



New South Wales

Water Traffic Amendment (Personal Watercraft) Regulation 1999

under the

Maritime Services Act 1935

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Maritime Services Act 1935*.

CARL SCULLY, M.P.,

Minister for Transport

Explanatory note

The object of this Regulation is to amend the *Water Traffic Regulations—NSW* as follows:

- (a) to increase the fee for registration of a personal watercraft,
- (b) to prohibit personal watercraft (such as jet skis) being driven in an irregular manner (for example, by circling or by jumping waves) within 200 metres of a river bank or shore in a zone from Port Hacking to Wamberal (not including waters off the coast), or in proximity to residential areas outside that zone,
- (c) to enable the Minister to order signs or notices to be erected that establish areas in which personal watercraft are prohibited or regulated,
- (d) to provide that a person who navigates a personal watercraft without a licence is disqualified from holding a licence:
 - (i) for a first offence—for a period of 12 months, and
 - (ii) for a second offence—for a period of 3 years, and
 - (iii) for a third offence—for life,

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- (e) to provide that the personal watercraft licence of a person who commits two (reduced from three) specified offences within any period of 24 months will be cancelled automatically,
- (f) to prescribe certain offences (including the new offences provided by this Regulation) as penalty notice offences for which an “on-the-spot” penalty notice may be given,
- (g) to increase the penalties that may be imposed by a penalty notice for an offence of failing to keep the required distance away from specified areas, and for a repeated offence of navigating a personal watercraft without a licence.

This Regulation is made under the *Maritime Services Act 1935*, including section 30D and section 38 (the general regulation-making power, in particular section 38 (2) (b), (f), (i) and (q)).

Water Traffic Amendment (Personal Watercraft) Regulation 1999

1 Name of Regulation

This Regulation is the *Water Traffic Amendment (Personal Watercraft) Regulation 1999*.

2 Commencement

- (1) This Regulation commences on 1 January 2000, except as provided by subclause (2).
- (2) Schedule 1 [1] commences on 1 February 2000.

3 Amendment of Water Traffic Regulations—NSW

The *Water Traffic Regulations—NSW* are amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Regulation 11 Registration of vessels

Omit “\$51” from regulation 11 (3A) (a). Insert instead “\$102”.

[2] Regulation 15AA Conduct of personal watercraft at any speed

Insert at the end of regulation 15AA:

- (2) The driver of a personal watercraft is guilty of an offence against this regulation if he or she engages in irregular driving on any navigable waters in the personal watercraft restriction zone that are within 200 metres of a river bank or shore.
- (3) The driver of a personal watercraft is guilty of an offence against this regulation if he or she engages in irregular driving on any navigable waters outside the personal watercraft restriction zone that are within 200 metres of a river bank or shore, if one or more dwellings are:
 - (a) located on land within 200 metres of the river bank or shore adjacent to the waters, and
 - (b) visible from those waters.
- (4) Clauses (2) and (3) do not apply to any of the following:
 - (a) the driver of a personal watercraft that is towing a water skier or aquaplaner,
 - (b) a person who is driving a personal watercraft in accordance with the conditions of an aquatic licence,
 - (c) an officer, employee or member of staff of the Waterways Authority constituted by the *Ports Corporatisation and Waterways Management Act 1995* acting in the course of his or her employment or duties,
 - (d) a police officer acting in the exercise of his or her duties,

- (e) any other person or class of persons specified by order of the Minister published in the Gazette in circumstances so specified.

(5) In this regulation:

irregular driving means driving a personal watercraft otherwise than generally in a straight line, and includes:

- (a) driving in a circle or other pattern, and
- (b) weaving or diverting, and
- (c) surfing down, or jumping over or across, any swell, wave or wash,

but does not include making any necessary turn or diversion.

personal watercraft restriction zone means the waters (including any tributaries) of Avoca Lake, Botany Bay, Brisbane Water, Broken Bay, Bulbararing Lagoon, Cockrone Lagoon, Cooks River, Dee Why Lagoon, Georges River, Hawkesbury River, Manly Reservoir, Manly Lagoon, Narrabeen Lakes, Nepean River, Parramatta River, Port Hacking, Port Jackson, Prospect Reservoir, Terrigal Lagoon, Wamberal Lagoon and Woronora River (but does not include any waters off the coast).

