

Queensland



Marine Safety Act 1994

MARINE SAFETY (TRANSITIONAL) REGULATION 1994

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(SL not amended up to this date)**

Reprint No. 1

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Queensland



**MARINE SAFETY (TRANSITIONAL)
REGULATION 1994**

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MARINE SAFETY (TRANSITIONAL) REGULATION 1994

[reprinted as in force on 20 June 1994²]

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Marine Safety (Transitional) Regulation 1994*³⁻⁴.

Definitions

2. In this regulation—

“**former Act**” means the *Queensland Marine Act 1958*;

“**qualified pilot**” means a person who is appointed or licensed as a pilot under relevant section 163;

“**relevant sections**” means sections 26, 64, 65, 66, 67, 117A, 162, 163, 166, 170, 174, 175, 176, 177, 198, 219, 248A, 250 and 251A of the former Act;

“**show cause notice**” has the meaning given in section 6(1) (Procedure for suspension, cancellation or refusal to renew approval).

Transitional

3. For the purposes of section 232 (Transitional regulations) of the Act, among other things, this regulation makes provision about matters for which provision was made in the former Act.

PART 2—TRANSITIONAL PROVISIONS

Continued relevance of certain provisions of former Act

4.(1) This section is for the transition from the operation of the former Act about matters dealt with in the relevant sections to the operation of the *Marine Safety Act 1994* about the matters.

(2) The relevant sections apply—

- (a) as if they were contained in this regulation; and
- (b) subject to the changes shown in the Schedule.

(3) Despite the repeal of the relevant sections by the *Marine Safety Act 1994*, anything done or authorised under a relevant section and in force immediately before this section commenced, continues to be as effective as it would be if the relevant section had not been repealed, but had continued in force subject to the changes in the Schedule.

Grounds for suspension, cancellation or refusal to renew approval

5. Each of the following is a ground for the suspension or cancellation of an approval or the refusal to renew an approval—

- (a) the approval was obtained on the basis of incorrect or misleading information;
- (b) the holder of the approval has contravened a condition of the approval;
- (c) the holder of the approval has committed an offence against the Act.

Procedure for suspension, cancellation or refusal to renew approval

6.(1) If the chief executive considers that reasonable grounds exist to suspend, cancel or refuse to renew an approval (the “**action**”), the chief executive must give the holder of the approval (the “**holder**”) a written notice (the “**show cause notice**”) that—

- (a) states the action proposed; and

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- (b) states the grounds for proposing to take the action; and
- (c) outlines the facts and circumstances that form the basis for the chief executive's belief; and
- (d) if the chief executive proposes to suspend the approval—states the proposed suspension term; and
- (e) invites the holder to show cause within the specified time, of not less than 28 days, why the action proposed should not be taken.

(2) If, after considering all representations made within the specified time, the chief executive still believes that grounds to take the action exist, the chief executive may—

- (a) if the show cause notice was a notice of intention to suspend the approval for a specified term—suspend the approval for a term not longer than the specified term; or
- (b) if the show cause notice was a notice of intention to cancel the approval—
 - (i) cancel the approval; or
 - (ii) suspend the approval for a term; or
- (c) if the show cause notice was a notice of intention not to renew the approval—
 - (i) refuse to renew the approval; or
 - (ii) refuse to renew the approval for a term.

(3) The chief executive must inform the holder of the decision by written notice.

(4) If the chief executive decides to cancel, suspend or refuse to renew the approval, the notice must state—

- (a) the reasons for the decision; and
- (b) that the holder may appeal against the decision under Part 16 (Appeals) of the Act.

(5) The decision takes effect on the later of the following—

- (a) the day on which the notice is given to the holder;
- (b) the day specified in the notice.

Action by chief executive following marine incident

7.(1) If the chief executive has required a shipping inspector to investigate a marine incident, the chief executive may, by signed notice, suspend or amend the approval of a ship or person involved in the incident (the “**action**”).

(2) The signed notice must—

- (a) be given to the holder of the approval; and
- (b) state the grounds for taking the action; and
- (c) outline the facts and circumstances forming the basis of the chief executive’s decision to take the action; and
- (d) state the reasons for the action; and
- (e) if the notice suspends the approval—state the suspension term; and
- (f) if the notice amends the approval—state the way the approval is amended and the term of the amendment; and
- (g) state that the holder of the approval may appeal against the action under Part 16 (Appeals) of the Act.

