

Queensland



Subordinate Legislation 2000 No. 339

*Transport Infrastructure Act 1994*

**TRANSPORT INFRASTRUCTURE (PUBLIC MARINE FACILITIES) REGULATION 2000**

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## **PART 1—PRELIMINARY**

### **Short title**

1. This regulation may be cited the *Transport Infrastructure (Public Marine Facilities) Regulation 2000*.

### **Commencement**

2. This regulation commences on 1 January 2001.

### **Definitions**

3. The dictionary in schedule 4 defines particular words used in this regulation.

### **Reference to plan**

4. A reference to a plan in schedule 1 is a reference to a plan held by the department, unless otherwise stated in the schedule.<sup>1</sup>

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<sup>1</sup> Plans held by the department are available for inspection at the department's Brisbane office at 41 George Street during normal office hours.

## **PART 2—PUBLIC MARINE FACILITIES MANAGEMENT**

### *Division 1—Management*

#### **Manager appointed**

5. An entity mentioned in schedule 1 is the manager of the public marine facility stated opposite the entity in the schedule.<sup>2</sup>

#### **Condition of appointment**

6. The appointment of every manager is on condition that the manager must not allow the public marine facility to be used for a purpose other than a genuine private recreational boating purpose without the prior written consent of the chief executive.

#### **Manager's responsibilities for managing public marine facility**

7.(1) The responsibilities of a manager in managing a public marine facility include—

- (a) replacing pile moorings, buoy moorings and dinghy racks in the facility; and
- (b) maintaining roads, parking areas, amenities and gardens in the facility; and
- (c) maintenance dredging in the facility, other than dredging of channels to landings and boat ramps; and
- (d) all other aspects of managing the facility, including funding of maintenance unless otherwise agreed to by the chief executive.

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<sup>2</sup> Under the Act, section 267(2) (Transitional—wharf or other harbour work), a person mentioned in that section is taken to be appointed under the Act, section 187B (Appointment of manager of public marine facility) as the manager of a public marine facility constituted by a wharf or other harbour work mentioned in section 267(1).

(2) The responsibilities do not include replacing a public marine facility that is—

- (a) a boat ramp; or
- (b) a breakwater; or
- (c) a landing; or
- (d) a navigational aid; or
- (e) a revetment wall.

*Division 2—Use of, and safety at, certain public marine facilities*

**Application of div 2**

8. This division applies only to a public marine facility that is a boat ramp or landing.

**Using boat ramp or landing**

9.(1) A person must not drive or stand a vehicle on a boat ramp other than to launch or retrieve a ship.

Maximum penalty—20 penalty units.

(2) A person launching or retrieving a ship at a boat ramp must do so as quickly as is reasonably possible.

Maximum penalty—20 penalty units.

(3) A person must not obstruct another person's use of a boat ramp or landing.

Maximum penalty—20 penalty units.

(4) A person must not anchor, moor or place a ship in the water around a boat ramp or landing if it is likely to obstruct another person's use of the boat ramp or landing.

Maximum penalty—20 penalty units.

(5) A person must not carry out maintenance or repairs to a ship on a



boat ramp.

Maximum penalty—20 penalty units.

(6) A person must not carry out maintenance or repairs to a ship in the water around a boat ramp or landing, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(7) A person must not take or drive on to a boat ramp a vehicle if the mass of the vehicle and its load (if any) together with any trailer that the vehicle is towing and its load (if any) is more than—

- (a) 5 t; or
- (b) if the manager of the boat ramp erects on or near the ramp a notice approved by the chief executive and displaying a greater mass—the greater mass.

Maximum penalty—20 penalty units.

(8) A person must not take or drive a vehicle on to a landing.

Maximum penalty—20 penalty units.

(9) However, a person does not contravene subsection (8) if—

- (a) the manager of the landing erects on or near the landing a notice that—
  - (i) is approved by the chief executive; and
  - (ii) authorises the taking or driving of a vehicle on the landing for the purpose mentioned in paragraph (b); and
  - (iii) states the maximum mass of the vehicle and its load (if any) together with any trailer that the vehicle is towing and its load (if any) that may be taken or driven on the landing; and
- (b) the vehicle is taken or driven on the landing only to take goods or passengers to, or pick up goods or passengers from, a ship moored at the landing.

(10) A person must not take or drive on to a boat ramp or landing a vehicle, other than a vehicle that moves on wheels fitted with pneumatic or

rubber tyres.

Maximum penalty for subsection (10)—20 penalty units.

**Activities controlled by regulatory notice at boat ramp or landing managed by chief executive**

**10.(1)** This section applies if the chief executive is the manager of a public marine facility that is a boat ramp or landing.

**(2)** The chief executive may, by a regulatory notice, control access to, or the use of, the boat ramp or landing.

**(3)** Without limiting subsection (2), the chief executive may, by a regulatory notice, control activities or conduct on the boat ramp or landing for—

- (a) maintaining or improving the safe, secure or efficient operation of the boat ramp or landing; or
- (b) maintaining or improving the convenience of users of the boat ramp or landing; or
- (c) protecting the environment at the boat ramp or landing.

**(4)** A person must comply with a regulatory notice under subsection (2) or (3).

Maximum penalty for subsection (4)—40 penalty units.

**Activities controlled by authorised officers at boat ramp or landing managed by chief executive**

**11.(1)** This section applies if the chief executive is the manager of a public marine facility that is a boat ramp or landing.

**(2)** An authorised officer may give a direction to a person on or near the boat ramp or landing, if the direction is reasonably necessary for ensuring the safety and security of the boat ramp or landing, its users or the department's employees.

**(3)** The person must comply with the direction, unless the person has a

reasonable excuse.

Maximum penalty for subsection (3)—40 penalty units.

## **PART 3—STATE MANAGED BOAT HARBOURS**

### *Division 1—Application of part*

#### **Application of pt 3**

**12.(1)** This part applies only to a State managed boat harbour.<sup>3</sup>

**(2)** The provisions of this part are in addition to the provisions of part 2, division 2 for a boat ramp or landing that is a public marine facility in a State managed boat harbour.

### *Division 2—Control of activities in State managed boat harbour*

#### *Subdivision 1—Activities controlled by regulatory notice*

#### **General control of activities**

**13.(1)** The chief executive may, by a regulatory notice, control access to, or the use of, a State managed boat harbour.

**(2)** Without limiting subsection (1), the chief executive may, by a regulatory notice, control activities or conduct in the boat harbour for—

- (a) maintaining or improving the safe, secure or efficient operation of the boat harbour; or
- (b) maintaining or improving the convenience of users of the boat

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<sup>3</sup> ‘State managed boat harbour’ is defined in the dictionary in schedule 4. The plan delineating each State managed boat harbour is available for inspection at the department’s Brisbane office at 41 George Street during normal office hours.

harbour; or

- (c) protecting the environment at or in the boat harbour.

(3) The power conferred by another provision of this subdivision to control by a regulatory notice does not limit the power conferred by this section.

### **Movement or mooring of ships etc.**

14.(1) The chief executive may, by a regulatory notice, control the movement or mooring of ships at a public marine facility in a State managed boat harbour.

