

South Australia



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ELIZABETHAE II REGINAE  
A.D. 2000

**HARBORS AND NAVIGATION (MISCELLANEOUS) AMENDMENT  
ACT 2000**

No. 79 of 2000

[Assented to 14 December 2000]

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An Act to amend the Harbors and Navigation Act 1993.

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**SUMMARY OF PROVISIONS**

1. Short title
2. Commencement
3. Substitution of s. 6
  6. Application of Act
4. Amendment of s. 12—Appointment of authorised persons
5. Amendment of s. 14—Powers of an authorised person
6. Insertion of s. 39A
  - 39A. Interpretation
7. Amendment of s. 40—State Crewing Committee
8. Amendment of s. 41—Nomination of members by owner
9. Insertion of s. 42A
  - 42A. Vacancies or defects in appointment of members
10. Amendment of s. 65—General requirements
11. Insertion of s. 65A
  - 65A. Requirement to have emergency position indicating radio beacon
12. Amendment of s. 66—Power to prohibit use of unsafe vessel
13. Amendment of s. 68—Requirement of survey
14. Transitional provision

**SCHEDULE***Amendment of Penalties*

**The Parliament of South Australia enacts as follows:**

**Short title**

1. (1) This Act may be cited as the *Harbors and Navigation (Miscellaneous) Amendment Act 2000*.

(2) The *Harbors and Navigation Act 1993* is referred to in this Act as "the principal Act".

**Commencement**

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

**Substitution of s. 6**

3. Section 6 of the principal Act is repealed and the following section is substituted:

**Application of Act**

6. (1) This Act applies both within and outside the jurisdiction.

(2) This Act applies outside the jurisdiction to the full extent of the extraterritorial power of the Parliament.

**Amendment of s. 12—Appointment of authorised persons**

4. Section 12 of the principal Act is amended—

(a) by inserting after subsection (1a) the following subsection:

(1b) The CEO may, with the concurrence of a council, appoint an officer or employee of the council to be an authorised person for the purposes of this Act.;

(b) by inserting in subsection (2) ", including a condition limiting the exercise of powers by the authorised person to the enforcement of specified provisions of the Act or to enforcement within a specified area of the State" after "conditions".

**Amendment of s. 14—Powers of an authorised person**

5. Section 14 of the principal Act is amended by striking out from subsection (1) "An authorised" and substituting "Subject to any conditions specified in the instrument of appointment, an authorised".

**Insertion of s. 39A**

6. The following section is inserted in Division 3 of Part 6 of the principal Act before section 40:

**Interpretation**

39A. In this Division—

"qualified marine engineer" means a person who holds a certificate of competency as a marine engineer (of any class) issued under this Act or has, in the opinion of the CEO, other appropriate qualifications as a marine engineer;

"qualified master" means a person who holds a certificate of competency as a master (of any class) issued under this Act or has, in the opinion of the CEO, other appropriate qualifications as a master;

"qualified master mariner" means a person who holds—

- (a) a Master Class 1 certificate of competency issued by a marine authority of the Commonwealth; or
- (b) a qualification under the law of some other place recognised under the Commonwealth Act as equivalent to such a certificate of competency.

**Amendment of s. 40—State Crewing Committee**

7. Section 40 of the principal Act is amended—

(a) by striking out subparagraph (i) of subsection (2)(a) and substituting the following subparagraphs:

- (i) one is to be a qualified master mariner nominated by the Minister;
- (ia) one is to be a qualified master nominated by the Minister;
- (ib) one is to be a qualified marine engineer nominated by the Minister;;

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

(2a) At least one appointed member of the Committee must be a woman and at least one must be a man.

**Amendment of s. 41—Nomination of members by owner**

8. Section 41 of the principal Act is amended by striking out from subsection (3) "mariner".

**Insertion of s. 42A**

9. The following section is inserted in Division 3 of Part 6 of the principal Act after section 42:

**Vacancies or defects in appointment of members**

42A. 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.

**Amendment of s. 65—General requirements**

10. Section 65 of the principal Act is amended by striking out the penalty provision at the foot of subsection (2) and substituting the following:

Maximum penalty: \$10 000  
 Expiation fee: (a) if 1 or 2 items of equipment are involved—\$105;  
 (b) if 3 or 4 items of equipment are involved—\$160;  
 (c) if more than 4 items of equipment are involved—\$210.

