2. Interpretation

By-law 3 of the Principal By-laws is amended –

(a) by inserting before the definition of "cargo" in clause (1) the following:

" 'authorised person' means –

- (a) the Harbourmaster;
- (b) an officer or employee of the Port Corporation; or
- (c) a member of the Police Force;"

(b) by omitting from the definition of "intoxicating liquor" in clause (1) "*Licensing Ordinance*" and substituting "*Liquor Act*";

(c) by inserting after the definition of "owner" in clause (1) the following:

" 'small craft' has the same meaning as in section 210(2) of the *Marine Act*;" and

(d) by omitting the definition of "the Ordinance".

3. Repeal and substitution

By-laws 4A and 4B of the Principal By-law are repealed and the following substituted:

"4A. Boarding of vessels by authorised persons

"(1) An authorised person may board a vessel and inspect it as to its seaworthiness.

"(2) An authorised person may order a vessel to the shore if the authorised person –

- (a) considers the vessel is being navigated in unsafe waters;
- (b) suspects the vessel is unseaworthy;
- (c) suspects the vessel is overloaded; or

Port By-laws

- (d) suspects the operator of the vessel has committed, or is about to commit, an offence.

"(3) A person must obey an order under clause (2).

"4B. Wilful obstruction

"A person must not, without reasonable excuse, obstruct or hinder an authorised person in the exercise of his or her powers under the Act or these By-laws."

4. Anchoring near wharf

By-law 5 of the Principal By-laws is amended –

- (a) by omitting from paragraph (a) "wharf;" and substituting "wharf; or";
(b) by omitting from paragraph (b) "wharf; or" and substituting "wharf."; and
(c) by omitting paragraph (c).

5. New by-laws

The Principal By-laws are amended by inserting after by-law 5 the following:

"5A. Notice prohibiting use of specific waters

"(1) The Harbourmaster may by notice in a newspaper circulating in the Port prohibit the use of specified waters in the Port for any purpose either generally during particular periods or during particular hours in any day.

"(2) A person must not contravene or fail to comply with a notice published under clause (1).

Penalty: 20 penalty units.

"5B. Anchoring

"(1) Except in an emergency, a person must not anchor a vessel in –

- (a) a channel;
(b) within the area enclosed by a line from 12°26.24'S, 130°45.85'E (close by West Point) to 12°26.35'S, 130°49.90'E (Bullocky Point) along the foreshore to 12°27.50'S, 130°49.06'E (Elliot Point) thence to 12°26.98'S, 130°45.92'E (close by Oak Point) and then along the foreshore to the commencement at West Point as set out in the chart forming Schedule 1A, being an extract from the Royal Australian Naval Hydrographic Service Chart Aus 26; or

Port By-laws

- (c) within the area enclosed by a line drawn from 12°27.57'S, 130°49.10'E (adjacent the Darwin Naval Base) to 12°28.00'S, 130°48.37'E (close by Abbott Patches Buoy, No. 9) to 12°28.20'S, 130°48.55'E (WSW of Abbot Patches Buoy, No. 9) to 12°27.65'S, 130°49.19'E (adjacent the Darwin Naval Base) as set out in the chart forming Schedule 1A, being an extract from the Royal Australian Naval Hydrographic Service Chart Aus 26 (refer 5B, 16).

Penalty: 20 penalty units.

"(2) Except with the permission of the Harbourmaster, a person must not anchor a vessel in the fairway so as to constitute a hazard to shipping.

Penalty: 20 penalty units.

"(3) In subregulation (2) –

'fairway' means all those waters comprising the area enclosed by a line drawn from a point 029°(T), at a distance of 4.96 nautical miles from Charles Point Lighthouse to West Point Buoy (No. 7), thence to Abbott Patches Buoy (No. 9), thence in a 152°(T) direction for 6.30 nautical miles, thence due east to the southern point of Channel Island, thence to Middle Arm Beacon, thence to Junction Buoy (No. 11), thence to No. 12 Buoy, thence in a 133°(T) direction for 2.50 nautical miles, thence in a 103°(T) direction for 1.00 nautical mile, thence to Shed Point, thence to Hudson Creek Beacon [Q(6)G.10s], thence following the high water mark of the western side of Hudson Creek to a point due west of the Tiwi Barge Ramp, thence due west to said ramp, thence following the high water mark of the eastern side of Hudson Creek to a position 315°(T) at a distance of 0.22 nautical from the Hudson Creek Beacon [Q(6)G.10s)], thence to the southern point of Catalina Island, thence to the Catalina Boat Ramp, thence following the high water mark about East Arm Port to the north west extremity, thence to south-west extremity of the small craft mooring area (Frances Bay), thence in a 025° (T) direction for 0.54 nautical miles, thence in a 334°(T) direction for 0.44 nautical miles, thence in a 281°(T) direction to the northern abutment of the lock entrance to the Frances Bay Marina, thence following the high water mark south, south-west and north-west to a point due south of the Anzac Memorial, thence to the Darwin Naval Base north Breakwater, thence to the Darwin Naval Base south Breakwater, thence following the high water mark to Emery Point, thence to Channel Rock Buoy (No. 6), thence in a 325°(T) direction to the limits of the Port of Darwin and thence following these limits to the point of commencement."

