Maritime Transport Security Amendment Regulations 2004 (No. 2)¹

Statutory Rules 2004 No. ¹²

1. PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the Maritime Transport Security Act 2003.

Dated 10 JUN 2004 2004

PM Jeffery
Governor-General

By His Excellency's Command

JOHN ANDERSON
Minister for Transport and Regional Services
Contents

1 Name of Regulations
These Regulations are the Maritime Transport Security Amendment Regulations 2004 (No. 2).

2 Commencement
These Regulations commence as follows:
(a) on the date of their notification in the Gazette — regulations 1 to 4 and Schedule 1;
(b) on the commencement of Part 2 of the Maritime Transport Security Act 2003 — Schedule 2.

3 Amendment of Maritime Transport Security Regulations 2003

4 Amendment of Maritime Transport Security Regulations 2003
Schedule 2 amends the Maritime Transport Security Regulations 2003, as amended by the Maritime Transport Security Amendment Regulations 2004 (No. 1).
Schedule 1  Amendments commencing on gazettal
(regulation 3)

[1] Subregulation 1.03 (1), definition of *land-side restricted zone*

*substitute*

*land-side restricted zone* means a type of port security zone, established by the Secretary under subsection 102 (1) of the Act, that comprises an area of land or a structure connected directly or indirectly to land, to which access is controlled, within the boundaries of a port facility or of land under the control of a port operator or port service provider.

[2] Paragraph 1.55 (3A) (b)

*omit*

any of

[3] After regulation 3.75

*insert*

3.77  *Land-side restricted zones*

(1) If a port operator wishes the Secretary to establish a land-side restricted zone, the maritime security plan for the port operator must set out:

(a) the purpose for the proposed establishment of the zone; and

(b) the boundaries of the zone; and

(c) if applicable, the period when, or the circumstances in which, the zone is in force; and
(d) the security measures and procedures to be taken to control access into the zone by people, vehicles or things; and

(e) steps to be taken to inform people that a land-side restricted zone is in force and that entry into the zone without authority is an offence; and

(f) the name or position of the person or persons responsible for the security measures, procedures or steps referred to in paragraphs (d) and (e).

(2) A maritime security plan for a port operator must set out security measures and procedures to monitor and control access to land-side restricted zones, including measures to detect and deter unauthorised access to those zones.


*omitted*

If a port

*inserted*

(1) If a port


*inserted*

(2) If in a port facility there is no screening point through which persons who are required to be screened and cleared to board a security regulated ship must pass, the procedures for screening and clearing persons referred to in paragraph (1) (a) must include procedures for making arrangements, between the port facility operator and the master of a ship that is moored at the facility, for persons to be screened and cleared on board the ship immediately after they board.
[6] **Paragraph 4.65 (1) (e)**

*omit*

in paragraphs (c) and (d).

*insert*

in paragraphs (c) and (d); and

[7] **After paragraph 4.65 (1) (e)**

*insert*

(f) if applicable, the period when, or the circumstances in which, the zone is in force.

[8] **Regulation 6.05, heading**

*substitute*

6.05 **Access not to be denied**

[9] **Regulation 6.05**

*omit all the words before paragraph (a), insert*

(1) Nothing in this Part has the effect of preventing entry into a maritime security zone by a person who:

[10] **Paragraph 6.05 (c)**

*omit*

port, ship or on-shore

*insert*

maritime
[11] Regulation 6.05, example

*omit*

port, ship and on-shore

*insert*

maritime

[12] Regulation 6.05

*after the example, insert*

(2) Nothing in this Part has the effect of preventing a member of the Australian Defence Force who is on duty:

(a) from entering a maritime security zone; or
(b) from taking into a maritime security zone vessels, vehicles or goods:
   (i) for the purpose of gaining access to a ship that is under the control, or in the service, of the Australian Defence Force; or
   (ii) in connection with the movement, loading, unloading, maintenance or provisioning of such a ship.
Schedule 2

Amendments commencing on the commencement of Part 2 of the Maritime Transport Security Act 2003
(regulation 4)

[1] After regulation 6.30
insert

6.33 Duties of port operator
(1) A port operator must monitor and control access to any land-side restricted zone in the security regulated port in which the zone is established.

Penalty: 200 penalty units.

