

Conservation and Land Management Amendment Regulations 2015

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

1. Citation

These regulations are the *Conservation and Land Management Amendment Regulations 2015*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Conservation and Land Management Regulations 2002*.

4. Regulation 2 amended

- (1) In regulation 2 delete the definition of *mooring*.
- (2) In regulation 2 insert in alphabetical order:

mooring means any structure or apparatus (other than a vessel's anchor that is retrieved by the vessel when not in use) to which a floating vessel may be secured by a chain, cable, wire or rope, whether or not the structure or apparatus is itself beyond the shores of the water;

public mooring means a mooring designated as a public mooring under regulation 60A(1);

temporary mooring area means —

- (a) an area declared under regulation 6(1)(a) to be a designated area for the purposes of regulation 60B; or
- (b) an area designated by sign as a temporary mooring area;

tender means an auxiliary vessel that is used as a life boat or means of transportation between the parent vessel and another location or for both those purposes;

5. Regulation 6 amended

(1) Delete regulation 6(1)(a) and insert:

- (a) declare an area of CALM land to be a designated area for the purposes of any regulation listed in the Table relating to an activity listed opposite that regulation; and

(2) At the end of regulation 6(1) insert:

Table

Regulation	Activity
16	bringing dogs onto land
17	bringing horses onto land
21(3)	discharging sewage from vessels
33	abseiling
51	driving or using vehicles
51A	riding bicycles
60B	mooring vessels
61A	operating vessels in nature reserves
66	camping

6. Regulation 59 amended

(1) Delete regulation 59(1) and (2) and insert:

- (1) A person must not, without lawful authority —
 - (a) install a mooring on CALM land; or
 - (b) allow a mooring which the person owns or apparently controls to remain on CALM land.

Penalty: a fine of \$2 000.

- (2) A person must not secure a vessel, or allow it to remain secured, to a mooring that is on CALM land without lawful authority.

Penalty: a fine of \$1 000.

- (3A) A person must not, without lawful authority, allow a moored vessel to be on CALM land.

Penalty: a fine of \$1 000.

- (2) In regulation 59(3) delete “in waters” (each occurrence).

7. Regulations 60A and 60B inserted

After regulation 59 insert:

60A. Public moorings

- (1) The CEO may designate a mooring as a public mooring by a sign attached to the mooring.
- (2) A mooring may be designated as a public mooring at all times or during a period or periods specified on the sign.
- (3) The sign that is attached to a public mooring must indicate —
 - (a) the period or periods during which the mooring is a public mooring; and
 - (b) the conditions, if any, that apply to the use of the mooring.
- (4) A person has lawful authority to secure a vessel, or allow it to remain secured, to a public mooring if the person complies with the conditions specified on a sign attached to the mooring.

Penalty: a fine of \$2 000.

60B. Temporary mooring areas

A person has lawful authority to moor a vessel in a temporary mooring area in accordance with conditions specified on signs erected in or in the vicinity of that area for the purposes of regulation 6(3) or signs designating the area as a temporary mooring area.

8. Regulation 60 amended

- (1) After regulation 60(1) insert:

- (2A) A person must not anchor a vessel, or allow a vessel to remain anchored, on CALM land if the vessel lies in a position where part of the vessel, or a tender attached to it, is closer than 50 metres to a mooring that is on CALM land.

Penalty: a fine of \$1 000.

- (2) In regulation 60(2) delete “Subregulation (1) does” and insert:

Subregulations (1) and (2A) do

9. Regulation 61B inserted

After regulation 61A insert:

61B. CEO may limit speed of vessels

- (1) In this regulation —
specified means specified in a notice referred to in subregulation (2).
- (2) The CEO may, by notice published in the *Gazette*, limit the speed of any specified class or classes of vessel in any specified area of waters on CALM land.
- (3) The CEO is to ensure that signs are erected in, or in the vicinity of, each specified area indicating the speed limits that apply in the area and the class or classes of vessel to which the speed limits apply.
- (4) A person must not operate a vessel in a specified area at a speed exceeding the specified limit for a vessel of that class.

Penalty: a fine of \$2 000.

10. Regulation 63 amended

In regulation 63 delete “in waters”.

11. Part 7 Divisions 4 and 5 inserted

At the end of Part 7 insert:

Division 4 — Rental mooring licence

98AA. Terms used

In this Division —

licence holder means the holder of a licence granted under regulation 98AC;

rental mooring means a mooring designated as a rental mooring under regulation 98AB;

rental mooring licence means a licence granted under regulation 98AC.

98AB. CEO may designate rental mooring

- (1) The CEO may, by notice published in the *Gazette*, designate a mooring (other than a public mooring) that is on CALM land as a rental mooring.
- (2) A mooring may be declared to be a rental mooring at all times or during a period or periods specified in the notice.
- (3) The CEO may, by notice published in the *Gazette*, amend or revoke any previous notice published under this regulation.
- (4) A notice published under this regulation takes effect on such day after publication as is specified in the notice.

98AC. Rental mooring licence

- (1) In this regulation —
specified means specified in a licence.
- (2) The CEO may grant a licence authorising the use of a specified rental mooring by a specified vessel for a specified period.

