

SOUTH AUSTRALIA

MARINE (FLOATING ESTABLISHMENTS) REGULATIONS, 1990

REGULATIONS UNDER THE MARINE ACT, 1936

Marine (Floating Establishments) Regulations, 1990

being

No. 177 of 1990: *Gaz.* 30 August 1990, p. 727

as varied by

No. 131 of 1992: *Gaz.* 25 June 1992, p. 1997¹

¹ Came into operation 1 July 1992: reg. 2.

2.

PART I

PRELIMINARY

Citation

1. These regulations may be cited as the *Marine (Floating Establishments) Regulations, 1990*.

Interpretation

2. In these regulations, unless the contrary intention appears—

"the Act" means the *Marine Act, 1936*:

"the Code" means the Australian Transport Advisory Council Uniform Shipping Laws Code (see Commonwealth of Australia *Gazette* No. P17, 3 August, 1984) as amended from time to time:

"the Director" means the Director of Marine and Harbors:

"initial survey" means the first survey undertaken by a surveyor of a floating establishment:

"partially smooth water" means water within the areas described in Part B of schedule 2:

"periodic survey" means a survey undertaken by a surveyor of a floating establishment for the renewal of a certificate of survey:

"smooth water" means water within the areas described in Part A of schedule 2.

Application

3. These regulations apply in relation to a floating establishment that is anchored or moored in the waters of the State and is used to observe marine life.

Fees

4. The fees appearing opposite the items specified in schedule 1 are the fees payable to the Director in relation to each of those items.

3.

PART II

SURVEY PROCEDURES

Survey periods

5. A survey of a floating establishment must be carried out by a surveyor at least once in every 12 month period.

Application for survey

6. (1) An application for the survey of a floating establishment must be made to the Director by or on behalf of the owner of the floating establishment in such manner and form as the Director may determine.

(2) At least seven days notice must be given to the Director of the date on which the survey is requested to be undertaken.

(3) An application for the survey of a floating establishment must be accompanied by the fee prescribed in schedule 1.

Issue of certificate of survey

7. (1) A certificate of survey may be issued by the Director to the owner of a floating establishment for the term specified in the certificate, on receipt by the Director of a report from a surveyor recommending the issue of the certificate.

(2) Any reasonable travelling, meals and accommodation expenses incurred by the surveyor carrying out a survey of a floating establishment must be paid to the Director by the owner of the floating establishment and no certificate of survey is issuable in respect of that floating establishment except on payment of those expenses.

(3) A certificate of survey must state, in relation to a floating establishment—

(a) its length or, if length is not appropriate in relation to the floating establishment, a measurement that will be taken to be its length for the purposes of these regulations;

(b) the place at which it is to be anchored or moored;

(c) the number of visitors and staff it may carry;

and

(d) any other endorsements applicable to the floating establishment.

Display of certificate of survey

8. A copy of the current certificate of survey must be displayed where it is visible to persons entering the floating establishment.

Operating without survey certificate or in contravention of term of certificate

9. (1) Subject to these regulations, no floating establishment may be operated unless there is a current certificate of survey issued by the Director in respect of that vessel.

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(2) No floating establishment may be operated in contravention of a term, condition or endorsement of a certificate of survey.

(3) If any floating establishment is engaged in any operation in contravention of subregulation (1) or (2), the owner and the person in charge of the floating establishment are each guilty of an offence.

Penalty: \$2 000

Extension of term of certificate of survey

10. (1) An application to extend the term of a certificate of survey may be made to the Director by or on behalf of the owner of a floating establishment, in such manner and form as the Director may determine.

(2) An application to extend the term of a certificate of survey must be accompanied by the fee prescribed in schedule 1.

(3) The Director may extend the term of a certificate of survey for a period not exceeding three months from the date on which the certificate of survey expires, on receipt by the Director of a report from a surveyor recommending an extension of the term of the certificate of survey.

(4) Where a certificate of survey has been extended pursuant to this regulation, the term of the subsequent survey certificate will commence from the date of expiry of such period of extension.

Preparation for survey

11. The owner of a floating establishment that is to be surveyed must, if requested to do so by a surveyor—

(a) produce or cause to be produced—

(i) any certificate issued in respect of the floating establishment;

(ii) any other relevant papers;

and

(iii) any particulars of that floating establishment;

(b) withdraw the floating establishment from the water and position it to enable the surveyor to make an external examination;

(c) open up and have available for inspection all machinery necessary for the safe working of the floating establishment;

(d) have the floating establishment cleaned, cleared and available for inspection;

and

(e) bear the cost of testing any material, machinery or equipment, if testing is required by the surveyor.

List of repairs and deficiencies

12. (1) After an inspection of a floating establishment for survey purposes the surveyor must prepare a list of any repairs and deficiencies.

(2) The list must be signed by the surveyor and by the owner of the floating establishment or his or her nominee.

(3) A copy of the list must be delivered to the owner of the floating establishment or his or her nominee.

(4) No report recommending that a certificate of survey be issued may be forwarded to the Director unless such repairs and deficiencies have been resolved to the satisfaction of the surveyor or his or her nominee.

