

# TASMANIA

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## **MARINE AND SAFETY (MOORINGS) BY-LAWS 2020**

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# MARINE AND SAFETY (MOORINGS) BY-LAWS 2020

Under the powers conferred on it by the *Marine and Safety Authority Act 1997*, the Marine and Safety Authority makes the following by-laws.

## PART 1 – PRELIMINARY

### 1. Short title

These by-laws may be cited as the *Marine and Safety (Mooring) By-laws 2020*.

### 2. Commencement

These by-laws take effect on the day on which they are published in the *Gazette*.

### 3. Interpretation

(1) In these by-laws –

*Act* means the *Marine and Safety Authority Act 1997*;

*approved form* means a form approved by MAST;

*authorised person* means a person, or a member of a class of persons, appointed under section 44 of the Act for the purposes of these by-laws;

*competent authority* means a person or authority responsible for the registration of vessels under the laws of another State

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or a Territory or of an overseas jurisdiction;

***identification number*** means the identification number assigned to a vessel mooring by MAST under clause 6(1);

***MAST*** means the Marine and Safety Authority established by section 4 of the Act;

***maximum permitted length***, in relation to a vessel mooring, means the maximum length of vessel that may be moored on the vessel mooring under the permit for that mooring;

***mooring tackle*** means the weights, cables and chains used to secure a vessel at a vessel mooring;

***permit*** means a permit issued under clause 6;

***permit holder***, in relation to a vessel mooring, means the holder of a permit for the installation and use of that vessel mooring;

***prescribed fee*** means a fee prescribed by the *Marine and Safety (Fees) By-laws 2010*;

***primary vessel***, in relation to a vessel mooring, means the vessel that is specified in the permit for the vessel mooring as being the vessel that will primarily occupy that vessel mooring;

***public mooring*** means a vessel mooring –

- (a) for which MAST holds a permit;  
and
- (b) that is available for short-term  
use by the public;

***specified location***, in relation to a vessel mooring, means the location for the vessel mooring specified in the permit for that vessel mooring;

***tender*** means any vessel that –

- (a) is 4.5 metres or less in length;  
and
- (b) does not operate further than 0.5  
nautical miles from a parent  
vessel; and
- (c) is used primarily for embarking  
and disembarking crew and  
passengers from a parent vessel;

***vessel identifier***, in relation to a vessel, means the following:

- (a) the name of the vessel;
- (b) the registration number for the vessel issued under the *Marine and Safety (Motor Boats and Licences) By-laws 2013*;
- (c) the unique identifier given to that vessel under the National Law;

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- (d) the registration number or other unique identification given to that vessel by a competent authority;

*vessel mooring* includes any of the following to which a vessel can be attached:

- (a) a floating fixture;
  - (b) a pile;
  - (c) a buoy;
  - (d) a scientific research marker;
  - (e) a mooring tackle;
  - (f) a permanent anchor mooring.
- (2) In these by-laws, a reference to a vessel's length means the distance from the front point of the hull to the rear point of the hull, and includes the length of any bowsprit, dinghy davit, duckboard or other appendage to the vessel.

## **PART 2 – PERMITS**

### **4. Requirement for permit to install vessel mooring**

- (1) A person must not install a vessel mooring in any waters unless the person holds a permit for the installation and use of that vessel mooring.

Penalty: Fine not exceeding 10 penalty units.

- (2) Subclause (1) does not apply to the installation of a vessel mooring if that vessel mooring is in the water for a period of less than 7 days.

### **5. Application for permit**

- (1) A person may apply to MAST for a permit to install and use a vessel mooring.

- (2) An application under subclause (1) –

- (a) must be in an approved form and be signed by the applicant; and

- (b) must include the following information:

- (i) the name and contact details of the applicant;

- (ii) any known vessel identifiers for the vessel that will primarily occupy the vessel mooring;

- (iii) the name and contact details of the owner of the vessel referred to in subparagraph (ii);

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- (iv) the length, beam and draft of the vessel referred to in subparagraph (ii);
  - (v) the maximum length of vessel that will occupy the vessel mooring;
  - (vi) if the application relates to a mooring that is a marker or buoy that is to be used for scientific research purposes, the size and colour of the marker or buoy; and
- (c) must be accompanied by the prescribed fee.
- (3) Before determining an application under subclause (1), MAST may require the applicant to provide any further information that MAST considers relevant to the application.
- (4) MAST is to determine an application for a permit by –
- (a) granting the application; or
  - (b) refusing to grant the application.
- (5) An application for a permit under this clause may be withdrawn by the applicant at any time.