(2) The chief executive may also, by a regulatory notice, control the movement or mooring of ships in a State managed boat harbour if the movement or mooring may affect the boat harbour's operation.

(3) In addition, the chief executive may, by a regulatory notice, control activities on or by ships moored in a State managed boat harbour if the activities may affect the boat harbour's operation.

### **Movement, handling or storage of goods**

15. The chief executive may, by a regulatory notice, control the movement, handling or storage of goods loaded, unloaded or transhipped to or from ships using a public marine facility in a State managed boat harbour.

### **Movement of passengers**

16. The chief executive may, by a regulatory notice, control the movement of passengers to or from ships using a public marine facility in a State managed boat harbour.

### **Movement, stopping or parking of vehicles**

17.(1) The chief executive may, by a regulatory notice, control the movement, stopping or parking of vehicles in a State managed boat harbour, including, for example the following—

- (a) fixing a maximum speed limit;
- (b) indicating a pedestrian crossing;
- (c) indicating a place where driving, parking or standing of vehicles is restricted or prohibited.

(2) In this section—

**“State managed boat harbour”** does not include land in the boat harbour over which a person, other than the chief executive, has a tenure.

### **Noncompliance with regulatory notice**

**18.** A person must comply with a regulatory notice under this subdivision.

Maximum penalty—

- (a) for contravention of a requirement of a regulatory notice under section 13, 16 or 17—20 penalty units; or
- (b) for contravention of a requirement of a regulatory notice under section 14 or 15—40 penalty units.

### ***Subdivision 2—Activities controlled by authorised officer’s direction***

#### **Directions—safety and security**

**19.(1)** An authorised officer may give directions to persons in a State managed boat harbour if the directions are reasonably necessary for ensuring the safety or security of the boat harbour, its users or the department’s employees.

(2) The power conferred on an authorised officer by another provision of this regulation does not limit the power conferred on an authorised officer by this section.

#### **Control of movement or mooring of ships etc.**

**20.(1)** An authorised officer may control the movement or mooring of

ships at a public marine facility in a State managed boat harbour and, for the purpose, may give directions to persons apparently in charge of ships.

(2) An authorised officer may also control the movement or mooring of ships in a State managed boat harbour if the movement or mooring may affect the boat harbour's operation and, for the purpose, may give directions to persons apparently in charge of ships.

(3) In addition, an authorised officer may control activities on or by ships moored in a State managed boat harbour if the activities may affect the boat harbour's operation and, for the purpose, may give directions to persons apparently in charge of ships.

### **Control of movement, handling or storage of goods**

21. An authorised officer may control the movement, handling or storage of goods loaded, unloaded or transhipped to or from ships using a public marine facility in a State managed boat harbour and, for the purpose, may give directions to persons apparently in charge of goods in the boat harbour.

### **Control of movement of passengers**

22. An authorised officer may control the movement of passengers to or from ships using a public marine facility in a State managed boat harbour and, for the purpose, may give directions to persons in the boat harbour.

### **Control of movement, stopping or parking of vehicles**

23.(1) An authorised officer may control the movement, stopping or parking of vehicles in a State managed boat harbour and, for the purpose, may give directions to drivers of vehicles and other persons in the boat harbour.

(2) In this section—

**“State managed boat harbour”** does not include land in the boat harbour over which a person, other than the chief executive, has a tenure.

### **Noncompliance with directions**

**24.** A person must comply with a direction given to the person by an authorised officer under this subdivision, unless the person has a reasonable excuse.

Maximum penalty—

- (a) for contravention of a direction under section 19, 22 or 23—20 penalty units; or
- (b) for contravention of a direction under section 20 or 21—40 penalty units.

### ***Subdivision 3—Moving illegally moored ships, illegally left goods and illegally parked vehicles***

### **Moving illegally moored ships**

**25.(1)** This section applies if—

- (a) an authorised officer reasonably believes—
  - (i) a ship is moored in a State managed boat harbour in contravention of a requirement of a regulatory notice or a direction of an authorised officer; and
  - (ii) it is necessary to move the ship having regard to—
    - (A) the convenience of ships or persons using the boat harbour; or
    - (B) the safety or security of the boat harbour, its users or the department's employees; and
- (b) the authorised officer—
  - (i) can not immediately find the ship's master or another person in charge of the ship; or
  - (ii) reasonably believes neither the ship's master, nor any other person in charge of the ship, is able or willing to move the ship immediately.

(2) The authorised officer may take steps that are necessary and reasonable to have the ship moved.

### **Moving illegally left goods**

**26.(1)** This section applies if—

- (a) an authorised officer reasonably believes—
  - (i) goods have been left in a State managed boat harbour in contravention of a requirement of a regulatory notice or a direction of an authorised officer; and
  - (ii) it is necessary to move the goods having regard to—
    - (A) the efficient operation of the boat harbour; or
    - (B) the safety or security of the boat harbour, its users or the department's employees; and
- (b) the authorised officer—
  - (i) can not immediately find the owner of the goods or another person in charge of the goods; or
  - (ii) reasonably believes neither the owner, nor any other person in charge of the goods, is able or willing to move the goods immediately.

(2) The authorised officer may take steps that are necessary and reasonable to have the goods moved or, if the goods are perishable or of little or no value, treat the goods as abandoned property.

### **Moving illegally parked vehicles**

**27.(1)** This section applies if—

- (a) an authorised officer reasonably believes—
  - (i) a vehicle is parked in a State managed boat harbour in contravention of a requirement of a regulatory notice or a direction of an authorised officer; and
  - (ii) it is necessary to move the vehicle having regard to—



- (A) the convenience of vehicles or persons using the boat harbour; or
  - (B) the safety or security of the boat harbour, its users or the department's employees; and
- (b) the authorised officer—
- (i) can not immediately find the driver of the vehicle or another person in charge of the vehicle; or
  - (ii) reasonably believes neither the driver of the vehicle, nor any other person in charge of the vehicle, is able or willing to move the vehicle immediately.
- (2) The authorised officer may take steps that are necessary and reasonable to have the vehicle moved.

### *Division 3—Liability for expenses*

#### **Liability for movement of ships, goods, vehicles**

**28.(1)** If the chief executive incurs reasonable expenses because an authorised officer takes steps under this part to have a ship or goods moved, the amount of the expenses is a debt payable jointly and severally to the chief executive by the persons who would be liable under section 64<sup>4</sup> as if the expenses were fees for the ship or goods.

(2) If the chief executive incurs reasonable expenses because an authorised officer takes steps under this part to have a vehicle moved, the amount of the expenses is a debt payable jointly and severally to the chief executive by the owner and driver of the vehicle.

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<sup>4</sup> Section 64 (Extended liability for payment of approval fees)

### ***Division 4—Disposal of abandoned property***

#### **Definitions for div 4**

**29.** In this division—

**“abandoned property”** means property (including ships, vehicles and anything attached to, or contained in, ships or vehicles) that the chief executive reasonably believes has been abandoned.

**“detention notice”** see section 31.

#### **Locating owner of, and moving, abandoned property**

**30.(1)** This section applies if the chief executive finds abandoned property within a State managed boat harbour and intends to take action under this division.

