



ANNO TRICESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1988

No. 94 of 1988

An Act to amend the Boating Act, 1974.

[Assented to 15 December 1988]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Boating Act Amendment Act, 1988*.
- (2) The *Boating Act, 1974*, is in this Act referred to as “the principal Act”.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. Section 5 of the principal Act is amended—
 - (a) by inserting after the definition of “potential speed” the following definition:

“registered”, in relation to a motor boat, means registered under this Act, and
“unregistered” has a corresponding meaning;
 - and
 - (b) by inserting after the definition of “the Minister” the following definition:

“unlicensed person” means a person who does not hold a licence or permit
under Part III.

Substitution of section 7

4. Section 7 of the principal Act is repealed and the following section is substituted:

Delegation

7. (1) The Minister may delegate any of the Minister’s powers under this Act to the Director.

(2) The Director—

- (a) may delegate to a licensee under Part IIIA the power to issue temporary motor boat operator’s licences to operators of motor boats taken on hire from that licensee;

and

(b) may delegate any power of the Director (other than a power delegated to the Director by the Minister) to the holder of any Public Service office or position.

(3) A delegation under this section—

(a) must be in writing;

(b) may be subject to such conditions as the delegator thinks fit;

(c) if made to the holder of a Public Service office or position, empowers any person for the time being holding or acting in that office or position to exercise the delegated powers;

(d) is revocable at will;

and

(e) does not prevent the delegator from acting personally in any matter.

Licences for aquatic activities

5. Section 9 of the principal Act is amended by striking out subsection (7) and substituting the following subsection:

(7) A person who, without the consent of the licensee or the authority of the Director, intrudes into waters at a time when the licensee has, pursuant to the licence, the exclusive use of those waters is guilty of an offence.

Penalty: Division 11 fine.

Substitution of Part II

6. Part II of the principal Act is repealed and the following Part is substituted:

PART II

REGISTRATION OF MOTOR BOATS

Boats to which this Part applies

11. (1) The provisions of this Part are in addition to the requirements of any other Act or law relating to the registration of boats.

(2) This Part applies to a motor boat other than one that is exempt from the provisions of this Part.

(3) The Governor may, by proclamation, exempt a specified motor boat or motor boats of a specified class from the provisions of this Part.

(4) An exemption under subsection (3) may be conditional or unconditional.

(5) The Governor may, by proclamation, vary or revoke a proclamation under this section.

Motor boats must be registered

12. (1) A person who operates an unregistered motor boat under power on waters controlled by the Minister is guilty of an offence.

Penalty: Division 9 fine.

(2) It is a defence to a prosecution for an offence against subsection (1) for the defendant to prove that, at the time of the alleged offence, due application for registration had been made but the defendant had not been notified of the outcome of the application.

Applications for registration

13. An application for registration of a motor boat—

- (a) must be made by a person who is of or above the age of 16 years;
 - (b) must be in writing in the form approved, and contain the particulars required, by the Director;
 - (c) must, unless exempted by the regulations, be accompanied by the prescribed fee;
- and
- (d) must be lodged with the Director.

Registration

14. (1) The Director may refuse to register a motor boat if satisfied—

- (a) that the boat does not comply with the prescribed standards of design or construction, or does not carry the prescribed equipment;
- or
- (b) that the boat is unseaworthy.

(2) The Director may, pending determination of an application for registration, issue a permit authorizing operation of the boat for a period, not exceeding two weeks, specified in the permit.

(3) A permit may be subject to such conditions as the Director thinks fit and specifies in the permit.

(4) While a permit under subsection (2) is in force, the boat will be taken to be registered.

(5) If the Director refuses an application for registration, the Director—

- (a) will refund the registration fee, or a due proportion of it;
- and
- (b) may cancel any permit issued under subsection (2).

(6) The Director must, if a permit holder so requests, cancel the permit and refund the registration fee, or a due proportion of it, and may deduct from that amount the prescribed cancellation fee.