**6. Issue of permit**

- (1) If MAST grants a permit application for a vessel mooring under clause 5(4), MAST is to –



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- 
- (a) issue a permit on payment of the prescribed fee; and
  - (b) assign an identification number to the vessel mooring.
- (2) A permit is to –
- (a) be in an approved form; and
  - (b) specify –
    - (i) the identification number assigned under subclause (1)(b); and
    - (ii) the location for the vessel mooring; and
    - (iii) the maximum length of vessel that may be moored on the vessel mooring; and
    - (iv) the name of the vessel that will primarily occupy the vessel mooring, if known.
- (3) A permit may be subject to such conditions as MAST thinks fit.
- (4) The holder of a permit must not contravene a condition of the permit.

Penalty: Fine not exceeding 20 penalty units.

- (5) A permit remains in force –
- (a) for the period specified in the permit; or

- (b) until it is revoked under clause 13; or
- (c) if the permit is renewed, for the period specified in the notice of renewal.

### **7. Recording of details**

MAST is to record in relation to each vessel mooring –

- (a) the name and contact details of the permit holder for the vessel mooring; and
- (b) the name of the primary vessel for the vessel mooring, if applicable; and
- (c) the name and contact details of the owner of the primary vessel for the vessel mooring if the owner is not the permit holder; and
- (d) the overall length and beam of the primary vessel for the vessel mooring; and
- (e) the maximum permitted length of vessel for the vessel mooring (if applicable); and
- (f) the identification number of the vessel mooring; and
- (g) the location for the vessel mooring; and
- (h) the start and expiry date of the permit for the vessel mooring; and

- (i) any other information that MAST considers appropriate.

## **8. Notice of renewal**

- (1) MAST may send out a notice of renewal to a permit holder.
- (2) A notice of renewal –
  - (a) must be addressed to the permit holder; and
  - (b) must remind the permit holder of the expiry date of the permit; and
  - (c) must warn the permit holder that, if the permit is not renewed on or before the expiry date of the permit, the permit will expire.
- (3) MAST's failure to send a notice of renewal, or the non-receipt of the notice, does not postpone the expiry of the permit or affect the obligation of the permit holder to ensure that the permit is renewed if the permit holder wishes to continue to use the vessel mooring.

## **9. Application for renewal of permit**

- (1) An application for the renewal of a permit –
  - (a) must be made to MAST in an approved form; and

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- (b) must be accompanied by the prescribed fee; and
  - (c) is to be lodged before the expiry date of the permit.
- (2) MAST, at its discretion, may accept an application for the renewal of a permit lodged up to 12 months after the expiration of the permit.
- (3) MAST may, by notice to the holder of a permit to which the application under subclause (1) relates –
  - (a) renew the permit for the period specified in the notice and subject to such conditions as MAST thinks fit; or
  - (b) refuse to renew the permit.
- (4) If a permit for a vessel mooring is not renewed within 12 months after the expiration of the permit, the person who held the expired permit must –
  - (a) remove the vessel mooring or cause it to be removed; and
  - (b) give MAST written notice of its removal.

Penalty: Fine not exceeding 5 penalty units.

**10. Variation of permit**

- (1) MAST may vary a permit, and its conditions, at any time.

- (2) The variation may occur –
  - (a) on MAST’s initiative; or
  - (b) consequent on an application to MAST by the permit holder.
- (3) An application under subclause (2)(b) –
  - (a) must be in an approved form; and
  - (b) must specify the variation sought; and
  - (c) must be accompanied by the prescribed fee.
- (4) The permit holder for a vessel mooring must make an application to MAST under subclause (2)(b) to vary a permit at least 14 days before the occurrence of any of the following events:
  - (a) the primary vessel for the vessel mooring changes to a different vessel;
  - (b) there is an increase in the length of the primary vessel for the vessel mooring so that the primary vessel exceeds the maximum permitted length for that vessel mooring;
  - (c) the permit holder wishes to change the location of the mooring.

Penalty: Fine not exceeding 5 penalty units.

