

South Australia

Harbors and Navigation Variation Regulations 2009

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 2009*.

2—Commencement

These regulations will come into operation on 12 April 2010.

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 2009*

4—Substitution of Part 15

Part 15—delete the Part and substitute:

Part 15—Facilities Fund

215—Facilities levy

A facilities levy of the amount fixed by Schedule 14 is payable on the registration, inspection or survey of a vessel and, in accordance with section 90A(4) of the Act, a certificate of registration, inspection or survey will not be issued for the vessel until the levy is paid.

216—Boating facility advisory committee

- (1) There is to be a committee to advise the Minister on any variation of the amounts of the facilities levies, and the application of the Facilities Fund, under section 90A of the Act.
- (2) The committee is to consist of a maximum of 8 members appointed by the Minister of whom—
 - (a) 1 must be a person nominated by the Boating Industry Association of South Australia Incorporated; and
 - (b) 1 must be a person nominated by the South Australian Recreational Boating Council Incorporated; and
 - (c) 1 must be a person nominated by the South Australian Recreational Fishing Advisory Council Incorporated; and
 - (d) 1 must be a person nominated by the Local Government Association of South Australia; and
 - (e) 2 must be persons who, in the opinion of the Minister, have experience in the operation of commercial vessels (with at least 1 having experience in the commercial fishing industry).
- (3) At least 1 member of the committee must be a woman and 1 a man.
- (4) The Minister may appoint a person to be a deputy of a member of the committee and the deputy may act as a member of the committee in the absence or during a temporary vacancy in the office of that member.
- (5) If a person is appointed as a member of the committee on the nomination of a body, a person appointed as his or her deputy must also be appointed on the nomination of that body.

- (6) If a body fails to nominate a person within 6 weeks of a written request to do so from the Minister, the Minister may appoint such person as the Minister thinks fit and that person will be taken to have been duly appointed as a member or deputy member (as the case may require) of the committee.
- (7) A member of the committee will be appointed for a term not exceeding 2 years and, at the expiration of a term of appointment, will be eligible for reappointment.
- (8) A member of the committee is entitled to such fees and allowances as may be determined by the Minister.
- (9) The Minister may remove a member of the committee from office on any ground that the Minister considers sufficient.
- (10) The office of a member of the committee becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is removed from office by the Minister under subregulation (9).
- (11) An act of the committee is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.
- (12) The Minister will appoint 1 member of the committee to be the presiding member of the committee and may appoint 1 member to be the deputy presiding member.
- (13) The presiding member of the committee or, in his or her absence, the deputy presiding member (if a deputy presiding member has been appointed), will preside at any meetings of the committee.
- (14) Subject to these regulations and any directions of the Minister, the committee may conduct its business in such manner as it thinks fit.

5—Variation of Schedule 14—Fees and levies

- (1) Schedule 14, clause 1(a)—after "fee" insert:
or levy
- (2) Schedule 14—after clause 2 insert:

2A—Calculation of facilities levy

- (1) The amount of a facilities levy set out in clause 3 is the amount payable if registration, inspection or survey of the vessel is for a 12 month period.

- (2) If a vessel is registered, inspected or surveyed for a period other than 12 months, a pro rata adjustment is to be made to the amount of the facilities levy set out in clause 3 by applying the proportion that the number of months in the period of registration, inspection or survey bears to 12 months.
- (3) If—
- (a) a facilities levy for a vessel has been paid in respect of a period (the *initial period*); and
 - (b) a further facilities levy becomes payable for the vessel because a certificate of registration, inspection or survey is proposed to be issued for a period (the *subsequent period*) that commences before the expiry of the initial period,
- the amount of the facilities levy payable on the registration, inspection or survey of the vessel for the subsequent period is to be reduced by the amount of the facilities levy already paid in respect of the whole months for which the initial period and subsequent period overlap.
- (4) If the amount of the facilities levy already paid in respect of the whole months for which the initial period and subsequent period overlap is greater than the amount payable for the subsequent period, no facilities levy is payable.