**Insertion of s. 65A**

11. The following section is inserted after section 65 of the principal Act:

**Requirement to have emergency position indicating radio beacon**

65A. (1) A vessel of a class specified by the regulations must not be operated in the jurisdiction unless it is carrying an emergency position indicating radio beacon that is in good working order.

**Harbors and Navigation (Miscellaneous)  
Amendment Act 2000**

No. 79 of 2000

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(2) If a vessel is operated in the jurisdiction contrary to subsection (1), the owner and the master or operator are each guilty of an offence.

Maximum penalty: \$10 000  
Expiation fee: \$400.

**Amendment of s. 66—Power to prohibit use of unsafe vessel**

12. Section 66 of the principal Act is amended by inserting in subsection (1)(b) "this Act or" after "required by".

**Amendment of s. 68—Requirement of survey**

13. Section 68 of the principal Act is amended by inserting in subsection (1)(b) "this Act and" after "required by".

**Transitional provision**

14. (1) On the commencement of section 7 of this Act, the appointed members of the State Crewing Committee who held office immediately prior to that commencement vacate their offices so that appointments may be made to the Committee under the principal Act as amended by this Act.

(2) Subsection (1) does not derogate from section 16 of the *Acts Interpretation Act 1915*.

**SCHEDULE**  
*Amendment of Penalties*

The principal Act is further amended—

(a) by striking out subsection (7) of section 91 and substituting the following subsection:

(7) The regulations may impose fines, not exceeding \$5 000, for offences against the regulations.;

(b) by striking out the penalty provision from each of the provisions listed below and substituting the penalty provision listed opposite.

Provision Amended	New penalty provision
Section 14(2)	Maximum penalty: \$1 250.
Section 23(3)	Maximum penalty: \$5 000.
Section 24(1)	Maximum penalty: \$750.
Section 24(5)	Maximum penalty: \$750.
Section 25(4)	Maximum penalty: \$5 000.
Section 33(4)	Maximum penalty: \$5 000.
Section 33(6)	Maximum penalty: \$750.
Section 34(4)	Maximum penalty: \$5 000.
Section 34(6)	Maximum penalty: \$750.
Section 35(2)	Maximum penalty: \$10 000.
Section 38(1)	Maximum penalty: \$5 000.
Section 38(2)	Maximum penalty: \$5 000.
Section 44(2)	Maximum penalty: \$2 500.
Section 47(1)	Maximum penalty: \$2 500.
Section 47(2)	Maximum penalty: \$2 500.
Section 47(3)	Maximum penalty: \$2 500. Expiation fee: \$105.
Section 47(4)	Maximum penalty: \$2 500. Expiation fee: \$105.
Section 50(3)	Maximum penalty: \$750.
Section 52	Maximum penalty: \$2 500.
Section 53(3)	Maximum penalty: \$2 500.
Section 53(5)	Maximum penalty: \$750.

**Harbors and Navigation (Miscellaneous)  
Amendment Act 2000**

---

No. 79 of 2000

Section 55(2)	Maximum penalty: \$750. Expiation fee: (a) if the vessel is registered but not marked in accordance with the regulations—\$55; (b) if the vessel is neither registered nor marked in accordance with the regulations—\$80.
Section 57(3)	Maximum penalty: \$5 000.
Section 57(5)	Maximum penalty: \$750.
Section 59(5)	Maximum penalty: \$750.
Section 60(1)	Maximum penalty: \$10 000.
Section 60(2)	Maximum penalty: \$10 000.
Section 63(5)	Maximum penalty: \$5 000.
Section 64(1)	Maximum penalty: \$10 000.
Section 64(2)	Maximum penalty: \$10 000.
Section 66(3)	Maximum penalty: \$5 000.
Section 67(2)	Maximum penalty: \$10 000.
Section 68(3)	Maximum penalty: \$5 000.
Section 69(1)	Maximum penalty: \$5 000.
Section 69(2)	Maximum penalty: \$2 500.
Section 71(2)	Maximum penalty: \$2 500.
Section 75(3)	Maximum penalty: \$750. Expiation fee: \$55.
Section 76(3)	Maximum penalty: \$1 250.
Section 84(1)	Maximum penalty: \$1 250.
Section 84(2)	Maximum penalty: \$1 250.
Section 85	Maximum penalty: \$1 250.