(3) The action takes effect on the later of the following—

- (a) the day on which the notice is given; or
- (b) the day specified in the notice.

(4) The procedure under section 6 for cancelling, suspending or refusing to renew an approval is separate from the procedure for suspending or amending an approval under this section.

Term of suspension or amendment under s 7

8.(1) A suspension or amendment under section 7 must not be longer than 6 months.

(2) However, if a relevant board of inquiry has been established, the chief executive may, by signed notice to the holder of the approval suspended or amended under section 7, extend the term of the suspension or amendment of the approval until 7 days after the board has given the Minister its report under section 132 (Role of board of inquiry) of the Act.

(3) If a show cause notice under section 6(1) has been given to the holder of the approval before the end of 7 days after the Board has given the Minister its report, the suspension or amendment of the approval under section 7 continues until the chief executive informs the holder of the approval of the chief executive's decision about the show cause notice under section 6(3).

(4) If a relevant board of inquiry has not been established within 14 days after the chief executive has considered the inspector's report about the incident, a suspension or amendment of the approval under section 7 ends and the chief executive must promptly notify the holder of the approval accordingly.

(5) In this section—

“relevant board of inquiry” means a board of inquiry established under section 131 (Minister may establish or re-establish boards of inquiry) of the Act about the marine incident that is the basis of the chief executive's suspension or amendment of an approval under section 7.

Return of suspended, amended or cancelled approval

9.(1) If the chief executive cancels, suspends or amends a person's approval under section 6 or 7, the chief executive may give the person a written notice requiring the person to return the approval as specified within a specified period, of not less than 14 days.

(2) The person must comply with the notice, unless the person has a reasonable excuse not to comply with it.

Maximum penalty—20 penalty units.

(3) If an approval has been returned to the chief executive to be amended, the chief executive must promptly amend the approval and return it to the holder.

(4) If an approval returned to the chief executive is still current at the end

of the suspension period, the chief executive must promptly return the approval to the holder.

Declaration of pilotage areas

10. The areas of Queensland waters that were ports under sections 160 and 161 of the former Act immediately before the commencement of this section are pilotage areas.¹

Expiry

11. Section 232(3) (Transitional regulations) of the Act provides for the expiry of this regulation.

¹ Descriptions of the pilotage areas are available at the Department of Transport, Brisbane and harbour masters' offices.

SCHEDULE**RELEVANT SECTIONS AS APPLIED²**

section 4

Chief executive to direct owner as to minimum qualifications and number of crew

26.(1) The *chief executive* shall determine in respect of a ship or each ship in a class of ships to which *Division 2 (Provisions in respect of vessels to which Division 1 does not apply) of Part 3 (Manning of ships) of the former Act* applied the qualifications of the master, the minimum number of qualified officers of specified designations, if any, and the minimum number of other *crew* of specified designations, if any, to be employed on board the ship for the voyage or voyages or operation or operations in which the ship is to be engaged.

(2) The determination may provide for a ship or each ship in a class of ships to carry a master of different designation and to carry a different number of qualified officers of specified designations and a different number of other *crew* of specified designations—

- (a) for voyages of different durations; *and*
- (b) for the carriage of different cargoes; *and*
- (c) for the performance of different operations done by or in relation to the ship; and
- (d) according to different geographical limits within which the ship may ply.

² Textual changes are indicated by italic script. Citations of Acts are also in italics, and have been updated, but if a cited Act has been changed, the citation is underlined.

SCHEDULE (continued)

Certificates of competency, recognition or of service

64.(1) *The chief executive may issue the certificates mentioned in sections 12 (Particular requirements for certificates of competency), 13 (Recognition of certificates etc.) and 16 (Qualifications for certificate of service) of the Marine (Crewing) Regulation 1987.*

(2) *In issuing the certificates mentioned in sections 12, 13 and 16 of the Marine (Crewing) Regulation 1987 the chief executive may limit the authority given by that certificate—*

- (a) to the lawful holder thereof to act as master or mate, as the case may be, of a class of ship or classes of ships; or*
- (b) to voyages between such ports in the jurisdiction; or*
- (c) to excursions within such limits,*

as the chief executive specifies in the certificate.