**(2)** The chief executive—

- (a) must take reasonable steps to locate the owner of the property; and
- (b) may have the property moved to a place the chief executive considers appropriate.

#### **Detention notice for abandoned property**

**31.(1)** As soon as practicable, but within 14 days, after finding the abandoned property and deciding to take the action, the chief executive must give the owner of the property, if known, a written notice (**“detention notice”**)—

- (a) describing the property; and
- (b) stating the property has been found; and
- (c) explaining how it may be recovered; and
- (d) stating it may be sold or disposed of if it is not recovered.

**(2)** If the owner of the property is not known or can not be located within

the 14 days, the detention notice may be given by publishing it in a newspaper circulating generally in the State.

### **Returning claimed abandoned property**

**32.** If a person claims the abandoned property within 1 month after the detention notice is given, the chief executive must return the property to the person if the person—

- (a) satisfies the chief executive the person is the owner of the property; and
- (b) pays the expenses reasonably incurred by the chief executive in dealing with the property under this division.

### **Unclaimed abandoned property**

**33.(1)** If no person claims the abandoned property within 1 month after the detention notice is given, the chief executive may—

- (a) sell the property; or
- (b) dispose of the property in the way the chief executive considers appropriate, if the proceeds of sale of the property are not likely to cover the total of—
  - (i) the expenses reasonably incurred by the chief executive in selling the property; and
  - (ii) the expenses reasonably incurred by the chief executive in dealing with the property under this division; and
  - (iii) any fees and other expenses owing to the chief executive in relation to the property.

**(2)** Despite anything else in this division, if the abandoned property is perishable, the chief executive may sell the property immediately if it is impracticable, having regard to the nature and condition of the property, for it to be detained by the chief executive.

### **Application of proceeds of sale of abandoned property**

**34.(1)** If the chief executive sells abandoned property, the chief executive must apply the proceeds of the sale in the following order—

- (a) in payment of the expenses reasonably incurred by the chief executive in selling the property;
- (b) in payment of the expenses reasonably incurred by the chief executive in dealing with the property under this division;
- (c) in payment of any fees and other expenses owing to the chief executive in relation to the property;
- (d) in payment of any balance to the owner.

**(2)** If the proceeds of the sale are less than the total of the expenses mentioned in subsection (1)(a), (b) and (c), the difference is a debt payable to the chief executive by the owner.

### **Disposal of valueless abandoned property**

**35.** Despite anything else in this division, if the abandoned property has no value or insufficient value to justify its sale, the chief executive may dispose of the property in the way the chief executive considers appropriate.

### **Compensation not recoverable**

**36.** If the chief executive sells or disposes of abandoned property under this division, no compensation is recoverable against the chief executive for the sale or disposal of the property.

## *Division 5—Approvals*

### **Mooring approval**

**37.(1)** The chief executive may grant, or refuse to grant, a person an approval to moor a ship in a State managed boat harbour.

**(2)** The approval—

- (a) is subject to the standard conditions; and
- (b) may be subject to other reasonable and relevant conditions.

(3) The standard conditions and other conditions, if any, must be stated in, or attached to, the approval.

(4) A person must not moor a ship in a State managed boat harbour—

- (a) without an approval; or
- (b) otherwise than in accordance with an approval granted to the person.

Maximum penalty for subsection (4)—40 penalty units.

(5) This section does not limit another provision of this regulation about mooring a ship.

(6) In this section—

**“State managed boat harbour”** does not include land in the boat harbour—

- (a) over which a person, other than the chief executive, has a tenure; or
- (b) for which, under the *Harbours Act 1955*, section 86 as continued in effect by the Act, section 236,<sup>5</sup> a person has approval to construct private works below the high water mark.

### **Transport service approval**

**38.(1)** The chief executive may grant, or refuse to grant, a person an approval to operate a commercial ship in a State managed boat harbour to provide a transport service in the course of carrying on a business.

(2) The approval—

- (a) is subject to the standard conditions; and

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<sup>5</sup> *Harbours Act 1955*, section 86 (Works on tidal lands or waters etc. not to be constructed without sanction of Governor in Council), and *Transport Infrastructure Act 1994*, section 236 (Continuation of certain provisions of Harbours Act requiring approval for certain matters)

(b) may be subject to other reasonable and relevant conditions.

(3) The standard conditions and other conditions, if any, must be stated in, or attached to, the approval.

(4) A person must not operate a commercial ship in a State managed boat harbour to provide a transport service in the course of carrying on a business—

(a) without an approval; or

(b) otherwise than in accordance with an approval granted to the person.

Maximum penalty for subsection (4)—40 penalty units.

(5) In this section—

“**boat harbour**” does not include Mooloolaba boat harbour.

### **Fuelling service approval**

**39.(1)** The chief executive may grant, or refuse to grant, a person an approval to operate a service to dispense fuel to a ship (a “**fuelling service**”) in a State managed boat harbour.

(2) If the place where a fuelling service is to be operated is a place over which a person other than the chief executive has a tenure, the chief executive may grant the approval only to the holder of the tenure.

(3) The approval—

(a) is subject to the standard conditions; and

(b) may be subject to other reasonable and relevant conditions.

(4) The standard conditions and other conditions, if any, must be stated in, or attached to, the approval.

(5) A person must not operate a fuelling service in a State managed boat harbour—

(a) without an approval; or

(b) otherwise than in accordance with an approval granted to the

person.

Maximum penalty for subsection (5)—40 penalty units.

### **Fish receival service approval**

**40.(1)** The chief executive may grant, or refuse to grant, a person an approval to operate a service for receiving fish, irrespective of whether the fish are received into a fixed or mobile facility (a “**fish receival service**”), in a State managed boat harbour.

*Example of a mobile facility—*

A refrigerated van or truck.

**(2)** If the place where a fish receival service is to be operated is a place over which a person other than the chief executive has a tenure, the chief executive may grant the approval only to the holder of the tenure.

**(3)** The approval—

- (a) is subject to the standard conditions; and
- (b) may be subject to other reasonable and relevant conditions.

**(4)** The standard conditions and other conditions, if any, must be stated in, or attached to, the approval.

**(5)** A person must not operate a fish receival service in a State managed boat harbour—

- (a) without an approval; or
- (b) otherwise than in accordance with an approval granted to the person.

Maximum penalty for subsection (5)—40 penalty units.

**(6)** However, a person does not contravene subsection (5)(a) if the person—

- (a) operates a fish receival service at a fixed facility provided by the holder of a fish receival service approval for receiving fish under the approval; and
- (b) has the holder’s prior permission to receive fish at the facility.

### **Procedure if approval refused or granted on condition**

**41.(1)** This section applies if the chief executive decides to—

- (a) refuse to grant an approval; or
- (b) grant an approval subject to a condition, other than a standard condition.

(2) The chief executive must give the applicant for the approval signed notice of the decision and the reasons for it.

(3) The notice must include a brief statement of the applicant's rights under section 44 to ask for a review of the decision, appeal against the reviewed decision and ask for a stay of the decision or reviewed decision.