(7) The amount to be paid to a person pursuant to subsection (5) or (6) may be rounded to the nearest dollar.

(8) Subject to subsection (9), registration will be for a period of 12 months, commencing—

- (a) if registration is granted while a permit is in force—on the date of issue of the permit;
 - (b) if registration is granted before the expiry of a previous registration period—on that expiry;
- or
- (c) in any other case—on the grant of registration.

(9) The Director may, on the application of a person who owns more than one motor boat, fix a common expiry date in respect of the registration of those boats and,

for that purpose, may fix registration periods of such length, and adjust registration fees, as may be necessary.

(10) The Director must keep a register of boats registered under this Part, containing registration numbers and such other information as the Director determines.

Registration labels and numbers

15. (1) On registering a motor boat the Director will assign a registration number to the boat (if a number has not already been assigned) and will issue to its owner a certificate of registration and a registration label.

(2) The Director may at any time assign a new registration number in substitution for a number previously assigned and, on doing so, must issue a new certificate of registration.

Duty to carry registration numbers and labels

16. (1) A person who operates a registered motor boat under power on waters controlled by the Minister is guilty of an offence if—

(a) a registration label has been issued but is not affixed to the boat in the prescribed manner and place;

or

(b) a registration number has been assigned but—

(i) is not displayed on the boat in the prescribed manner and place;

or

(ii) is obscured or is not fully legible in daylight.

Penalty: Division 9 fine.

(2) It is a defence to a prosecution for an offence against subsection (1) (a) or (b) (i) for the defendant to prove that, at the time of the alleged offence, the defendant had not had a reasonable opportunity to affix or display the registration label or number in the prescribed manner or place.

(3) It is a defence to a prosecution for an offence against subsection (1) (b) (ii) for the defendant to prove that all reasonably practicable steps had been taken to prevent the registration number from being obscured or to ensure that it was fully legible in daylight.

(4) If a person operates a motor boat under power on waters controlled by the Minister while displaying—

(a) a registration number assigned or a registration label issued under this Act to some other boat;

or

(b) a number that is not, but could be mistaken for, a registration number assigned under this Act,

that person is guilty of an offence.

Penalty: Division 9 fine.

Transfer of registration

16a. (1) Where ownership of a registered motor boat is transferred, the transferee must within 14 days of the transfer, or within such longer period as the Director may allow, apply for registration of the boat in his or her name.

(2) An application for transfer of registration must—

(a) be in writing in the form approved, and contain the particulars required, by the Director;

(b) be accompanied by the prescribed fee;

and

(c) be lodged with the Director.

(3) On due application for transfer being made, the Director must register the motor boat in the name of the applicant.

Cancellation of registration

16b. (1) The Director may cancel the registration of a motor boat if satisfied that the registration was improperly obtained.

(2) The registered owner of a boat may at any time apply to the Director for cancellation of registration.

(3) An application for cancellation of registration must—

(a) be in writing in the form approved, and contain the particulars required, by the Director;

(b) be accompanied by the registration label (if still in the applicant's possession);

and

(c) be lodged with the Director.

(4) Subject to subsection (5), the Director must, on due application under this section, cancel the registration of a boat.

(5) If the registration label has not been surrendered to the Director, the Director must not cancel registration unless satisfied, by such evidence as the Director may require, that the label has been lost, stolen or destroyed, whether while affixed to the boat or not.

(6) On cancellation of registration under subsection (4) the Director—

(a) will refund a due proportion of the registration fee;

and

(b) may deduct from the amount to be refunded the prescribed cancellation fee.

(7) Any amount to be paid pursuant to subsection (6) may be rounded to the nearest dollar.

(8) On cancellation of registration under subsection (1), the owner of the boat must return the registration label to the Director.

Penalty: Division 10 fine.

