

47. Interpretation for regulations 47 to 47I

- (1) In regulations 47 to 47I —
 - “**CEO**” means the chief executive officer of the department;
 - “**examiner**” means a person or body approved for the purpose of regulation 47C(2)(a);
 - “**foreign skipper’s ticket**” means an equivalent of a recreational skipper’s ticket granted outside Western Australia the prerequisites for which, in the CEO’s opinion, require a person to meet or exceed the recreational skipper’s competency requirements;

[Note: “owner” is defined in regulation 2 to include the master or person in charge of a vessel.]
 - “**recreational skipper’s ticket**” means a ticket granted by the CEO under regulation 47C;
 - “**RST vessel**” means a vessel that —
 - (a) is a registrable vessel for the purposes of Part VA; and
 - (b) is propelled by motored power that exceeds 4.5 kilowatts.
- (2) For the purposes of regulations 47 to 47I a person meets the recreational skipper’s competency requirements if he or she has knowledge of, and is able to demonstrate, the minimum competencies set out in the Guidelines for Recreational Boat Operator Competencies published by the National Marine Safety Committee in 2000.
- (3) For the purposes of regulation 47 to 47I, an applicant for a recreational skipper’s ticket is taken to have lodged an application if he or she has —
 - (a) lodged an application with the CEO; or
 - (b) given a completed application to the examiner to be lodged in accordance with regulation 47C(3)(c)(ii).

47AA. Who may drive motor boat — before 1 April 2007

- (1) This regulation ceases to apply on 1 April 2007.
- (2) A person who is under 10 years of age must not drive a motor boat.
- (3) A person who is at least 10, but under 16, years of age must not drive an RST vessel unless he or she is under the direct supervision of a person who is at least 18 years of age.
- (4) The owner of an RST vessel must not knowingly permit it to be driven in contravention of subregulation (2) or (3).
- (5) A person who contravenes this regulation commits an offence.

Regulation 47 - Navigable Waters Regulations 1958

47AB. Who may drive motor boat — 1 April 2007 to 31 March 2008

- (1) This regulation applies on and after 1 April 2007 and ceases to apply on 1 April 2008.
- (2) A person who is under 10 years of age must not drive a motor boat.
- (3) A person who is at least 10, but under 14, years of age must not drive an RST vessel unless he or she is under the direct supervision of a person —
 - (a) who is at least 25 years of age; or
 - (b) who is at least 18, but under 25, years of age and holds a recreational skipper's ticket.
- (4) A person who is at least 14, but under 16, years of age must not drive an RST vessel unless he or she —
 - (a) holds a recreational skipper's ticket and is driving the vessel —
 - (i) at a speed not exceeding 8 knots; and
 - (ii) between sunrise and sunset;
 - or
 - (b) is under the direct supervision of a person —
 - (i) who is at least 25 years of age; or
 - (ii) who is at least 18, but under 25, years of age and holds a recreational skipper's ticket.
- (5) A person who is at least 16, but under 25, years of age must not drive an RST vessel unless he or she —
 - (a) holds a recreational skipper's ticket; or
 - (b) is under the direct supervision of a person —
 - (i) who is at least 25 years of age; or
 - (ii) who is at least 18, but under 25, years of age and holds a recreational skipper's ticket.
- (6) The owner of an RST vessel must not knowingly permit it to be driven in contravention of subregulations (2) to (5).
- (7) A person who contravenes this regulation commits an offence.

