



Western Australia

Western Australian Marine Act 1982

**W.A. Marine (Hire and Drive Vessels)
Regulations 1983**

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W.A. Marine (Hire and Drive Vessels) Regulations 1983

1. Citation

These regulations may be cited as the *W.A. Marine (Hire and Drive Vessels) Regulations 1983*¹.

2. Commencement

These regulations shall come into operation on 1 July 1983.

3. Terms used

(1) In these regulations —

Authority means the chief executive officer;

Code means the Uniform Shipping Laws Code, referred to in section 115 of the Act, as in existence on 1 October 2009.

(2) In the provisions of the Code incorporated in these regulations, a term has the same meaning as it has in the Code.

[Regulation 3 inserted: Gazette 11 Dec 2009 p. 5095.]

4. Application of s. 18 of Code

(1) Subject to subregulation (2), the provisions of Section 18 of the Code are incorporated in these regulations and shall extend and apply to and in respect of all hire and drive vessels and voyages of hire and drive vessels.

r. 4

- (2) The incorporation and application of Section 18 of the Code by subregulation (1) is subject to the following modifications —
- (a) in clause 1.2 —
- (i) paragraphs 1, 2 and 3 shall be deleted;
- (ii) paragraph 6 is amended by inserting after “devices” the following —
- “ and includes paddle boats of the foot or hand-driven types ”; and
- (iii) for paragraph 8, there shall be substituted the following —
- “ 1.2.8 The term “Houseboat” means any vessel or pontoon that is held or let —
- (a) as a place of habitation whether such use be temporary, intermittent or permanent;
- (b) as a place for accommodating or receiving persons for purposes of shelter, recreation, entertainment or refreshment; or
- (c) as club or business premises,
- but does not include a vessel being temporarily used for any of the purposes in subparagraphs (a), (b) or (c) of this paragraph if the vessel is normally employed in carrying goods or passengers, or both, for reward or plying for hire for the carriage of goods or passengers, or both. ”;
- (b) in clause 2.4 —
- (i) by inserting at the end of paragraph 1 the following —
- “ Penalty: \$500. ”;
- (ii) for paragraph 2 there shall be substituted the following paragraphs —

“ 2.4.2 The owner of a hire and drive vessel shall not allow that vessel to be hired out unless the equipment required by clause 2.2 is on board the vessel and, if necessary, secured to the vessel.

Penalty: \$500. ”

“ 2.4.3 The hirer of a hire and drive vessel shall at all times keep the equipment on board the vessel, and if necessary, secured to the vessel and shall, on demand by an authorized person, produce the equipment for his inspection.

Penalty: \$500. ”;

(c) clause 2.5 shall be deleted;

(d) for the heading above clause 3.1, the following shall be substituted —

“ PART 3 — LICENSING OF OWNERS AND REGISTRATION AND INSPECTION OF VESSELS ”;

(e) for clause 3.1, the following shall be substituted —

“ 3.1 Owners to be licensed and Hire and Drive vessels to be Registered

3.1.1 The owner of a hire and drive vessel shall not allow that vessel to be hired out unless —

3.1.1 (a) he is licensed under this Part as the owner of the hire and drive vessel;

3.1.1 (b) current registration has been issued by the Authority for the vessel; and

3.1.1 (c) a registration plate or equivalent is displayed on the vessel or the vessel is marked in accordance

with directions given under
3.3.2.

3.1.2 (1) Before a vessel is used as a hire and drive vessel the owner shall —

3.1.2 (1) (a) make an application to the Authority for a licence as the owner of the hire and drive vessel; and

3.1.2 (1) (b) pay to the Authority the fee of \$529.60, which shall, if the application is approved, include the issue of the licence and is not refundable if the application is not approved.

3.1.2 (2) A licence as the owner of a hire and drive vessel is valid for 1 year and may be renewed annually on the payment to the Authority of a renewal fee of \$55.00.

3.1.2 (3) Where a person has acquired an existing hire and drive operation, that person shall be entitled to carry on that operation —

(a) if the person makes an application for a transfer of the existing licence;

(b) upon payment of a transfer fee of \$260.00 to the Authority; and

(c) provided the person operates the hire and drive operation from the same location and complies with all existing conditions of the licence.

3.1.3 Upon receiving an application and payment of the fee referred to in clause 3.1.2, the Authority may issue a licence to the owner of a hire and drive vessel and may attach conditions

to the licence as to any or all of the following matters:

- 3.1.3 (a) the approval of a public or local authority having responsibility for the management of the land above high water in the area where the vessel is intended to be operated or the waters where the vessel is intended to be operated;
- 3.1.3 (b) the limits of the area where the vessel may be hired;
- 3.1.3 (c) compliance with any or all of the requirements of clause 4.4 below;
- 3.1.3 (d) the suspension of hire operations in the event of the existence of specified wind or weather conditions;
- 3.1.3 (e) the provision of a suitable rescue craft, registered under the Act, available for immediate use at all times when a vessel is hired;
- 3.1.3 (f) continuous surveillance of vessels on hire;
- 3.1.3 (g) the maximum number of vessels which may be hired out;
- 3.1.3 (h) survey requirements and the payment of survey fees;
- 3.1.3 (i) the provision of life jackets or aids to buoyancy and their use by hirers;

3.1.3 (j) the regulation of the use of hired vessels;

[(k) deleted]

3.1.3 (l) the register book referred to in clause 4.1 below; and

3.1.3 (m) the temporary or permanent variation of conditions by the Authority on payment of a variation fee of \$100.00.