(4) Despite subsection (2), if the approval concerned is a short term approval, the chief executive may tell the applicant of the decision and the reasons for it orally.

(5) In this section—

**“short term approval”** means—

- (a) for an approval to moor a ship—an approval for 1 year or less;
- (b) for any other approval under this division—an approval for 6 months or less.

### ***Division 6—Amending, suspending or cancelling approvals and review or appeal***

#### ***Subdivision 1—Amending, suspending or cancelling approvals***

### **Amending, suspending or cancelling approval on application by holder**

**42.** The chief executive may, on the application of the holder of an approval, amend, suspend or cancel the approval.



### **Amending suspending or cancelling approval without application**

**43.(1)** This section applies if—

- (a) an approval was obtained because of incorrect or misleading information; or
- (b) the holder of an approval contravenes—
  - (i) the approval, including a condition on which it is granted; or
  - (ii) this regulation; or
- (c) after an approval is granted, there is a material change in the circumstances relevant to the granting of the approval.

*Example for paragraph (b)(i)—*

The holder does not pay the fees for the approval when they are due.

*Example for paragraph (c)—*

The holder of a mooring approval replaces the ship for which the mooring approval was granted with a smaller size ship that is inappropriate for the size of mooring and effective management and use of the boat harbour.

**(2)** The chief executive may decide to amend, suspend or cancel the approval.

**(3)** If the chief executive decides to amend, suspend or cancel the approval, the chief executive must give the holder at least 14 days written notice of when the decision takes effect.

**(4)** The notice must include—

- (a) a statement of reasons for the chief executive's decision; and
- (b) a brief statement of the holder's rights under section 44 to ask for a review of the decision, appeal against the reviewed decision and ask for a stay of the decision or reviewed decision.

### ***Subdivision 2—Review and appeal***

#### **Review of and appeal against decisions**

**44.(1)** This section applies to a decision by the chief executive to—

- (a) refuse to grant an approval; or
- (b) refuse to grant an amendment, suspension or cancellation of an approval requested by the holder; or
- (c) grant an approval subject to a condition, other than a standard condition; or
- (d) amend, suspend or cancel an approval without the holder's request.

(2) The Act, section 196<sup>6</sup> applies to the decision as if it were mentioned in schedule 2 of the Act.

(3) For the Act, section 196(4), the relevant court is a Magistrates Court.

### *Division 7—Other provisions about State managed boat harbour management*

#### **Conduct causing public nuisance**

**45.** A person in a State managed boat harbour must not be disorderly or create a disturbance.

Maximum penalty—20 penalty units.

#### **Ship to be securely moored**

**46.(1)** A person who moors a ship in a State managed boat harbour must ensure that—

- (a) the ship is securely fastened at its mooring; and
- (b) all the ship's mooring lines are appropriate for—
  - (i) the ship; and
  - (ii) the prevailing and reasonably foreseeable wind, tide and weather conditions while the ship is at the mooring.

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<sup>6</sup> Section 196 (Review of and appeals against decisions)

Maximum penalty—40 penalty units.

(2) In this section—

“**mooring lines**” includes cables, chains, ropes, wires, shackles and all other fittings and equipment used for mooring a ship.

### **Prohibition on anchoring**

47.(1) A person must not anchor a ship in a State managed boat harbour.

Maximum penalty—40 penalty units.

(2) In this section—

“**State managed boat harbour**” does not include land in the boat harbour over which a person, other than the chief executive has a tenure.

### **Head and stern mooring for ship at pile or buoy mooring**

48.(1) A person who moors a ship in a State managed boat harbour to a pile or buoy mooring must ensure the ship is moored head and stern.

Maximum penalty—40 penalty units.

(2) In this section—

“**State managed boat harbour**” does not include land in the boat harbour over which a person, other than the chief executive has a tenure.

### **Prohibition on unloading fish**

49.(1) A person who is the owner, master or apparently in charge of a fishing ship (“**operator**”) in a State managed boat harbour must not unload fish from the ship to a person who is not the holder of a current fish receival service approval for a place in the boat harbour.

Maximum penalty—40 penalty units.

(2) However, the operator does not contravene subsection (1) if—

- (a) the operator unloads the fish at a fixed facility provided by the holder of a fish receival service approval for receiving fish under the approval; and

- (b) the person receiving the fish at the facility has the approval holder's prior permission to receive fish at the facility.

## **PART 4—ENFORCEMENT**

### *Division 1—Authorised officers*

#### **Appointment of authorised officer**

**50.(1)** The chief executive may appoint a person to be an authorised officer (“**authorised officer**”) for a public marine facility managed by the chief executive if satisfied the person has the necessary training, or knowledge and experience, to be an authorised officer.

(2) The chief executive may restrict an authorised officer's powers by written notice given to the officer.

#### **Identity card**

**51.(1)** The chief executive must issue an identity card to each authorised officer appointed.

(2) The identity card must—

- (a) contain a recent photograph of the authorised officer; and
- (b) be signed by the authorised officer; and
- (c) identify the person as an authorised officer; and
- (d) include an expiry date on the card.

(3) This section does not prevent the issue of a single identity card to a person for this regulation and other Acts.

#### **Failure to return identity card**

**52.** A person who stops being an authorised officer must return the

person's identity card to the chief executive as soon as practicable, but within 21 days, after the person stops being an authorised officer, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

### **Production or display of authorised officer's identity card**

**53.(1)** An authorised officer may exercise a power in relation to someone else only if the officer—

- (a) first produces the officer's identity card for inspection by the person; or
- (b) has the identity card displayed so it is clearly visible to the person.

**(2)** However, if for any reason it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the other person's inspection at the first reasonable opportunity.

## *Division 2—General powers of authorised officers*

### **Power to require name and address**

**54.(1)** An authorised officer may require a person to state the person's name and address if the officer—

- (a) finds the person committing an offence against this regulation; or
- (b) finds the person in circumstances that lead, or has information that leads, the officer to reasonably suspect that the person has just committed an offence against this regulation.

**(2)** When making the requirement, the authorised officer must warn the person it is an offence to fail to state the person's name and address unless the person has a reasonable excuse.

**(3)** The authorised officer may require the person to give evidence of the correctness of the person's stated name and address if the authorised officer reasonably suspects the stated name or address is false.

**(4)** A person must comply with the authorised officer's requirement

under subsection (1) or (3), unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—10 penalty units.

- (5) The person does not commit an offence against this section if—
- (a) the authorised officer required the person to state the person's name and address on suspicion of the person having committed an offence against this regulation; and
  - (b) the person is not proved to have committed the offence.

### **Power to require production of documents**

**55.(1)** An authorised officer may require a person to make available for inspection by an authorised officer, or produce to an authorised officer for inspection, at a reasonable time and place nominated by the officer—

- (a) a document issued to the person under this regulation; or
- (b) a document required to be kept by the person under an approval.

(2) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—20 penalty units.

(3) The authorised officer may keep the document to take an extract from it or make a copy of it.

(4) The authorised officer must return the document to the person as soon as practicable after taking the extract or making the copy.