47A. Who may drive motor boat — from 1 April 2008

- (1) This regulation applies on and after 1 April 2008.
- (2) A person who is under 10 years of age must not drive a motor boat.
- (3) A person who is at least 10, but under 14, years of age must not drive an RST vessel unless he or she is under the direct supervision of a person who holds a recreational skipper's ticket and is at least 18 years of age.
- (4) A person who is at least 14, but under 16, years of age must not drive an RST vessel unless he or she —
 - (a) holds a recreational skipper's ticket and is driving the vessel —
 - (i) at a speed not exceeding 8 knots; and
 - (ii) between sunrise and sunset;or
 - (b) is under the direct supervision of a person who holds a recreational skipper's ticket and is at least 18 years of age.
- (5) A person who is at least 16 years of age must not drive an RST vessel unless he or she —
 - (a) holds a recreational skipper's ticket; or
 - (b) is under the direct supervision of a person who holds a recreational skipper's ticket and is at least 18 years of age.
- (6) The owner of an RST vessel must not knowingly permit it to be driven in contravention of subregulations (2) to (5).
- (7) A person who contravenes this regulation commits an offence.

47B. Learner deemed to be directly supervised

- (1) If a learner is driving an RST vessel under the supervision of an examiner, the learner is taken to be under the direct supervision of the examiner —
 - (a) if the vessel is within 400 metres of the examiner; and
 - (b) even if the examiner is also instructing or assessing one or more other learners.
- (2) In this regulation —

“learner” means a person who is learning to drive an RST vessel or is being assessed for the purpose of seeking to obtain a recreational skipper's ticket.

47C. Recreational skipper's ticket

- (1) Subject to regulation 47G, the CEO is to grant a recreational skipper's ticket to a person who applies in accordance with subregulation (3), if satisfied that the person meets the recreational skipper's competency requirements.
- (2) The CEO may, in satisfaction of the requirement imposed by subregulation (1) —
 - (a) accept evidence from a person or body approved by the CEO for that purpose; or
 - (b) accept possession by the applicant of a higher qualification or a foreign skipper's ticket.
- (3) An application for a recreational skipper's ticket —
 - (a) is to be made to the CEO in writing in a form specified by the Minister;
 - (b) is to be accompanied by evidence that the applicant meets the recreational skipper's competency requirements; and
 - (c) may be lodged —
 - (i) by the applicant; or
 - (ii) if lodged with evidence of the kind referred to in subregulation (2)(a), by the examiner on behalf of the applicant.
- (4) If an applicant has lodged an application together with evidence of the kind referred to in subregulation (2)(a), the applicant is taken to hold a recreational skipper's ticket until he or she receives —
 - (a) a recreational skipper's ticket; or
 - (b) written notice that the CEO has refused the application.
- (5) The CEO is to issue a replacement recreational skipper's ticket —
 - (a) when the CEO is notified under regulation 47I of a change to the ticket holder's name or address; or
 - (b) at the request of the ticket holder, if the CEO is satisfied that the original ticket has been lost or destroyed.
- (6) The CEO may issue a replacement recreational skipper's ticket at any other time if the CEO considers it appropriate.
- (7) In this regulation —

“higher qualification” means —

 - (a) a certificate of competency or certificate of proficiency granted or recognised under the *W.A. Marine (Certificates of Competency and Safety Manning) Regulations 1983* other than a certificate of competency as —
 - (i) Coxswain Instructor of commercial ski-boat;
 - (ii) Marine Engineer Class III;
 - (iii) Marine Engine Driver Grade I; or

(iv) Marine Engine Driver Grade II;

or

(b) any other qualification the prerequisites for which, in the CEO's opinion, require a person to meet or exceed the recreational skipper's competency requirements.

47CA. Transitional — prior ownership or qualifications

- (1) If a person —
 - (a) has been the owner, or one of the owners, of a registered vessel for all of the 5 years immediately preceding the commencement date; and
 - (b) lodges an application for a recreational skipper's ticket —
 - (i) before 1 April 2007; and
 - (ii) together with evidence from an examiner that the applicant has a theoretical knowledge of the recreational skipper's competency requirements, the CEO may accept that ownership and evidence of theoretical knowledge as evidence in satisfaction of the requirement imposed by regulation 47C(1).
- (2) For the purposes of regulation 47C(2)(b) a person who lodges an application for a recreational skipper's ticket before 1 April 2007 is taken to possess a higher qualification if the person holds one of the following qualifications, which he or she obtained before the commencement date —
 - (a) a certificate granted by the CEO certifying that the holder has completed the boating safety course known as "BoatSmart";
 - (b) a National Power Boat Scheme TL3 Certificate granted by the Australian Yachting Federation;
 - (c) a National Motor Cruising Scheme TL5 Certificate granted by the Australian Yachting Federation.
- (3) In this regulation —

"commencement date" means the date on which the *Navigable Waters Amendment Regulations (No. 2) 2005* came into operation, 10 February 2006;

"owner" has the meaning given to that term in regulation 45A.

