

South Australia

Harbors and Navigation Variation Regulations 2007

under the *Harbors and Navigation Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Harbors and Navigation Variation Regulations 2007*.

2—Commencement

These regulations will come into operation on the day the *Harbors and Navigation (Australian Builders Plate) Amendment Act 2007* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Harbors and Navigation Regulations 1994*

4—Variation of regulation 8—Interpretation

- (1) Regulation 8(1), definition of *AS*—delete the definition and substitute:

AS means a standard published by or under the authority of Standards Australia (alone or jointly with others);

- (2) Regulation 8(1)—after the definition of *inland waters* insert:

ISO means an International Standard, published by the International Organization for Standardization, as in force from time to time;

5—Variation of heading to Part 9

Heading to Part 9—delete the heading and substitute:

Part 9—Registration, certificates of survey, loadline certificates and Australian Builders Plates etc

6—Insertion of Part 9 Division 6

After Part 9 Division 5 insert:

Division 6—Australian Builders Plate

125A—Interpretation

In this Division—

ABP Standard means the *National Standard for the Australian Builders Plate for Recreational Boats* endorsed by the Australian Transport Council and published by the National Marine Safety Committee as modified by this Division and as in force from time to time (and includes any standard as in force from time to time referred to in the *ABP Standard*);

aquatic toy means an object designed primarily for play in or on the water, but does not include a personal watercraft or other power-driven vessel;

National Marine Manufacturers Association Inc. means the not for profit organisation of that name established in the United States of America;

NMMA Certification Handbook means the book of that name published by the National Marine Manufacturers Association Inc. as in force from time to time.

**125B—Vessels to which Part 9 Division 4 of Act applies:
section 64A**

For the purposes of section 64B of the Act, vessels other than the following are declared to be a class of vessels in respect of which an Australian Builders Plate is required:

- (a) sailing vessels (whether or not the vessel has an auxiliary means of propulsion);
- (b) personal watercraft designed to carry not more than 2 persons;
- (c) personal watercraft bearing a clearly visible plate or marking displaying the following information:
 - (i) the total weight (in kilograms) of persons and equipment that may be carried by the personal watercraft;
 - (ii) the maximum number of persons that may be carried by the personal watercraft,as recommended by the builder;
- (d) inflatable boats to which *ISO 6185* applies bearing—
 - (i) a plate attached in accordance with *European Directive 94/25/EC—Recreational Craft Directive* as in force from time to time; or
 - (ii) a plate attached in accordance with the requirements set out in the NMMA Certification Handbook that certifies that the inflatable boat complies with the relevant requirements of that handbook;
- (e) surf row boats;
- (f) rowing shells designed solely for racing in organised events or a purpose associated with such racing;
- (g) canoes, kayaks, surf skis and similar vessels designed to be powered by a paddle;
- (h) sailboards, sail kites and similar vessels;
- (i) hydrofoils or hovercraft;
- (j) amphibious vehicles;
- (k) submersibles;
- (l) pedal-powered vessels;
- (m) aquatic toys;
- (n) vessels that are the subject of a certificate of survey or an application for a certificate of survey;

- (o) hire and drive houseboats (within the meaning of Part 8) in relation to which a certificate of inspection issued under Part 8 is in force, or in relation to which an application for such a certificate has been made under the Act;
- (p) ferries or punts that cross a river or fairway by means of ropes or cables.

125C—Australian Builders Plate

For the purposes of section 64B of the Act, an Australian Builders Plate must be affixed to a vessel in accordance with, and must contain the information required by and determined in accordance with, the ABP Standard.

125D—Certain vessels declared to be constructed before commencement of section 64B of the Act

For the purposes of section 64B(2)(a) of the Act, the following vessels are declared to be vessels constructed before the commencement of that section:

- (a) in the case of a keel vessel—a vessel the keel of which was laid before the commencement of that section;
- (b) in any other case—a vessel that, before the commencement of that section—
 - (i) was identifiable as a vessel of a particular class before the commencement of that section; and
 - (ii) had not less than 50 tonnes or 1 per cent of the estimated total mass of the completed vessel (whichever is the lesser) constructed.

125E—Modification of ABP Standard

For the purposes of these regulations the ABP Standard is modified as follows:

- (a) a reference to "boat" in the ABP Standard will be taken to be a reference to a vessel;
- (b) after clause 8.1(b) insert:
 - (ba) either—
 - (i) if the person affixing the plate is an employee of the company or business who manufactured or imported the vessel—the name of the person who caused the person to affix the ABP to the boat to which it is affixed and the name of the company or business; or

- (ii) if the person affixing the plate is not an employee of the company or business who manufactured or imported the vessel—the name of the person who affixed the ABP to the boat to which it is affixed (and details of the person's occupation or qualifications insofar as they may be relevant to the determination by the person of any of the information contained on the ABP);
- (c) delete the following words from clause 8.1(h):

In addition, if the boat has a build date prior to the day on which the *Harbors and Navigation (Australian Builders Plate) Amendment Act 2007*, the term "inadequate flotation" may be used.
- (d) after clause 8.2(b) insert:
 - (ba) either—
 - (i) if the person affixing the plate is an employee of the company or business who manufactured or imported the vessel—the name of the person who caused the person to affix the ABP to the boat to which it is affixed and the name of the company or business; or
 - (ii) if the person affixing the plate is not an employee of the company or business who manufactured or imported the vessel—the name of the person who affixed the ABP to the boat to which it is affixed (and details of the person's occupation or qualifications insofar as they may be relevant to the determination by the person of any of the information contained on the ABP);
- (e) delete clause 9.2(f) and substitute:
 - (f) any other standard approved by the CEO for the purposes of this clause
- (f) delete clause 9.3(g) and substitute:
 - (g) any other standard approved by the CEO for the purposes of this clause

- (g) delete clause 9.5(f) and substitute:
 - (f) any other standard approved by the CEO for the purposes of this clause

7—Variation of Schedule 9—Structural and equipment requirements for vessels

Schedule 9 Part 1—after clause 9 insert:

9A—Buoyancy requirements for certain vessels

- (1) A vessel—
 - (a) that is constructed after the commencement of this clause; and
 - (b) that is less than 6 metres in length; and
 - (c) that is required, in accordance with Part 9 Division 4 of the Act, to have an Australian Builders Plate affixed,
must satisfy the buoyancy performance requirement set out in the relevant standard for vessels of a class to which the vessel belongs.
- (2) For the purposes of this clause, a vessel will be taken to be constructed after the commencement of this clause if—
 - (a) the keel of the vessel (if any) was laid on a day after the day on which the clause commences; or
 - (b) less than 1 per cent of the estimated total mass of the completed vessel had been constructed immediately before the commencement of this clause.
- (3) For the purposes of this clause, the question of whether a vessel satisfies a buoyancy performance requirement of a particular standard is to be determined in accordance with that standard.
- (4) In this regulation—

ABYC means the American Boat and Yacht Council incorporated in New York State in the United States of America;

relevant standard, in relation to a vessel, means a standard from among the following which applies to vessels of a class to which the vessel belongs (and if more than 1 standard is applicable, the relevant standard will be taken to be the standard that requires the highest buoyancy performance):

 - (a) *AS 1799*;
 - (b) *ISO 6185*;
 - (c) *ISO 8665* and *ISO 11592*;
 - (d) *ISO 13590*;
 - (e) *ABYC Standards and Technical Information Reports for Small Craft*;

- (f) any other standard approved by the CEO for the purposes of this clause.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 25 October 2007

No 249 of 2007

MTR05/049CS