Grant of licence

7. Section 19 of the principal Act is amended—

(a) by striking out from subsection (2) "A" and substituting "Subject to subsection (2a), a";

(b) by inserting after subsection (2) the following subsection:

(2a) The Director may issue an operator of a motor boat hired from a licensee under Part IIIA with a temporary licence for such period, not exceeding 60 days, as the Director thinks fit;

(c) by inserting after subsection (3) the following subsections:

(3a) A licence may be subject to such conditions as the Director specifies in the licence.

(3b) A person who contravenes or fails to comply with a condition of a licence is guilty of an offence.

Penalty: Division 9 fine.;

and

(d) by striking out subsection (6) and substituting the following subsection:

(6) A person who fails to comply with subsection (5) is guilty of an offence.

Penalty: Division 10 fine.

Unlawful operation of motor boats

8. Section 23 of the principal Act is amended by striking out subsections (1) and (2) and substituting the following subsections:

(1) An unlicensed person who operates a motor boat under power on waters under the control of the Minister is guilty of an offence.

Penalty: Division 9 fine.

(2) A person who permits an unlicensed person to operate a motor boat under power on waters under the control of the Minister is guilty of an offence.

Penalty: Division 9 fine.

Insertion of new Part IIIA

9. The following Part is inserted in the principal Act after Part III:

PART IIIA

LICENSING OF PERSONS WHO CARRY ON A BUSINESS OF HIRING OUT BOATS

Unlawful hiring out of boats

23a. A person who carries on a business of hiring out boats of a prescribed class without being licensed to do so under this Part is guilty of an offence.

Penalty: Division 9 fine.

Application for licence

23b. (1) An application for a licence under this Part must—

(a) be in writing in the form approved, and contain the particulars required, by the Director;

and

(b) be lodged with the Director.

(2) The Director may, before granting a licence under this Part, require that all or any of the boats to be hired out in pursuance of the licence be made available for inspection, in or out of the water.

(3) A prescribed fee is payable by an applicant in respect of the inspection of a boat under this section.

(4) Subject to subsection (5), the Director must not grant an application for a licence under this Part unless satisfied—

(a) that the applicant is of or over 18 years of age and is a fit and proper person to hold a licence under this Part;

and

(b) that the boats to be hired out in pursuance of the licence comply with prescribed requirements as to design, construction and safety.

(5) The Director may grant a licence notwithstanding that a boat to be hired out in pursuance of the licence does not comply with the prescribed requirements, provided that—

(a) operation of the boat would not, in the opinion of the Director, present a risk to the safety of any person;

and

(b) the licence is made subject to conditions designed to ensure compliance with the prescribed requirements within a period specified in the licence.

(6) A licence under this Part may be subject to such conditions as the Director specifies in the licence.

(7) The Director may, by notice in writing to the holder of a licence under this Part, vary or revoke any condition of the licence.

(8) The holder of a licence under this Part who contravenes, or fails to comply with, a condition of the licence is guilty of an offence.

Penalty: Division 9 fine.

Duration of licence

23c. A licence under this Part is, subject to this Act, effective for a period of one year.

Transfer of licence

23d. (1) A licence under this Part may, with the approval of the Director, be transferred.

(2) An approval may be given under subsection (1) on such conditions as the Director thinks fit.

Cancellation of licence

23e. (1) The Director may cancel a licence under this Part—

(a) if satisfied that the licence was improperly obtained;

(b) if the holder of the licence is found guilty of an offence against this Act;

or

(c) if the holder of the licence contravenes, or fails to comply with, a condition of the licence.

(2) If a licence is cancelled pursuant to this section the holder of the licence must, on being notified of the cancellation, return the licence to the Director.

Penalty: Division 10 fine.

Insertion of heading

10. The following heading is inserted in the principal Act after the heading to Part IV:

DIVISION I—BOATING OFFENCES

Substitution of section 24

11. Section 24 of the principal Act is repealed and the following section is substituted:

Boating accidents

24. (1) Where, on waters under the control of the Minister, a boat is involved in an accident in which a person is killed or injured or a boat or other property is lost, destroyed or damaged, the operator of the boat and of any other boat in the vicinity must, so far as is possible without seriously endangering any boat or person, render any person affected by the accident such assistance as is practicable for the purposes of averting or minimizing any danger arising from the accident.