- (5) If subclause (2)(a) applies, MAST is to notify the holder of the permit of –

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- (a) the variation; and
  - (b) the reason for the variation; and
  - (c) when the variation is to take effect.
- (6) If subclause (2)(b) applies and the application is approved, MAST is to notify the applicant of the approval, the variation and when the variation is to take effect.
- (7) If subclause (2)(b) applies and the application is refused, MAST is to notify the permit holder of the refusal and the reasons for the refusal.

**11. Transfer of permit issued on or after 1 January 2014**

- (1) A permit issued on or after 1 January 2014 is not transferable.
- (2) A permit holder must not transfer, or attempt to transfer, the benefit of a permit if that permit was issued on or after 1 January 2014.

Penalty: Fine not exceeding 10 penalty units.

**12. Transfer of permit issued before 1 January 2014**

- (1) This clause applies in respect of a vessel mooring if the permit for the vessel mooring was issued before 1 January 2014.
- (2) If the holder of a permit transfers a vessel mooring to another person, the holder of the

permit must, within 14 days after the transfer, notify MAST of the transfer.

Penalty: Fine not exceeding 10 penalty units.

- (3) If a vessel mooring is transferred to a person, that person must, within 14 days after the transfer, make an application to MAST for the transfer of the permit for that vessel mooring.

Penalty: Fine not exceeding 10 penalty units.

- (4) Subclause (3) does not apply to a person if, within 14 days after the transfer, the person –

- (a) removes the vessel mooring or causes it to be removed; and
- (b) gives MAST written notice of its removal.

- (5) An application for the transfer of a permit must –

- (a) be made to MAST by the transferee; and
- (b) be in an approved form; and
- (c) include the following information:
  - (i) the name and contact details of the applicant;
  - (ii) any known vessel identifiers for the vessel that will primarily occupy the vessel mooring;

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- (iii) the name and contact details of the owner of the vessel referred to in subparagraph (ii);
  - (iv) the length, beam and draft of the vessel referred to in subparagraph (ii);
  - (v) the maximum permitted length of vessel for the vessel mooring;
  - (vi) if the transfer relates to a vessel mooring that is a marker or buoy that is being used for scientific research, the size and colour of the marker or buoy; and
- (d) be accompanied by the prescribed fee.
- (6) The length of vessel specified in an application for the purposes of subclause (5)(c)(iv) and (v) must not be greater than the maximum permitted length for that vessel mooring.
- (7) MAST is to determine an application for the transfer of a permit by –
- (a) approving the transfer of the permit subject to such conditions as MAST thinks fit; or
  - (b) refusing to approve the transfer of the permit.



**13. Revocation of permit**

- (1) MAST, by written notice, may revoke a permit if –
- (a) the permit holder has been convicted of an offence against these by-laws; or
  - (b) the permit holder contravenes a condition of the permit; or
  - (c) the permit holder has failed to comply with a direction of an authorised person; or
  - (d) the permit holder does not place the vessel mooring in the specified location within 90 days of the permit being issued; or
  - (e) the permit holder fails to make repairs as required by MAST in accordance with clause 15(3)(b) or 21(4); or
  - (f) the vessel mooring has been transferred and the transferee has failed, within 14 days after the transfer, to apply for the transfer of the relevant permit; or
  - (g) the permit holder provides MAST with written notice that the permit is no longer required; or
  - (h) MAST considers that the vessel mooring poses a risk to safe navigation.

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- (2) If a permit for a vessel mooring is revoked, the person who held the revoked permit must, within 14 days of the permit being revoked –
- (a) remove the vessel mooring or cause it to be removed; and
  - (b) give MAST written notice of its removal.

Penalty: Fine not exceeding 5 penalty units.

- (3) If a person fails to comply with subclause (2), MAST may do one or more of the following:
- (a) remove the vessel mooring;
  - (b) offer the mooring tackle from the vessel mooring for sale by advertisement in a newspaper circulating in the municipal area in which the mooring is situated.

**14. Notification requirements**

- (1) A permit holder must give MAST written notice of any change to the permit holder's contact details within 14 days after the date of that change.

Penalty: Fine not exceeding 5 penalty units.

- (2) If a vessel occupies a vessel mooring for a continuous period of 30 days, the permit holder for the vessel mooring must give MAST written notice of that occupation within 14 days after that 30-day period.

Penalty: Fine not exceeding 5 penalty units.