98AD. Application for rental mooring licence

An application for a rental mooring licence must specify —

- (a) the rental mooring to which the application relates; and
- (b) particulars of the vessel to which the application relates; and
- (c) the period for which the licence is sought.

98AE. Duration of rental mooring licence

Subject to this Part, a rental mooring licence remains in force for the period specified in the licence.

98AF. Conditions

- (1) A rental mooring licence may be granted subject to such conditions as the CEO thinks fit including conditions as to —
 - (a) the manner in which the specified vessel may be secured to the mooring; and
 - (b) the payment of any charge in respect of the use of the land on which the mooring is located.
- (2) If a rental mooring licence is granted subject to conditions, those conditions —
 - (a) are to be endorsed upon or attached to the licence when granted; and

- (b) may be added to, cancelled, suspended and otherwise varied by the CEO from time to time during the operation of the licence.
- (3) A licence holder must not contravene a condition endorsed upon or attached to the licence.
Penalty: a fine of \$1 000.

98AG. Cancellation of licence at request of licence holder

- (1) The licence holder may request the CEO to cancel a rental mooring licence.
- (2) On a request made under subregulation (1) the CEO must cancel the licence and may refund to the licence holder, in whole or in part, the charge paid in respect of the licence if the CEO considers it appropriate to do so in the circumstances.

98AH. Damage to rental mooring

- (1) If a rental mooring is damaged or destroyed (the *loss*) during the period specified in a rental mooring licence in respect of that rental mooring, the cost of repair or replacement is a debt due to the State by the licence holder and is recoverable in a court of competent jurisdiction unless the person can show that —
 - (a) the loss was caused by the act or omission of some other person; and
 - (b) the licence holder could not have prevented the loss by the exercise of responsible care.
- (2) For the purposes of subregulation (1), the loss is taken to have occurred during the period specified in the licence if —
 - (a) the mooring is found to be damaged or destroyed at the end of the period specified in the licence; and
 - (b) the licence holder did not report the loss to the CEO at the commencement of the period specified in the licence.

Division 5 — Private mooring licence

98AI. Terms used

- (1) In this Division —
 - current inspection report* has the meaning given in subregulation (2);
 - inspection report* means a report about the condition of a mooring prepared by a person approved by the CEO after the person has inspected the mooring;

licence holder means the holder of a private mooring licence for a mooring;

licensed mooring means a mooring for which a private mooring licence is in force;

mooring licence area means an area declared under regulation 98AJ to be a mooring licence area;

private mooring means a mooring on CALM land that is not —

- (a) a public mooring; or
- (b) a rental mooring; or
- (c) a mooring that is approved by the CEO for use in connection with a commercial operations licence;

private mooring licence means a licence under this Division.

- (2) An inspection report is current for the period of 12 months commencing on the day the mooring is inspected.

98AJ. Mooring licence areas

- (1) The CEO may, by notice published in the *Gazette*, declare an area of CALM land specified in the notice to be a mooring licence area.
- (2) A notice published under this regulation takes effect on such day after publication as is specified in the notice.

98AK. Private mooring licence

The CEO may grant a licence for either or both of the following purposes —

- (a) to install a private mooring in a mooring licence area;
- (b) to own and control a private mooring located in a mooring licence area.

98AL. Effect of private mooring licence

- (1) A licensed mooring is authorised to be in a mooring licence area.
- (2) A licence holder is authorised to use a licensed mooring in accordance with a private mooring licence that is in force for the mooring.
- (3) A person who has the written consent of the licence holder is authorised to use a licensed mooring in accordance with a private mooring licence that is in force for the mooring.

- (4) A person referred to in subregulation (3) must have in his or her possession the written consent of the licence holder at any time the person has a vessel secured to the mooring.

Penalty: a fine of \$1 000.

98AM. Application for private mooring licence

- (1) An application for a private mooring licence must specify —
 - (a) the location of the mooring or proposed mooring in a form approved by the CEO; and
 - (b) particulars of the purposes for which the mooring or proposed mooring is to be used, including particulars of each vessel or class of vessel that may be secured to the mooring; and
 - (c) if the applicant is not a natural person, the name, address and telephone numbers of a natural person who may be contacted on behalf of the applicant in relation to the mooring.
- (2) The applicant must provide the CEO, or a person nominated by the CEO, with any assistance that the CEO or the person requires to inspect the mooring.

98AN. Grant of private mooring licence

The CEO may grant a private mooring licence for a mooring or a proposed mooring if the CEO is satisfied that the mooring or proposed mooring —

- (a) is suitable for each vessel or class of vessel that may be secured to the mooring; and
- (b) does not constitute a danger or interfere with the navigation of other craft or any other usage of the land on which the mooring is, or is to be, located.

98AO. Private mooring licence not transferable

A private mooring licence is not transferable.

98AP. Duration of private mooring licence

Subject to this Part, a private mooring licence remains in force for the period specified in the licence.

