

**THE MARITIME SERVICES ACT 1935
SECTION 38(4A)**

**NOTICE EXEMPTING CERTAIN COMMERCIAL MOORING LICENSEES FROM THE
REQUIREMENTS OF CLAUSES 39 AND 39A OF THE MANAGEMENT OF WATERS
AND WATERSIDE LANDS REGULATION - NSW**

The Maritime Authority of NSW (trading as NSW Maritime), a delegate of the Minister for Ports and Waterways, does, pursuant to Section 38(4A) of the *Maritime Services Act 1935*, **HEREBY DECLARE** that Clauses 39 and 39A of the *Management of Waters and Waterside Lands Regulation - NSW*, in relation to the term of a commercial mooring licence, do not apply to the persons described in **SCHEDULE 1** provided that there is full compliance with each of the conditions set out in **SCHEDULE 2**.

**SCHEDULE 1
PERSONS TO WHICH THIS EXEMPTION APPLIES**

This Exemption applies to persons who operate a maritime business and are both:

- (a) the holder of a commercial mooring licence issued by NSW Maritime under Division 3 of the Management of Waters and Waterside Lands Regulation – NSW; and
- (b) a party to a commercial lease with NSW Maritime issued in accordance with NSW Maritime's Commercial Lease Policy.

**SCHEDULE 2
CONDITIONS OF THIS EXEMPTION**

In order for this Exemption to apply there must be full compliance with each of the following conditions:

1. The commercial mooring licensee benefiting from this Exemption must comply fully with each provision of the commercial lease to which it is a party and each condition of the commercial mooring licence issued by NSW Maritime.
2. The commercial mooring licensee benefiting from the Exemption must submit a full and proper application, using the appropriate forms and accompanied by the appropriate fee, for the commercial mooring licence.

OTHER PROVISIONS

1. Unless otherwise terminated or suspended by NSW Maritime, a commercial mooring licence issued pursuant to this Exemption expires on the date of expiry of the associated commercial lease.
2. Failure to comply with any provision of this Exemption Notice means that Clause 39 and 39A of the *Management of Waters and Waterside Lands Regulation - NSW* have effect and the commercial mooring licence will expire at the time specified.

3. Commercial lessees may elect to operate under Clauses 39 and 39A of the **Management of Waters and Waterside Lands Regulation - NSW** rather than this Exemption Notice.

DEFINITIONS

In this Exemption Notice:

- (a) *Commercial lease* means one which is issued subject to the "Commercial Lease Policy" published by NSW Maritime", dated 1 January 2008 and as amended from time to time.
- (b) *Commercial mooring licence* means an Occupation Licence issued by NSW Maritime under Division 3 of the **Management of Waters and Waterside Lands Regulation - NSW** to a company or other entity conducting a maritime business. The business name of any non-Company entity must be registered under the **Business Names Act 2002** with the Department of Fair Trading.
- (c) *Commercial mooring licensee* means the holder of a commercial mooring licence which facilitates the conduct of a maritime business.
- (d) *Person* has the same meaning as that given to it by Section 8 of the **Interpretation Act 1987**.

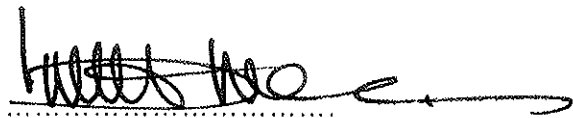
REVOCATION OF THIS EXEMPTION

This Exemption may be revoked at any time by NSW Maritime's General Manager, Recreational Boating and Regional Services Division.

DATE OF EFFECT OF THIS EXEMPTION

This Exemption is effective on and from the date of signature.

DATED this 6th day of Nov 2008.



Brett Moore
General Manager
Recreational Boating and Regional Services Division
NSW Maritime