3.1.4 Every licence issued subject to conditions shall contain a statement to the effect that the failure of owners to comply with the conditions of a licence may constitute an offence under Section 55 of the Act.

3.1.5 In the event that the holder of a licence as owner of a hire and drive vessel is or has been convicted of an offence concerned with or related to the hire of vessels, the Authority may suspend or cancel his licence. ”;

(f) after clause 3.3.1, the following shall be inserted —

“ 3.3.2 Notwithstanding 3.3.1(c) above, the Authority, instead of issuing a registration plate or equivalent as required by 3.3.1(c), may direct the owner of the vessel to paint or otherwise mark on the vessel an identification number, the maximum number of persons that the vessel is registered to carry and the word “HIRE” on the part of the vessel and in the manner specified in the direction. ”;

(g) for the heading to clause 3.4 the following shall be substituted —

“ Display of Registration Plate or Identification Number ”;

(h) for clause 3.4.1, the following shall be substituted —

“ 3.4.1 A registration plate or equivalent issued in accordance with 3.3.1(c) above shall be firmly affixed in a conspicuous position on the hire and drive vessel.

Penalty: \$500.

3.4.2 The owner of a hire and drive vessel shall comply with a direction given to him by the Authority under 3.3.2 and shall maintain the relevant markings on the vessel in clear and legible condition.

Penalty: \$500. ”;

- (i) clause 3.10 shall be deleted;
- (j) for the heading to clause 3.11, the following shall be substituted —
 - “ Vessels without Registration or Survey Certificate ”;
- (k) in clause 3.11.1 —
 - (i) after “current registration” there shall be inserted the following —
 - “ or current survey certificate ”; and
 - (ii) after “equivalent” there shall be inserted the following —
 - “ or mark ”;
- (l) after 3.12.1, the following shall be inserted —
 - “ Penalty: \$500. ”;
- (m) in clause 3.13 —
 - (i) for paragraph 1, the following shall be substituted —
 - “ 3.13.1 The owner of a hire and drive vessel shall make a report in writing to the Authority concerning any accident or damage affecting the seaworthiness of a vessel or any death or injury to a person. ”;

and

(ii) after paragraph 2, the following shall be inserted —

“ Penalty: \$500. ”;

(n) in clause 4.1.1, for “The owner of a hire and drive vessel” there shall be substituted —

“ Where the owner of a hire and drive vessel is so required as a condition of his licence, he ”;

(o) after 4.2.2, the following shall be inserted —

“ Penalty: \$500. ”; and

(p) after 4.3.1(b), the following shall be inserted —

“ Penalty: \$500.

4.3.2 Subject to 4.3.3,

(a) a person under the age of 17 years shall not drive or operate a hire and drive vessel which is a mechanically propelled vessel capable of or designed for a speed in excess of 12 knots;

(b) the owner or the hirer of a vessel referred to in paragraph (a) above, shall not knowingly permit or suffer the vessel to be driven or operated by a person under the age of 17 years.

Penalty: \$300.

4.3.3 The provisions of 4.3.2 do not apply to or in relation to the driving or operation of a vessel by a person who is not less than 14 years of age and is

accompanied in the vessel by a person
not less than 21 years of age. ”.

*[Regulation 4 amended: Gazette 12 Aug 1988 p. 2714;
1 Aug 1990 p. 3644; 26 Jul 1991 p. 3928; 30 Jun 1992 p. 2906;
29 Jun 1993 p. 3185-6; 14 Jun 1994 p. 2487; 11 Jul 1995
p. 2948; 25 Jun 1996 p. 3000; 27 Jun 1997 p. 3142;
12 May 1998 p. 2791; 20 Jun 2000 p. 3063; 27 Jul 2001 p. 3804;
14 Jun 2002 p. 2826; 27 Jun 2003 p. 2534; 25 Jun 2004 p. 2263;
24 Jun 2005 p. 2781; 23 Jun 2006 p. 2212; 12 Jun 2007
p. 2729-30; 24 Jun 2008 p. 2897; 24 Oct 2008 p. 4674;
21 Jun 2011 p. 2240; 15 Jun 2012 p. 2530; 28 Jun 2013
p. 2771-2.]*

5. Licence not personal property for purposes of *Personal Property Securities Act 2009* (Commonwealth)

In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of **licence** paragraph (d), if a licence issued to the owner of a hire and drive vessel is transferable by the licensee, the licence is declared not to be personal property for the purposes of that Act.

[Regulation 5 inserted: Gazette 14 Feb 2012 p. 671.]