- (3) Subclause (2) does not apply to a permit holder if –
- (a) the vessel occupying the vessel mooring is the primary vessel for the vessel mooring; or
  - (b) the vessel occupying the vessel mooring is removed from that mooring within 14 days after the 30-day period referred to in that subclause.

**15. Responsibility of permit holder**

- (1) In this clause –

*unregistered vessel* means a vessel that is not –

- (a) registered under the *Marine and Safety (Motor Boats and Licences) By-laws 2013*; or
  - (b) regulated by the National Law; or
  - (c) registered by a competent authority.
- (2) The permit holder for a vessel mooring is to ensure that any vessel on that vessel mooring is kept in a condition that enables it to be safely navigated.
- (3) If MAST is of the opinion that a vessel on a vessel mooring is not kept in a condition that enables it to be safely navigated, MAST may issue a written notice requiring –

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(a) the removal of the vessel from the water;  
or

(b) that repairs be made to the vessel as  
specified in the notice –

within the period specified in the notice.

(4) A notice under subclause (3) may be issued to –

(a) the owner of the vessel on the vessel  
mooring; or

(b) if the owner of the vessel has permission  
from the permit holder to use the vessel  
mooring, the permit holder.

(5) A person must comply with a notice issued to  
the person under subclause (3).

Penalty: Fine not exceeding 20 penalty units.

(6) If a person does not comply with a notice issued  
to the person under subclause (3), MAST may  
remove the vessel referred to in that notice.

(7) The permit holder for a vessel mooring must  
provide MAST with the name and contact details  
of the owner of any unregistered vessel on the  
vessel mooring if requested to do so.

Penalty: Fine not exceeding 20 penalty units.

(8) It is a defence in proceedings for an offence  
under subclause (7) if the defendant establishes  
that –

- (a) the vessel was placed on the vessel mooring without the defendant's consent; and
- (b) the defendant does not know the name and contact details of the owner of the unregistered vessel.

**16. Repair and maintenance of vessels on mooring**

- (1) A person must not carry out repairs to, or restoration work on, a vessel while that vessel is placed on a vessel mooring.

Penalty: Fine not exceeding 20 penalty units.

- (2) Subclause (1) does not apply in the case of –
  - (a) minor repairs to the vessel; or
  - (b) emergency repairs to the vessel, if those repairs are made over a period not exceeding 14 days; or
  - (c) repairs to the vessel carried out in accordance with a written authorisation from MAST.

**PART 3 – MOORINGS**

**17. Type of mooring buoy**

The permit holder for a vessel mooring must not use a buoy on a vessel mooring unless –

- (a) the buoy is –
  - (i) a conspicuous colour; and
  - (ii) not less than 20 centimetres in vertical diameter; and
  - (iii) not more than 60 centimetres in vertical diameter; or
- (b) the permit holder has the written consent of MAST to do so.

Penalty: Fine not exceeding 5 penalty units.

**18. Identification of vessel mooring buoy**

The permit holder for a vessel mooring must ensure that the identification number on any mooring buoy attached to the vessel mooring is –

- (a) clearly and permanently marked on the mooring buoy; and
- (b) no less than 75 millimetres in height and clearly visible above the water line.

Penalty: Fine not exceeding 5 penalty units.

**19. Length of mooring cable**

The permit holder for a vessel mooring must not, without the written permission of MAST, attach to the vessel mooring a mooring cable that has a length that exceeds three times the depth of the water at high water on spring tide at that location.

Penalty: Fine not exceeding 5 penalty units.

**20. Mooring tackle**

The permit holder for a vessel mooring must ensure that any mooring tackle attached to the vessel mooring is suitable for use –

- (a) at the specified location; and
- (b) by the primary vessel for the vessel mooring; and
- (c) by any vessel occupying the vessel mooring with the permit holder's consent.

Penalty: Fine not exceeding 5 penalty units.

**21. Maintenance and inspection**

- (1) The permit holder for a vessel mooring must ensure that the vessel mooring is –
  - (a) lifted out of the water and inspected at least once every 2 years; and

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- (b) maintained in good order and condition;  
and
- (c) located at the specified location.

Penalty: Fine not exceeding 10 penalty units.

- (2) The permit holder for a vessel mooring must allow an authorised person to inspect the vessel mooring.

Penalty: Fine not exceeding 5 penalty units.

