



Maritime Transport Security Amendment Regulations 2005 (No. 1)¹

Select Legislative Instrument 2005 No. 115

I, 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 7 June 2005

P. M. JEFFERY
Governor-General

By His Excellency's Command

JOHN ANDERSON
Minister for Transport and Regional Services

1 Name of Regulations

These Regulations are the *Maritime Transport Security Amendment Regulations 2005 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Maritime Transport Security Regulations 2003*

Schedule 1 amends the *Maritime Transport Security Regulations 2003*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 6.70

substitute

6.70 Duties of port operator

- (1) If the Secretary gives notice of the establishment of a water-side restricted zone, the port operator for the security regulated port in which the water-side restricted zone is established must ensure that persons who are in, or in the vicinity of, the security regulated port are informed, in accordance with the maritime security plan, that:
 - (a) access to the zone is controlled; and
 - (b) any unauthorised entry into the zone is an offence under these Regulations.
- (2) The obligation in subregulation (1) has effect even if the zone has not yet come into force.

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- (3) A port operator for a security regulated port must monitor access to any water-side restricted zone established in the port.

Penalty: 200 penalty units.

- (4) An offence against subregulation (3) is an offence of strict liability.
- (5) A port operator must ensure that the security measures and procedures to control access to water-side restricted zones detect and deter unauthorised access to those zones.

[2] Subregulation 6.90 (2)

substitute

- (2) The port operator for the security regulated port in which the ship security zone is established must give notice of the establishment and the boundaries of the ship security zone by:
- (a) water-based identification measures (such as buoys, picket boats and booms); or
 - (b) signs; or
 - (c) posting, publishing or broadcasting notices; or
 - (d) using any other means that have the effect of informing persons in or in the vicinity of the security regulated port about the establishment of the zone and its boundaries.

[3] Regulation 6.95

substitute

6.95 Duties of port operator

- (1) If the Secretary gives notice of the establishment of a ship security zone, the port operator for the security regulated port in which the ship security zone is established must ensure that persons who are in, or in the vicinity of, the security regulated port are informed, in accordance with the maritime security plan, that:
- (a) access to the zone is controlled; and

(b) any unauthorised entry into the zone is an offence under these Regulations.

(2) The obligation in subregulation (1) has effect even if the zone has not yet come into force.

(3) A port operator for a security regulated port must monitor access to any ship security zone established in the port.

Penalty: 200 penalty units.

(4) An offence against subregulation (3) is an offence of strict liability.

(5) A port operator must ensure that the security measures and procedures to control access to ship security zones detect and deter unauthorised access to those zones.

[4] Paragraph 7.25 (3) (l)

omit

duties.

insert

duties; and

[5] After paragraph 7.25 (3) (l)

insert

(m) a person appointed by a court to be a Marshal, when exercising a power or function, or performing a duty, conferred or imposed on him or her by the *Admiralty Rules 1988*; and

(n) a person authorised to exercise a power or function, or perform a duty, conferred or imposed on a Marshal under those Rules, when exercising that power or function, or performing that duty.

[6] **Division 7.3**

substitute

Division 7.3 Weapons and prohibited items

7.39 Definition of *licensed security guard* for Division 7.3

In this Division:

licensed security guard means a person who holds a licence to work as a security guard, being a licence:

- (a) issued or recognised by the State or Territory in which the person is working; and
- (b) that is in force.

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

- (1) This regulation applies for sections 120 and 127 of the Act.
- (2) A person is authorised to have a weapon or prohibited item in his or her possession while in a maritime security zone if the person is:
 - (a) a maritime security guard, an SSO, or a licensed security guard, who is on duty; or
 - (b) the master of a security regulated ship located in the zone who has the weapon or prohibited item in his or her possession for the purpose of securing it for carriage on board the ship; or
 - (c) a PSO, PFSO or screening officer, who has the weapon or prohibited item in his or her possession for the purpose of securing it for carriage on board a security regulated ship; or
 - (d) a veterinarian, or a quarantine officer, who has the weapon or prohibited item in his or her possession for the purpose of controlling or euthanasing animals in a maritime security zone or on board a security regulated ship or other vessel; or

- (e) a quarantine officer who has the weapon or prohibited item in his or her possession for the purpose of eradicating pests or treating diseases in a maritime security zone or on board a security regulated ship or other vessel; or
 - (f) an officer of a State or Territory department who has the weapon or prohibited item in his or her possession for the purpose of eradicating pests or treating diseases in a maritime security zone, or on board a security regulated ship or other vessel, under a law of the State or Territory.
- (3) In addition, a person is authorised to have a weapon or prohibited item in his or her possession while in a maritime security zone if:
- (a) the person is:
 - (i) an inspector of the Royal Society for the Prevention of Cruelty to Animals of a State or Territory; or
 - (ii) an officer of any other organisation that has as one of its objects the promotion of the welfare of, or the prevention of cruelty to, animals; and
 - (b) the person has the weapon or prohibited item in his or her possession in connection with carrying out an inspection related to the welfare of any animals in a maritime security zone or on board a security regulated ship; and
 - (c) the inspection is authorised by a law of the State or Territory in which the maritime security zone or the ship is located.