(2) The operator of each boat involved in such an accident must give written notice of his or her name and address and, if requested, the name of the owner of the boat—

(a) to the operator of each other boat involved in the accident;

(b) to the owner of any other property lost, destroyed or damaged in the accident;
and

(c) to each person injured in the accident.

Penalty: Division 9 fine.

(3) The operator of each boat involved in such an accident must, as soon as practicable after the accident, give the following information to a member of the police force at or near the site of the accident or at a police station in the vicinity of the accident:

(a) the time and place of the accident;

(b) the circumstances of the accident;

(c) the name and address (if known) of each person killed or injured in the accident;

and

(d) the name and address (if known) of each witness to the accident.

Penalty: Division 9 fine.

(4) Subsection (3) does not oblige an operator to give any information that would tend to incriminate the operator or any other person of an offence.

(5) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that the only damage resulting from the accident was damage to a boat or other property and that a fair estimate of the cost of making good the damage was \$100 or less.

Unseaworthy boats

12. Section 25 of the principal Act is amended by striking out from subsection (6) "shall be guilty of an offence" and substituting the following:

is guilty of an offence.

Penalty: Division 9 fine.

Boat to be operated with due care, etc.**13. Section 26 of the principal Act is amended—**

(a) by striking out from subsection (1) “shall be guilty of an offence” and substituting the following:

is guilty of an offence.

Penalty: Division 9 fine.;

(b) by striking out from subsection (2) “shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months” and substituting the following:

is guilty of an offence.

Penalty: Division 8 fine.;

and

(c) by striking out subsection (3) and substituting the following subsections:

(3) A person who, on waters under the control of the Minister, operates or attempts to operate a boat, rides upon or otherwise uses any water skis, surf board or other device or is towed by a boat—

(a) while under the influence of intoxicating liquor or a drug to such an extent that the use of any mental or physical faculty is lost or appreciably impaired;

or

(b) while there is present in his or her blood the prescribed concentration of alcohol,

is guilty of an offence.

Penalty: Division 8 fine.

(4) For the purposes of subsection (3), “prescribed concentration of alcohol” means a concentration of .08 grams or more of alcohol in 100 millilitres of blood.

(5) Where a member of the police force believes on reasonable grounds that a person has committed an offence against subsection (1), (2) or (3) (a), that member of the police force may, subject to subsection (6), require the person to submit to an alcotest or breath analysis, or both.

(6) An alcotest or breath analysis must be performed within two hours after the occurrence of the event giving rise to the belief referred to in subsection (5).

Equipment

14. Section 27 of the principal Act is amended by striking out from subsection (2) “shall be guilty of an offence” and substituting the following:

is guilty of an offence.

Penalty: Division 9 fine.

Wrecks and abandoned boats

15. Section 28 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) A person who fails to comply with subsection (1) is guilty of an offence.

Penalty: Division 11 fine.

Disclosure of name and address of operator

16. Section 29 of the principal Act is amended—

(a) by striking out from subsection (1) “shall, at the request” and substituting “must, immediately on the request”;

and

(b) by striking out subsection (2) and substituting the following subsection:

(2) A person who fails to comply with subsection (1) is guilty of an offence.

Penalty: Division 9 fine.

Management of boat

17. Section 30 of the principal Act is amended by striking out from subsection (1) “shall be guilty of an offence” and substituting the following:

is guilty of an offence.

Penalty: Division 9 fine.

Insertion of Division

18. The following Division is inserted after section 30 of the principal Act:

DIVISION II—PROVISIONS RELATING TO BREATH ANALYSIS, ETC.