### **Entry and inspection of loading place**

**56.(1)** An authorised officer may enter a loading place when the place is open for the conduct of business or otherwise open for entry to decide whether fees are payable for a commercial ship or goods that are at the place, and if so, the amount of the fees.

- (2) The officer may—
- (a) inspect the place, including any goods at the place; or
  - (b) board and inspect a commercial ship at the place, and inspect any

goods on the ship.

*Example for subsection (2)(a) of how an officer may inspect a place—*

The officer may stand in a part of the place near the gangway to a commercial ship moored at the place and count passengers being loaded or unloaded to or from the ship.

(3) The officer may not enter the crew or passenger quarters on the ship.

(4) The officer may, if necessary, enter a loading place by passing over land or facilities in the State managed boat harbour under the control of someone other than the chief executive if the land or facilities is a place (“**other place**”) used for carrying on a business and the entry is made when the other place is open for the conduct of business or otherwise open for entry.

(5) In this section—

“**loading place**” means any place in a State managed boat harbour where goods or passengers are loaded, unloaded or transhipped to or from a commercial ship.

### **Obstructing authorised officer**

**57.** A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

## **PART 5—REGULATORY NOTICES**

### **What is a “regulatory notice”**

**58.(1)** A “**regulatory notice**” for a public marine facility is a notice by the chief executive under a regulatory notice provision.

(2) A regulatory notice for a public marine facility may be—

(a) erected or displayed as required by section 61; or

- (b) a document given to a person having access to, or using, the facility.

### **What is a “regulatory notice provision”**

**59.** Each of the following provisions is a “**regulatory notice provision**”—

- (a) section 10;<sup>7</sup>
- (b) sections 13 to 17.<sup>8</sup>

### **Regulatory notices generally**

**60.** A regulatory notice must—

- (a) indicate the public marine facility to which the notice applies; and
- (b) state that contravention of the notice is an offence and the maximum penalty for the offence.

### **Regulatory notices erected or displayed**

**61.(1)** Without limiting section 60, a regulatory notice for a public marine facility—

- (a) must be erected or displayed—
  - (i) at or near an entrance commonly used by persons to gain access to the facility; or
  - (ii) on or near the facility; and
- (b) may be in the form of an official traffic sign and, if it is, is taken to contain the indication given by the corresponding official traffic sign.

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<sup>7</sup> Section 10 (Activities controlled by regulatory notice at boat ramp or landing managed by chief executive)

<sup>8</sup> Sections 13 (General control of activities), 14 (Movement or mooring of ships etc.), 15 (Movement, handling or storage of goods), 16 (Movement of passengers) and 17 (Movement, stopping or parking of vehicles)



(2) Evidence that the notice was erected or displayed at or near an entrance to a public marine facility, or on or near the facility is evidence that the notice was erected or displayed by the chief executive.

(3) A notice erected or displayed at or near an entrance to a public marine facility or on or near the facility must be clearly visible to passers by.

### **Regulatory notice may refer to documents held by chief executive**

**62.(1)** A regulatory notice may require a person to comply, in whole or in part, with a requirement of a stated document held by the chief executive.

*Examples of things a document may be about—*

- the movement or mooring of ships.
- the movement, handling or storage of goods.
- fire or hazard protection.
- emergency procedures.

(2) However, the requirement must be able to be made by a regulatory notice.

(3) The regulatory notice must—

- (a) if the document is a standard—state that a copy of the standard is available for inspection or for purchase at reasonable cost at a stated office of the department during normal business hours; or
- (b) if the document is not a standard—include a copy of the document or—
  - (i) include a summary of the requirement or a table of the document’s provisions that concern the requirement; and
  - (ii) state that a copy of the document is available free of charge at a stated office of the department during normal business hours.

(4) In this section—

“**standard**” means a code, guide, rule, specification or standard—

- (a) adopted, made or published by Standards Australia; or
- (b) mentioned in the *Transport Operations (Marine Safety)*

*Regulation 1995*, section 110, definition “dangerous cargo code”.<sup>9</sup>

## **PART 6—GENERAL**

### *Division 1—Fees*

#### **Fees in State managed boat harbour**

**63.(1)** The fees payable to the chief executive for an approval in relation to a State managed boat harbour are stated in schedule 2, part 1.

**(2)** A lessee, other than the chief executive, under the *Land Act 1994* of land in a State managed boat harbour must pay to the chief executive the fees stated in schedule 2, part 2 for each mooring in the leased land.

#### **Extended liability for payment of approval fees**

**64.(1)** This section applies if fees are payable for, or under, an approval mentioned in section 37 or 38<sup>10</sup> in relation to a ship or goods or passengers carried on it.

**(2)** The liability for the fees falls jointly and severally on the following—

- (a) the owner of the ship;
- (b) the master of the ship;
- (c) the agent of the owner of the ship;
- (d) any other person who has made himself or herself liable for the fees.

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<sup>9</sup> *Transport Operations (Marine Safety) Regulation 1995*, section 110 (Definitions)

<sup>10</sup> Section 37 (Mooring approval) or 38 (Transport service approval)

### **Fees in non-State managed boat harbour**

**65.** The manager of a non-State managed boat harbour must pay to the chief executive the fees stated in schedule 3 for each mooring in the boat harbour.

### **When fees payable**

**66.(1)** The fees payable for, or under, an approval must be paid to the chief executive—

- (a) before the chief executive grants the approval; or
- (b) if the approval states a later time for the payment of fees, before or at the later time.

**(2)** The fees payable under section 63(2) or 65 must be paid to the chief executive no later than 3 months after each due date.

**(3)** In this section—

**“due date”** means 30 June and 31 December in each year.

### **Arrangement for paying approval fees**

**67.(1)** This section applies despite section 66(1).

**(2)** A person liable to pay fees for, or under, an approval may ask the chief executive to enter into another arrangement with the person for the payment of the fees.

*Example—*

An arrangement may be for the payment of fees in arrears.

**(3)** The request must be in writing stating the particulars of how and when the fees are to be paid (the **“proposed arrangement”**).

**(4)** The chief executive must refuse the request if it is not made in a reasonable time before the fees are payable for the chief executive to properly decide the request.

**(5)** The chief executive may, by signed notice, require the person to give, within the reasonable time stated in the notice, the additional documents or information the chief executive considers necessary to decide the request.

(6) The chief executive may refuse to consider the request until the person supplies the requested documents or information.

(7) If the chief executive agrees to the proposed arrangement, the person must pay the fees as required under the arrangement.

### *Division 2—Offences*

#### **Definition for div 2**

68. In this division—

“**official**” means the chief executive, an authorised officer or another person in the department in which the Act is administered.

#### **False or misleading statements to official**

69. A person must not state anything to an official the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

#### **False or misleading documents to official**

70.(1) A person must not give an official a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply to a person who when giving the document—

- (a) tells the official, to the best of the person’s ability, how it is false or misleading; and
- (b) if the person has, or can get, the correct information, gives the correct information to the official.

#### **Offences about false or misleading statements or documents**

71. For an offence against section 69 or 70, it is enough to allege that the

relevant statement or document was ‘false or misleading’ without specifying which.

