



Queensland

Transport Operations (Marine Safety) and Other Legislation Amendment Regulation (No. 1) 2005

Subordinate Legislation 2005 No. 50

made under the

Transport Operations (Marine Pollution) Act 1995

Transport Operations (Marine Safety) Act 1994

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Transport Operations (Marine Safety) and Other Legislation Amendment Regulation (No. 1) 2005*.

2 Commencement

This regulation commences on 1 April 2005.

Part 2 Amendment of the Transport Operations (Marine Safety) Regulation 2004

3 Regulation amended in pt 2

This part amends the *Transport Operations (Marine Safety) Regulation 2004*.

4 Replacement of s 6 (References to length of ship)

Section 6—

omit, insert—

‘6 References to length of ship

‘A reference in this regulation to the length of a ship is a reference to—

- (a) for section 176, and schedule 10, sections 9 (other than section 9(2)(c)(i)), 18 and 18A—the distance measured from the foremost tip of the hull to the aftermost part of the hull, excluding appendages; or

- (b) otherwise—the measured length of the ship within the meaning of the USL code, section 1, part 2.¹.

5 Amendment of s 71 (Definitions for div 5)

Section 71, heading, ‘div 5’—

omit, insert—

‘div 6’.

6 Amendment of s 176 (Application of Act, pt 8)

(1) Section 176(1)—

omit, insert—

‘(1) The following are ships to which part 8² of the Act applies—

- (a) a ship that is 50 m or more;
- (b) a small ship (the *relevant ship*) if—
 - (i) it is combined with another small ship for propelling 1 of the ships; and
 - (ii) the total of the lengths of the ships is 50 m or more; and
 - (iii) the master of the relevant ship has command of the combined ships;
- (c) a ship whose owner or master asks for the services of a pilot;
- (d) a ship whose master is directed by a harbour master to use the services of a pilot.’.

(2) Section 176(2), ‘to (c)’—

omit, insert—

‘or (b)’.

(3) Section 176(3), definition *small ship*—

1 USL Code, section 1 (Introduction, definitions and general requirements), part 2 (Definitions)

2 Part 8 (Pilots) of the Act

omit, insert—

‘small ship means a ship that is less than 50 m.’.

7 Amendment of s 181 (Owner or master to report shipping movements in pilotage area)

(1) Section 181, heading—

omit, insert—

‘181 Reporting movement of ship mentioned in s 176(1)’.

(2) Section 181(1), ‘section 176(1)(a) to (d)’ and footnote—

omit, insert—

‘section 176(1)³’.

(3) Section 181(2), after ‘harbour master’—

insert—

‘for the pilotage area’.

8 Insertion of new s 181A

Part 7, division 4, after section 181—

insert—

‘181A Reporting movement of ship 35 m or more but less than 50 m

‘(1) This section applies if a ship that is 35 m or more but less than 50 m—

(a) is to arrive at, or depart from, a pilotage area; or

(b) is to be removed from a berth or anchorage in a pilotage area to another berth or anchorage in the pilotage area.

‘(2) A person who is the owner or master of the ship must report the expected time of a movement of the ship to the harbour master for the pilotage area in the approved form within the time stated in subsection (3).

Maximum penalty—40 penalty units.

3 Section 176 (Application of Act, pt 8)

- ‘(3) The report must be made—
- (a) for the first movement of the ship in a reporting period for the ship—at least 24 hours before the movement; and
 - (b) for any subsequent movement of the ship in the reporting period for the ship—within the time decided by the harbour master necessary to maintain the effectiveness and efficiency of the Queensland maritime industry.

- ‘(4) In this section—

movement, of a ship, means an arrival, departure or removal of the ship.

reporting period, for the ship, means a period of 30 days from the day of a movement of the ship in the pilotage area not otherwise covered by an existing reporting period for the ship in the pilotage area.’.

9 **Amendment of s 190 (Report requested by harbour master)**

Section 190(1), ‘of a pilotage area’—

omit, insert—

‘for a pilotage area’.