[3] Regulation 15AB

Insert after regulation 15AA:

15AB Restrictions on use of waters by personal watercraft

- (1) The Minister may order signs and notices to be erected in a conspicuous position in or in the vicinity of any area of navigable waters prohibiting or regulating the driving of personal watercraft within the area indicated on the signs or notices. Any such prohibition or regulation prevails over any other provision of these Regulations to the extent of any inconsistency.
- (2) A person is guilty of an offence against this regulation if the person drives a personal watercraft in contravention of the provisions of a sign or notice erected by order of the Minister under this regulation.

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- (3) Despite clause (2), a person is not guilty of an offence under this regulation if the person satisfies the court before which the proceedings for the offence are taken that the person drove the personal watercraft within the area indicated on the sign or notice in order to avoid an immediate risk of injuring persons or damaging property.
- (4) Clause (2) does not apply to the use or navigation of a personal watercraft by any of the following:
 - (a) an officer, employee, or member of staff of the Waterways Authority constituted by the *Ports Corporatisation and Waterways Management Act 1995* acting in the course of his or her employment or duties,
 - (b) a police officer acting in the exercise of his or her duties,
 - (c) any other person or class of persons specified by order of the Minister published in the Gazette in circumstances so specified.

[4] Regulation 15E Drivers of certain vessels to be licensed

Insert at the end of regulation 15E (3):

- (4) If a person commits an offence under clause (1) (being a person who was a driver of a personal watercraft), the person is disqualified by the commission of the offence (and without any specific order):
 - (a) for a first offence under clause (1)—from holding any licence for a period of 12 months after the commission of the offence, or
 - (b) for a second offence under clause (1)—from holding any licence for a period of 3 years after the commission of the offence, or
 - (c) for a third or subsequent offence under clause (1)—from holding any licence at any time during the life of the person.

The disqualification is in addition to any penalty imposed for the offence.

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- (5) Clause (4) applies to offences committed after the commencement of that clause.
 - (6) For the purposes of clauses (4) and (5), a person is taken to have committed an offence at the time that the person:
 - (a) is convicted of the offence by a court, or
 - (b) pays the penalty required by a penalty notice served on the person under section 30D of the Act in respect of the alleged offence (or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the *Fines Act 1996*).

[5] Regulation 15I Special provisions relating to age

Insert “(or if the licensee does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the licensee under Division 3 or 4 of Part 4 of the *Fines Act 1996*)” after “Regulations” in regulation 15I (4) (b).

[6] Regulation 15O Cancellation and suspension of licences

Omit regulation 15O (2). Insert instead:

- (2) If a person who holds a personal watercraft licence or a young adult personal watercraft licence commits 2 offences against any provision of the Act or any regulation specified in Schedule 6 (or any combination of those provisions) in any period of 24 months after the commencement of this clause, the commission of the second offence operates to cancel the person’s licence.

[7] Regulation 15O (4)

Insert “(or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the *Fines Act 1996*)” after “offence” in regulation 15O (4) (b).

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Schedule 1 Amendments

[8] Schedule 2 Prescribed offences and penalties for the purposes of section 30D of the Maritime Services Act 1935

Insert in appropriate order:

| | |
|------------|-----|
| 15 (2) (a) | 320 |
| 15AA (2) | 160 |
| 15AA (3) | 160 |
| 15AB | 320 |

[9] Schedule 2

Omit the matter relating to regulation 15AA.

Insert instead:

| | |
|----------|-----|
| 15AA (1) | 320 |
|----------|-----|

[10] Schedule 2

Omit the matter in the second bullet point relating to regulation 15E (1).

Insert instead:

| | |
|---|------|
| • driver of craft (being a first offence under 15E (1)) | 400 |
| • driver of craft (being a second offence under 15E (1)) | 800 |
| • driver of craft (being a third or subsequent offence under 15E (1)) | 1200 |

[11] Schedule 6

Insert after Schedule 5:

**Schedule 6 Offences for the purpose of
automatic cancellation of personal
watercraft licence**

(Clause 15O)

Maritime Services Act 1935

13SA (4) (being an offence involving a personal watercraft)

Water Traffic Regulations—NSW

3

5 (being an offence involving the causing of danger
to any person or property)

6 (1)

6 (2)

6 (3)

6 (4A)

6 (5)

15 (2) (a)

15 (4) (a)

15 (4) (b)

15AA (1) (a)

15AA (1) (b)

15AA (2)

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Schedule 1 Amendments

15AA (3)

15AB (2)

15E (1)

15F

15G (1)

Boating (Safety Equipment) Regulation—NSW

12A (1) (a)

12A (1) (b)

BY AUTHORITY