6. Repeal and substitution

By-law 19A of the Principal By-laws is repealed and the following substituted:

"19A. Obstruction by vessels not exceeding 25 metres in length overall

"The master or other person in charge of a vessel not exceeding 25 metres in length overall that is in the Port must keep clear of, and must not obstruct the movement within the Port of –

- (a) a vessel exceeding 25 metres in length overall that is under the control of a pilot or a person holding a Pilotage Exemption Certificate for the vessel; or
- (b) a tug assisting at the berthing, unberthing or towing of a vessel referred to in paragraph (a)."

7. Inflammable liquid etc. not to be discharged

By-law 21 of the Principal By-laws is amended by omitting from clause (1) "oil or".

8. Granting of pilotage exemption certificates

By-law 34 of the Principal By-laws is amended –

- (a) by omitting "The Port Corporation may" and substituting "The Port Corporation must";
- (a) by omitting "or mate"; and
- (c) by omitting paragraph (a) and substituting the following:
 - "(a) has, within 2 years immediately preceding the date of application, –
 - (i) completed not less than 4 voyages through the pilotage area within the Port in command of a vessel of not less than the length of the vessel in respect of which the application is made; or
 - (ii) completed not less than –
 - (A) 3 voyages through the pilotage area within the Port as first mate (on duty on the bridge throughout the entire voyage) of a vessel of not less than the length of the vessel in respect of which the application is made; and

Port By-laws

- (B) 2 voyages through the pilotage area within the Port in command of a vessel of not less than the length of the vessel in respect of which the application is made;"

9. Form and period of certificate

By-law 36A of the Principal By-laws is amended –

- (a) by omitting from clause (1) all the words after "hold a Certificate" and substituting ", it must grant the Certificate";
- (b) by inserting after clause (1) the following:
- "(1A) A Certificate –
- (a) is to be in accordance with Form 1 in Schedule 1;
- (b) remains in force for the period (not longer than 2 years) as specified by the Port Corporation; and
- (c) is subject to the conditions that the Port Corporation thinks fit.";
- (c) by omitting from clause (2)(a) "150" and substituting "120"; and
- (d) by omitting from clause (2)(b) "or any amount of petroleum products" and substituting "or any amount (or type) of gas or hydrocarbons".

10. Fee for renewal of pilotage exemption certificate

By-law 36C of the Principal By-laws is amended –

- (a) by omitting from clause (2) "2 months" and substituting "one month"; and
- (b) by adding at the end the following:

"(4) A Certificate is not to be renewed if an application for its renewal is not lodged within the time specified in clause (2) and a person wanting to renew a Certificate after the time has expired must apply for a Certificate in accordance with by-law 34."

11. Repeal and substitution

By-law 36D of the Principal By-laws is repealed and the following substituted:

"36D. Cancellation of pilotage exemption certificate

"A Certificate is cancelled, by force of this by-law, at the expiration of 2 years if the person to whom it is granted does not complete 12 passages through the pilotage area within the Port within that period.

"36DA. Special pilotage requirements

"(1) If the Harbourmaster decides there is a special risk or danger arising from a vessel entering, plying, or moving in, or leaving, a pilotage area, the Port Corporation may require the master of the vessel to take a licensed pilot on board the vessel.

"(2) The Harbourmaster, in making a decision under clause (1), must take the following into consideration:

- (a) the condition of the vessel and its equipment;
- (b) the nature and condition of cargo carried on the vessel;
- (c) the existence of a nuclear power source on the vessel;
- (d) the circumstances of and conditions within the pilotage area;
- (e) the experience of the master of the vessel in navigating vessels in the pilotage area within the Port.

"(3) The master of a vessel must not contravene or fail to comply with a requirement made of him or her under this by-law.

Penalty: 100 penalty units."