(3) *(Omitted).*

(4) *The chief executive (words omitted) may on the application of the holder of a certificate mentioned in section 12, 13 and 16 of the (words omitted) Marine (Crewing) Regulation 1987, amend the certificate and the amendment shall be given effect to by the holder of the certificate (words omitted).*

(5) *The lawful holder of a certificate mentioned in section 12, 13 and 16 of the Marine (Crewing) Regulation 1987 who contravenes a provision of the certificate commits an offence against this regulation, and any person who employs or permits such lawful holder to so act commits an offence against this regulation.*

Maximum penalty—200 penalty units.

Examination for certificates of competency or of service

65.(1) *The chief executive is to hold examinations for persons wishing to obtain certificates of competency or of service under this regulation.*

(2) *The chief executive may, subject to this regulation, appoint examiners to conduct examinations. (Words omitted).*

SCHEDULE (continued)

(3) Subject to subsection (6), a person shall not be examined *under this regulation* unless *the person* possesses the qualifications *prescribed in section 9 (General requirements) and section 12 (Particular requirements for certificates of competency) of the Marine (Crewing) Regulation 1987.*

(4) *(Omitted).*

(5) *(Omitted).*

(6) The *chief executive* may grant permission for the examination of and the issue of a certificate of competency or of service to any person *the chief executive considers* has qualifications, experience or service (*words omitted*) equivalent to the qualifications *mentioned in subsection (3).*

Grant of certificates of competency or of service

66. The *chief executive* shall, subject to section 67 and on payment of *the fee prescribed under the Marine (Crewing) Regulation 1987* deliver to every applicant who possesses the necessary qualifications, and is duly reported by the examiner to have passed the examination satisfactorily, and to have given satisfactory evidence of *the applicant's* sobriety, experience, ability, and general good conduct, such a certificate of competency or of service as the case requires.

Re-examination for certificates of competency or of service

67. *If the chief executive is not satisfied an applicant has complied with the requirements of section 66, the chief executive may send a case back* either to the examiner who made the report or to any other examiner, and may require a re-examination of the applicant, or a further inquiry into *the applicant's* character and other qualifications or a re-examination and further inquiry as aforesaid, before granting *the applicant* a certificate.

Exemptions (*words omitted*)

117A.(1) (*Words omitted*). The *chief executive* may, by signed notice, exempt any *person or ship* from any specified requirement of *the regulations mentioned in section 231 (Existing regulations) of the Act* or

SCHEDULE (continued)

this regulation if the chief executive is satisfied that—

- (a) the requirement has been substantially complied with *by the person or for the ship; or*
- (b) compliance with the requirement is unnecessary in the circumstances of the case; or
- (c) the action taken or provision made as regards the subject matter of the requirement (*words omitted*) is as effective as, or more effective than, actual compliance with the requirement.

(2) The *chief executive* may issue (*words omitted*) an exemption certificate specifying the requirement from which the *person or ship* is exempt and the conditions, if any, subject to which the *person or ship* is exempt, and may at any time cancel any certificate so issued.

(3) Where an exemption certificate specifies conditions subject to which *a person or ship* is exempt from a requirement specified in the certificate and the conditions are not complied with, the *person or owner and master* of the ship each commits an offence (*words omitted*).

Maximum penalty—200 penalty units.

Exemptions from compulsory pilotage

162.(1) The following ships shall be exempted from the provisions of *this regulation about compulsory pilotage—*

- (a) every ship specified in section 6 of *the former Act*;
- (b) every ship having a length of less than 35 metres;
- (c) any ship which for the time being is under the command or in charge of a master holding a current pilotage exemption certificate *held under section 224 (Existing approvals, consents, licences and permits) of the Act or this regulation* and applicable to the *pilotage area* in question, and to that ship in particular or to ships of the class to which that ship belongs according to the class specified by *the master's pilotage exemption certificate (words omitted)*;

(Omitted).

SCHEDULE (continued)

(2) The exemption granted *under subsection (1)(b)* shall not apply to a ship or ships that is or are combined with another ship or other ships for the purpose of propelling or being propelled by the same where the total length of the combination of ships is not less than 35 metres when measured from its foremost part to its aftermost part after disregarding any portion of the combination that consists only of a towing device.

Appointment and licensing of pilots

163.(1)(a) The *chief executive* may (*words omitted*) appoint (*words omitted*) a person as a pilot and (*words omitted*) assign to a pilot (*words omitted*) a pilotage area (*words omitted*) and may cancel or vary any such assignment.

(*Words omitted*).

(b) Every such appointment shall be made under and shall be subject to *the Public Service Management and Employment Act 1988*.