Notes

- ¹ This is a compilation of the *W.A. Marine (Hire and Drive Vessels) Regulations 1983* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

| Citation | Gazettal | Commencement |
|--|---|-----------------------|
| <i>W.A. Marine (Hire and Drive Vessels) Regulations 1983</i> | 1 Jul 1983 p. 2185-8 | 1 Jul 1983 (see r. 2) |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations 1988</i> | 12 Aug 1988 p. 2714 | 12 Aug 1988 |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations 1990</i> | 1 Aug 1990 p. 3644 | 1 Aug 1990 (see r. 2) |
| <i>WA Marine (Hire and Drive Vessels) Amendment Regulations 1991</i> | 26 Jul 1991 p. 3928 | 1 Aug 1991 (see r. 2) |
| <i>W.A. Marine Amendment Regulations (No. 2) 1992 Pt. 4</i> | 30 Jun 1992 p. 2905-9 | 1 Jul 1992 (see r. 2) |
| <i>W.A. Marine Amendment Regulations 1992 Pt. 6</i> | 11 Aug 1992 p. 3976-80 | 11 Aug 1992 |
| <i>W.A. Marine Amendment Regulations 1993 Pt. 4</i> | 29 Jun 1993 p. 3184-6 | 1 Jul 1993 (see r. 2) |
| <i>W.A. Marine Amendment Regulations 1994 Pt. 4</i> | 14 Jun 1994 p. 2486-93 | 1 Jul 1994 (see r. 2) |
| <i>W.A. Marine Amendment Regulations 1995 Pt. 4</i> | 11 Jul 1995 p. 2946-53 (correction 18 Jul 1995 p. 3040) | 11 Jul 1995 |
| <i>W.A. Marine Amendment Regulations 1996 Pt. 4</i> | 25 Jun 1996 p. 2998-3005 | 25 Jun 1996 |
| <i>W.A. Marine Amendment Regulations 1997 Div. 3</i> | 27 Jun 1997 p. 3141-6 | 1 Jul 1997 (see r. 2) |
| <i>W.A. Marine Amendment Regulations 1998 Div. 3</i> | 12 May 1998 p. 2790-5 | 1 Jul 1998 (see r. 2) |
| <i>W.A. Marine Amendment Regulations 2000 r. 4</i> | 20 Jun 2000 p. 3062-71 | 1 Jul 2000 (see r. 2) |

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| Citation | Gazettal | Commencement |
|--|----------------------------|--|
| Reprint of the W.A. Marine (Hire and Drive Vessels) Regulations 1983 as at 9 Mar 2001 (includes amendments listed above) | | |
| <i>W.A. Marine Amendment Regulations 2001</i> r. 4 | 27 Jul 2001 p. 3803-13 | 1 Aug 2001 (see r. 2) |
| <i>W.A. Marine Amendment Regulations 2002</i> r. 4 | 14 Jun 2002 p. 2325-35 | 1 Jul 2002 (see r. 2) |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations 2003</i> | 27 Jun 2003 p. 2534 | 1 Jul 2003 (see r. 2) |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations 2004</i> | 25 Jun 2004 p. 2263 | 1 Jul 2004 (see r. 2) |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations 2005</i> | 24 Jun 2005 p. 2780-1 | 1 Jul 2005 (see r. 2) |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations 2006</i> | 23 Jun 2006 p. 2211-12 | 1 Jul 2006 (see r. 2) |
| Reprint 2: The W.A. Marine (Hire and Drive Vessels) Regulations 1983 as at 10 Nov 2006 (includes amendments listed above) | | |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations 2007</i> | 12 Jun 2007 p. 2729-30 | 1 Jul 2007 (see r. 2) |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations 2008</i> | 24 Jun 2008 p. 2896-7 | r. 1 and 2: 24 Jun 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2008 (see r. 2(b)) |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations (No. 2) 2008</i> | 24 Oct 2008 p. 4673-5 | r. 1 and 2: 24 Oct 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Oct 2008 (see r. 2(b)) |
| <i>W.A. Marine Amendment Regulations 2009</i> Pt. 6 | 11 Dec 2009 p. 5087-109 | 12 Dec 2009 (see r. 2(b)) |
| Reprint 3: The W.A. Marine (Hire and Drive Vessels) Regulations 1983 as at 24 Sep 2010 (includes amendments listed above) | | |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations 2011</i> | 21 Jun 2011 p. 2239-40 | r. 1 and 2: 21 Jun 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2011 (see r. 2(b)) |

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| Citation | Gazettal | Commencement |
|--|---------------------------|--|
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations 2012</i> | 14 Feb 2012 p. 670-1 | r. 1 and 2: 14 Feb 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 15 Feb 2012 (see r. 2(b)) |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations (No. 2) 2012</i> | 15 Jun 2012 p. 2529-30 | r. 1 and 2: 15 Jun 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2012 (see r. 2(b)) |
| <i>W.A. Marine (Hire and Drive Vessels) Amendment Regulations 2013</i> | 28 Jun 2013 p. 2771-2 | r. 1 and 2: 28 Jun 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2013 (see r. 2(b)) |

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

| Defined term | Provision(s) |
|---------------------|---------------------|
| Authority..... | 3(1) |
| Code..... | 3(1) |