### *Division 3—Other provisions*

#### **Protection from liability**

**72.(1)** An authorised officer is not civilly liable for an act done, or omission made, honestly and without negligence under this regulation.

**(2)** If subsection (1) prevents a civil liability attaching to an authorised officer, the liability attaches instead to the State.

## **PART 7—TRANSITIONAL PROVISIONS**

#### **Authorised officer under expired instrument**

**73.(1)** A person who, immediately before the commencement of this section, was an authorised officer, authorised person or appointed person for a public marine facility under an expired instrument is, on the commencement of this section, taken to be appointed as an authorised officer for the facility under part 4.<sup>11</sup>

**(2)** Part 4, other than sections 50 and 51,<sup>12</sup> applies to the authorised officer with all necessary changes.

**(3)** This section expires 3 months after it commences.

**(4)** In this section—

**“expired instrument”** means—

- (a) the *Barrier Reef Island Jetty Regulation 1971* under the repealed *Harbours Act 1955* and continued in effect under the Act,

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<sup>11</sup> Part 4 (Enforcement)

<sup>12</sup> Sections 50 (Appointment of authorised officer) and 51 (Identity card)

section 235(1),<sup>13</sup> until the expiry of the section on 31 December 2000; or

- (b) each of the following by-laws under the repealed *Harbours Act 1955* and continued in effect under the Act, section 232(4),<sup>14</sup> until the expiry of the section on 31 December 2000—
- *Bowen Harbour Board By-law 1977*, by-laws 1, 2, 9 and 10
  - *Mooloolaba Boat Harbour By-law 1976*
  - *Roslyn Bay Boat Harbour By-law 1980*
  - *Snapper Creek and Urangan Boat Harbours By-law 1976*.

### **Activities controlled by local government authorised officer at boat ramp or landing managed by local government**

**74.(1)** This section applies if, at the commencement of this regulation, a local government that is the manager of a public marine facility that is a boat ramp or landing does not have a provision in its local laws to the effect of section 11 for the boat ramp or landing.<sup>15</sup>

**(2)** Despite section 11(1), section 11 applies to the boat ramp or landing—

- (a) as if a reference in the section to an authorised officer were a reference to an authorised officer of the local government; and
- (b) with all other necessary changes.

**(3)** When exercising a power under subsection (2) and section 11, sections 53, 54 and 57<sup>16</sup> apply to the local government authorised officer—

- (a) as if a reference in the sections to an authorised officer were a

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<sup>13</sup> Section 235 (Continuation of certain provisions of Harbours Act about jetties and ramps etc.)

<sup>14</sup> Section 232 (Harbours Corporation of Queensland)

<sup>15</sup> Section 11 (Activities controlled by authorised officers at boat ramp or landing managed by chief executive)

<sup>16</sup> Sections 53 (Production or display of authorised officer's identity card), 54 (Power to require name and address) and 57 (Obstructing authorised officer)

reference to an authorised officer of the local government; and

(b) with all other necessary changes.

(4) This section expires at the sooner of—

(a) 6 months after it commences; or

(b) the making by the local government of a local law under the Act, section 187E<sup>17</sup> that replaces or is inconsistent with subsection (2).

### **Payment date for certain fees**

**75.(1)** A fee prescribed under the *Transport Infrastructure (Management of Harbour Works) Regulation 1992*, schedule 3, (“**expired provision**”) for the period 1 July 2000 to 31 December 2000 is payable no later than 30 March 2001.

(2) This section does not limit a person’s liability that arose before 1 July 2000 to pay fees prescribed under the expired provision.

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<sup>17</sup> Section 187E (Management by local government)

## SCHEDULE 1

### APPOINTMENT OF MANAGERS FOR PUBLIC MARINE FACILITIES

section 5

<b>Manager</b>	<b>Public marine facility</b>
Brisbane City Council	<p>Boat ramp at Morningside (Colmslie Reserve) as shown on Plan No. L001-006 Sh 10</p> <p>Pontoon at Morningside (Colmslie Reserve) as shown on Plan No. L001-006 Sh 13</p> <p>Boat ramp and pontoon at Bracken Ridge (Deep Water Bend Reserve) as shown on Plan No. L001-007 Sh 10</p>
Burnett Shire Council	<p>Boat ramp at Winfield in Baffle Creek (Rocky Point Road) as shown on Plan No. L001-018 Sh 6</p>
Cook Shire Council	<p>Boat ramp at Port Stewart as shown on Plan No. L001-030 Sh 7</p>
Gayndah Shire Council	<p>Boat ramp at Burnett River (Grays Waterhole) as shown on Plan No. L001-012 Sh 14</p>
Gold Coast City Council	<p>Boat ramp at Nerang (Arthur Earle Park) as shown on Plan No. L001-001 Sh 9</p> <p>Jetty at Main Beach (Waterways Drive) as shown on Plan No. L001-002 Sh 1</p> <p>Pontoon at Labrador (Harley Park)</p>



SCHEDULE 1 (continued)

	as shown on Plan No. L001-002 Sh 4
	Jetty at Boykambil (Bert Hood Street) as shown on Plan No. L001-003 Sh 1
	Jetty at Jacobs Well (Jacobs Well Road) as shown on Plan No. L001-003 Sh 3
	Jetty and pontoon at South Stradbroke Island (Tipplers Passage) as shown on Plan No. L001-003 Sh 7
	Boat ramp at The Spit (Muriel Henchman Drive) as shown on Plan No. L001-002 Sh 12
	Jetty and pontoon at Paradise Point (Bruce Avenue) as shown on Plan No. L001-002 Sh 13
Injinoo Community Council	Boat ramp at Injinoo (Cowal Creek) as shown on Plan No. L001-032 Sh 1
	Boat ramp at Inang Apudra (Fishbone Creek) as shown on Plan No. L001-032 Sh 2
Johnstone Shire Council	Boat ramp at Clump Point as shown on Plan No. L001-028 Sh 9
Livingstone Shire Council	Boat ramp at Corbetts Landing as shown on Plan No. L001-020 Sh 13
	Boat ramp at Stanage Bay (Banksia Road) as shown on Plan No. L001-020 Sh 14
Logan City Council	Boat ramp at Tanah Merah (Tansey Park) as shown on Plan No. L001-003 Sh 10

## SCHEDULE 1 (continued)

Mackay City Council	Boat ramp at Mackay (Murray Creek) as shown on Plan No. L001-022 Sh 13
Murweh Shire Council	Boat ramp at Ward River as shown on Plan No. L001-012 Sh 15
Ports Corporation of Queensland	Pontoon at Thursday Island (Engineers Jetty) as shown on Plan No. L001-031 Sh 13
Redland Shire Council	Boat ramp at Russell Island (Wahine Drive) as shown on Plan No. L001-004 Sh 10
Warroo Shire Council	Boat ramp at Surat (north bank of Balonne River) as shown on Plan No. L001-012 Sh 16