(c) Any port (*words omitted*) assigned to any pilot *immediately before* the commencement of this *regulation* shall, subject to this *regulation*, continue, without a further assignment, to be assigned to that pilot *as a pilotage area*.

(2)(a) The *chief executive* may grant a licence to a qualified person to act as a pilot for any *pilotage area (words omitted)*.

(b) (*Omitted*).

(3) No person shall be appointed or licensed under this section as a pilot unless *the person has the qualifications required under the Marine (Licensing of Pilots) Regulation 1988*.

(4) (*Omitted*).

(5) Every qualified pilot shall be furnished with a certificate of appointment or, as the case may be, of *the pilot's* being licensed under this section, and upon boarding any ship for the purpose of acting as pilot thereof under *the Act* shall, if required, produce such certificate to the master of the ship.

SCHEDULE (continued)

Duty to take in pilot

166.(1) The master of any ship not exempted from *section 99 (Pilots required for ship navigation in pilotage areas) of the Act* relating to compulsory pilotage and arriving at or off any *pilotage area*—

- (a) shall receive on board the first qualified pilot who *arrives* and demands to conduct the ship into the *pilotage area*; and
- (b) shall on demand by the qualified pilot give the ship in pilotage charge of the pilot.

(2) *(Omitted).*

(3) *(Omitted).*

Certificated master may be examined for a pilotage exemption certificate

170.(1) *A person who—*

- (a) *holds a valid certificate of competency or service granted under this regulation or is taken to be the holder of a certificate of competency or service under section 224 (Existing approvals, consents, licences and permits) of the Act, of the grade of master of a ship not lower than Master Class 4 or Master Grade 3; and*
- (b) *is master—*
 - (i) *of a ship which plies solely between ports in the Commonwealth and other ports in the Commonwealth, or ports in New Zealand, or such other ports or places as may from time to time be notified by the chief executive by Gazette notice; or*
 - (ii) *subject to subsection (1A)—of a ship which plies between ports in the Commonwealth and ports outside the Commonwealth; and*
- (c) *has the qualifications mentioned in the “Directions for application and use of pilotage exemption certificates in Queensland pilotage areas” issued by the chief executive and*

SCHEDULE (continued)

available from the department (the “directions”);³

may on application to the chief executive and on payment of the fee prescribed under the Queensland Marine Regulation 1992, be examined as to the person’s competency to pilot any particular ship or ships of the class specified by the application within the limits of any specified pilotage area.

(1A) A ship mentioned in subsection (1)(b)(ii) must be registered in the Commonwealth and owned by an individual having the individual’s principal place of business in the Commonwealth or by a corporation formed or constituted under the laws of the Commonwealth or a State and which has its principal place of business in the Commonwealth.

(2) The applicant for examination shall, if the *chiefexecutive* thinks fit, be examined by such competent person or persons as are appointed by the *chief executive* for the purpose:

Provided that no such applicant shall be eligible for examination under this subsection unless within the period of 2 years next preceding the date of the examination *the applicant* has made 4 voyages in command or 2 voyages in command and 4 voyages as mate of a ship (other than a ship having a length of less than 35 metres) (*words omitted*).

Service in a superior capacity shall in all cases be equivalent to service in an inferior capacity.

For the purposes of this subsection a “**voyage**” shall include 1 trip in and 1 trip out of the port specified in the application when the ship or ships has or have arrived from, and has or have departed for another port.

(3)(a) If the applicant is found to be competent, a pilotage exemption certificate may, on payment of the *fee prescribed under the Queensland Marine Regulation 1992* be granted to *the applicant* by the *chiefexecutive*, containing *the applicant’s* name and a statement of the ship or class of ships, according to (*word omitted*) tonnage, draught of water, or otherwise which *the applicant* may pilot, and a description of the limits as to time and locality within which *the applicant* may pilot the same.

(b) (*Words omitted*).

³ The directions are available at the Department of Transport, Brisbane and harbour masters’ offices.

SCHEDULE (continued)

Upon compliance with such further requirements as to examination (*words omitted*) as may be *required under the directions*, (*words omitted*) the *chief executive* may, if *the chief executive considers it necessary*, vary or remove any such limitations.

