

**MARINE AMENDMENT (UNIFORM SHIPPING LAWS)  
ACT 1984**

**No. 57 of 1984**

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**AN ACT to amend the Marine Act 1976.**

[Royal Assent 11 July 1984]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1**—This Act may be cited as the *Marine Amendment (Uniform Shipping Laws) Act 1984*. Short title.

**2**—This Act shall not commence until Her Majesty's pleasure thereon has been publicly signified in this State, and, after the signification thereof, this Act shall commence on a day to be fixed by proclamation. Commencement.

Principal Act. **3**—In this Act, the *Marine Act* 1976\* is referred to as the Principal Act.

Amendment of section 4 of Principal Act (Interpretation). **4**—(1) Section 4 (1) of the Principal Act is amended as follows:—

(a) by inserting the following definition after the definition of “ air cushion vehicle ”:—

“ area of operations ”, in relation to a vessel, means the area in which that vessel is permitted to operate by the certificate of survey issued in respect of that vessel;

(b) by omitting the definition of “ burthen ” and substituting the following definition:—

“ burthen ” means—

(a) in relation to a vessel (other than a fishing vessel that is not registered), the net registered tonnage of the vessel; and

(b) in relation to a fishing vessel that is not registered, the tonnage ascertained in respect of the fishing vessel by a surveyor who is authorized by the Authority for the purpose of ascertaining the tonnage of a vessel;

(c) by inserting the following definitions after the definition of “ certificate of survey ”:—

“ classification society ” means an association or society approved by the Authority for the survey of vessels;

“ coastal waters ” means waters beyond the limits of a port;

(d) by inserting the following definition after the definition of “ collision regulations ”:—

“ commercial vessel ” means a vessel which is used or permitted or authorized to be used in the course of any business or commercial transaction but does not include a vessel which is used solely for pleasure or recreation;

\* No. 18 of 1976. Amended by Nos. 37 and 125 of 1977, Nos. 19 and 33 of 1978, No. 36 of 1980, No. 8 of 1981, No. 89 of 1982, and No. 29 of 1984.

(e) by inserting the following definitions after the definition of “ court ”:—

“ court of inquiry ” means a court of inquiry constituted under section 177;

“ court of survey ” means a court of survey constituted under section 178;

(f) by omitting the definition of “ fishing vessel ” and substituting the following definition:—

“ fishing vessel ” means a vessel that is used or intended to be used for catching fish, whales, seals, walrus, or other living resources of the sea but does not include a vessel—

(a) that is engaged in the harvesting or transportation of algae or aquatic plants; or

(b) that is used primarily as a carrier or mother vessel;

(g) by omitting the definitions of “ launch ”, “ lighter ”, and “ master ” and substituting the following definitions:—

“ hire and drive vessel ” means a vessel which is let for hire or reward or for any other consideration and includes a vessel provided in conjunction with a commercial establishment for the use of a guest or a tenant and which the hirer uses solely for pleasure or recreation;

“ inland waters ” means waters which are not directly navigable to the sea;

“ lighter ” means a vessel that has no independent motive power and includes a barge, hulk, or any similar vessel;

“ master ”, in relation to a vessel, means every person, except a pilot, having command or charge of the vessel;

(h) by omitting the definitions of “ owner ”, “ passenger ”, and “ passenger vessel ” and substituting the following definitions:—

“ non-passenger vessel ” means a commercial vessel that is used or intended to be used for the carriage of cargo or a specialized purpose but does not include a passenger vessel or a fishing vessel;

“ offshore operations ”, in relation to the limits of a vessel’s area of operation, means—

- (a) operations within a limit of 200 nautical miles to seaward of the coast; or
- (b) operations within such lesser limits as may be specified by the Authority;

“ owner ”—

- (a) with respect to any cargo, includes the consignee, consignor, and any person having or having had within the jurisdiction of the Authority or a board the possession, control, or custody of such cargo; and
- (b) with respect to a vessel, means any person exercising or discharging, or claiming the right or accepting the obligation to exercise or discharge, any of the powers or duties of an owner, whether on his own behalf or on behalf of another and includes a person who is the owner jointly with any other person and the manager or secretary of any body corporate or company;