## SCHEDULE 2

### FEES FOR STATE MANAGED BOAT HARBOURS

section 63

#### PART 1—FEES IN EACH STATE MANAGED BOAT HARBOUR

##### BOWEN BOAT HARBOUR

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1. For an approval to moor a ship at a pile mooring or buoy mooring or a combination pile and buoy mooring—	
(a) for each metre, or part of a metre, of the length between the centres of the 2 moorings, subject to the minimum fees stated in subparagraphs (i) and (ii), for 1 year . . . . .	32.68
(i) minimum fee for a mooring not over 12.192 m, for 1 year . . . . .	400.00
(ii) minimum fee for a mooring over 12.192 m but not over 15.24 m, for 1 year . . . . .	500.00
(b) for each metre, or part of a metre, of the length between the centres of the 2 moorings, for 6 months	20.72
(c) for each week, irrespective of the ship's length—	
(i) for the first week . . . . .	56.00
(ii) for each subsequent week . . . . .	40.00
(d) for each day, or part of a day, irrespective of the ship's length . . . . .	8.00
2. For an approval to moor a ship at a landing, after the first hour, for each hour or part of an hour . . . . .	3.00

SCHEDULE 2 (continued)

- |     |   |         |
|-----|---|---------|
| 3.  | For an approval to operate a commercial ship to provide a passenger carrying transport service, other than a ferry service if, under the <i>Transport Operations (Marine Safety) Regulation 1995</i> , the ship may carry in partially smooth waters— |         |
| (a) | up to 25 persons, for 1 year . . . . .  | 100.00  |
| (b) | over 25, but not over 55, persons, for 1 year . . . . .   | 200.00  |
| 4.  | For an approval to operate a commercial ship to provide a passenger carrying transport service that is a ferry service—   |         |
| (a) | for each passenger, other than an exempt passenger  | 1.00    |
| (b) | however, if a passenger is a student on a genuine school educational trip and the school principal gives the approval holder a statutory declaration declaring the number of students on the trip, for each student                                   | 0.25    |
| 5.  | For an approval to operate a commercial ship to provide a goods carrying transport service—   |         |
| (a) | for 1 year . . . . .  | 4000.00 |
| (b) | for 6 months . . . . .  | 2000.00 |
| 6.  | For an approval to operate a fuelling service, for 1 year .   | 20.00   |

**MOOLOOLABA BOAT HARBOUR**

- |     |  |       |
|-----|--|-------|
|     |  | \$    |
| 1.  | For an approval to moor a ship at a pile mooring or buoy mooring or a combination pile and buoy mooring— |       |
| (a) | for each metre, or part of a metre, of the ship's length, for 1 year . . . . .                           | 65.00 |
| (b) | for each metre, or part of a metre, of the ship's length, for 6 months . . . . .                         | 32.50 |
| (c) | for each week, irrespective of the ship's length . . . .   | 45.00 |

SCHEDULE 2 (continued)

	(d) for each day, or part of a day, irrespective of the ship's length .....	7.00
2.	For an approval to moor a ship at a maintenance berth, for each day or part of a day .....	10.00
3.	For an approval to operate a commercial ship to provide a passenger carrying transport service using a landing if, under the <i>Transport Operations (Marine Safety) Regulation 1995</i> , the ship may carry in partially smooth waters—	
	(a) up to 25 persons, for 1 year .....	600.00
	(b) over 25 but not over 55 persons, for 1 year .....	1200.00
4.	For an approval to operate a fuelling service, for 1 year	100.00

**ROSSLYN BAY BOAT HARBOUR**

		\$
1.	For an approval to moor a ship at a pile mooring or buoy mooring or a combination pile and buoy mooring—	
	(a) for each metre, or part of a metre, of the length of the ship, for 1 year .....	65.00
	(b) for each metre, or part of a metre, of the length of the ship, for 6 months .....	32.50
	(c) for each week, irrespective of the ship's length .....	45.00
	(d) for each day, or part of a day, irrespective of the ship's length .....	7.00
2.	For an approval to moor a ship at a maintenance berth, for each day or part of a day .....	10.00
3.	For an approval to moor a commercial ship or a fishing ship at a landing, for each hour or part of an hour .....	10.00
4.	For an approval to moor a recreational ship at a landing, after the first hour, for each hour or part of an hour .....	10.00

SCHEDULE 2 (continued)

- |    |   |          |
|----|---|----------|
| 5. | For an approval to operate a commercial ship to provide a passenger carrying transport service, other than a ferry service if, under the <i>Transport Operations (Marine Safety) Regulation 1995</i> , the ship may carry in partially smooth waters— |          |
|    | (a) up to 25 persons, for 1 year . . . . .  | 100.00   |
|    | (b) over 25, but not over 55, persons, for 1 year . . . . .   | 200.00   |
| 6. | For an approval to operate a commercial ship to provide a passenger carrying transport service that is a ferry service—   |          |
|    | (a) if the service is operated to or from boat harbour land under a tenure held by a person, other than the chief executive, for each passenger, other than an exempt passenger . . . . .   | 1.00     |
|    | (b) if the service is operated using a landing on boat harbour land over which only the chief executive has a tenure—   |          |
|    | (i) for each passenger, other than an exempt passenger . . . . .  | 3.00     |
|    | (ii) for use of the landing, for 1 year . . . . .   | 2 500.00 |
|    | (c) however, if a passenger is a student on a genuine school educational trip and the school principal gives the approval holder a statutory declaration declaring the number of students on the trip, for each student—                              |          |
|    | (i) for a service mentioned in paragraph (a) . . . . .  | 0.25     |
|    | (ii) for a service mentioned in paragraph (b)(i) . . . . .  | 0.75     |
| 7. | For an approval to operate a commercial ship to provide a goods carrying transport service—   |          |
|    | (a) for 1 year . . . . .  | 4 000.00 |
|    | (b) for 6 months . . . . .  | 2 000.00 |
|    | (c) in addition to the fees under paragraph (a) or (b), if the service is operated using a boat ramp or landing on boat harbour land over which only the chief executive has a tenure, for use of the boat ramp or landing, for 1 year . . . . .      | 2 500.00 |

SCHEDULE 2 (continued)

8.	For an approval to operate a fish receival service—	
(a)	for each kilogram of prawns, fillets of fish and shucked scallops . . . . .	0.03
(b)	for each kilogram of fish, other than fillets of fish . .	0.02
(c)	for each kilogram of unshucked scallops . . . . .	0.01
(d)	in addition to the fees payable under paragraph (a), (b) or (c), if the service is operated using a boat ramp or landing on boat harbour land over which only the chief executive has a tenure, for use of the boat ramp or landing, for 1 year . . . . .	2 500.00
9.	For an approval to operate a fuelling service, for 1 year	250.00

**SNAPPER CREEK BAY BOAT HARBOUR**

		\$
1.	For an approval to moor a ship at a pile mooring or buoy mooring or a combination pile and buoy mooring—	
(a)	for each metre, or part of a metre, of the ship's length, for 1 year . . . . .	65.00
(b)	for each metre, or part of a metre, of the ship's length, for 6 months . . . . .	32.50
(c)	for each week, irrespective of the ship's length . . . .	45.00
(d)	for each day, or part of a day, irrespective of the ship's length . . . . .	7.00
2.	For an approval to operate a commercial ship to provide a passenger carrying transport service if, under the <i>Transport Operations (Marine Safety) Regulation 1995</i> , the ship may carry in partially smooth waters—	
(a)	up to 25 persons, for 1 year . . . . .	55.00
(b)	over 25, but not over 55 persons, for 1 year . . . . .	110.00
3.	For an approval to operate a fuelling service, for 1 year .	100.00