Interpretation

30a. In this Act—

“alcotest” means a test by means of an apparatus of a kind approved by the Minister of Transport for the purposes of the *Road Traffic Act, 1961*, by which the presence of alcohol in the blood of a person who exhales into the apparatus is indicated:

“analyst” means a person who is an analyst for the purposes of the *Road Traffic Act, 1961*:

“breath analysing instrument” means an apparatus of a kind approved by the Governor as a breath analysing instrument for the purposes of the *Road Traffic Act, 1961*:

“breath analysis” means an analysis of breath by a breath analysing instrument.

Presumption of blood alcohol level

30b. If it is established that there was present in the blood of a person charged with an offence against section 26 (3) (b) the prescribed concentration of alcohol at any time within two hours after that offence is alleged to have been committed, it will be presumed, unless the court before which the person is charged draws, from the evidence before it, a reasonable inference to the contrary, that the prescribed concentration of alcohol was present in the blood of the person at the time the offence is alleged to have been committed.

Contracts of insurance

30c. (1) A person who is convicted of an offence against section 26 (3) (b) is not, by reason only of the conviction and any consequent penalty, to be taken, for the purposes of any law, or of any contract, agreement, policy of insurance or other document, to have been under the influence of, or in any way affected by, intoxicating liquor, or incapable of operating, or of exercising effective control of, a boat, at the time of the commission of that offence.

(2) The provisions of subsection (1) have effect notwithstanding any law, or any covenant, term, condition or provision of, or contained in, any contract, agreement, policy of insurance or other document, and a covenant, term, condition or provision purporting to exclude, limit, modify or restrict the operation of that subsection is void.

(3) Any covenant, term, condition or provision contained in a contract, policy of insurance or other document purporting to exclude or limit the liability of an insurer in the event of the operator of a boat being convicted of an offence against section 26 (3) (b) is void.

Compliance with directions of police

30d. (1) A person required under this Act to submit to an alcotest or breath analysis must not refuse or fail to comply with all reasonable directions of a member of the police force in relation to the requirement and, in particular, must not refuse or fail to exhale into the apparatus by which the alcotest or breath analysis is conducted, in accordance with the directions of a member of the police force.

Penalty: Division 8 fine but not less than the maximum of a division 9 fine.

(2) It is a defence to a prosecution under subsection (1)—

(a) that the requirement or direction to which the prosecution relates was not lawfully made;

or

(b) that there was, in the circumstances of the case, good cause for the refusal or failure of the defendant to comply with the requirement or direction.

(3) No person is entitled to refuse or fail to comply with a requirement or direction under this section on the ground that, by complying with that requirement or direction, he or she would, or might, furnish evidence that could be used against himself or herself.

Right of person to request blood test

30e. (1) A person required in accordance with this Act to submit to a breath analysis may request of a member of the police force that a sample of his or her blood be taken by a medical practitioner.

(2) Where a request is made by a person under subsection (1), a member of the police force must do all things reasonably necessary to facilitate the taking of a sample of the person's blood—

(a) by a medical practitioner nominated by the person;

or

(b) if—

(i) it becomes apparent to the member of the police force that there is no reasonable likelihood that a medical practitioner nominated by the person will be available to take the sample within one hour of the time of the request at some place not more than ten kilometres distant from the place of the request;

or

(ii) the person does not nominate a particular medical practitioner, by any medical practitioner who is available to take the sample.

(3) The taking of a sample of blood pursuant to this section—

(a) must be carried out by the medical practitioner in the presence of a member of the police force;

and

(b) must be at the expense of the person from whom the sample is taken.

(4) A sample of blood taken by a medical practitioner in accordance with a request under subsection (1) must be divided by that practitioner into two approximately equal parts and placed in sealed containers of which—

(a) one must be handed to the member of the police force present at the taking of the sample;

and

(b) one must be retained by the medical practitioner and dealt with in accordance with the directions of the person from whom it was taken.

(5) Nothing in this section absolves a person from the obligation imposed by section 30d (1).

Evidence, etc.