(4) *On application to the chief executive to renew a pilotage exemption certificate, the chief executive (words omitted) may, subject to such limitations as to time, (word omitted) tonnage, draught of water, locality, ships or classes of ships or otherwise as (words omitted) the chief executive considers appropriate, renew and further renew any pilotage exemption certificate granted pursuant to this section.*

(4A) *An application under subsection (4) must comply with the requirements of the directions.*

(5) *A pilotage exemption certificate granted under this regulation authorises the person therein named (words omitted) to pilot the particular ship specified, or a ship of the class specified therein of which the person may be at any time acting as master within the limits therein described, without incurring, or any other person incurring, any penalties for the non-employment of a qualified pilot.*

Pilotage fees

174.(1) There shall be paid in respect of each and every ship (not hereinafter by subsection (2) (*words omitted*) exempted from pilotage fees) arriving from sea at, or leaving her berth for the purpose of going to sea from, any *pilotage area*, pilotage fees, *specified in the Queensland Marine Regulation 1992*.

(2) The following ships shall, except in cases where the master actually employs the services of a qualified pilot, be exempted from the payment of pilotage fees as provided by this section—

- (a) every ship specified in section 6 of *the former Act*;
- (b) every ship having a length of less than 35 metres;
- (c) any ship which for the time being is under the command or in charge of a master holding a current pilotage exemption certificate granted (*words omitted*) under this *regulation or taken to be the*

SCHEDULE (continued)

holder of a pilotage exemption certificate under section 224 (Existing approvals, consents, licences and permits) of the Act and applicable to the pilotage area in question, and to that ship in particular, or to ships of the class to which that ship belongs according to the class specified by the pilotage exemption certificate.

(d) *(Words omitted).*

(2A) The exemption granted by *(words omitted)* subsection (2)(b) shall not apply to a *ship* or *ships* that is or are combined with another *ship* or other *ships* for the purpose of propelling or being propelled by the same where the total length of the combination of *ships* is not less than 35 metres when measured from its foremost part to its aftermost part after disregarding any portion of the combination that consists only of a towing device.

(3)(a) There shall be paid in respect of every occasion on which a ship to which this subsection applies shifts her berth within any *pilotage area* pilotage *fees*, calculated according to the distance over which the ship is removed, as prescribed *under the Queensland Marine Regulation 1992 for that pilotage area.*

(b) This subsection shall apply to every ship—

- (i) which is not by subsection (2) *(words omitted)* exempted from pilotage *fees*; or
- (ii) which, being such an exempted ship, employs the services of a qualified pilot for such removal; or
- (iii) on board of which a qualified pilot arrives for the purpose of the removal;

and which does not shift her berth solely for the purpose of leaving the *pilotage area.*

(c) The pilotage *fees* payable under this subsection in respect of any ship shall be in addition to pilotage *fees*, if any, payable in respect of that ship under subsection (1) of this section.

(4) *(Omitted).*

SCHEDULE (continued)

When notice to be given if pilot not required

175.(1) The master, owner or agent of the owner of any ship who, having made, with respect to any *pilotage area*, application for the service of a pilot, finds that such service is not required, shall notify the harbour master at that *pilotage area* that the pilot is not required at least 2 hours prior to the time appointed for the pilot to attend to provide that service.

(2) Upon any failure to comply with (*words omitted*) subsection (1) (*words omitted*) there shall be paid in addition to any other pilotage *fee* a pilotage *fee* called an additional pilotage *fee* of a sum equal to 10.5% of the weekly salary payable to a pilot, permanently located at the *relevant pilotage area* (*words omitted*) unless the harbour master at the *pilotage area* (*words omitted*) is of the opinion that such failure arose from circumstances beyond the control of the master, the owner and the agent of the owner.

Detention of pilots

176.(1) If a pilot is detained on board or in quarantine, or partly on board and partly in quarantine for a period exceeding 6 hours on account of the ship being under quarantine there shall be paid, in addition to the pilotage *fee*, a sum equal to 3.5% of the weekly salary payable to a pilot permanently located at the *relevant pilotage area* for each and every hour or part of an hour during which the pilot is so detained.

(2) If any qualified pilot attends to pilot any ship at the request of the owner, agent of the owner, or master of the ship, and the sailing of the ship is deferred for a period exceeding 1 hour after the arrival of the pilot on board the ship or the appointed time of departure of the ship whichever time is later then, unless such deferment is due to stress of weather or other cause in the opinion of the harbour master reasonable in the circumstances, there shall be paid in addition to any other pilotage *fee* a pilotage *fee* called an additional pilotage *fee* of a sum equal to 3.5% of the weekly salary payable to a pilot permanently located at the *relevant pilotage area* (*words omitted*) per hour or part of an hour in excess of 1 hour during which the sailing of the ship is so deferred and the pilot is detained on board the ship.

(3) If a pilot is detained on board any ship due to the extension by more than 1 hour of the time taken for the pilotage by reason of the ship not being

SCHEDULE (continued)

under way before or during the course of the pilotage and the detention is occasioned by—

- (a) the failure, whether wilful or negligent, of the master of the ship to obtain, when so advised by the harbour master or the pilot, the services of any tug considered by the harbour master or the pilot to be suitable and necessary for the safe navigation of *the* ship; or
- (b) any other act or omission whatsoever of the master of the ship or other party concerned as owner or otherwise;

and such detention is not occasioned by stress of weather or other cause in the opinion of the harbour master reasonable in the circumstances, there shall be paid in addition to any other pilotage *fee* a pilotage *fee* called an additional pilotage *fee* of a sum equal to 3.5% of the weekly salary payable to a pilot permanently located at the *relevant pilotage area* for every hour or part of an hour by which such extension exceeds 1 hour.

(4) If from stress of weather or from other causes in the opinion of the harbour master reasonable in the circumstances a qualified pilot is carried beyond pilotage waters, there shall be paid in addition to any other pilotage fees a pilotage *fee* called an additional pilotage *fee* equal to the sum of the reasonable expenses of the pilot for sustenance and transport whilst returning to *the pilot's pilotage area*.

Payment of conveyance of pilot

177. Where any ship, on board of which there is a qualified pilot, is detained at anchorage in or near a *pilotage area*, for any reason other than stress of weather, the agent or owner of the ship, if so directed by the harbour master, shall cause the pilot to be conveyed at the expense of the owner to a place on shore approved by the harbour master and shall also, if so directed by the harbour master, cause a pilot to be conveyed at the expense of the owner from a place on shore approved by the harbour master to the ship at anchor.

Maximum penalty—9 *penalty units* in addition to the costs incurred by the harbour master for the conveyance of the pilot to or from the ship at anchor.

SCHEDULE (continued)

Buoy mooring not to be cast on bed of *pilotage area*

198.(1) No person shall cast, place, or leave, or cause to be cast, placed, or left, any buoy mooring of whatever kind or description in, upon, on, over, through or across any portion of the bottom or bed of any *pilotage area* without the *prior written authority of the chief executive*.

Maximum penalty—200 penalty units.

(2) *(Omitted).*

(3) *(Omitted).*

(4) *(Omitted).*

(5) Where a buoy mooring is sold or transferred to another person, the person selling or transferring the mooring shall advise the *chief executive* in writing of the transaction, giving the name and address of the person to whom the buoy mooring has been sold or transferred.

Any person who fails to comply with the provisions of this subsection commits an offence against this *regulation*.

Maximum penalty—9 penalty units.

Conservancy dues

219.(1)(a) There shall be paid in respect of each and every ship (*other than a ship mentioned in subsection (2)*) arriving from sea at, or going to sea from, any *pilotage area* conservancy dues *as specified in the Queensland Marine Regulation 1992 (the “regulation”)*.

(b) Such conservancy dues shall be payable on the date of the ship’s first arrival within or departure from any *pilotage area*, whichever date is the earlier, and no further conservancy dues shall be payable in respect of the ship at any *pilotage area* during the period of 30 days from such aforesaid date.

Upon the expiry of the said period of 30 days further such conservancy dues shall be paid in respect of the ship when arriving from sea at, or going to sea from, any *pilotage area* payable and calculated in the manner hereinbefore provided and the provisions of this paragraph (b) shall apply to those further conservancy dues (*words omitted*):

SCHEDULE (continued)

Provided that no conservancy dues shall be payable in respect of a ship while she is laid up in a *pilotage area*.

(2) (*Word omitted*). Conservancy dues shall not be payable in respect of any ship arriving at any *pilotage area* solely for or on account of one or more of the following purposes of causes—

- pleasure
- calling for orders
- effecting repairs
- refitting or docking
- obtaining provisions or fuel, of any kind or description to be used in the ship on the voyage
- to discharge residues or slops
- through stress of weather or being otherwise in distress (*word omitted*)
- to disembark a sick or injured member of the crew

if such ship does not discharge or load any cargo or land to take on board any passenger in the *pilotage area*.