10 **Replacement of ss 193–195**

Sections 193 to 195—

omit, insert—

‘193 **Pilotage fees for pilotage service**

- ‘(1) Pilotage fees are payable when a person navigates a ship in a pilotage area and uses the services of a pilot.⁴

4 Under section 99 (Pilots required for ship navigation in compulsory pilotage area) of the Act, a person must not navigate a ship in a compulsory pilotage area unless the person uses the services of a pilot.

- ‘(2) Schedule 10 states the pilotage fee for an arrival, departure or removal of a ship in a pilotage area, other than a non-prescribed fee area.
- ‘(3) A fee in an amount decided by the general manager, that is not more than the reasonable cost of providing the services of the pilot, is the pilotage fee for pilotage for—
- (a) a non-prescribed fee area; or
 - (b) a movement of a ship (other than an arrival, departure or removal of the ship) in a pilotage area that is not a non-prescribed fee area.
- ‘(4) In this section—
- non-prescribed fee area* means—
- (a) the Daintree River pilotage area; or
 - (b) the Noosa pilotage area; or
 - (c) the Whitsundays pilotage area.

‘194 No pilotage fee for removal of a ship that is part of arrival or departure

‘If a removal of a ship is part of the ship’s arrival at, or departure from, a pilotage area, no pilotage fee is payable for the removal.

‘195 Fee if pilot cannot leave ship

- ‘(1) This section applies if a ship departs from a pilotage area.
- ‘(2) If a pilot cannot leave the ship after pilotage of the ship ends, an additional fee is payable in the amount of the reasonable costs of returning the pilot to the pilotage area.
- ‘(3) Subsection (2) does not apply if the pilot is not able to leave the ship after the pilotage ends because of something beyond the control of the ship’s master.

‘195A Cancellation fee if pilotage amended or cancelled

- ‘(1) This section applies if a person who is the owner or master of a ship has arranged pilotage for the ship with a harbour master.
- ‘(2) A cancellation fee stated in schedule 10 is payable if the person amends or cancels the pilotage without giving the harbour master at least 3 hours notice of the amendment or cancellation.
- ‘(3) However, if the general manager considers a time other than the time mentioned in subsection (2) is necessary for the effective and efficient operation of the pilotage service in a pilotage area, the general manager may, by gazette notice, specify another time (not more than 3 hours) for subsection (2) for the pilotage area.

‘195B Delay fee if pilotage delayed

- ‘(1) This section applies if a person who is the owner or master of a ship—
 - (a) has arranged pilotage for the ship with a harbour master; and
 - (b) has not given the harbour master notice of an amendment or cancellation of the pilotage under section 195A(2).
- ‘(2) A delay fee stated in schedule 10 is payable if pilotage for the ship is delayed for more than 30 minutes, but not more than 2 hours, after the time arranged for the pilotage with the harbour master.
- ‘(3) The delay fee is payable—
 - (a) if the ship is delayed for more than 30 minutes but not more than 1 hour—for the first hour; or
 - (b) if the ship is delayed for more than 1 hour but not more than 2 hours—for each of the first 2 hours.
- ‘(4) If the ship is delayed for more than 2 hours—
 - (a) the pilotage is taken to have been cancelled; and
 - (b) a cancellation fee stated in schedule 10 is payable.

- ‘(5) However, if the general manager considers times other than the times mentioned in subsection (3) or (4) are necessary for the effective and efficient operation of the pilotage service in a pilotage area, the general manager may, by gazette notice, specify other times (not less than the times mentioned) for subsection (3) or (4) for the pilotage area.
- ‘(6) In this section—
delay does not include delay caused by weather affecting the ship’s ability to be safely navigated.’.

11 Amendment of s 196 (Conservancy dues for ships)

Section 196(2) and (3)—

omit, insert—

- ‘(2) A conservancy due is payable on the day the ship completes its first arrival at, removal within or departure from, a compulsory pilotage area.
- ‘(3) The fee payable under subsection (2) includes all the ship’s arrivals at, removals within or departures from, any compulsory pilotage area for 30 days after the fee is payable.’.