7.45 Authorised possession of weapons or prohibited items when passing through screening points

- (1) This regulation applies for sections 121 and 128 of the Act.
- (2) A person is authorised to pass through a screening point with a weapon or prohibited item in his or her possession if the person is:
 - (a) a maritime security guard, an SSO, or a licensed security guard, who is on duty; or

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- (b) the master of a security regulated ship who is passing through the screening point with the weapon or prohibited item in his or her possession for the purpose of securing it for carriage on board the ship; or
 - (c) a PSO, PFSO or screening officer, who is passing through the screening point with the weapon or prohibited item in his or her possession for the purpose of securing it for carriage on board a security regulated ship; or
 - (d) an ADF member who is on duty; or
 - (e) a veterinarian, or a quarantine officer, who has the weapon or prohibited item in his or her possession for the purpose of controlling or euthanasing animals in a maritime security zone or on board a security regulated ship; or
 - (f) a quarantine officer who has the weapon or prohibited item in his or her possession for the purpose of eradicating pests or treating diseases in a maritime security zone or on board a security regulated ship; or
 - (g) an officer of a State or Territory department who has the weapon or prohibited item in his or her possession for the purpose of eradicating pests or treating diseases in a maritime security zone, or on board a security regulated ship, under a law of the State or Territory.
- (3) In addition, a person is authorised to pass through a screening point with a weapon or prohibited item in his or her possession if:
- (a) the person is:
 - (i) an inspector of the Royal Society for the Prevention of Cruelty to Animals of a State or Territory; or
 - (ii) an officer of any other organisation that has as one of its objects the promotion of the welfare of, or the prevention of cruelty to, animals; and
 - (b) the person has the weapon or prohibited item in his or her possession in connection with carrying out an inspection related to the welfare of any animals in a maritime security zone or on board a security regulated ship; and
 - (c) the inspection is authorised by a law of the State or Territory in which the maritime security zone or the ship is located.

7.50 Authorised carriage or possession of weapons or prohibited items on board regulated Australian ships

- (1) This regulation applies for sections 122, 123, 129 and 130 of the Act.
- (2) A person is authorised to carry, or otherwise have in his or her possession, a weapon or prohibited item on board a regulated Australian ship if the person is:
 - (a) a maritime security guard, an SSO, or a licensed security guard, who is on duty; or
 - (b) the master of the ship, or a PSO, PFSO or screening officer, who has the weapon or prohibited item in his or her possession for the purpose of securing the weapon or prohibited item for carriage on the ship; or
 - (c) an ADF member who is on duty; or
 - (d) a veterinarian, or a quarantine officer, who has the weapon or prohibited item in his or her possession for the purpose of controlling or euthanasing animals on board the ship; or
 - (e) a quarantine officer who has the weapon or prohibited item in his or her possession for the purpose of eradicating pests or treating diseases on board the ship; or
 - (f) an officer of a State or Territory department who has the weapon or prohibited item in his or her possession for the purpose of eradicating pests or treating diseases on board the ship under a law of the State or Territory.
- (3) In addition, a person is authorised to carry, or otherwise have in his or her possession, a weapon or prohibited item on board a regulated Australian ship if:
 - (a) the person is:
 - (i) an inspector of the Royal Society for the Prevention of Cruelty to Animals of a State or Territory; or
 - (ii) an officer of any other organisation that has as one of its objects the promotion of the welfare of, or the prevention of cruelty to, animals; and
 - (b) the person has the weapon or prohibited item in his or her possession in connection with carrying out an inspection related to the welfare of any animals on board the ship; and

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- (c) the inspection is authorised by a law of the State or Territory in which the ship is located.

7.55 Authorisation subject to compliance with other laws

In spite of regulations 7.40, 7.45 and 7.50, a person is not authorised to carry or possess a weapon or prohibited item in the circumstances stated in those regulations if:

- (a) carriage or possession of the weapon or prohibited item is prohibited by another law of the Commonwealth, or a law of a State or Territory, without a licence, permit or authorisation; and
- (b) the person does not have a licence, permit or authorisation of that kind for the weapon or prohibited item.

[7] Before regulation 8.20

insert

8.20A Maritime security inspectors — criteria for appointment

- (1) For paragraph 136 (1) (c) of the Act, the Secretary may appoint a person to be a maritime security inspector if the Secretary is satisfied that:
 - (a) the person:
 - (i) is an IRCA certificated auditor; or
 - (ii) has qualifications that are equivalent to those that an IRCA certificated auditor has; or
 - (iii) has experience that is equivalent to the experience that an IRCA certificated auditor has; and
 - (b) the person:
 - (i) has a working knowledge of the Act and these Regulations, including the powers, functions and duties of a maritime security inspector; and
 - (ii) is a suitable person to access and handle security information; and
 - (iii) is otherwise able to perform the duties of a maritime security inspector.

(2) In this regulation:

IRCA certificated auditor means an auditor who is certified by the International Register of Certificated Auditors.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.