47D. Conditions on recreational skipper's ticket

- (1) The CEO may grant a recreational skipper's ticket subject to any conditions the CEO considers appropriate for ensuring the safety of any person or the public generally.
- (2) A person who holds a recreational skipper's ticket that is subject to a condition is taken not to hold a recreational skipper's ticket if the condition is not being complied with.
- (3) The CEO may revoke a condition by giving written notice to the ticket holder.

47E. Interstate or overseas ticket valid for 3 months

A person who holds a foreign skipper's ticket and enters Western Australia, whether as a visitor or with the intention of permanently residing in the State, is taken to hold a recreational skipper's ticket until 3 months have elapsed since the person entered the State.

47F. Exemptions

- (1) The CEO may exempt a person or class of persons from all or any of the provisions of regulation 47AA, 47AB or 47A.
- (2) The CEO may grant an exemption subject to any conditions the CEO considers appropriate for ensuring the safety of any person or the public generally.
- (3) A provision of regulation 47AA, 47AB or 47A in respect of which an exemption has been granted does not apply to a person —
 - (a) to whom the exemption applies; and
 - (b) who is driving a vessel in accordance with the exemption and any conditions to which it is subject.

47G. Power to refuse, cancel or suspend recreational skipper's ticket

- (1) The CEO may refuse an application for, or cancel or suspend, a recreational skipper's ticket if satisfied that the applicant or ticket holder —
 - (a) is seeking to obtain, or obtained, the ticket by fraud, dishonesty or misrepresentation; or
 - (b) should not hold a recreational skipper's ticket because he or she would be likely to be a danger to the public if permitted to be in charge of an RST vessel.
- (2) The CEO must not cancel a recreational skipper's ticket until the ticket holder has been given a reasonable opportunity to satisfy the CEO that the ticket should not be cancelled.
- (3) If the CEO refuses an application for, or cancels or suspends, a recreational skipper's ticket the CEO must give written notice of the refusal, cancellation or suspension, and the reasons for it, to the applicant or ticket holder.
- (4) The power under subregulation (1) to cancel or suspend a recreational skipper's ticket includes a power to cancel or suspend the application of regulation 47E to a person who is taken under that regulation to hold a recreational skipper's ticket.
- (5) A person aggrieved by a decision of the CEO under this regulation may apply to the State Administrative Tribunal for a review of the decision.

47H. Ticket to be produced on request

- (1) The holder of a recreational skipper's ticket must produce it for inspection when requested to do so by an authorised person (as defined in section 98 of the *Western Australian Marine Act 1982*).
- (2) A person who is taken under regulation 47C(4) to hold a recreational skipper's ticket complies with subregulation (1) if the person produces written evidence that —
 - (a) the person has demonstrated, to the satisfaction of an examiner, that the person meets the recreational skipper's competency requirements; and
 - (b) the person has lodged an application in accordance with regulation 47C(3).
- (3) A person who is taken under regulation 47E to hold a recreational skipper's ticket complies with subregulation (1) if he or she produces —
 - (a) his or her foreign skipper's ticket; and
 - (b) evidence of the date of his or her entry into Western Australia.
- (4) A person who contravenes this regulation commits an offence.

47I. Ticket holder to notify change of details

- (1) The holder of a recreational skipper's ticket who changes his or her name or address must give written notice of the change to the CEO within 21 days of the change being made.
- (2) A person who contravenes this regulation commits an offence.