30f. (1) Without affecting the admissibility of evidence that might be given otherwise than in pursuance of this section, evidence may be given, in any proceedings for an offence against section 26 (3), of the concentration of alcohol indicated as being present in the blood of the defendant by a breath analysing instrument operated by a person authorized to operate the instrument by the Commissioner of Police and, where the requirements and procedures in relation to breath analysing instruments and breath analysis under this Act, including subsections (3) and (4), and under any other Act or regulations have been complied with, it will be presumed, in the absence of proof to the contrary, that the concentration of alcohol so indicated was present in the blood of the defendant at the time of the analysis and throughout the period of two hours immediately preceding the analysis.

(2) In any proceedings for an offence against section 26 (3), no evidence can be adduced in rebuttal of the presumption created by subsection (1) except evidence of the concentration of alcohol in the blood of the defendant as indicated by analysis of a sample of blood taken and dealt with in accordance with section 30e or 30g.

(3) As soon as practicable after a person has submitted to an analysis of breath by means of a breath analysing instrument, the person operating the instrument must deliver to the person whose breath has been analysed a statement in writing specifying—

(a) the concentration of alcohol indicated by the analysis to be present in the blood expressed in grams in 100 millilitres of blood;

and

(b) the date and time of the analysis.

(4) Where a person has submitted to an analysis of breath by means of a breath analysing instrument and the concentration of alcohol indicated as being present in the blood of that person by the breath analysing instrument is the prescribed concentration of alcohol, the person operating the instrument must forthwith—

(a) inform that person of the right pursuant to section 30e to have a sample of blood taken by a medical practitioner;

and

(b) warn that person that, if he or she does not exercise that right, it may be conclusively presumed for the purposes of proceedings for an offence against section 26 (3) that the concentration of alcohol in the blood during the period of two hours preceding the analysis was the concentration as indicated by the breath analysing instrument.

(5) In proceedings for an offence against section 26 (3), a certificate—

(a) purporting to be signed by the Commissioner of Police and to certify that a person named in the certificate is authorized by the Commissioner of Police to operate breath analysing instruments;

or

(b) purporting to be signed by a person authorized under subsection (1) and to certify that—

(i) the apparatus used by the authorized person was a breath analysing instrument within the meaning of this Act;

(ii) the breath analysing instrument was in proper order and was properly operated; and

(iii) in relation to the breath analysing instrument, the provisions of this Act and of any other Act or regulations with respect to breath analysing instruments were complied with,

is, in the absence of proof to the contrary, proof of the matters so certified.

(6) A certificate purporting to be signed by a member of the police force and to certify that an apparatus referred to in the certificate is or was of a kind approved under the *Road Traffic Act, 1961*, for the purpose of performing alcotests is, in the absence of proof to the contrary, proof of the matter so certified.

(7) A certificate purporting to be signed by a member of the police force and to certify that a person named in the certificate submitted to an alcotest on a specified day and at a specified time and that the alcotest indicated that the prescribed concentration of alcohol may then have been present in the blood of that person is, in the absence of proof to the contrary, proof of the matters so certified.

(8) Subject to subsection (10), in proceedings for an offence against section 26 (3), a certificate purporting to be signed by an analyst, certifying as to the concentration of alcohol, or any drug, found in a specimen of blood identified in the certificate expressed in grams in 100 millilitres of blood is, in the absence of proof to the contrary, proof of the matters so certified.

(9) Subject to subsection (10), in proceedings for an offence against section 26 (3), a certificate purporting to be signed by a person authorized under subsection (1) and to certify that—

(a) a sample of the breath of a person named in the certificate was furnished for analysis in a breath analysing instrument;

(b) a concentration of alcohol expressed in grams in 100 millilitres was indicated by that breath analysing instrument as being present in the blood of that person on the day and at the time stated in the certificate;

(c) a statement in writing required by subsection (3) was delivered in accordance with that subsection;

and

(d) the person named in the certificate was informed and warned of the matters referred to in subsection (4) in accordance with that subsection,

is, in the absence of proof to the contrary, proof of the matters so certified.