(2) An offence against subregulation (1) is an offence of strict liability.

omit
    maritime
insert
    port
[3] **Subregulations 6.45 (1) and (2)**

*omit*

by the port operator for the security regulated port, or the port facility operator for the port facility, in which the zone is established.

*insert*

by:

(a) the port operator for the security regulated port; or
(b) the port facility operator for the port facility; or
(c) the port service provider that controls the land;

in which the zone is established.

[4] **Paragraph 6.65 (2) (b)**

*substitute*

(b) land-side signs; or

[5] **Regulation 7.05, including the example**

*substitute*

**7.05 Access not to be denied**

(1) Nothing in this Part has the effect of preventing entry into a maritime security zone by a person who:

(a) is accompanied by a law enforcement officer for the purposes of an investigation; or

(b) is an Australian Federal Police employee, a member of the Australian Federal Police, or an officer or employee of the police force or service of a State or Territory, who requires access for the purposes of a police investigation; or

(c) is otherwise authorised by a law of the Commonwealth, State or Territory to enter the maritime security zone.

*Example for paragraph (c)*

Entry to maritime security zones must not be denied to law enforcement officers, Australian Customs Service officers or AMSA officers if the entry is required in the course of their duties.
(2) Nothing in this Part has the effect of preventing a member of the Australian Defence Force who is on duty:
   (a) from entering a maritime security zone; or
   (b) from taking into a maritime security zone vessels, vehicles or goods:
       (i) for the purpose of gaining access to a ship that is under the control, or in the service, of the Australian Defence Force; or
       (ii) in connection with the movement, loading, unloading, maintenance or provisioning of such a ship.

[6] **Paragraph 7.20 (b)**

*omit*

   baggage

*insert*

   subject to regulation 7.27, baggage

[7] **Paragraph 7.25 (3) (j)**

*omit*

   duties.

*insert*

   duties; and

[8] **After paragraph 7.25 (3) (j)**

*insert*

   (k) an immigration officer, in the course of his or her duties; and
   (l) a maritime security inspector, in the course of his or her duties.
[9] **After regulation 7.25**

*insert*

**7.27 Goods that need not be screened**

(1) For paragraph 116 (2) (b) of the Act, baggage may pass through a screening point without being screened if the baggage belongs to a person who, under subregulation 7.25 (1) or (4), need not be screened when boarding a security regulated passenger ship.

(2) For paragraph 116 (2) (c) of the Act, baggage and other goods may enter a cleared zone or be taken on board a cleared vessel other than through a screening point if the baggage and goods belong to a person who, under subregulation 7.25 (2), may enter the cleared zone or board the cleared vessel other than through the screening point.

**7.28 Vehicles that need not be screened**

(1) For paragraph 117 (2) (b) of the Act, a vehicle may pass through a screening point without being screened if the vehicle is being driven by a member of the Australian Defence Force who, under subregulation 7.25 (1) or (4), need not be screened when boarding a security regulated passenger ship.

(2) For paragraph 117 (2) (c) of the Act, a vehicle may enter a cleared zone or go on board a cleared vessel other than through a screening point if the vehicle is being driven by a member of the Australian Defence Force who, under subregulation 7.25 (2), may enter the cleared zone or board the cleared vessel other than through the screening point.

**7.29 Vessels that need not be screened**

(1) For paragraph 118 (2) (b) of the Act, a vessel may pass through a screening point without being screened if the vessel is under the control of a member of the Australian Defence Force who, under subregulation 7.25 (1) or (4), need not be screened when boarding a security regulated passenger ship.
(2) For paragraph 118 (2) (c) of the Act, a vessel may enter a cleared zone or be taken on board a cleared vessel other than through a screening point if the vessel is under the control of a member of the Australian Defence Force who, under subregulation 7.25 (2), may enter the cleared zone or board the cleared vessel other than through the screening point.

[10] **Subregulation 7.35 (2), including the penalty**

*substitute*

(2) A port facility operator must not allow goods that are required to be screened to enter a cleared zone, unless the goods have been screened and cleared.

Penalty: 200 penalty units.


*substitute*

**7.40 Persons authorised to carry weapons or prohibited items in maritime security zones**

[12] **Subregulations 7.40 (2) and (3)**

*omit*

  cleared zone

*insert*

  maritime security zone

**Notes**

1. These Regulations amend Statutory Rules 2003 No. 366, as amended by 2004 No. 34.