(3) (*Omitted*).

(4) (*Omitted*).

(5)(a) The following persons shall be liable jointly and severally to pay the conservancy dues payable by or under this section in respect of any ship—

- (i) the owner of the ship;
- (ii) the agent of the owner of the ship;
- (iii) the master of the ship.

(b) Where any person liable to pay any conservancy dues payable by or under this section fails to pay those conservancy dues within 30 days after the date on which they became so payable those conservancy dues together with the amount of any interest charged *on the dues under the Queensland Marine Regulation 1992* may be recovered from that person by action as

SCHEDULE (continued)

for a debt in any court of competent jurisdiction.

(6) (*Words omitted*). (a) Subject to subsection (7), the arrival from sea at, or going to sea from, any *pilotage area* of any ship shall be reported—

- (i) in the case of an arrival—not later than 24 hours after arrival; and
- (ii) in the case of a departure—not later than 24 hours prior to departure;

by the owner, master or agent of the owner of the ship to the harbour master at the *pilotage area* of such arrival or departure.

No arrival or departure of any ship shall be deemed to be reported as required by this paragraph unless that report is made in a form provided for the purpose or on a form to the like effect duly signed and containing the information required to be contained therein.

(b) Upon a failure to report the arrival or departure of a ship as required by paragraph (a) (*words omitted*) the owner, master and agent of the owner (if any) at the *relevant pilotage area* (*words omitted*) shall be guilty of an offence (*words omitted*).

Maximum penalty—200 penalty units.

(7) (*Omitted*).

(8) (*Omitted*).

Racing and speed trials

248A.(1) The *chief executive* may, subject to *the conditions the chief executive considers desirable under subsection (3)*, permit a person to organise and promote—

- (a) a race between *ships*;
- (b) an attempt to establish or break any ship speed record;
- (c) a trial of the speed of a *ship*;
- (d) a regatta or other aquatic carnival.

(2) *Despite any other provision of this Act but subject to the (words omitted) conditions specified in the permit—*

SCHEDULE (continued)

- (a) a competitor in the race;
- (b) the person attempting to establish or break the ship speed record;
- (c) the person trying the speed of the ship;
- (d) a person actively participating in the regatta or other aquatic carnival;

in respect of which a permit under subsection (1) is issued together with any other person specified therein shall be excused from compliance with such of the provisions of the Act that would otherwise be applicable in the circumstances as are specified in the permit.

(3) *(Words omitted)*. The *chief executive* may impose conditions on the permit about—

- (a) *(words omitted)* public safety and convenience;
- (b) *(words omitted)* the place, date and time at which the race, attempt, trial, regatta or other aquatic carnival, as the case may be, may be held.

(4) *(Omitted)*.

(5) A permit issued under subsection (1) shall be in writing and the permit and the *(words omitted)* conditions to which it is subject may be of general or limited application.

(6) Any person organising, promoting or taking part in a race, attempt, trial, regatta or other aquatic carnival in respect of which a permit has been issued under subsection (1) who contravenes *(words omitted)* a condition to which the permit is subject, commits an offence.

Maximum penalty—17 penalty units.

(7) *(Omitted)*.

Calculation of tonnage

250.(1) *(Words omitted)*. The tonnage of a ship shall be the tonnage specified in the certificate of registry or other national papers specifying the tonnage of the ship unless the *chief executive specifies another way of calculating the tonnage of a ship by Gazette notice* in which case the

SCHEDULE (continued)

tonnage of a ship shall be that calculated in accordance with the *way specified*.

(2) *(Omitted)*.

Tonnage of ships where more than one tonnage specified

251A.(1) Where in the certificate of registry or other national papers specifying current gross tonnage of a ship more than one gross tonnage is specified (*words omitted*) the greatest gross tonnage so specified (*words omitted*) shall for the purposes of this *regulation* be the gross (*word omitted*) tonnage of the ship.

(2) Where in the certificate of registry or other national papers specifying current net tonnage of a ship more than one net tonnage is specified (*words omitted*) the greatest net tonnage so specified (*words omitted*) shall for the purposes of this *regulation* be the net (*words omitted*) tonnage of the ship.

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Marine Safety (Transitional) Regulation 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 List of legislation**Marine Safety (Transitional) Regulation 1994 SL No. 178**

notfd Gaz 3 June 1994 pp 810–13

commenced on date of notification

Note— This regulation expires on 3 June 1995 (see s 11)