Example—

A vessel is registered as a fishing vessel on 1 January 2010 for a period of 2 years and a facilities levy of \$100 is paid. A decision is made to use the vessel as a trading vessel and so it is surveyed for a period of 1 year commencing on 1 July 2010. No facilities levy is payable on survey if the amount that would be payable apart from this subregulation is less than \$50 (being the amount of the facilities levy already paid in respect of the period 1 July 2010 to 30 June 2011). If the vessel is further surveyed for a period of 1 year commencing on 1 July 2011, the levy then payable will be that payable for the year less \$25 (being the amount of the facilities levy already paid in respect of the period 1 July 2011 to 31 December 2011).

- (3) Schedule 14, clause 3, item 43 and heading before item 43—delete the item and heading and substitute:

Facilities levies under section 90A of Act (Part 15)

43	Facilities levy for recreational vessel comprised of personal watercraft	\$25.00
44	Facilities levy for recreational vessel comprised of houseboat, paddle steamer, or other vessel designed for inland waters, that is operated only on River Murray and moored (when not in use or under inspection, service or repair) at permanent mooring facility on River Murray	\$32.50
45	Facilities levy for commercial vessel operated only on the River Murray, River Murray Lakes or Coorong	nil
46	Facilities levy for any other vessel, according to length of vessel as follows:	
	(a) not more than 3.1 m	nil

(b)	more than 3.1 m but not more than 3.5 m	\$25.00
(c)	more than 3.5 m but not more than 5 m	\$41.50
(d)	more than 5 m but not more than 6 m	\$50.00
(e)	more than 6 m but not more than 7 m	\$58.50
(f)	more than 7 m but not more than 8 m	\$66.50
(g)	more than 8 m but not more than 9 m	\$75.00
(h)	more than 9 m but not more than 10 m	\$83.50
(i)	more than 10 m but not more than 11 m	\$91.50
(j)	more than 11 m but not more than 12 m	\$100.00
(k)	more than 12 m but not more than 13 m	\$108.00
(l)	more than 13 m but not more than 14 m	\$117.00
(m)	more than 14 m but not more than 15 m	\$125.00
(n)	more than 15 m but not more than 16 m	\$133.00
(o)	more than 16 m but not more than 17 m	\$142.00
(p)	more than 17 m but not more than 18 m	\$150.00
(q)	more than 18 m but not more than 19 m	\$158.00
(r)	more than 19 m but not more than 20 m	\$167.00
(s)	more than 20 m in length	\$208.00

Schedule 1—Transitional provision

1—Members of Boating Facility Advisory Committee continue as members of advisory committee

- (1) On the commencement of these regulations, the committee under regulation 216 of the *Harbors and Navigation Regulations 2009* (as inserted by these regulations) is to consist of the persons who were, immediately before that commencement, members of the Boating Facility Advisory Committee (continued under regulation 217 as then in force).
- (2) Each member of the committee is to be taken to have been appointed by the Minister for the balance of his or her term of appointment as a member of the Boating Facility Advisory Committee and, if the member was appointed as a member of the Boating Facility Advisory Committee on the nomination of a particular body, the person's appointment as a member of the committee will be taken to have been on the nomination of that body.

2—Deputy of member of Boating Facility Advisory Committee continues as deputy of member of advisory committee

- (1) On the commencement of these regulations, a person who was, immediately before that commencement, a deputy of a member of the Boating Facility Advisory Committee (continued under regulation 217 as then in force) will be taken to have been appointed by the Minister as a deputy of the relevant member of the committee for the balance of the term of his or her appointment as a deputy of a member of the Boating Facility Advisory Committee.

- (2) Each deputy of a member of the committee is to be taken to have been appointed by the Minister for the balance of his or her term of appointment as a deputy of a member of the Boating Facility Advisory Committee and, if the deputy was appointed as a deputy of a member of the Boating Facility Advisory Committee on the nomination of a particular body, the person's appointment as a deputy of a member of the committee will be taken to have been on the nomination of that body.

Made by the Governor

with the advice and consent of the Executive Council
on 3 December 2009

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