“ passenger ” means every person on board a vessel other than—

- (a) the master, members of the crew, other persons employed or engaged in any capacity on board the vessel in the business of that vessel, and special personnel; and
- (b) a child under one year of age;

“ passenger vessel ” means a commercial vessel which is used or intended to be used for the carriage of passengers and—

- (a) in relation to a vessel used or intended to be used in unlimited operations or Tasmanian coastal and middle water operations, means a vessel

which carries or is certified as being permitted to carry more than 12 passengers; and

(b) in relation to a vessel used or intended to be used in all operational areas up to and including offshore operations, means a vessel which carries or is certified as being permitted to carry more than 6 passengers;

“ permit ” means a document under which written permission is granted for a limited duration in accordance with section 120, 141, 142, 148, or 175;

(i) by inserting the following definitions after the definition of “ property ”:—

“ the regulations ” means regulations made and in force under this Act;

“ revalidation ”, in relation to a certificate of competency, means an extension of any limitation on the period of validity of the certificate of competency issued by the Authority;

“ sailing vessel ” means a vessel having sufficient sail area for navigation under sail alone, whether or not the vessel is also fitted with mechanical means of propulsion;

(j) by inserting the following definition after the definition of “ seaplane ”:—

“ special personnel ” means all able-bodied persons having some knowledge of safety procedures and the handling of safety equipment on board who are carried on board a vessel in connection with the special purpose of the vessel or because of the need to be on board because of special work being carried on in the vessel and does not include persons who are—

(a) members of the crew engaged in navigation, engineering, or maintenance of the vessel or attached to the vessel to provide services for other persons on board; or

(b) directly or indirectly paying passengers;

(k) by omitting the definitions of “tonnage”, “trading vessel”, and “vessel” and substituting the following definitions:—

“Tasmanian coastal and middle water operations”, in relation to the limits of a vessel’s area of operation, means—

(a) operations within a limit of 600 nautical miles to seaward of the coast; or

(b) operations within such lesser limits as may be specified by the Authority;

“tonnage”, used in relation to a vessel, means (except where otherwise expressly provided by or under this Act) the gross tonnage of the vessel;

“trading vessel” means a vessel that is used, or, being a vessel in the course of construction, is intended to be used, for, or in connection with, any business or commercial activity and, without limiting the generality of the foregoing, includes a vessel that is used, or, being a vessel in the course of construction, is intended to be used, wholly or principally, for—

(a) the carriage of passengers or cargo for hire or reward; or

(b) the provision of services to ships or shipping, whether for reward or otherwise,

but does not include a fishing vessel;

“vessel” means a ship, boat, or other description of vessel used or capable of being used in navigation, and includes—

(a) a dinghy, lighter, barge, punt, raft, houseboat, or pontoon;

(b) a seaplane;

(c) an air cushion vehicle or similar type of craft; and

(d) any other type of craft that is declared by the regulations to be a vessel for the purposes of this Act;



(l) by omitting "Act;" from the definition of "work" and substituting "Act.";

(m) by omitting the definition of "yacht".

(2) Section 4 (2) (a) (i) of the Principal Act is amended by omitting "within the jurisdiction of a board" and substituting "or of sheltered waters".

**5**—Section 118 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 118 of Principal Act.

118—This Division applies to and in relation to all vessels specified in Part XV which are used for navigation within such limits as are defined in accordance with section 143.

Application of Division III.

**6**—Section 121 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 121 of Principal Act.

121—This Division applies to all vessels used or intended to be used for navigation.

Application of Division IV.

**7**—Section 123 of the Principal Act is amended as follows:—

Amendment of section 123 of Principal Act (Penalty for using an unseaworthy vessel for navigation).

(a) by omitting from subsection (1) "who sends to sea" and substituting ", not being the master of a vessel, who uses, or causes to be used,";

(b) by omitting from subsection (2) "takes a vessel to sea," and substituting "uses a vessel for any purpose of navigation";

(c) by omitting from subsection (4) "sent or taken to sea" and substituting "navigated";

(d) by omitting from that subsection "sending or taking of the vessel to sea" and substituting "navigation of the vessel".