Certificate of survey issued subject to conditions

13. (1) The owner of a floating establishment must make it available to a surveyor for survey prior to the expiry of the floating establishment's current certificate of survey, if required to do so by notice in writing from the Director.

(2) Where a floating establishment is surveyed pursuant to a notice given under subregulation (1), a certificate of survey may be—

(a) granted;

(b) refused;

or

(c) granted subject to a condition or conditions imposed by the Director.

(3) The Director may, at any time, revoke or vary a condition of a certificate of survey.

Non-attendance at survey

14. Where—

(a) the owner of a floating establishment has applied for a survey of that floating establishment pursuant to these regulations or has been required to make the floating establishment available for survey pursuant to regulation 13;

(b) a surveyor has attended at the nominated place of survey at the nominated time and the floating establishment (inclusive of its equipment) was not available for survey or the agent or his or her nominee was not in attendance;

and

(c) the owner had failed to advise the surveyor at least five working days prior to the nominated time for the survey that the floating establishment would not be available or that the agent or his or her nominee would not be in attendance,

the owner must—

6.

- (d) make further arrangements with the Director for a survey of the floating establishment to be undertaken at a later time;
 - (e) pay to the Director the fee for non-attendance at a survey prescribed in schedule 1;
- and
- (f) pay the reasonable travelling, meals and accommodation expenses actually incurred by the surveyor in relation to the failed survey.

Approval of plans and specifications

15. (1) Where—

- (a) a person intends to construct a floating establishment;

or

- (b) the owner of a floating establishment intends to substantially modify it,

he or she must submit to the Director for approval plans, drawings and specifications of the proposed construction or modification.

(2) The fee prescribed in schedule 1 is payable in relation to the examination and approval of such plans, drawings and specifications.

(3) A person who constructs a floating establishment or who, being the owner of a floating establishment, substantially modifies a floating establishment otherwise than in accordance with approved plans, drawings and specifications is guilty of an offence.

Penalty: \$2 000

Notification of damage

16. The owner or person in charge of a floating establishment must notify the Director of any damage affecting the seaworthiness of the floating establishment and must not cause or permit the floating establishment to be operated until the damage has been surveyed and rectified to the satisfaction of the surveyor.

Penalty: \$2 000

PART III

SURVEY STANDARDS AND EQUIPMENT

Code

17. (1) For the purposes of the application of the Code to floating establishments, a floating establishment—

- (a) that is anchored or moored in smooth water will be taken to be a Class 1E vessel;
- (b) that is anchored or moored in partially smooth water will be taken to be a Class 1D vessel;
- (c) that is anchored or moored elsewhere will be taken to be a Class 1C vessel.

(2) A copy of the Code, as amended from time to time, must be kept available for inspection by members of the public at the head office of the Department of Marine and Harbours during normal office hours.

Construction, stability, life saving appliances, fire appliances, radio equipment and miscellaneous equipment

18. A floating establishment must comply with Sections 5, 8, 10, 11, 12 and 13 of the Code.

8.

PART IV

GENERAL

Exemptions

19. Where, in regard to any requirement prescribed by these regulations, the Director is satisfied—

- (a) that the requirement has been substantially complied with;
 - (b) that compliance with the requirement is, in the circumstances of the case, impracticable or unnecessary;
- or
- (c) that the action taken or provision made regarding the subject matter of that requirement is sufficiently effective, or is as effective as, or more effective than, actual compliance with that requirement,

he or she may direct that compliance with the requirement be dispensed with under such conditions and for such period as he or she thinks fit.

Notification of change of address, or sale or alteration of vessel

20. (1) The owner of a floating establishment must advise the Director in writing of any of the following:

- (a) any change of address of the owner of the floating establishment;
 - (b) the sale of the floating establishment including the name and address of the new owner;
 - (c) any proposed withdrawal of the floating establishment from commercial operations;
 - (d) any proposed transfer of the floating establishment's operations into the jurisdiction of another Marine Authority for an extended period;
 - (e) any proposed changes in the manner or area of operation of the floating establishment;
- or
- (f) any proposed alterations to the floating establishment's structure.

(2) Notice under subregulation (1) of any change of address or sale must be given to the Director within 14 days after the change or sale occurs.

(3) Notice under subregulation (1) of any proposed withdrawal, transfer or change of operations or proposed structural alterations must be given at least 14 days before the withdrawal, transfer or change occurs or the alterations commence to be made.

(4) If notice is not given as required by this regulation in relation to a floating establishment, the owner of the floating establishment is guilty of an offence.

Penalty: \$500.

Power of preventing entry

21. (1) The Minister, or his or her nominee, may take such steps as may be required to prevent entry of persons to a floating establishment—

(a) that is not the subject of a current certificate of survey;

or

(b) that he or she considers to be unsafe due to—

(i) the defective condition of its structure, equipment or machinery;

or

(ii) overloading or improper loading of the floating establishment.

(2) Notice in writing of action taken under subregulation (1) must be given to the owner of the floating establishment.

(3) Action taken under subregulation (1) in relation to a floating establishment may be continued until—

(a) it has been surveyed;

or

(b) it has been brought into compliance with its certificate of survey and these regulations, or the situation has been otherwise rectified, to the satisfaction of a surveyor.

False statements

22. A person must not make a false or misleading statement in relation to a material particular in any form or other document used in or in connection with any matter arising under these regulations.

Penalty: \$1 000

SCHEDULE 1

Fees

		\$
1.	Initial Survey—per lineal metre	67.60
2.	Periodic Survey—per lineal metre	33.80
3.	Survey for the purposes of extension to current Certificate of Survey—per lineal metre	17.30
4.	Survey in respect of damage, repairs or alterations—per lineal metre	17.30
5.	Examination and approval of plans—	
	(a) for construction or major modifications—per lineal metre	51.15
	(b) for major alterations or extensive repairs—per lineal metre	33.80
6.	Minimum fee in respect of 1 to 5	110.00
7.	Examination and approval of stability information—	
	(a) per hour	80.00
	(b) minimum fee	330.00
8.	For non-attendance by an owner or his or her representative at an appointed survey—per lineal metre	17.30
9.	For issue of a replacement or additional copy of a Certificate of Survey	33.00

SCHEDULE 2
Smooth and Partially Smooth Water

PART A

Area	Smooth Water Limits
Eyre Peninsula	Baird Bay, Lake Newland, Round Lake, Lake Hamilton, Lake Greenly and Sleaford Mere.
Port Lincoln	Boston Bay and Port Lincoln south of a line joining Hayden Point to Cape Donnington and west of a line joining Maria Point to Point Boston.
Cowell	Franklin Harbor north of a line joining Germein Point to Victoria Point.
Port Augusta	North of a line joining Curlew Point to the ETSA Power Station
Port Pirie	Port Pirie Harbor and approaches south of a line joining Mangrove Point to Mount Ferguson.
Port Adelaide	Port Adelaide river north of a line drawn 270° from Outer Harbor Signal Station.
River Murray	The River Murray north of Wellington, Lake Bonney, the Goolwa channel and the Coorong.
Lakes in the South East of South Australia	Lake Leake, Lake Bonney, Lake George, Lake St. Claire, Lake Eliza, Lake Robe, Lake Fellmongery, Lake Batte, Valley Lake.

PART B

Area	Partially Smooth Water Limits
Thevenard	Tourville Bay, Murat Bay, D'cres Bay and Smoky Bay bounded by a line drawn from the southern extremity of Peter Point to the Yatala Channel Fairway Beacon then to the north west extremity of St. Peter Island then from the north eastern extremity of St. Peter Island to Cape Missiessy.
Streaky Bay	Streaky Bay south of a line drawn from the northern extremity of Cape Bauer through the South Channel Beacon to the shore at Perlubie.
Venus Bay	Venus Bay east of a line drawn northerly from the north eastern extremity of South Head to the shore line east of Point Weyland.
Coffin Bay	Coffin Bay south of a line drawn from Sir Issac Point easterly to Mount Dutton.
Tumby Bay	Adjacent to Tumby Bay west of a line drawn from the southern extremity of Massena Bay to the eastern extremity of Tumby Island then 020°T to the shore.
Port Neil	Dutton Bay west of a line drawn from Cape Burr 020°T to the shore.
Arno Bay	Arno Bay west of a line drawn from Cape Driver 040°T to the shore.
Port Gibbon	North of a line drawn from Point Gibbon to the Knob.
Port Augusta	The approaches to Port Augusta north of a line drawn from Lowly Point Light House to Ward Spit Beacon.
Port Pirie	Germein Bay east of line drawn from Ward Spit Beacon to Point Jarrold.
Port Broughton	The approaches to Port Broughton including Tickera Bay east of a line drawn from Point Jarrold to the Mundoorra Channel (Point Broughton) Entrance Beacon then to Point Riley.
Wallaroo	Wallaroo Bay east of a line drawn from Point Riley to Warburto Point.
Moonta Bay and Point Hughes	Tipara Bay east of a line drawn from Warburto Point to Cape Elizabeth.
Port Victoria	The approaches to Port Victoria bounded by a line drawn from Reef Point to Goose Island then to Cliff Point on Wardang Island then to Gawler Point.
Port Turton	South of a line drawn from Corny Point Light House to Port Minlacowie Jetty.
From Edithburgh coastwise to Port Noarlunga including Adelaide and Environs	St. Vincent Gulf which lie towards the shore from a line commencing at Troubridge Point then to Troubridge Shoal Light House then through Middle Spit Beacon at Port Vincent to join a line drawn eastwards from the silo at Ardrossan which joins a line drawn northerly from Long Spit Beacon then from Long Spit Beacon to Port Adelaide Fairway Beacon then to Onkaparinga Point.
Kangaroo Island	Nepean Bay and adjacent waters which lie south of a line drawn from Marsden Point to Kangaroo Head.
River Murray	The lower reaches of the River Murray south of Wellington including Lake Alexandrina and Lake Albert.

PART C

The following plan is enclosed for reference purposes only.

[Plan appears in
Gaz. 30.8.90, p. 727]

13.

APPENDIX

Legislative History

Schedule 1:

substituted by 131 , 1992, reg. 3