SCHEDULE 2 (continued)

**URANGAN BOAT HARBOUR**

	\$
<b>1.</b> For an approval to moor a ship at a pile mooring or buoy mooring or a combination pile and buoy mooring—	
(a) for each metre, or part of a metre, of the length of the ship, for 1 year . . . . .	65.00
(b) for each metre, or part of a metre, of the length of the ship, for 6 months . . . . .	32.50
(c) for each week, irrespective of the ship's length . . . . .	45.00
(d) for each day, or part of a day, irrespective of the ship's length . . . . .	7.00
<b>2.</b> For an approval to operate a commercial ship to provide a passenger carrying transport service, other than a ferry or whale watching service if, under the <i>Transport Operations (Marine Safety) Regulation 1995</i> , the ship may carry in partially smooth waters—	
(a) up to 25 persons, for 1 year . . . . .	55.00
(b) over 25, but not over 55 persons, for 1 year . . . . .	110.00
(c) over 55 but not over 150 persons, for 1 year . . . . .	165.00
(d) over 150 persons, for 1 year . . . . .	220.00
<b>3.</b> For an approval to operate a commercial ship to provide a passenger carrying transport service that is a ferry service, if no more than 2 ships are used to provide the service, for 3 months . . . . .	7 500.00
<b>4.</b> For an approval to operate a commercial ship to provide a transport service that is a combined passenger ferry service and goods carrying service, for each ship—	
(a) for 3 months . . . . .	1 000.00
(b) if the service is operated using a barge ramp on boat harbour land over which only the chief executive has a tenure, for use of the ramp for 3 months . . . . .	750.00



SCHEDULE 2 (continued)

- |     |   |          |
|-----|---|----------|
| 5.  | For an approval to operate a commercial ship to provide a goods carrying transport service, if the service is operated using a barge ramp on boat harbour land over which only the chief executive has a tenure, for each ship— |          |
| (a) | for using the ramp up to 24 times a year . . . . .  | 200.00   |
| (b) | for using the ramp over 24 times, but not over 52 times, a year . . . . .   | 400.00   |
| (c) | for using the ramp over 52 times, but not over 104 times, a year . . . . .  | 750.00   |
| (d) | for using the ramp over 104 times a year . . . . .  | 3 000.00 |
| 6.  | For an approval to operate a commercial ship to provide a transport service that is a passenger carrying service for whale watching, for each passenger . . . . .   | 0.20     |
| 7.  | For an approval to operate a fuelling service, for 1 year .   | 100.00   |

**PART 2—OTHER FEES**

- |    |   |        |
|----|---|--------|
| 1. | Fee payable for each mooring in the leased land, for 6 months . . . . . | 107.50 |
|----|---|--------|

**SCHEDULE 3**

**FEEES FOR NON–STATE MANAGED BOAT HARBOURS**

section 65

\$

- 1. Fees payable for each mooring in a non–State managed boat harbour, for 6 months—
  - (a) for a mooring provided by the State . . . . . 177.50
  - (b) for a mooring provided by any one else . . . . . 107.50

## SCHEDULE 4

### DICTIONARY

section 3

**“abandoned property”**, for part 3, division 4, see section 29.

**“approval”** means—

- (a) an approval under section 37 to moor a ship; or
- (b) an approval under section 38 to operate a commercial ship to provide a transport service; or
- (c) an approval under section 39 to operate a fuelling service; or
- (d) an approval under section 40 to operate a fish receival service.

**“authorised officer”** see section 50.

**“commercial hire ship”** see *Transport Operations (Marine Safety) Regulation 1995*, schedule 11.

**“commercial ship”** see *Transport Operations (Marine Safety) Regulation 1995*, schedule 11 but does not include a commercial hire ship.

**“detention notice”**, for part 3, division 4, see section 29.

**“exempt passenger”** means a person travelling on a commercial ship for which, under an approval to operate the ship to provide a transport service, fees are payable for passengers carried on the ship, if the person is—

- (a) under 6 years; or
- (b) travelling on the ship on a ticket for the trip given to the person by a recognised charitable organisation, if the organisation—
  - (i) obtains the ticket without charge; and
  - (ii) gives the approval holder a statutory declaration declaring the number of tickets it received without charge.

## SCHEDULE 4 (continued)

“**fish**” see *Fisheries Act 1994*, section 4.

“**fishing ship**” see *Transport Operations (Marine Safety) Regulation 1995*, schedule 11.

“**fish receival service**” see section 40.

“**fuelling service**” see section 39.

“**indication**” see *Transport Operations (Road Use Management) Act 1995*, schedule 4.

“**landing**” includes jetty, pontoon and wharf.

“**length**” of a ship means its maximum overall length including all projections.

“**manager**” means the manager of a public marine facility under—

(a) the Act, section 267; or

(b) section 5.

“**non-State managed boat harbour**” means a public marine facility that is a boat harbour, other than a State managed boat harbour.

“**obstruct**” includes hinder, resist, insult and attempt to obstruct.

“**official traffic sign**” see *Transport Operations (Road Use Management) Act 1995*, schedule 4.

“**partially smooth waters**” see *Transport Operations (Marine Safety) Regulation 1995*, schedule 11.

“**passenger**”, for a commercial ship, means any person on the ship, other than the ship’s master and the crew required under the *Transport Operations (Marine Safety) Regulation 1995* to operate the ship.

“**public marine facility**” includes a part of the facility.

“**recreational ship**” see *Transport Operations (Marine Safety) Regulation 1995*, schedule 11.

“**regulatory notice**” see section 58.

“**regulatory notice provision**” see section 59.

## SCHEDULE 4 (continued)

**“requirement”**, of a regulatory notice, includes a direction, instruction, indication, condition or other provision contained in the notice.

**“ship”** see *Transport Operations (Marine Safety) Act 1994*, section 4.

**“standard condition”**, for an approval, means a condition the chief executive imposes, or would impose, on every other approval of the same type as the approval.

**“State managed boat harbour”** means each of the following boat harbours that is a public marine facility managed by the State—

- (a) Bowen boat harbour;
- (b) Mooloolaba boat harbour;
- (c) Rosslyn Bay boat harbour;
- (d) Snapper Creek boat harbour;
- (e) Urangan boat harbour.

**“transport service”** means a service for carrying goods or passengers—

- (a) within a boat harbour; or
- (b) that starts or ends in a boat harbour.

*Examples—*

- a ferry service within the boat harbour or that starts from the boat harbour and goes to a resort island outside the boat harbour;
- a fishing or dive charter to an off shore reef.

**“vehicle”** includes an air cushion vehicle.

## ENDNOTES

1. Made by the Governor in Council on 14 December 2000.
2. Notified in the gazette on 15 December 2000.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Transport.