**8**—Section 126 of the Principal Act is amended as follows:—

Amendment of section 126 of Principal Act (Unlawful navigation of vessel).

(a) by omitting "taken to sea" and substituting "used in navigation";

(b) by omitting "in taking the vessel to sea" and substituting "permitting the vessel to be used in navigation".

**9**—Section 128 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:—

Amendment of section 128 of Principal Act (Security for costs).

(3) A person shall not use a vessel in navigation in respect of which an inquiry has been instituted under this section until after the determination of the inquiry.

Penalty: \$600.

Amendment of section 138 of Principal Act (Survey; how made).

**10**—Section 138 (3) (*b*) of the Principal Act is amended by omitting “ whether seagoing, restricted seagoing, or port ”.

Amendment of section 139 of Principal Act (Certificate of survey).

**11**—Section 139 (1) of the Principal Act is amended by omitting “ in which shall be specified the purpose for which the vessel may be used ” and substituting “ appropriate to the declaration issued by a surveyor under section 138 (3) ”.

Amendment of section 140 of Principal Act. (Matters to be specified in certificate of survey).

**12**—Section 140 (1) of the Principal Act is amended by omitting paragraph (*c*).

Amendment of section 142 of Principal Act (Effect of certificate of survey).

**13**—Section 142 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

(1) A certificate of survey may authorize the use in navigation of the vessel to which it relates—

(*a*) within the limits of specified ports, within the limits of specified sheltered waters, or within inland waters, or some specified part of those waters; or

(*b*) within coastal waters according to the classification of the vessel or such lesser limits as the Authority may determine,

subject to such conditions and limitations (if any) as are set out in the certificate.

Amendment of section 143 of Principal Act (Governor to regulate limits of trade).

**14**—Section 143 of the Principal Act is amended by omitting all the words following “ the Authority, may ” and substituting “ make regulations defining the limits of a port or sheltered waters or part of any port or sheltered waters, or the limits applicable to coastal waters ”.

Repeal of section 147 of Principal Act (Application of fees).

**15**—Section 147 of the Principal Act is repealed.

**16**—Division IV of Part XV of the Principal Act is repealed and the following Division is substituted:—

Substitution of  
Division IV  
of Part XV of  
Principal Act.

*Division IV—Vessels for which certificates of survey are required*

149—The following vessels are vessels for which certificates of survey are required and which shall be subject to the provisions of Parts XIII, XIV, and XV, and shall be classified appropriate to the area of operations of such vessels:—

Vessels  
for which  
certificates  
of survey  
are required.

- (a) a commercial vessel;
- (b) a vessel that is used or intended to be used—
  - (i) by a board in, or in connection with, the exercise or performance by the board of its functions and powers under this Act; or
  - (ii) by a person in the construction of any vessels for and on behalf of a board;
- (c) a vessel that is used or intended to be used by the Crown or an instrumentality of the Crown in, or in connection with, the exercise or performance by the Crown or the instrumentality of the Crown of the functions, duties, or powers conferred or imposed on it by a law of Tasmania;
- (d) a vessel that is used or intended to be used by the owner of a wharf exclusively for emergency purposes;
- (e) a vessel that is used or intended to be used in connection with the teaching for reward of navigation or seamanship or any other similar activity that the Authority considers to be related to the teaching for reward of navigation or seamanship.

Substitution of section 155 of Principal Act.

**17**—Section 155 of the Principal Act is repealed and the following section is substituted:—

Vessel shall not be used without certificate of survey.

155—Subject to this Act, a person who is the owner or master of a vessel specified in section 149 shall not use in navigation or permit the use in navigation of the vessel within any waters as defined pursuant to section 143 unless there is in force in relation to the vessel a certificate of survey that is appropriate to its classification and such use is in accordance with the conditions and limitations specified in the certificate.

Penalty: \$1 000.

Substitution of section 156 of Principal Act.

**18**—Section 156 of the Principal Act is repealed and the following section is substituted:—

Vessels to be equipped with prescribed equipment.

156—A person who is the owner or master of a vessel shall not use in navigation or permit the use in navigation of the vessel within any waters specified in the certificate of survey applicable to the vessel unless the vessel is provided with such equipment as is prescribed in the regulations.

Penalty: \$300.

Substitution of section 159 of Principal Act.

**19**—Section 159 of the Principal Act is repealed and the following section is substituted:—

Hire and drive vessels.

159—Notwithstanding section 158, a vessel prescribed in the regulations which is used as a hire and drive vessel shall not be subject to the conditions specified in section 158 (1) (a) and (b).

Amendment of section 160 of Principal Act (Certified vessel to be hired; hirer of vessel to observe conditions of hiring).

**20**—(1) Section 160 (1) of the Principal Act is amended as follows:—

(a) by omitting “hire a launch” and substituting “hire out a vessel”;

(b) by omitting “launch” where secondly occurring and substituting “vessel”.

(2) Section 160 (2) of the Principal Act is amended by omitting “launch”, wherever occurring, and substituting “vessel”.

**21**—Sections 161 and 162 of the Principal Act are repealed.

Repeal of sections 161 and 162 of Principal Act.

**22**—Section 167 of the Principal Act is amended as follows:—

Amendment of section 167 of Principal Act (Certificates of competency).

(a) by omitting “plying on any waters within the jurisdiction of the Authority” and substituting “used in navigation within any waters as defined pursuant to section 143”;

(b) by inserting the following paragraph after paragraph (e):—

(ea) marine engineers;

**23**—Section 168 of the Principal Act is amended as follows:—

Amendment of section 168 of Principal Act (Examinations for certificates of competency).

(a) by omitting from paragraph (b) “examinations; and” and substituting “examinations;”;

(b) by omitting from paragraph (c) “examinations.” and substituting “examinations; and”;

(c) by inserting the following paragraph after paragraph (c):—

(d) prescribe the minimum requirements to be complied with to ensure the continued proficiency of holders of certificates of competency.

**24**—Section 171 of the Principal Act is amended as follows:—

Amendment of section 171 of Principal Act (Certain persons barred from examinations).

(a) by omitting “admit to examination for a certificate of competency a person who” and substituting “permit a person to sit for an examination for a certificate of competency who”;

(b) by omitting from paragraph (a) “a natural-born or naturalized British subject” and substituting “an Australian citizen”.

**25**—After section 171 of the Principal Act, the following section is inserted:—

Insertion in Principal Act of new section 171A.

171A—(1) Where the Authority is satisfied that a person who has made an application for a certificate of competency is not a fit and proper person to have the responsibilities of, and to exercise and perform the functions and duties appropriate to, a person who is the holder of such a certificate, the Authority may refuse to grant the certificate.

Refusal to grant certificate of competency.

(2) Where the Authority refuses to grant a certificate of competency, it shall cause notice in writing of the refusal to be given to the applicant within 5 days of the refusal.

(3) Where the Authority refuses to grant a certificate of competency under subsection (1), the applicant may appeal against the refusal to a court of survey within the period and in the manner prescribed in the regulations.

Amendment of section 174 of Principal Act (Right of holders of seagoing certificates to navigate in Tasmanian waters).

**26**—Section 174 of the Principal Act is amended by omitting “marine engine driver or a marine motor driver as defined in the regulations of a vessel plying within the limits of a port” and substituting “marine engineer, a marine engine driver, or a marine motor driver of a vessel”.

Amendment of section 175 of Principal Act (Penalty for acting without certificate of competency).

**27**—Section 175 of the Principal Act is amended as follows:—

(a) by inserting the following paragraph after paragraph (d) of subsection (1):—

(da) marine engineer;

(b) by omitting from subsection (3) “marine engine driver” and substituting “marine engineer, a marine engine driver,”;

(c) by omitting from subsection (4) “marine engine driver” and substituting “marine engineer, a marine engine driver,”;

(d) by omitting from subsection (5) “granted under subsection (4) shall apply only for the purpose of such voyage as is specified in the permit and shall only be issued” and substituting “issued under subsection (4) shall apply only for the purpose of such voyage or period as is specified in the permit and shall be issued only”.

Amendment of section 176 of Principal Act (Persons not to act as both master and driver in certain cases).

**28**—Section 176 (1) of the Principal Act is amended by omitting “marine engine driver” and substituting “marine engineer, marine engine driver,”.

**29**—Section 178 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

Amendment of section 178 of Principal Act (Courts of survey).

(1) Whenever—

(a) a question arises for determination as to the refusal to grant, the grant, the revocation, cancellation, revalidation, or suspension of a certificate, or as to the detention of a vessel; or

(b) an appeal under section 145, 171A, or 172 is to be disposed of,

a court of survey shall be constituted for the purpose of determining the question or disposing of the appeal.

**30**—Section 182 of the Principal Act is amended as follows:—

Amendment of section 182 of Principal Act (Passenger vessel not to carry live animals).

(a) by omitting “The master” and substituting “(1) The master”;

(b) by adding the following subsection as subsection (2) of that section:—

(2) The master of a vessel which is carrying passengers shall provide such means of access to and egress from the vessel as the Authority is satisfied will provide adequate protection against injury to passengers going on to or leaving the vessel.

**31**—Section 183 of the Principal Act is amended by omitting paragraphs (a) and (b) and substituting the following paragraphs:—

Amendment of section 183 of Principal Act (Meaning of registered tonnage).

(a) if a registered vessel, the tonnage as shown by the certificate of registration applicable to the vessel; or

(b) if not a registered vessel, the tonnage as calculated by the Authority.

**32**—(1) Section 200 (1) of the Principal Act is amended as follows:—

Amendment of section 200 of Principal Act (Regulations).

(a) by omitting “In addition to the regulations authorized to be made by any other provision of this Act, the Governor may, on the recommendation of the Authority,” and substitute “The Governor may, on the recommendation of the Authority, make regulations for the purposes of this Act and, in particular, may”;

(b) by inserting in paragraph (a) “appointed by the Authority pursuant to the regulations” after “prescribed body”;

(c) by inserting in paragraph (c) “, and the frequency with which the inspection and survey of a vessel shall include an external survey of the hull of the vessel with the vessel out of the water” after “thereof”;

(d) by inserting the following paragraph after paragraph (c):—

(ca) making provision for—

(i) the types and classes of certificates of survey;

(ii) the duration, revalidation, and extension of certificates of survey; and

(iii) such other matters as are necessary or convenient to be prescribed with respect to the issue of certificates of survey;

(e) by inserting the following paragraph after paragraph (b): —

(ba) the inspection of vessels by the Authority to determine their fitness for towing, and the granting of permits by the Authority for their towing;

(2) Section 200 (3A) of the Principal Act is omitted and the following subsection is substituted:—

(3A) The regulations may—

(a) with respect to the requirements for—

(i) crew accommodation for vessels of 55 metres and over in length; and

(ii) structural fire protection for vessels of or in excess of a prescribed length,

adopt by reference, either wholly or in part, any requirements in regulations made under the *Navigation Act 1912* of the Commonwealth;



- (b) with respect to the stability of sailing vessels, adopt by reference, either wholly or in part, any rules of the International Yacht Racing Union or the Australian Yachting Federation; and
- (c) with respect to any other matter, adopt, either wholly or in part, and, either specifically or by reference, any of the standard rules, codes, or specifications of the Authority or the bodies known as the Standards Association of Australia, the British Standards Association, the Association of Australian Port and Marine Authorities, the Marine and Ports Council of Australia, or of any other like body specified in the regulations.

(3) Section 200 of the Principal Act is further amended by inserting the following subsection after subsection (3A):—

(3B) The regulations may authorize any matter or thing specified for the purposes of the regulations to be from time to time determined, applied, approved, or regulated by—

- (a) the Authority;
- (b) an officer of the Authority specified in the regulations; or
- (c) a surveyor or examiner authorized or approved by the Authority for the purposes of the matter or thing specified in the regulations.