12. Special pilotage exemption certificates

By-law 38 of the Principal By-laws is amended by omitting clause (1)(b) and substituting the following:

"(b) the master of any vessel during unforeseen events (including cyclones, explosions, oil spills and the unavailability of a Port Corporation's licensed pilot)."

13. Certificate or licence may be revoked

By-law 41 of the Principal By-laws is amended –

- (a) by omitting "The Port Corporation" and substituting "(1) The Port Corporation"; and
- (b) by adding at the end the following:

Port By-laws

"(2) For the purposes of clause (1), a licensed pilot employed by the Port Corporation may conduct an audit of the navigation and handling of a vessel through the pilotage area within the Port by the person to whom a Pilotage Exemption Certificate is granted.

"(3) The audit may take into account the operational condition of the vessel at the time of the voyage."

14. Repeal and substitution

By-law 53A of the Principal By-laws is repealed and the following substituted:

"53A. Fee for issue and renewal of stevedore's licence

"(1) The fee for issuing or renewing a licence to a stevedore is that determined by the Port Corporation.

"(2) A fee is to be determined under clause (1) on the basis of the cost to the Port Corporation of processing the application, including the cost of confirming that the applicant is capable of ensuring that adequate health, safety and environmental standards will be maintained."

15. Offences

By-law 85 of the Principal By-laws is amended by omitting all the words after "is guilty of" and substituting "an offence punishable on a finding of guilt by a fine –

- (a) for an offence against by-law 4 – not exceeding 5 penalty units if the offender is a natural person and 25 penalty units if the offender is a body corporate;
- (b) for an offence against by-law 4A, 4D, 4E, 4F, 4G, 4J, 4K, 6(3), 6(4), 13A, 13C or 70(2) – not exceeding 10 penalty units if the offender is a natural person and 50 penalty units if the offender is a body corporate;
- (c) for an offence against by-law 4AA(3), 4B or 4C – not exceeding 20 penalty units if the offender is a natural person and 50 penalty units if the offender is a body corporate;
- (d) for an offence against by-law 4H, 9(3), 12, 15, 16, 16A, 19, 19A, 20, 21, 22, 22A, 22B, 25 or 79(2) – not exceeding 20 penalty units if the offender is a natural person and 100 penalty units if the offender is a body corporate;

Port By-laws

- (e) for an offence against by-law 8(11) – not exceeding 50 penalty units if the offender is a natural person and 100 penalty units if the offender is a body corporate;
- (f) for an offence against by-law 17(4) – not exceeding 25 penalty units if the offender is a natural person and 100 penalty units if the offender is a body corporate;
- (g) for an offence against by-law 18, 18A or 18B – not exceeding 30 penalty units if the offender is a natural person and 100 penalty units if the offender is a body corporate;
- (h) for an offence against by-law 23, 24 or 28 – not exceeding 50 penalty units if the offender is a natural person and 100 penalty units if the offender is a body corporate; or
- (i) if no other penalty is provided – not exceeding 10 penalty units if the offender is a natural person and 50 penalty units if the offender is a body corporate."

16. Schedule 1

Schedule 1 to the Port By-laws is amended –

- (a) by omitting from Form 1 *'Ports Ordinance'* and substituting *"Darwin Port Corporation Act"*;
- (b) by omitting from Form 1 "pilotage in the Port of Darwin" and substituting "pilotage as the master of a vessel in the Port of Darwin"; and
- (c) by omitting from Form 2 *"Ports Ordinance"* and substituting *"Darwin Port Corporation Act"*.

17. Further amendments

- (1) The Port By-laws are amended by omitting "a declared port" (wherever occurring) and substituting "the Port".
 - (2) The Port By-laws are amended by omitting "Ordinance" (wherever occurring) and substituting "Act".
 - (3) The Port By-laws are further amended as set out in the Schedule.
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Port By-laws

SCHEDULE

By-law 17

| Provision | Amendment | |
|---------------------|-----------------------------|-----------------------------------|
| | omit | substitute |
| By-law 22 | 600 feet | 200 metres |
| By-law 24(1)(a) | 100 feet | 30 metres |
| By-law 24(1)(b) | while he is within 100 feet | within 30 metres |
| By-law 25 | ignition | ignition, spark or electric pulse |
| By-law 28 | 20 metres | 25 metres |
| By-law 29 | 20 metres | 25 metres |
| By-law 30(2)(a)(ii) | 16 | 16/10 |
| By-law 36F(3) | 20 | 25 |
| | 30.00 | \$30.00 |
| | 450.00 | \$450.00 |
| Schedule 6 | the whole schedule | |