12 Insertion of new part 11, div 4

After section 236—

insert—

‘Division 4 Other transitional provisions

‘236A Transitional provision for the Transport Operations (Marine Safety) and Other Legislation Amendment Regulation (No. 1) 2005—pilotage fees

- ‘(1) This section applies to a ship if—
- (a) the ship is 50 m or more but less than 160 m; and
 - (b) the ship may carry more than 12 passengers under the ship’s registration certificate; and
 - (c) the ship’s port visit program and fares for carrying individual passengers, for a period after the

commencement of this section, was made publicly available before 2 October 2004; and

- (d) the ship's port visit program includes more than 6 movements of the ship in any pilotage area in a year.
- '(2) The general manager may, on written application by the owner or master of the ship, give an exemption from the payment of pilotage fees for the ship to the extent that the pilotage fees are calculated or decided under section 193 or schedule 10.
- '(3) The general manager may only give the exemption for the ship if the general manager is satisfied about the matters mentioned in subsection (1) in relation to the ship.
- '(4) The exemption must not be for a period that is more than for the period of the advertised fares for the advertised port visit program.
- '(5) The pilotage fee for the services of a pilot, for a movement of the ship in a pilotage area during the period of the exemption, is the amount decided by the general manager that is not more than the reasonable cost of providing the service.
- '(6) Also, the amount that may be decided under subsection (5) for the movement of the ship in the pilotage area must not be more than the pilotage fee that would have been payable for the movement had it occurred immediately before the commencement of this section.
- '(7) This section expires on 30 June 2007.'

13 Amendment of sch 6 (Compulsory pilotage areas)

Schedule 6, entries for 'Noosa pilotage area' and 'Daintree River pilotage area'—

omit.

14 Amendment of sch 10 (Fees and charges)

- (1) Schedule 10, section 8(2)(e)(i), after ';'—

insert—

‘or’.

- (2) Schedule 10, section 9(2)(c)—

omit, insert—

‘(c) for a consent to the use of a flag for 1 month or less—

- (i) for a ship 50 m or less—\$61.80; or
- (ii) for a ship more than 50 m but not more than 80 m—\$132.00; or
- (iii) for a ship more than 80 m but not more than 150 m—\$280.00; or
- (iv) for a ship more than 150 m but not more than 200 m—\$440.00; or
- (v) for a ship more than 200 m—\$600.00;’.

- (3) Schedule 10, section 10(2)(b)(i), after ‘;’—

insert—

‘or’.

- (4) Schedule 10, sections 18 and 19—

omit, insert—

‘18 Pilotage fees for arrival and departure of a ship

‘(1) This section sets the pilotage fees for a ship’s arrival at, or departure from, a pilotage area.

‘(2) The fees are set out in the following table—

Pilotage area	Minimum fee	> 80 to 150 m	> 150 to 200 m	> 200 to 250 m	> 250 m
	\$	\$	\$	\$	\$
Abbot Point	665.70	14.24	12.95	10.36	9.06
Brisbane	1 149.27	25.30	23.00	18.40	16.10
Bundaberg	668.73	14.52	13.20	10.56	9.24
Cairns	669.24	14.56	13.24	10.59	9.27
Cape Flattery	678.99	15.46	14.05	11.24	9.84
Cooktown	595.33	12.99	11.81	9.45	8.26
Gladstone	969.71	21.32	19.38	15.50	13.56
Hay Point	664.18	14.10	12.82	10.25	8.97

Pilotage area	Minimum fee	> 80 to 150 m	> 150 to 200 m	> 200 to 250 m	> 250 m
	\$	\$	\$	\$	\$
Karumba	599.47	13.37	12.15	9.72	8.51
Lucinda	663.67	14.05	12.78	10.22	8.94
Mackay	664.18	14.10	12.82	10.25	8.97
Maryborough	595.33	12.99	11.81	9.45	8.26
Mourilyan	664.69	14.15	12.86	10.29	9.00
Port Douglas	595.33	12.99	11.81	9.45	8.26
Rockhampton	660.32	13.75	12.50	10.00	8.75
Skardon River	595.33	12.99	11.81	9.45	8.26
Southport	595.33	12.99	11.81	9.45	8.26
Thursday Island	595.33	12.99	11.81	9.45	8.26
Townsville	670.76	14.70	13.37	10.69	9.36
Weipa	1 050.69	23.54	21.40	17.12	14.98