- (3) The permit holder for a vessel mooring must not –
  - (a) fail to comply with a reasonable requirement of an authorised person in relation to an inspection under subclause (2); or
  - (b) wilfully obstruct, hinder or delay an authorised person in the performance of his or her duties under these by-laws.

Penalty: Fine not exceeding 5 penalty units.

- (4) If in the opinion of MAST any vessel mooring is not in good working order, MAST may, by written notice to the permit holder for that vessel mooring, require the permit holder to do one or more of the following within the period specified in the notice:
  - (a) make repairs to the vessel mooring as specified in the notice;



(b) provide maintenance records or a statutory declaration as proof of maintenance.

(5) A permit holder must comply with a notice given to the permit holder under subclause (4).

Penalty: Fine not exceeding 10 penalty units.

## **22. Removal of mooring where no permit held**

MAST may remove any vessel mooring in respect of which there is no permit.

## **23. Public moorings**

(1) If a vessel is secured to a public mooring between the hours of 9 a.m. and 1 p.m. on a given day, that vessel must not remain on that public mooring for more than 4 continuous hours.

Penalty: Fine not exceeding 5 penalty units.

(2) A person who secures a vessel to a public mooring after 1 p.m. must vacate that vessel mooring by 9 a.m. on the following day.

Penalty: Fine not exceeding 10 penalty units.

(3) A person must not secure the following vessels to a public mooring unless the person has written authorisation from MAST to do so:

(a) a monohull vessel more than 15 metres in length;

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- (b) a multi-hull vessel more than 14 metres in length.

Penalty: Fine not exceeding 5 penalty units.

- (4) A person must not secure a vessel to another vessel that is secured to a public mooring.

Penalty: Fine not exceeding 10 penalty units.

- (5) Subclause (4) does not apply to the securing of a tender to a vessel.

- (6) A person must not secure a tender or auxiliary vessel to a public mooring.

Penalty: Fine not exceeding 5 penalty units.

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**PART 4 – MISCELLANEOUS**

**24. Vessels at mooring not required to exhibit lights &c.**

(1) A vessel secured to a vessel mooring is not required to –

(a) exhibit the lights and shapes prescribed by the *International Regulations for Preventing Collisions at Sea 1972*, issued by the International Maritime Organization, as amended from time to time; or

(b) make the sound signals prescribed by that Act –

unless the permit in respect of the vessel mooring requires it.

(2) Subclause (1) only applies to a vessel if –

(a) the vessel mooring has a permit in respect of it; and

(b) the mooring buoy attached to the vessel mooring clearly displays the identification number assigned to the vessel mooring in accordance with clause 6.

**25. Interference with moorings**

(1) Subject to these by-laws, a person must not, without the consent of the permit holder for a vessel mooring –

- (a) interfere with the vessel mooring; or
- (b) do anything to prevent a vessel from being secured to the vessel mooring; or
- (c) interfere with, or obstruct a vessel, when the vessel is approaching or leaving the vessel mooring; or
- (d) secure a vessel, or allow a vessel to remain secured, to the vessel mooring if another vessel is already secured to the vessel mooring; or
- (e) secure a vessel, or allow a vessel to remain secured, to another vessel that is secured to the vessel mooring.

Penalty: Fine not exceeding 20 penalty units.

- (2) Subclause (1)(e) does not apply to the securing of a tender to a vessel.

## **26. Unauthorised use of moorings**

A person must not use a vessel mooring without the approval of the permit holder for the vessel mooring.

Penalty: Fine not exceeding 5 penalty units.

## **27. Removal of vessel from mooring**

MAST may remove any vessel from a vessel mooring to another location if –

- (a) it has the written approval of the permit holder or the vessel owner to do so; or
- (b) MAST considers that the vessel on the vessel mooring poses a risk to safe navigation and to other vessels in the vicinity of the vessel mooring; or
- (c) in the opinion of MAST, the vessel has the potential to sink and create an environmental hazard.

**28. Transitional**

A permit in force under the *Marine and Safety (Mooring) By-laws 2013*, immediately before the day on which these by-laws take effect, continues in force, according to its terms, as a permit under these by-laws and subject to these by-laws.

**29. Rescission**

The *Marine and Safety (Mooring) By-laws 2013* are rescinded.

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The common seal of the Marine and Safety Authority was affixed in pursuance of a resolution of the Authority made at a meeting held on \_\_\_\_\_, in the presence of –

.....  
**Chairperson**

.....  
**Chief Executive**