

## TASMANIA

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# MARINE AND SAFETY AUTHORITY AMENDMENT BILL 2005

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## CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Part 5, Division 2A inserted
  - Division 2A – Abandoned, unseaworthy and sunken vessels*
  - 38A. Interpretation of Division
  - 38B. Abandoned, unseaworthy and sunken vessels
  - 38C. Commercial vessels
  - 38D. Order for seizure and disposal of vessel
  - 38E. Authority may require vessel to be moved from wharf or mooring
5. Section 39 amended (Regulations generally)



**MARINE AND SAFETY AUTHORITY  
AMENDMENT BILL 2005**

*(Brought in by the Minister for Infrastructure, Energy and  
Resources, the Honourable Bryan Alexander Green)*

**A BILL FOR**

**An Act to amend the *Marine and Safety Authority Act 1997***

Be it enacted by His Excellency the Governor of Tasmania, by  
and with the advice and consent of the Legislative Council and  
House of Assembly, in Parliament assembled, as follows:

**1. Short title**

This Act may be cited as the *Marine and Safety  
Authority Amendment Act 2005*.

**2. Commencement**

This Act commences on the day on which this  
Act receives the Royal Assent.

**3. Principal Act**

In this Act, the *Marine and Safety Authority Act  
1997*\* is referred to as the Principal Act.

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\*No. 15 of 1997

**4. Part 5, Division 2A inserted**

After section 38 of the Principal Act, the following Division is inserted in Part 5:

***Division 2A – Abandoned, unseaworthy and sunken vessels*****38A. Interpretation of Division**

In this Division –

**“commercial purpose”**, in relation to the operation of a vessel, means operating the vessel (other than as a punt) –

- (a) for any valuable consideration; or
- (b) as, or in connection with, a business; or
- (c) as, or in connection with, a transport or ferry service provided for the benefit of paying or non-paying passengers; or
- (d) for research; or
- (e) in connection with tourist accommodation; or
- (f) in connection with any other kind of commercial transaction;

**“commercial vessel”** means a vessel that is operated for a commercial purpose;

**“Court”** means the Supreme Court of Tasmania;

**“unseaworthy vessel”** means a vessel that is unseaworthy within the meaning of section 38B(1).

**38B. Abandoned, unseaworthy and sunken vessels**

(1) A vessel is unseaworthy if –

(a) in the case of a commercial vessel, it does not have a current certificate of survey or registration issued by –

(i) the Authority; or

(ii) an equivalent body, whether in this State or not; or

(b) in the case of a vessel other than a commercial vessel, it is certified to be unseaworthy by a marine surveyor or naval architect.

(2) If a vessel is unseaworthy or, in the opinion of the Authority, abandoned or sunken, the Authority may serve a notice on the owner of the vessel requiring him or her to –

(a) put the vessel into seaworthy condition within such reasonable period as may be specified in the notice; or

- (b) relocate the vessel within such a period.
- (3) If, after making reasonable inquiries, the Authority is unable to locate the owner of a vessel, a notice under subsection (2) may be served by publishing it in a newspaper circulating in the area in which the vessel is located.
- (4) An owner of a vessel must comply with a notice issued under subsection (2) within the period specified in the notice.

Penalty: Fine not exceeding 50 penalty units and, in the case of a continuing offence, a further penalty of 5 penalty units for each day during which the offence continues.

### **38C. Commercial vessels**

For the purposes of this Act, a vessel that is longer than 15 metres is, unless the Authority otherwise determines, taken to be a commercial vessel.

### **38D. Order for seizure and disposal of vessel**

- (1) If an owner fails to comply with a notice under section 38B, the Authority may apply to the Court for an order authorising the Authority to seize and dispose of the vessel to which the notice relates.

- (2) The Court may make an order for the seizure and disposal of a vessel if satisfied that –
  - (a) the vessel has been abandoned; or
  - (b) the vessel is sunken or not in seaworthy condition; or
  - (c) the owner of the vessel has failed to comply with the notice.
- (3) An order under subsection (2) may be made subject to any conditions the Court considers appropriate.
- (4) Any proceeds of sale, less any costs incurred by the Authority in seizing and disposing of the vessel, are to be paid to the owner of the vessel and, if not claimed within one month of the sale, are to be dealt with in accordance with the *Unclaimed Moneys Act 1918*.
- (5) If there are no proceeds of sale, or the proceeds of sale are not sufficient to cover the costs incurred by the Authority in seizing and disposing of vessel, the Authority may recover those costs from the owner of the vessel.

**38E. Authority may require vessel to be moved from wharf or mooring**

- (1) The Authority may serve a notice on the owner of a vessel that is secured to a wharf or mooring, requiring the vessel to be moved to a place nominated by the

Authority within such reasonable period as may be specified in the notice, if the Authority is of the opinion that the vessel is causing, or is likely to cause –

- (a) an obstruction of navigation in the area; or
  - (b) a danger to any other vessel, person or property; or
  - (c) pollution; or
  - (d) any other hazard.
- (2) A person must comply with a notice under subsection (1) within the period specified in the notice.

Penalty: Fine not exceeding 50 penalty units and, in the case of continuing offence, a further penalty of 5 penalty units for each day during which the offence continues.

## **5. Section 39 amended (Regulations generally)**

Section 39(3) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “continues.” and substituting “continues; and”;
- (b) by inserting the following paragraph after paragraph (b):



- (c) provide for fees and charges payable in respect of any matter under this Act.