

PORTS AND MARINE LEGISLATION AMENDMENT BILL 2017

(Amendments made by the Legislative Council)

1. Clause 2, line 28, omit "1 March" and insert "30 June".
2. Clause 8, lines 13 to 29, page 6, lines 1 to 29 and page 7, lines 1 to 8, omit all words and expressions on these lines and insert—

'25A Duty of a person who manages a boating activity event to ensure safety of participants and other affected persons

- (1) A duty holder who manages a boating activity event must, so far as is reasonably practicable, ensure the safety of participants in the boating activity event or persons affected by the boating activity event.

Penalty: In the case of a natural person, 1800 penalty units;

In the case of a body corporate, 9000 penalty units.

- (2) An offence against subsection (1) is an indictable offence.
- (3) Without limiting subsection (1), a duty holder contravenes that subsection if the duty holder fails to do any of the following—
 - (a) provide, so far as is reasonably practicable, participants with information to enable those participants to participate in the boating activity event safely;
 - (b) comply, so far as is reasonably practicable, with accepted safety standards or manuals that are specific to the type of boating activity event being undertaken;
 - (c) ensure, so far as is reasonably practicable, that rescue and first aid capabilities or services are available to participants in boating activity events.
- (4) For the purposes of this section, a duty holder manages a boating activity event if that duty holder organises, facilitates or controls a boating activity event.
- (5) In this section—

boating activity event—

- (a) means an event on State waters that directly or indirectly involves vessel operations; and

Examples

Boat race, open water swimming race, water sports competition or exhibition, filming or promotional event, school kayak excursion.

- (b) does not include—

- (i) a pyrotechnic display or show on State waters; or
- (ii) groups of people cruising together in vessels on State waters in an informal manner;

duty holder means an employer or self-employed person (within the meaning of the **Occupational Health and Safety Act 2004**) but does not include—

- (a) an employee (within the meaning of that Act) of a duty holder who manages a boating activity event; or
- (b) a volunteer (within the meaning of that Act).

Note

This section applies irrespective of whether a duty holder who manages the boating activity event has applied for or obtained an exemption or the establishment of an exclusion zone under Part 5.3."

3. Clause 10, lines 23 to 31 and page 8, lines 1 to 12, omit all words and expressions on these lines and insert—

'(3) For section 29(2) of the Principal Act **substitute—**

"(2) Without limiting subsection (1), a person contravenes that subsection if the person fails to do any of the following—

- (a) ensure, so far as is reasonably practicable, that a pilot provided by the person to an owner of a vessel is not impaired by fatigue, alcohol or other drug;
- (b) ensure, so far as is reasonably practicable, that a pilot provided by the person to an owner of a vessel to carry out an activity mentioned in paragraph (a) or (b) of the definition of **marine safety work—**
 - (i) is medically fit and able to carry out the activity for which the pilot has been provided; and
 - (ii) is qualified and competent to carry out the activity for which the pilot has been provided;
- (c) provide, so far as is reasonably practicable, such information, instruction, training or supervision to a pilot provided by the person to an owner of a vessel as is necessary to enable the pilot to safely carry out an activity mentioned in paragraph (a) or (b) of the definition of **marine safety work."**

4. Clause 23, lines 13 to 16, omit all words and expressions on these lines and insert—

'(1) For section 248(2)(c) of the Principal Act **substitute—**

"(c) a master of a vessel that is less than 35 metres long."

5. Clause 53, line 3, omit "1 March" and insert "30 June".

Certified -

Clerk of the Legislative Council