- (3) The column headed ‘Pilotage area’ specifies the pilotage areas where a pilotage fee is payable.
- (4) The column headed ‘Minimum fee’ specifies the minimum fee payable for the pilotage of a ship, including for a ship that is 80 m or less.
- (5) The column headed ‘> 80 to 150 m’ specifies an additional fee payable for each metre of a ship more than 80 m, to a maximum of 150 m, for the corresponding pilotage area.
- (6) The column headed ‘> 150 to 200 m’ specifies an additional fee payable for each metre of a ship more than 150 m, to a maximum of 200 m, for the corresponding pilotage area.
- (7) The column headed ‘> 200 to 250 m’ specifies an additional fee payable for each metre of a ship more than 200 m, to a maximum of 250 m, for the corresponding pilotage area.
- (8) The column headed ‘> 250 m’ specifies an additional fee payable for each metre of a ship more than 250 m, for the corresponding pilotage area.

‘18A Pilotage fees for removal of a ship

- ‘(1) This section sets the pilotage fees for removal of a ship to another berth or anchorage for a pilotage area.
- ‘(2) The fees are set out in the following table—

Pilotage area	Minimum fee	> 80 to 150 m	> 150 to 200 m	> 200 to 250 m	> 250 m
	\$	\$	\$	\$	\$
Abbot Point	325.26	6.96	6.33	5.06	4.43
Brisbane	430.98	9.49	8.62	6.90	6.04
Bundaberg	320.48	6.96	6.33	5.06	4.43
Cairns	319.70	6.96	6.33	5.06	4.43
Cape Flattery	333.38	7.59	6.90	5.52	4.83
Cooktown	289.93	6.32	5.75	4.60	4.02
Gladstone	431.62	9.49	8.62	6.90	6.04
Hay Point	327.72	6.96	6.33	5.06	4.43
Karumba	283.66	6.33	5.75	4.60	4.03
Lucinda	328.55	6.96	6.33	5.06	4.43
Mackay	327.72	6.96	6.33	5.06	4.43
Maryborough	289.93	6.32	5.75	4.60	4.02
Mourilyan	326.89	6.96	6.33	5.06	4.43
Port Douglas	289.93	6.32	5.75	4.60	4.02
Rockhampton	303.83	6.32	5.75	4.60	4.02
Skardon River	289.93	6.32	5.75	4.60	4.02
Southport	289.93	6.32	5.75	4.60	4.02
Thursday Island	289.93	6.32	5.75	4.60	4.02
Townsville	317.39	6.96	6.33	5.06	4.43
Weipa	487.18	10.92	9.92	7.94	6.95

- ‘(3) The column headed ‘Pilotage area’ specifies the pilotage areas where a pilotage fee is payable.
- ‘(4) The column headed ‘Minimum fee’ specifies the minimum fee payable for pilotage of a ship, including for a ship that is 80 m or less.
- ‘(5) The column headed ‘> 80 to 150 m’ specifies an additional fee payable for each metre of a ship more than 80 m, to a maximum of 150 m, for the corresponding pilotage area.

- ‘(6) The column headed ‘> 150 to 200 m’ specifies an additional fee payable for each metre of a ship more than 150 m, to a maximum of 200 m, for the corresponding pilotage area.
- ‘(7) The column headed ‘> 200 to 250 m’ specifies an additional fee payable for each metre of a ship more than 200 m, to a maximum of 250 m, for the corresponding pilotage area.
- ‘(8) The column headed ‘> 250 m’ specifies an additional fee payable for each metre of a ship more than 250 m, for the corresponding pilotage area.

‘19 Pilotage cancellation fees

- ‘(1) This section sets the fees for cancellation of pilotage for a pilotage area.
- ‘(2) The fees are set out in the following table—

Pilotage area	Cancellation fee
	\$
Abbot Point	506.00
Brisbane	572.00
Bundaberg	484.00
Cairns	484.00
Cape Flattery	528.00
Cooktown	440.00
Gladstone	572.00
Hay Point	506.00
Karumba	440.00
Lucinda	506.00
Mackay	484.00
Maryborough	440.00
Mourilyan	484.00
Port Douglas	440.00
Rockhampton	440.00
Skardon River	440.00
Southport	440.00
Thursday Island	440.00

Pilotage area	Cancellation fee
	\$
Townsville	484.00
Weipa	572.00

‘(3) The column headed ‘Pilotage area’ specifies the pilotage areas where a fee for cancellation of pilotage is payable.

‘(4) The column headed ‘Cancellation fee’ specifies the fee payable for cancellation of pilotage of a ship for the corresponding pilotage area.

‘19A Pilotage delay fees

‘(1) This section sets the fees for delay of pilotage for a pilotage area.

‘(2) The fees are set out in the following table—

Pilotage area	Delay fee
	\$
Abbot Point	253.00
Brisbane	286.00
Bundaberg	242.00
Cairns	242.00
Cape Flattery	264.00
Cooktown	220.00
Gladstone	286.00
Hay Point	253.00
Karumba	220.00
Lucinda	253.00
Mackay	242.00
Maryborough	220.00
Mourilyan	242.00
Port Douglas	220.00
Rockhampton	220.00
Skardon River	220.00
Southport	220.00
Thursday Island	220.00

Pilotage area	Delay fee
	\$
Townsville	242.00
Weipa	286.00

- ‘(3) The column headed ‘Pilotage area’ specifies the pilotage areas where a fee for delay of pilotage is payable.
- ‘(4) The column headed ‘Delay fee’ specifies the hourly fee payable for delay of pilotage of a ship for the corresponding pilotage area.’.

15 Amendment of sch 15 (Dictionary)

- (1) Schedule 15, definition *area VTS*, ‘division 4’—
omit, insert—
‘division 5’.
- (2) Schedule 15, definition *category 1 area*, ‘section 203(2)’—
omit, insert—
‘section 207(2)’.
- (3) Schedule 15, definition *category 2 area*, ‘section 203(2)’—
omit, insert—
‘section 207(2)’.
- (4) Schedule 15, definition *category 3 area*, ‘section 203(3)’—
omit, insert—
‘section 207(3)’.
- (5) Schedule 15, definition *radio*, ‘division 4’—
omit, insert—
‘division 5’.
- (6) Schedule 15, definition *small ship*, ‘division 4’—
omit, insert—
‘division 5’.

Part 3 **Amendment of the Transport Operations (Marine Pollution) Regulation 1995**

16 **Regulation amended in pt 3**

This part amends the *Transport Operations (Marine Pollution) Regulation 1995*.

17 **Amendment of s 38D (Declared ship for Act, s 49)**

Section 38D(b), '1995'—
omit, insert—
'2004'.

18 **Amendment of s 38F (Ships to which Act, s 51 applies)**

Section 38F(b), '1995'—
omit, insert—
'2004'.

19 **Amendment of sch 10 (Dictionary)**

(1) Schedule 10, definition *partially smooth waters*, from '1995'—

omit, insert—
'2004, schedule 15.⁵'.

(2) Schedule 10, definition *smooth waters*—

omit, insert—

'*smooth waters* has the meaning given by the *Transport Operations (Marine Safety) Regulation 2004*, but does not include—

⁵ *Transport Operations (Marine Safety) Regulation 2004*, schedule 15 (Dictionary)

- (a) the waters described in schedule 8 of the regulation that are within .5 n miles from land; and
 - (b) prohibited discharge waters.’.
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ENDNOTES

- 1 Made by the Governor in Council on 31 March 2005.
- 2 Notified in the gazette on 1 April 2005.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Transport.