98AQ. Renewal of private mooring licence

- (1) A licence holder may apply to the CEO for renewal of a licence.
- (2) An application for renewal must be —
 - (a) in a form approved by the CEO; and

- (b) accompanied by the appropriate fee specified in Schedule 1 Division 8 (if any); and
 - (c) accompanied by a current inspection report in respect of the mooring.
- (3) The applicant must provide the CEO, or a person nominated by the CEO, with any assistance that the CEO or the person requires to inspect the mooring.
- (4) The CEO may renew a private mooring licence if the CEO is satisfied that the mooring is in good condition and repair.

98AR. Conditions

- (1) A private mooring licence may be granted or renewed subject to such conditions as the CEO thinks fit including conditions as to —
 - (a) the class or description of vessel that may be secured to the mooring; and
 - (b) the manner in which a vessel may be secured to the mooring; and
 - (c) the payment of any charge in relation to the use of the land on which the mooring is located.
- (2) If a private mooring licence is granted or renewed subject to conditions, those conditions —
 - (a) are to be endorsed upon or attached to the licence when granted or renewed, as the case may be; and
 - (b) may be added to, cancelled, suspended and otherwise varied by the CEO from time to time during the operation of the licence.
- (3) A licence holder must not contravene a condition endorsed upon or attached to the licence.
Penalty: a fine of \$1 000.

98AS. Form of licence

A licence for a private mooring must be in a form approved by the CEO and must contain the following information —

- (a) the location of the mooring;
- (b) the name of the licence holder;
- (c) particulars of each vessel or each class of vessel authorised to use the mooring;
- (d) the period for which the licence is granted.

98AT. Private moorings to be maintained

- (1) It is a condition of a licence to use a private mooring that the licence holder must maintain the mooring in good condition and repair.
- (2) The CEO may, by notice in writing, require a licence holder to provide a current inspection report for the licensed mooring.
- (3) The licence holder must comply with a notice under subregulation (2) within the time specified in the notice.

Penalty: a fine of \$1 000.

98AU. Requirement to repair, relocate or remove private mooring

- (1) The CEO may, by notice in writing, require a licence holder to repair the licensed mooring within a specified time if the CEO considers that the mooring has deteriorated to the extent that it is dangerous, unusable or in need of repair.
- (2) The CEO may, by notice in writing, require a licence holder, or a person who was a licence holder, to relocate or remove the licensed mooring within a specified time if —
 - (a) the CEO cancels the licence; or
 - (b) the licence holder surrenders the licence; or
 - (c) the relocation or removal is necessary to comply with any management plan for the land on which the mooring is located; or
 - (d) the CEO considers that it is in the public interest for the mooring to be relocated or removed.
- (3) A person to whom a notice is given under subregulation (1) or (2) must comply with the requirements specified in the notice within the time specified in the notice.

Penalty: a fine of \$2 000.

- (4) A mooring that is not relocated or removed within the period specified in a notice given under subregulation (2) is, on the expiry of that period, forfeited to the Crown and may be destroyed, sold or otherwise disposed of as directed by the CEO.

98AV. Cancellation of private mooring licence

- (1) The CEO may, by written notice given to the licence holder, cancel a private mooring licence if —
 - (a) the licence holder ceases to own, or no longer appears to control, the mooring; or
 - (b) the licence holder fails to provide an inspection report for the mooring in accordance with regulation 98AT(2); or
 - (c) the licence holder fails to comply with a requirement under regulation 98AU(1) or (2).
- (2) The powers of the CEO referred to in subregulation (1) are in addition to, and do not derogate from, the powers referred to in regulation 86(1).

98AW. Giving notice of change of registered particulars

A licence holder must, within 7 days, notify the CEO of any alteration in the particulars of the licensed mooring, including any change of address or telephone number of the licence holder or the natural person who may be contacted on behalf of a body corporate or partnership.

Penalty: a fine of \$1 000.

98AX. Surrender of private mooring licence

- (1) A licence holder may by notice in writing to the CEO surrender a licence.
- (2) A licence holder who surrenders a licence is not entitled to the refund of any fees paid in respect of a period after the date of surrender.

12. Schedule 1 amended

In Schedule 1 Division 8 after item 5 insert:

6. Application for private mooring licence (r. 83) 50.00

13. Schedule 2 amended

In Schedule 2 Division 2:

- (a) in item 47a delete “installing” and insert:

having

- (b) after item 48 insert:

(c) after item 50 insert:

50A.	60A(4)	Failure to comply with conditions of use of public mooring	200
50B.	60(2A)	Anchoring vessel within 50 metres of mooring	100

(d) after item 51a insert:

51AA.	61B(4)	Operating vessel in excess of speed limit	200
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(e) after item 68 insert:

68A.	98AF(3)	Contravention of condition of rental mooring licence	100
68B.	98AL(4)	Failing to have written consent of licence holder in possession	100
68C.	98AR(3)	Contravention of condition of private mooring licence	100
68D.	98AT(3)	Failing to provide inspection report for mooring	100
68E.	98AU(3)	Failing to comply with a requirement to repair, relocate or remove a private mooring	200
68F.	98AW	Failing to notify change of particulars for private mooring licence	100

R. KENNEDY, Clerk of the Executive Council.