(10) A certificate referred to in subsection (8) or (9) cannot be received as evidence in proceedings for an offence against section 26 (3)—

(a) unless a copy of the certificate proposed to be put in evidence at the trial of a person for the offence has, not less than seven days before the commencement of the trial, been served on that person;

(b) if the person on whom a copy of the certificate has been served under paragraph (a), has, not less than two days before the commencement of the trial, served written notice on the complainant requiring the attendance at the trial of the person by whom the certificate was signed;

or

(c) if the court, in its discretion, requires the person by whom the certificate was signed to attend at the trial.

Insertion of heading

19. The following heading is inserted immediately before section 31 of the principal Act:

DIVISION III—MISCELLANEOUS

Powers of police officer or authorized officer

20. Section 31 of the principal Act is amended—

(a) by inserting after “seaworthy” in subparagraph (ii) of paragraph (b) of subsection (1) “or whether, in the case of a boat of a class prescribed for the purposes of Part IIIA, it complies with the prescribed requirements as to design, construction or safety”;

(b) by inserting after paragraph (c) of subsection (1) the following paragraph:

(ca) he may require a person apparently carrying on a business of hiring out boats of a class prescribed for the purposes of Part IIIA to produce his or her licence under that Part;

and

(c) by striking out from subsection (2) “shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months” and substituting the following:

is guilty of an offence.

Penalty: Division 9 fine.

Powers of arrest

21. Section 32 of the principal Act is amended by striking out from subsection (3) “shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months” and substituting the following:

is guilty of an offence.

Penalty: Division 9 fine.

False information

22. Section 33 of the principal Act is amended by striking out “shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months” and substituting the following:

is guilty of an offence.

Penalty: Division 9 fine.

Substitution of section 34

23. Section 34 of the principal Act is repealed and the following section is substituted:

Proceedings

34. (1) The offences constituted by this Act are summary offences.

(2) Proceedings for an offence may be brought at any time within 12 months after the date of the alleged commission of the offence.

Repeal of section 35

24. Section 35 of the principal Act is repealed.

Evidentiary provisions

25. Section 36 of the principal Act is amended—

(a) by inserting before paragraph (a) the following paragraph:

(aa) an apparently genuine certificate, purporting to be signed by the Minister or the Director (as the case requires), containing particulars of a delegation under this Act is, in the absence of proof to the contrary, proof of those particulars;;

and

(b) by inserting after paragraph (f) the following paragraphs:

(g) an allegation in the complaint that a specified boat was, on a specified date, a boat operated pursuant to a licence under Part IIIA, will, in the absence of proof to the contrary, be taken to be proved;

(h) an apparently genuine certificate purporting to be signed by the Director stating that a specified person had not, on or before a specified date, lodged with, served on or otherwise delivered to the Director a specified application, notice or other document is, in the absence of proof to the contrary, proof of that statement.

Fees

26. Section 37 of the principal Act is amended by striking out subsection (4).

Regulations

27. Section 38 of the principal Act is amended—

(a) by striking out paragraph (l) from subsection (1) and substituting the following paragraph:

(l) prescribe fines, not exceeding a division 10 fine, for contravention of the regulations.;

(b) by striking out subsection (2) and substituting the following subsection:

(2) Any regulation under this Act may be of general or limited application according to—

(a) the class of persons or boats;

(b) the portion of the waters under the control of the Minister;

(c) the zone established under this section;

(d) the particular circumstances;

or

(e) any other specified factor,

to which the regulation is expressed to apply.;

and

(c) by inserting after subsection (3) the following subsections:

(4) The regulations may refer to or, by reference, incorporate (with or without modifications) any code or standard published by a specified authority and a code or standard so referred to or incorporated has effect, as amended from time to time by the publishing authority, as if it were a regulation made under this Act.

(5) Where a code or standard is referred to or incorporated in the regulations—

(a) a copy of the code or standard must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations;

and

(b) in any legal proceedings, evidence of the contents of the code or standard may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the code or standard.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor