



Queensland

Transport Operations (Marine Safety) and Another Regulation Amendment Regulation (No. 1) 2011

Subordinate Legislation 2011 No. 274

made under the

State Penalties Enforcement Act 1999

Transport Operations (Marine Safety) Act 1994

Contents

		Page
Part 1	Preliminary	
1	Short title	3
2	Commencement	3
Part 2	Amendment of State Penalties Enforcement Regulation 2000	
3	Regulation amended	3
4	Amendment of sch 3 (Transport legislation)	3
Part 3	Amendment of Transport Operations (Marine Safety) Regulation 2004	
5	Regulation amended	4
6	Amendment of s 9A (Ship to be equipped with EPIRB)	4
7	Amendment of s 17 (Commercial ship that is a personal watercraft)	4
8	Amendment of s 33 (Safety equipment for recreational ship that is a personal watercraft)	5
9	Insertion of new s 33A	6
	33A Stowage and accessibility of safety equipment	6
10	Amendment of s 60 (Application of Act, pt 5, div 2)	6
11	Amendment of s 85 (Definitions for div 2)	7

Transport Operations (Marine Safety) and Another Regulation Amendment Regulation
(No. 1) 2011

Contents

12	Amendment of s 86 (Owner or master to ensure master and crew members appropriately licensed)	7
13	Amendment of s 87 (Operation of ship by unlicensed person)	8
14	Amendment of s 95 (Required licences for recreational ships)	9
15	Amendment of s 127A (Speed limit for personal watercraft operating in particular places)	10
16	Amendment of s 129 (No offence if ship operated at speed necessary for safety)	12
17	Amendment of sch 1 (Standards)	12
18	Amendment of sch 14B (Coastal bars)	12
19	Amendment of sch 15 (Dictionary)	12

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Transport Operations (Marine Safety) and Another Regulation Amendment Regulation (No. 1) 2011*.

2 Commencement

This regulation commences on 1 January 2012.

Part 2 Amendment of State Penalties Enforcement Regulation 2000

3 Regulation amended

This part amends the *State Penalties Enforcement Regulation 2000*.

4 Amendment of sch 3 (Transport legislation)

Schedule 3, entry for *Transport Operations (Marine Safety) Regulation 2004*, entry for section 86(1)—

omit, insert—

‘s 86(1) for a commercial or fishing ship	3
for a recreational ship	2’.

renumber as section 17(2) and (3).

(5) Section 17—

insert—

‘(4) The flares and signals mentioned in subsection (1)(b)(iii) and (iv) must conform to—

(a) the USL code; or

(b) SOLAS; or

(c) AS 2092—2004.’.

8 Amendment of s 33 (Safety equipment for recreational ship that is a personal watercraft)

(1) Section 33(3)—

renumber as section 33(6).

(2) Section 33—

insert—

‘(3) Also, a recreational ship that is a personal watercraft operating in or beyond partially smooth waters must be equipped with—

(a) a V sheet; and

(b) 2 handheld red flares; and

(c) 2 handheld orange smoke signals.

‘(4) However, subsection (3) does not apply to a personal watercraft operating—

(a) under an aquatic event authority; or

(b) beyond partially smooth waters and within 0.5 nautical miles from land.

‘(5) The flares and signals mentioned in subsection (3)(b) and (c) must conform to—

(a) the USL code; or

- (b) SOLAS; or
- (c) AS 2092—2004.’.

9 Insertion of new s 33A

Part 2, division 5—

insert—

‘33A Stowage and accessibility of safety equipment

‘A recreational ship is taken not to be equipped with safety equipment under this division unless—

- (a) the owner or master gives each person on board information about where the safety equipment is kept; and

Example—

The information may be given orally or in a demonstration or printed sign.

- (b) subject to section 33 or 40(2)(b)—for safety equipment that is a life jacket or personal flotation device (each the ***flotation device***), the flotation device—
 - (i) is clearly visible while a person is on board; or
 - (ii) is kept in a place—
 - (A) from which the flotation device is readily accessible; and
 - (B) that is indicated by a sign that is clearly visible and has a white background and the word ‘lifejackets’ marked in red letters.’.

10 Amendment of s 60 (Application of Act, pt 5, div 2)

Section 60(2)(g), after ‘intrastate voyage’—

insert—

‘, or an interstate voyage in Queensland waters.’.

11 Amendment of s 85 (Definitions for div 2)

- (1) Section 85, definition *fishing ship*, paragraph (a)(iii)(ii), ‘State.’—

omit, insert—

‘State; or’.

- (2) Section 85, definition *fishing ship*, paragraph (a)(iii)(i) and (ii)—

renumber as section 85, definition *fishing ship*, paragraph (a)(iii)(A) and (B).

12 Amendment of s 86 (Owner or master to ensure master and crew members appropriately licensed)

- (1) Section 86(1), ‘or fishing ship’—

omit, insert—

‘, fishing ship or recreational ship’.

- (2) Section 86(1)(b), after ‘if the ship’—

insert—

‘is a commercial ship or fishing ship that is’.

- (3) Section 86(1), penalty—

omit, insert—

‘Maximum penalty—

(a) for the owner of a commercial ship or fishing ship—200 penalty units; or

(b) for the owner of a recreational ship—50 penalty units.’.

- (4) Section 86—

insert—

- ‘(1A) However, the owner of a recreational ship does not contravene subsection (1) if—

- (a) the owner believes, on reasonable grounds, the person operating the ship holds an appropriate current licence to operate the ship as its master; or
- (b) the ship is being operated without the knowledge or consent of the owner.’.

13 **Amendment of s 87 (Operation of ship by unlicensed person)**

- (1) Section 87(1)—

insert—

‘(c) if the ship is a personal watercraft—

- (i) the master and the unlicensed person are the only persons on board; and
- (ii) a kill switch safety lanyard is attached to the master and the personal watercraft.’.

- (2) Section 87(2)(a) and (b), before ‘the master—’—

insert—

‘if the ship is a commercial ship or fishing ship other than a personal watercraft.’.

- (3) Section 87(2)—

insert—

‘(c) if the ship is a personal watercraft—

- (i) the master complies with the matters stated in paragraph (b); and
- (ii) the master and unlicensed person are the only persons on board; and
- (iii) a kill switch safety lanyard is attached to the master and the personal watercraft.’.

- (4) Section 87(4)—

insert—

‘*kill switch safety lanyard* means a device that—

- (a) is designed to be attached to a personal watercraft and a person; and
- (b) if the person is no longer on board, will immediately stop the engine of the personal watercraft.’.

14 Amendment of s 95 (Required licences for recreational ships)

- (1) Section 95(2), after ‘for a recreational ship’—
insert—
‘, other than a personal watercraft,’.
- (2) Section 95(2)—
insert—
‘(d) a current equivalent foreign licence.’.
- (3) Section 95(3)—
omit, insert—
- ‘(3) The appropriate licence for a person to hold for a recreational ship that is a personal watercraft is—
 - (a) a licence mentioned in subsection (2); and
 - (b) any of the following—
 - (i) a personal watercraft licence;
 - (ii) a current equivalent licence issued under the law of another State;
 - (iii) a current equivalent foreign licence.
- ‘(4) A foreign licence ceases to be an appropriate licence for this section—
 - (a) on the day that is 3 months after the following—
 - (i) if the holder is an Australian citizen—the holder enters Australia;

- (ii) if the holder is not an Australian citizen but is granted a resident visa before entering Australia—the holder enters Australia;
 - (iii) if the holder is not an Australian citizen but is granted a resident visa after entering Australia—the visa is granted; or
- (b) on the day the holder is granted another licence required to be held under this section.

‘(5) In this section—

Australia means the mainland of Australia or the coastal waters of a State.

resident visa means a permanent visa, or a special category visa, under the *Migration Act 1958* (Cwlth).’.

15 **Amendment of s 127A (Speed limit for personal watercraft operating in particular places)**

(1) Section 127A(1)—

omit, insert—

‘(1) A person must not do the following—

- (a) operate a personal watercraft in waters at a speed of more than 6kn if the personal watercraft is within 60m of any of the following—
 - (i) a person in the waters;
 - (ii) a ship at anchor, moored or made fast to the shore or aground;
 - (iii) a jetty, wharf, boat ramp or pontoon in or on the waters;
 - (iv) the boundary of a bathing reserve;
 - (v) the shore;
- (b) operate a personal watercraft in waters at a speed of more than 10kn if the personal watercraft is within 30m of another moving ship.

Maximum penalty—200 penalty units.’.

- (2) Section 127A(2), ‘subsection (1)(e)’—

omit, insert—

‘subsection (1)(a)(v)’.

- (3) Section 127A—

insert—

‘(2A) Despite subsection (1)(b), a person may operate, within 30m of another moving ship, a personal watercraft in waters at a speed of more than 10kn but no more than the speed limit for the waters if—

(a) the personal watercraft is being operated under an aquatic event authority; or

(b) complying with subsection (1)(b) would endanger the person or another person.’.

- (4) Section 127A(3), ‘Subsections (1)’—

omit, insert—

‘Subsections (1)(a)’.

- (5) Section 127A—

insert—

‘(3A) Subsections (1)(b) and (2A) do not apply to a personal watercraft if the personal watercraft is in waters for which a speed limit of 10kn or less has been fixed under section 206A of the Act.’.

- (6) Section 127A(5), definition *bathing reserve*, ‘established under the *Local Government Act 1993*, section 935’—

omit, insert—

‘placed, under the *Local Government (Operations) Regulation 2010*, section 26, under the control of a local government’.

- (7) Section 127A(2A) to (5)—

renumber as section 127A(3) to (7).

16 Amendment of s 129 (No offence if ship operated at speed necessary for safety)

Section 129(1), after ‘section 127’—

insert—

‘, 127A(1)’.

17 Amendment of sch 1 (Standards)

Schedule 1—

insert—

‘11 AS 4758—2008 (Personal flotation devices—General requirements)’.

18 Amendment of sch 14B (Coastal bars)

Schedule 14B—

insert—

‘Gold Coast Seaway Bar

the passage of water between Nerang Head on South Stradbroke Island and Porpoise Point (commonly known as the Gold Coast Seaway)

Mooloolah Bar

located near Point Cartwright in the vicinity of where the Mooloolah River and the Coral Sea meet

Round Hill Creek Bar

located near the town of Seventeen Seventy in the vicinity of where Round Hill Creek and the Coral Sea meet’.

19 Amendment of sch 15 (Dictionary)

(1) Schedule 15, definitions *PFD type 2* and *PFD type 3*—

omit.

(2) Schedule 15—

insert—

‘aquatic event authority means an authority mentioned in section 148(1)(k).

foreign licence means a licence to operate a recreational ship as its master—

- (a) issued or recognised under the law of another country; and
- (b) recognised for this definition by the general manager.

PFD type 2 means a personal flotation device complying with either—

- (a) AS 1499—1996; or
- (b) for a personal flotation device classified as level 50 under AS 4758—2008—the standard as in force at the date of manufacture for the personal flotation device.’.

PFD type 3 means a personal flotation device complying with either—

- (a) AS 2260—1996; or
 - (b) for a personal flotation device classified as a special purpose PFD under AS 4758—2008—the standard as in force at the date of manufacture for the personal flotation device.’.
- (3) Schedule 15, definition *PFD type 1*—

insert—

- ‘(d) for a personal flotation device classified as level 100, 150 or 275 under AS 4758—2008—the standard as in force at the date of manufacture for the personal flotation device.’.

ENDNOTES

- 1 Made by the Governor in Council on 8 December 2011.
- 2 Notified in the gazette on 9 December 2011.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Transport and Main Roads.

© State of Queensland 2011